

LAW OFFICES

STORINO, RAMELLO & DURKIN

9501 WEST DEVON AVENUE
ROSEMONT, ILLINOIS 60018

(847) 318-9500

FACSIMILE (847) 318-9509

January 11, 2017

DONALD J. STORINO
MICHAEL K. DURKIN
RICHARD J. RAMELLO
NICHOLAS S. PEPPERS
THOMAS M. BASTIAN
ANGELO F. DEL MARTO
JAMES E. MACHOLL
BRIAN W. BAUGH
ANTHONY J. CASALE
ANDREW Y. ACKER
PETER A. PACIONE
MELISSA M. WOLF
MATTHEW G. HOLMES
MICHAEL R. DURKIN

THOMAS J. HALLERAN
ERIN C. TINAGLIA
ADAM R. DURKIN

JOSEPH G. KUSPER
MARK R. STEPHENS
BRYAN J. BERRY
ANN M. WILLIAMS
LEONARD P. DIORIO
RICHARD F. PELLEGRINO
DONALD J. STORINO II

OF COUNSEL

IN REPLY REFER TO FILE NO.

Mr. Pasquale Martorana
pasmartorana@yahoo.com

EP-1

Re: Freedom of Information Act Request

Dear Mr. Martorana:

On January 4, 2017, the Village of Elmwood Park received your January 3, 2017, Illinois Freedom of Information Act (5 ILCS 140/1 *et seq.*) ("FOIA") request for the following records:

"Pursuant to the Freedom of Information Act, I hereby request any and all documents related to the civil lawsuit of Vittorio Verrechia vs. The Village of Elmwood Park, including any and all invoices/costs pertaining to this case billed to the Village of Elmwood Park by O'Halloran Kosoff Geitner & Cook, LLC, including but not limited to all costs and invoices related to the depositions of all respondents in this case, as well as all electronic communications between the Village of Elmwood Park and it's [*sic*] officials and O'Halloran Kosoff Geitner & Cook, LLC regarding this case."

Please be advised that the Village of Elmwood Park has determined that compliance with the portion of your FOIA request seeking "all electronic communications between the Village of Elmwood Park and it's [*sic*] officials and O'Halloran Kosoff Geitner & Cook, LLC regarding this case" is unduly burdensome. A search for the records responsive to this portion of your FOIA request conducted by the Village of Elmwood Park resulted in 700 pages of responsive documents. Due to the substantial amount of records responsive to this portion of your FOIA request and the time it would take to review such records, the Village of Elmwood Park has determined that compliance with this portion of your FOIA request is unduly burdensome and would interfere with the daily operations of the Village of Elmwood Park.

STORINO, RAMELLO & DURKIN

Mr. Pasquale Martorana
January 11, 2017
Page 2

Due to the unduly burdensome nature of this portion of your FOIA request, the Village of Elmwood Park is extending you the opportunity to reduce the scope of this portion of your FOIA request to manageable proportions. Kindly contact the undersigned in writing or by telephone at (847) 318-9500 to discuss this matter and attempt to reduce this portion of your FOIA request to manageable proportions.

In regards to the remaining portion of your FOIA request seeking "any and all documents related to the civil lawsuit of Vittorio Verrechia vs. The Village of Elmwood Park, including any and all invoices/costs pertaining to this case billed to the Village of Elmwood Park by O'Halloran Kosoff Geitner & Cook, LLC, including but not limited to all costs and invoices related to the depositions of all respondents in this case," please be advised that the Village of Elmwood Park is extending the time to respond to this portion of your FOIA request. Pursuant to Section 3(e)(v) of FOIA, the Village of Elmwood Park requires an additional five (5) business days to respond to this portion of your FOIA request because "the requested records require examination and evaluation by personnel having the necessary competence and discretion to determine if they are exempt from disclosure under Section 7 of this Act or should be revealed only with appropriate deletions." A response to this portion of your FOIA request will be made by January 19, 2017.

Sincerely,

STORINO, RAMELLO & DURKIN
Attorneys for the Village of Elmwood Park


Erin C. Tinaglia

LAW OFFICES

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MICHAEL R. DURKIN

(847) 318 - 9500

FACSIMILE (847) 318 - 9509

January 19, 2017

THOMAS J. HALLERAN
ERIN C. TINAGLIA
ADAM R. DURKIN

JOSEPH G. KUSPER
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OF COUNSEL

IN REPLY REFER TO FILE NO.

Mr. Pasquale Martorana
pasmartorana@yahoo.com

EP-1

Re: Freedom of Information Act Request

Dear Mr. Martorana:

On January 4, 2017, the Village of Elmwood Park received your January 3, 2017, Illinois Freedom of Information Act (5 ILCS 140/1 *et seq.*) ("FOIA") request for the following records:

"Pursuant to the Freedom of Information Act, I hereby request any and all documents related to the civil lawsuit of Vittorio Verrechia vs. The Village of Elmwood Park, including any and all invoices/costs pertaining to this case billed to the Village of Elmwood Park by O'Halloran Kosoff Geitner & Cook, LLC, including but not limited to all costs and invoices related to the depositions of all respondents in this case, as well as all electronic communications between the Village of Elmwood Park and its [*sic*] officials and O'Halloran Kosoff Geitner & Cook, LLC regarding this case."

Enclosed please find records responsive to the portion of your FOIA request seeking "any and all documents related to the civil lawsuit of Vittorio Verrechia vs. The Village of Elmwood Park." However, please be advised that certain information in the records responsive to your FOIA request has been determined to be exempt from disclosure under FOIA. Accordingly, such information has been redacted from the records being provided.

Section 7(1)(b) of FOIA provides that "private information" is exempt from disclosure. "Private information" is defined in FOIA as, "unique identifiers, including a person's social security number, driver's license number, employee identification number, biometric identifiers, personal financial information, passwords or other access codes, medical records, home or personal telephone numbers, and personal email addresses. Private information also includes home address and personal license plates, except as otherwise provided by law or when compiled without possibility of attribution to any person." 5 ILCS 140/2(c-5). Consequently, certain unique identifiers, including signatures, have been redacted from the records being provided.

Please be advised that the Village of Elmwood Park maintains no documents responsive to the portion of your FOIA request seeking "any and all invoices/costs pertaining to this case billed to the

STORINO, RAMELLO & DURKIN

Mr. Pasquale Martorana
January 19, 2017
Page 2

Village of Elmwood Park by O'Halloran Kosoff Geitner & Cook, LLC, including but not limited to all costs and invoices related to the depositions of all respondents in this case."

In regards to your request seeking "all electronic communications between the Village of Elmwood Park and it's [sic] officials and O'Halloran Kosoff Geitner & Cook, LLC regarding this case," please be advised that this portion of your FOIA request is denied pursuant to Section 3(g) of FOIA. Section 3(g) of FOIA provides that:

"Requests calling for all records falling within a category shall be complied with unless compliance with the request would be unduly burdensome for the complying public body and there is no way to narrow the request and the burden on the public body outweighs the public interest in the information. Before invoking this exemption, the public body shall extend to the person making the request an opportunity to confer with it in an attempt to reduce the request to manageable proportions."

On January 11, 2017, I sent you correspondence stating that a search for the records responsive to this portion of your FOIA request conducted by the Village of Elmwood Park resulted in 700 pages of responsive documents. My January 11, 2017, correspondence explained that due to the substantial amount of records responsive to this portion of your FOIA request and the time it would take to review such records, the Village of Elmwood Park had determined that compliance with this portion of your FOIA request was unduly burdensome and would interfere with the daily operations of the Village of Elmwood Park. In accordance with Section 3(g) of FOIA, I extended to you the opportunity to discuss this matter and attempt to reduce this portion of your FOIA request to manageable proportions. On January 13, 2017, you responded to my January 11, 2017, correspondence with the following:

"In response to the Village of Elmwood Park and it's [sic] attorneys alleging that my freedom of Information request on Vittorio Verrechia's civil case vs. The Village of Elmwood Park as being unduly burdensome, it's vital to make note that on 06/03/15, The Village of Elmwood Park distributed over 700 pages in response to attorney John Simpson's FOIA, requesting Pasquale Martorana's records, with over 700 pages that were disseminated online and unredacted. In an effort to reduce the Village of Elmwood Park's alleged burdensome amount of documents to send us, we are requesting, Pursuant to the Freedom of Information Act, all electronic communications between the Village of Elmwood Park and it's [sic] officials and O'Halloran Kosoff Geitner & Cook, LLC regarding this civil case."

Please be advised that your January 13, 2017, correspondence does not reduce the scope of your January 11, 2017, FOIA request for "all electronic communications between the Village of Elmwood Park and it's [sic] officials and O'Halloran Kosoff Geitner & Cook, LLC regarding this case." As stated in my January 11, 2017, correspondence, this portion of your FOIA request requires the review of 700 pages of records. Not only does the substantial amount of records needed to be reviewed impose an unduly burden on the Village of Elmwood Park, but the nature of the records being requested, communications between attorneys and their clients, warrants a heightened review and evaluation to determine if such records are exempt from disclosure pursuant to Section 7(1)(m) of FOIA. As a result, compliance with this portion of

STORINO, RAMELLO & DURKIN

Mr. Pasquale Martorana
January 19, 2017
Page 3

your FOIA request remains unduly burdensome. Therefore, in accordance with Section 3(g) of FOIA, this portion of your FOIA request is denied.

The person responsible for the decision to deny a portion of your FOIA request is the Village of Elmwood Park Freedom of Information Officer, Gina Pesko. In accordance with Section 9(a) of FOIA, you are hereby notified that you have the right to file a Request for Review regarding the decision made by the Village of Elmwood Park Freedom of Information Officer with the Public Access Counselor at the Illinois Attorney General's Office. You can file your Request for Review with the Public Access Counselor by writing to:

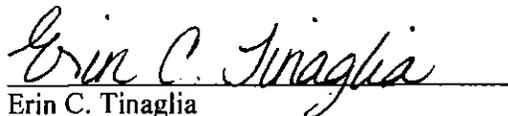
Sarah Pratt
Public Access Counselor
Office of the Attorney General
500 South 2nd Street
Springfield, Illinois 62706
Fax: 217-782-1396
E-mail: publicaccess@atg.state.il.us

If you choose to file a Request for Review with the Public Access Counselor, you must do so within 60 calendar days of the date of this letter. Please note that you must include a copy of your original FOIA request and this letter when filing a Request for Review with the Public Access Counselor.

You are also notified that you have the right to judicial review regarding the decision made by the Village of Elmwood Park Freedom of Information Officer pursuant to Section 11 of FOIA.

Sincerely,

STORINO, RAMELLO & DURKIN
Attorneys for the Village of Elmwood Park


Erin C. Tinaglia

Enclosures

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

VITTORIO VERRECCHIA,)	
)	
Plaintiff,)	
)	
v.)	Case No.: 16-CV-397
)	
VILLAGE OF ELMWOOD PARK and)	Judge Amy St. Eve
ROBERT BORMANN, an individual,)	
)	
Defendants.)	

**DEFENDANT VILLAGE OF ELMWOOD PARK'S ANSWER
TO PLAINTIFF'S FIRST SET OF INTERROGATORIES**

Defendant Village of Elmwood Park, by its attorneys, Julie A. Bruch and Benjamin M.

Jacobi, for its answer to Plaintiff's First Set of Interrogatories, states as follows:

General Objections:

The Village objects to these interrogatories to the extent that they call for responses that are subject to the attorney-client privilege. All responses are subject to the Village's assertion of the attorney-client privilege.

1. State the name, job title, current address, and telephone number of all individuals who provided information or in any other manner assisted or contributed to the preparation of the answers to these Interrogatories and or to the preparation of any other documents or pleadings filed in connection with this case.

ANSWER:

Paul Volpe, Village Manager. Mr. Volpe can be reached through the Village's counsel in this case.

2. Explain the policies and procedures followed within Elmwood Park in determining when and how to change Village policy and procedures for Village employees. Describe who is involved in the process, how decisions are made, who must approve decisions, and whether there is any documentation of the decision making process.

ANSWER:

Village-wide policies are set by the Village Board of Trustees and are memorialized in the Village's Code of Ordinances and Resolutions. In addition to the Village's Code of

Ordinances and Resolutions, policies and procedures related to employment in the Village are memorialized in the Employee Personnel Manual, which is approved by the Village Board of Trustees. Changes to the policies in the village are generally presented from the Village Manager to the Village Attorney for consideration, discussion, and drafting. Occasionally, the Village Attorney will recommend updates to the Employee Personnel Manual based on changes in the law. Ultimately, all changes must be presented and adopted by the Village Board of Trustees.

3. Explain the policies and procedures followed by the Elmwood Park Police Department when investigating any complaint, and determining whether a victim can sign a complaint, and determining whether to press charges against the accused.

ANSWER: See documents Bates stamped _____ [police manual chapter 6]

4. Describe the hiring process, policies and procedures followed in Elmwood Park.

ANSWER:

Defendant objects to this interrogatory as overly broad. The hiring process, policies, and procedures differs between departments. Verrecchia's complaint arises from his treatment in the Code Administration Department.

Subject to those objections, Defendant responds as follows.

Generally, the process, policies, and procedures related to employment in the Village's Code Administration Department, including hiring, are contained in the Village of Elmwood Park Employee Personnel Manuel, Bates stamped EP 220-96.

Hiring for certain departments, like the police department and the fire department, is also subject to state law, the Board of Fire and Police Commissioners, and applicable collective bargaining agreements.

5. Describe the firing process, policies and procedures followed in Elmwood Park.

ANSWER:

Defendant objects to this interrogatory as overly broad. The hiring process, policies, and procedures differs between departments. Verrecchia's complaint arises from his treatment in the Code Administration Department.

Subject to those objections, Defendant responds as follows.

Generally, the process, policies, and procedures related to employment in the Village's Code Administration Department, including firing, are contained in the Village of Elmwood Park Employee Personnel Manuel, Bates stamped EP 220-96.

Firing for certain departments, like the police department and the fire department, is also subject to state law, the Board of Fire and Police Commissioners, and applicable collective bargaining agreements.

6. Provide a list of individuals that work for Elmwood Park that donate, and/or volunteer their time supporting President Saviano, and/or his political party. Include in that list whether their support is monetary, or time based, and, if known, the actual amount donated to the President.

ANSWER: Defendant objects to this interrogatory as overly broad and unduly burdensome. This information is not collected, collated, or possessed in any organized fashion by the Village. No such list exists. To respond to this interrogatory, the Village would have to create the list.

To compile the requested list, the Village would need to poll every Village employee. The Village has about 150 employees. This process could take weeks, and compiling the "list" requested would take dozens of hours of work, and attorney hours. The cost alone of responding to this request outweighs the limited probative value to plaintiff's case.

Further, for the Village to poll each Village employee of his or her political contributions needlessly invades the privacy of the Village employees. Also, creating or maintaining a list of Village employees and their political contributions may create issues of liability against the Village where none existed in the first place. This burden also outweighs any probative value to plaintiff's case.

7. State the full name, last known address, and telephone number of each person who witnessed or claims to have witnessed any of the allegations asserted in the Complaint, or who claims to have knowledge of any matters concerning the Incident, or the injuries or damages that you claim to have suffered. For each person identified, please indicate with particularity the subject matter of which they have knowledge.

ANSWER:

1. **The following are current or former employees of the Village of Elmwood Park and are expected to testify consistent with the records, and can be contacted through defense counsel:**

- a. **Defendant Robert Bormann**
- b. **Village President Angelo Saviano**
- c. **Village Manager Paul Volpe**
- d. **Police Chief Frank Fagiano**
- e. **Detective Commander Robert Klisz, #2611**
- f. **Police Commander Michael Kmiecik, #1312**
- g. **Police Detective David Ransom, #4611**
- h. **Police Detective Mark Astrella, #9645**
- i. **Police Sergeant Tom Brown, #9026**

- j. **George Bertucci (Code Enforcement Officer)**
 - k. **Mike Waters (Code Enforcement Officer)**
 - l. **Sam Storto (Code Enforcement Officer)**
 - m. **Mike Mazzone (Building Department)**
 - n. **Jerry Alport (Building Department)**
 - o. **Martin Winiarczyk (Building Department)**
2. **Plaintiff Vittorio Verrecchia.**
 3. **Rocco Buscaglia: Has knowledge regarding Verrecchia's claims, the police investigation into Verrecchia's complaint, and Verrecchia's attendance at the fundraiser.**
 4. **Pasquale Martorana: Has knowledge regarding Verrecchia's claims and about Verrecchia's attendance at the cubs game on July 10, 2015.**
 5. **Philip Marcantelli: Has knowledge regarding Verrecchia's claims and about Verrecchia's attendance at the cubs game on July 10, 2015.**
 6. **Russ Syracuse
1440 W North Ave #207, Melrose Park, IL 60160
Has knowledge regarding Verrecchia's claims and conduct as a code inspector.**
 8. State whether you have knowledge of any photographs, or video or audio recordings, having been taken of any persons, other objects, scenes involved in this occurrence. If so, state the dates upon which said photographs, video or audio recordings were taken; the identity of the person who took the photograph, who currently posses the photograph, video or audio recordings.

ANSWER:

See Doc. 18 at 12.

See disc Bates stamped EP 1.

9. Identify each employee of the Village that complained internally or externally of harassment, retaliation, and/or violation of First Amendment rights based upon political affiliation from 2013 through the present.

ANSWER: None.

10. Identify the policies, procedures, and/or process that the Village partakes in to determine which employees receive raises and/or promotions, when this determination is made, by whom, and whether it is documented in any way.

ANSWER:

Defendant objects to this interrogatory as overly broad. The hiring process, policies, and procedures differ between departments. Verrecchia's complaint arises from his treatment in the Code Administration Department.

Subject to those objections, Defendant responds as follows.

See document Bates stamped EP 265.

Further, some departments, like the police department and the fire department, are subject to state law and various collective bargaining agreements.

11. Provide the following information: the base rate of pay for the Plaintiff's position and the base benefits provided. Please also include the frequency with which raises and/or promotions are mandated to be given, and/or the frequency in which raises and/or promotions may be given to individuals in this position.

ANSWER:

See documents Bates stamped EP 265 and _____ [spreadsheet].

12. Provide the date of hire, starting rate of pay, starting benefits package of each individual working in the Plaintiff's position as Code Inspector at the Village. Additionally, include whether or not any raises and/or promotions have been given for each individual, and if so, when and what was the specific new rate of pay for each raise.

ANSWER:

See documents Bates stamped _____ [spreadsheet].

13. Pursuant to Fed. R Civ. P. 26(a)(2), identify the name, address, phone number, job title and occupation of each expert witness you intend to have testify on your behalf. Include the subject matter on which they will be testifying, the conclusions and opinions of the witnesses and the bases of those conclusions and opinions, and provide all reports and curriculum vitae of said witnesses.

ANSWER:

The Village has not yet determined who will offer opinion testimony pursuant to Rule 26(a)(2). The Village reserves the right to identify opinion witnesses consistent with the court's scheduling order.

VILLAGE OF ELMWOOD PARK

By: /s/Benjamin M. Jacobi
One of Its Attorneys

Julie A. Bruch, #6215813
Benjamin M. Jacobi, #6296811
O'Halloran Kosoff Geitner & Cook, LLC
650 Dundee Road, Suite 475
Northbrook, Illinois 60062
Telephone: (847) 291-0200
Facsimile: (847) 291-9230
Email: bjacobi@okgc.com

VERIFICATION

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

That I am the Village Manager for the Village of Elmwood Park, I have knowledge of the foregoing interrogatories; that I have read the foregoing interrogatories and know the contents thereof; that said answers were prepared with the assistance and advice of counsel upon whose advice I have relied; that the answers set forth herein, subject to inadvertent or undiscovered errors, are based on and therefore necessarily limited by the records and information still in existence, presently recollected and thus far discovered in the course of the preparation of these answers; that I consequently reserve the right to make any changes in the answers if it appears at any time that omissions or errors have been made therein or that more accurate information is available; that subject to the limitations set forth herein the said answers are true to the best of my knowledge, information or belief.


Paul Volpe 9-14-2016
Date

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

VITTORIO VERRECCHIA,)	
)	
Plaintiff,)	
)	
v.)	Case No.: 16-CV-397
)	
VILLAGE OF ELMWOOD PARK and)	Judge Amy St. Eve
ROBERT BORMANN, an individual,)	
)	
Defendants.)	

CERTIFICATE OF SERVICE

I, Benjamin M. Jacobi, attorney, certify that I served the foregoing *Village of Elmwood Park's Answer to Plaintiff's First Set of Interrogatories* to the following persons via email on _____, 2016:

Anish Parikh
anish@plgfirm.com

Kate Kosartes
Kate@plgfirm.com

VILLAGE OF ELMWOOD PARK

By: /s/Benjamin M. Jacobi
One of Its Attorneys

Julie A. Bruch, #6215813
Benjamin M. Jacobi, #6296811
O'Halloran Kosoff Geitner & Cook, LLC
650 Dundee Road, Suite 475
Northbrook, Illinois 60062
Telephone: (847) 291-0200
Facsimile: (847) 291-9230
Email: bjacobi@okgc.com



E-Notice

2015-CH-17858

CALENDAR: 05

To: Stephen Michael Donnelly
sdonnelly@plgfirm.com

NOTICE OF ELECTRONIC FILING

IN THE CIRCUIT COURT OF COOK COUNTY, ILLINOIS

VITTORIO VERRECCHIA vs. VILLAGE OF ELMWOOD PARK
2015-CH-17858

The transmission was received on 12/09/2015 at 12:22 PM and was ACCEPTED with
the Clerk of the Circuit Court of Cook County on 12/09/2015 at 2:08 PM.

CHANCERY_ACTION_COVER_SHEET (CHANCERY DIVISION)

COMPLAINT

Filer's Email: sdonnelly@plgfirm.com
Filer's Fax: (877) 876-9495
Notice Date: 12/9/2015 2:08:03 PM
Total Pages: 22

DOROTHY BROWN
CLERK OF THE CIRCUIT COURT
COOK COUNTY
RICHARD J. DALEY CENTER, ROOM 1001
CHICAGO, IL 60602

(312) 603-5031
courtclerk@cookcountycourt.com

IN THE CIRCUIT CIVIL COURT OF COOK COUNTY, ILLINOIS
COUNTY DEPARTMENT, COUNTY DIVISION

VITTORIO VERRECCHIA
v. Plaintiff
VILLAGE OF ELMWOOD PARK Defendant

} No.

ELECTRONICALLY FILED
12/9/2015 12:22 PM
2015-CH-17858
CALENDAR: 05
CIRCUIT COURT OF
COOK COUNTY, ILLINOIS
CHANCERY DIVISION
CLERK DOROTHY BROWN

CHANCERY DIVISION CIVIL COVER SHEET
GENERAL CHANCERY SECTION

A Chancery Division Civil Cover Sheet - General Chancery Section shall be filed with the initial complaint in all actions filed in the General Chancery Section of Chancery Division. The information contained herein is for administrative purposes only. Please check the line in front of the appropriate category which best characterizes your action being filed.

- 0005 Administrative Review
- 0001 Class Action
- 0002 Declaratory Judgment
- 0004 Injunction

- 0007 General Chancery
- 0010 Accounting
- 0011 Arbitration
- 0012 Certiorari
- 0013 Dissolution of Corporation
- 0014 Dissolution of Partnership
- 0015 Equitable Lien
- 0016 Interpleader
- 0017 Mandamus
- 0018 Ne Exeat

- 0019 Partition
- 0020 Quiet Title
- 0021 Quo Warranto
- 0022 Redemption Rights
- 0023 Reformation of a Contract
- 0024 Rescission of a Contract
- 0025 Specific Performance
- 0026 Trust Construction
- 0027 Foreign Transcript
- 0085 Petition to Register Foreign Judgment
- Other (specify) _____

By: /s/ STEPHEN MICHAEL DONNELLY

Attorney

Pro Se

Atty. No.: 49168
Name: PARIKH LAW GRP LLC
Atty. for: VITTORIO VERRECCHIA
Address: 150 S WACKER#2600
City/State/Zip: CHICAGO, IL 60606
Telephone: (312) 725-3476

IN THE CIRCUIT COURT OF COOK COUNTY, ILLINOIS
COUNTY DEPARTMENT, CHANCERY DIVISION

VITTORIO VERRECCHIA,)
an individual,)
)
Plaintiff,)
)
v.) No. 2015
)
VILLAGE OF ELMWOOD PARK,)
VILLAGE OF ELMWOOD PARK)
POLICE DEPARTMENT, and)
ROBERT BORMANN, an individual,)
)
Defendants.)

VERIFIED COMPLAINT

NOW COMES Plaintiff, VITTORIA VERRECCHIA (“Plaintiff”), by and through his attorneys, Parikh Law Group, LLC, and as his Verified Complaint (“Complaint”) against Defendants Village of Elmwood Park (the “Village”), Village of Elmwood Park Police Department (the “Police Department”), and Robert Bormann (“Bormann”), he states as follows:

INTRODUCTION

Plaintiff brings this suit against the Village, the Police Department, and Bormann based on various claims. First, Plaintiff sets forth a cause of action for the issuance of a writ of mandamus based on the Police Department’s failure to allow Plaintiff to sign a complaint against alleged perpetrator Rocco Biscaglio (“Rocco”) and follow its own proper procedures for the processing of a complaint. Next, Plaintiff sets forth a cause of action for a violation of his equal protection rights against the Police Department based on its refusal to correctly and adequately process a complaint due to Plaintiff’s political affiliations. Plaintiff then sets forth a cause of action against the Village and Bormann for retaliation based on the Village limiting Plaintiff’s

job duties due to Plaintiff's political affiliations. Finally, Plaintiff sets forth a cause of action against the Village based on a violation of Plaintiff's right to equal protection.

PARTIES AND JURISDICTION

1. Plaintiff is a resident of the Village of Norridge in Cook County, Illinois.
2. Defendant Village is a municipality incorporated under the laws of the state of Illinois and is located in Cook County, Illinois.
3. Defendant Police Department is a police department created under Section 38-1 of the Village's Code.
4. Defendant Robert Bormann is an individual serving as the Director of Code Administration and Building Commissioner for the Village.
5. This Court has jurisdiction over this case because the events leading up to this case all transpired in Cook County and because Plaintiff is seeking remedies based on violations of Illinois law.
6. Venue is proper in Cook County because all events transpired in Cook County.

STATEMENT OF FACTS

7. Plaintiff resided in the Village from on or around September 2013 to October 2014.
8. Plaintiff currently works as a code inspector for the Village. He has had this job since June 1, 2015.
9. In his capacity as a code inspector for the Village, Plaintiff's job duties include regularly attending team meetings, routine and special building and home inspections, and performing other inspections to determine whether a code violation exists. Prior to the events leading up to the filing of this Complaint, Plaintiff received a great deal of work from the Village and was busy most days at work.

10. On July 10, 2015, Plaintiff attended a Chicago Cubs game with two of his friends, one of who is a political opponent of the Village's mayor, Angelo "Skip" Saviano ("Saviano").
11. During the July 10, 2015 baseball game, Plaintiff took a picture with his two friends outside of Wrigley Field. This photograph was subsequently posted on Facebook and could be viewed by others. An accurate copy of the photograph taken on July 10, 2015 is attached hereto as Exhibit 1.
12. Following the baseball game and the posting of the photograph, Plaintiff was harassed repeatedly by his boss, Defendant Borinann, and by the Village's Manager, Paul Volpe.
13. On July 23, 2015, Saviano held a political fundraiser at Elmcrest Banquets. The purpose of the event was to raise funds for Saviano's campaign.
14. Rocco serves as Saviano's campaign treasurer.
15. On July 23, 2015, Plaintiff attempted to attend Saviano's fundraiser after receiving a formal invitation to attend via US Mail.
16. Upon arriving at the event, Plaintiff proceeded to walk in through the front and tender a check for a donation to Saviano's campaign.
17. Rocco, as Saviano's campaign treasurer, was working the front door at the July 23, 2015 event. In his role as treasurer, Rocco was collecting money for the event given by guests attending the event.
18. When Plaintiff entered the event, Rocco immediately advised him to leave and stated that he is not welcome at the event.

19. Plaintiff informed Rocco that he had received an invitation and attempted to tender his donation.
20. Rocco become increasingly angry and aggressive towards Plaintiff. In an effort to get Plaintiff to leave the event, Rocco pushed Plaintiff several times, screamed at him, told Plaintiff that he is a rat and that he needed to leave, told Plaintiff to get the fuck out of here before he [Plaintiff] gets hurt, and advised that he would be tearing up Plaintiff's check. This, of course, caused a huge scene.
21. Saviano took notice of what was happening and simply walked away, refusing to help Plaintiff, his employee.
22. Rocco proceeded to put his hands on Plaintiff in an offensive and malicious manner in an attempt to push Plaintiff out of the event.
23. Plaintiff, after being treated this way and after being assaulted by Rocco, left the event and went directly to the Police Department to file a report of what had transpired at the fundraiser.
24. At the Police Department, Sargent Brown was the police officer who took Plaintiff's initial report. Plaintiff asked Sargent Brown if he could take a few days to decide whether he wanted to press charges and sign a formal complaint against Rocco for the alleged assault. Sargent Brown answered in the affirmative and advised Plaintiff that he could come back in the next 364 days to sign a complaint to file charges. Sargent Brown even memorialized this in the report he prepared that day. See Exhibit 2.
25. Just two (2) days later, Plaintiff went back to the Police Department after deciding to pursue the complaint against Rocco.
26. The Police Department denied Plaintiff's request to sign the complaint.

27. The Police Department's Chief, Frank Fagiano, additionally denied Plaintiff the opportunity to sign the complaint.
28. Commander Robert Klisz, Saviano's close friend, subsequently took over the processing of Plaintiff's complaint; however, he, too, denied Plaintiff the opportunity to sign and pursue the complaint against Rocco. Commander Klisz advised Plaintiff that he had closed the case after allegedly conducting interviews with witnesses at the fundraiser.
29. The Police Department assigned Commander Klisz to Plaintiff's case despite the fact that he, too, was a guest at Saviano's fundraiser and was reportedly intoxicated at the event.
30. To date, the Police Department has failed to allow Plaintiff to sign and process a formal complaint against Rocco.
31. Subsequent to the above event, Plaintiff began experiencing a change in how he was being treated at work.
32. Prior to the incident involving Rocco, Plaintiff enjoyed a gratifying and busy workload in his capacity as a code inspector for the Village.
33. Following the incident, the way he was treated at work changed drastically.
34. To begin with, the Village passed a new policy seemingly removing Plaintiff's vacation days and other benefits granted to employees of the Village. Upon information and belief, the new alleged policy has only impacted Plaintiff's employment benefits.
35. Additionally, Plaintiff has and continues to receive a drastically-reduced workload and responsibilities at work.

36. The Village and Bormann even do not include Plaintiff in team meetings, and they fail to give Plaintiff assignments in the field.
37. Village Manager Paul Volpe most recently suspended Plaintiff from writing code citations after Plaintiff issued several citations to Antonio Donato, a well-known slumlord and political supporter of Saviano.
38. Plaintiff continues to be treated differently than other employees, based on his political affiliations and the incident involving Rocco.

**COUNT I – WRIT OF MANDAMUS
AGAINST DEFENDANT POLICE DEPARTMENT**

39. Plaintiff re-alleges paragraphs 1 through 38 as though fully stated herein.
40. “[A] writ of *mandamus* commands a public officer to perform an official, nondiscretionary duty that the petitioner is entitled to have performed and that the officer has failed to perform.” *Chicago Bar Ass'n v. Illinois State Bd. of Elections*, 161 Ill. 2d 502, 507 (1994).
41. Plaintiff went to the Police Department on July 23, 2015 following the alleged assault by Rocco and made a report of the incident.
42. Following the report, Plaintiff was advised by the Police Department that he did not need to sign the complaint that day and could instead return to the Police Department to sign the complaint within one (1) year.
43. Plaintiff went back to the Police Department a few days later, but the Police Department refused and continues to refuse to allow Plaintiff to sign a formal complaint against Rocco.

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44. Plaintiff, as an employee of the Village and as an individual who frequently is present in the Village, is owed the same protection by the Police Department as that given to other residents of the Village.

45. Plaintiff has an absolute right to file, sign, and process a complaint against Rocco because the incident at issue in this case occurred in the Village.

46. The Police Department, by its own admission, represented to Plaintiff that he would have the opportunity to process a complaint within one (1) year. *See Exhibit 2.*

47. Plaintiff, by his repeated trips to the Police Department, attempted to process the complaint just days after the incident in question.

48. The Police Department has wholly failed to perform its duties in violation of the rights afforded to Plaintiff.

WHEREFORE, Plaintiff, **VITTORIO VERRECCHIA**, respectfully requests that a writ of mandamus be issued against the Police Department mandating that it accept a signed complaint from Plaintiff, that it conducts a proper investigation into the incident in question, and for any and all other relief this Court deems just and appropriate.

**COUNT II – VIOLATION OF EQUAL PROTECTION – 42 U.S.C. §1983
AGAINST DEFENDANT POLICE DEPARTMENT**

49. Plaintiff re-alleges paragraphs 1-38 as though fully set forth herein.

50. Plaintiff, through his political affiliations, is a member of a certain class.

51. The Police Department acts in its capacity as provided under Illinois state law and the laws of the Village.

52. Based on Plaintiff's political affiliations, Plaintiff was denied the right by the Police Department to process a complaint against Rocco, the current Mayor of Elmwood Park's campaign treasurer.

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53. In denying Plaintiff the right to process a complaint against Rocco, the Police Department acted recklessly or callously indifferent towards the equal rights afforded to Plaintiff and all other victims of an offense occurring in the Village.

54. As a result of the Police Department's violation of Plaintiff's rights based on his political affiliations, Plaintiff has been deprived the right to equal protection by not being able to properly pursue a complaint against Rocco.

55. Other individuals similarly situated to Plaintiff do not and have not received this type of adverse treatment from the Police Department.

WHEREFORE, Plaintiff, **VITTORIO VERRECCHIA**, respectfully requests that a judgment be entered against the Police Department for a violation of his rights in an amount to be determined at trial but in excess of \$50,000.00, for punitive damages, for attorney's fees as provided under the statute in question, and for any and all other relief this Court deems just and appropriate.

**COUNT III – RETALIATION
AGAINST DEFENDANTS VILLAGE AND BORMANN**

56. Plaintiff re-alleges paragraphs 1-38 as though fully set forth herein.

57. Plaintiff, until recently, enjoyed a pleasant and fulfilling work environment in which he was given many assignments and projects in his capacity as a code inspector for the Village.

58. Plaintiff has been employed by the Village since on or around June 1, 2015.

59. Plaintiff, to date, maintains that employment with the Village.

60. Ever since Plaintiff attempted to make a report against Rocco for the alleged assault that occurred at Saviano's fundraiser in July 2015, Plaintiff has been retaliated against in his place of employment with the Village.

61. Bormann has taken it upon himself to minimize Plaintiff's job duties at work.
62. Plaintiff no longer gets assigned to projects involving duties as a code inspector.
63. Plaintiff no longer is invited to attend team meetings or other important meetings involving his employment or the duties to be performed by other employees in his same position.
64. Plaintiff fears that his employment will be terminated as a result of him pursuing a complaint against Rocco.
65. Pursuing a private complaint against an individual is a protected activity that Plaintiff was engaging in.

WHEREFORE, Plaintiff, **VITTORIO VERRECCHIA**, respectfully requests that a judgment be entered against the Village and against Bormann for retaliation in an amount to be determined at trial but in excess of \$50,000.00, for attorney's fee, and for any and all other relief this Court deems just and appropriate.

**COUNT IV – VIOLATION OF EQUAL PROTECTION - 42 U.S.C. §1983
AGAINST DEFENDANT VILLAGE**

66. Plaintiff re-alleges paragraphs 1-38 as though fully set forth herein.
67. Plaintiff, by virtue of his political affiliation, is a member of a certain class of individuals.
68. The Village acts under state law and under the laws of the Village.
69. Due to his political affiliations and his allegations against Rocco, Plaintiff has been treated differently than other individuals similarly situated.
70. For instance, the Village, based on Plaintiff's employment with it, has stripped Plaintiff of certain employment benefits, including vacation days.

71. The Village has additionally reduced Plaintiff's job duties, prevented him from attending team and inspector meetings, and placed him on probation from issuing citations to individuals in the Village.

72. The Village, through its employees, further harasses Plaintiff based on his political affiliations.

WHEREFORE, Plaintiff, **VITTORIO VERRECCHIA**, respectfully requests that a judgment be entered against the Village for a violation of his rights in an amount to be determined at trial but in excess of \$50,000.00, for punitive damages, for attorney's fees as provided under the statute in question, and for any and all other relief this Court deems just and appropriate.

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Respectfully submitted,
VITTORIO VERRECCHIA

By: 

Attorney for Plaintiff

PARIKH LAW GROUP, LLC
Firm ID #49168
Attorneys for Plaintiff
150 S. Wacker Drive, Suite 2600
Chicago, Illinois 60606
Tel: (312) 725-3476

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EXHIBIT 1

ELMWOOD PARK POLICE DEPARTMENT
CRIMINAL INVESTIGATIONS DIVISION
15-7195

Investigative Action Report

Case Report: 15-7195
Title: Battery
Officer: Detective Mark Astrella #9645
Date: 07/28/15
Action Taken

07/28/15

I was informed by Commander Klisz that a suspect in a named report was in the police department lobby waiting to be interviewed.

Commander Klisz led [REDACTED] M [REDACTED] to our investigations office. I read [REDACTED] his Miranda warnings from a preprinted form at 1250 hours. (See attached)

[REDACTED] reviewed, signed, and agreed to speak with me regarding the current battery investigation.

[REDACTED] related that he was at a fundraiser for Mayor Angelo "Skip" Saviano on the date of 07/23/15, which was held at the Elmerest Banquet Hall located at 7370 W Grand Avenue, Elmwood Park, Illinois 60707.

[REDACTED] related that he is the chairman for the fundraising event "Citizens for Saviano" that was held on the above date of 07/23/15. [REDACTED] related that as the chairman, he was in charge of the event along with security. [REDACTED] related the individuals who were working security at the event, were notified prior to the event starting about the following individuals:

- [REDACTED]
- [REDACTED]
- [REDACTED]

[REDACTED] related that he spoke with his security team and related to them that [REDACTED] and [REDACTED] were not to be allowed at the function. [REDACTED] related that the above subjects have a political agenda against Mayor Saviano and were not welcomed at this private event. [REDACTED] related that while he was standing in the main room of the banquet hall, he was approached by [REDACTED] who stated "Hi uncle [REDACTED] related that he is of no relation to [REDACTED] extended his hand out in an attempt to shake hands when [REDACTED] declined. [REDACTED] related that [REDACTED] placed his hand on his shoulder, squeezed it, and stated "what's the problem." [REDACTED] related that he did not want [REDACTED] touching him so he pushed him arm off of him and placed his hand around the lower back of [REDACTED] and told him he wasn't allowed to be at this private party and it was time to leave. [REDACTED] related that [REDACTED] who was working the function was present and witnessed the exchange between him and [REDACTED] walked out of the banquet hall and towards the front lobby leaving without further incident. [REDACTED] denied that he struck [REDACTED] and related that it was [REDACTED] who physically touched him first.

Det. Astrella #9645
Det. Astrella #9645

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Case Klisz #9645
Supervisor

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ELMWOOD PARK POLICE DEPARTMENT
CRIMINAL INVESTIGATIONS DIVISION

15-7195

██████████ related that the check ██████████ provided was voided and sent back to his residence.

██████████ related that ██████████ left the premises without further incident. I ended my interview with ██████████

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Det. Astroloff
Det. Astroloff/9645

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C. W. Kuse
Supervisor

Investigative Action Report



ELMWOOD PARK POLICE DEPARTMENT



15-7195

Case Report: 15-7195
Title: Battery
Officer: Ransom #4611
Date: 07-27-15

The following is a summary of my actions relative to the investigation of a reported battery which took place at or about 07-23-15 2004 hours at 7370 W Grand Ave, Elmwood Park, 60707, Cook County, Illinois. Any witnesses and/or suspect statements contained herein are not in their entirety nor verbatim.

07-27-15

Upon arriving at the Elmwood Park Police station on 07-27-15 at about 0920 hours, Det. Cmdr. Klisz asked me to assist him with this battery report. I was advised the complainant [redacted] was in the lobby waiting to talk to us.

Det. Commander Klisz said he had a copy of the Elmerest Banquets video recording from the evening of the reported battery.

At approximately 0945 hours I went to the second floor lobby area of the police station with Commander Kmiecik. I explained to [redacted] I needed to read the report, review the video and speak to the other parties he named as witnesses in the report. [redacted] said he doesn't know terminology and is not sure what a witness is but there were no witnesses. [redacted] said there was one guy who was there who said something when "it" happened, one guy who did not say anything and the guy who touched him. [redacted] said he came in to see me so he could sign a complaint and he has been sitting here for 45 minutes. I reminded him I did not tell him to come to the police station at 9 AM. I have not spoken to him before this time and I do not begin work until 10 AM. I said we are not to the point of signing a complaint so I would not have asked him to come in yet. I advised [redacted] I would call him when I need to talk to him again. [redacted] said his lawyer told him "the longer it takes, the worse it's gonna be for everyone".

Cmdr. Kmiecik told [redacted] we are conducting a police investigation and we are not going to be threatened by him or his lawyer. We ended the conversation.

Det. Cmdr. Klisz called [redacted] (a [redacted] who [redacted] claimed was present during the altercation. [redacted] said he could come to the station to talk to us this afternoon after he gets off work.

Det. Ransom #4611
B. Ransom

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Chris Kusek
Supervisor

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Investigative Action Report

ELMWOOD PARK POLICE DEPARTMENT

15-7195



Det. Cmdr. Klisz and I went to the Elmwood Park Village Hall at 11 Conti Pkwy. We spoke to [redacted] said he recalls on 07-23-15 [redacted] walking out of the Elmerest east banquet hall ball room "backwards" with his hands up asking "Uncle [redacted], what did I do?" [redacted] said [redacted] was talking to [redacted] as he walked behind [redacted] said to [redacted] "Let it go". [redacted] said he did not see [redacted] strike [redacted] in any manner.

At approximately 1640 hours, I was advised by records clerk Warchulski [redacted] [redacted] was in the lobby of the 2nd floor, waiting for me or Cmdr. Klisz.

Det. Cmdr. Klisz and I spoke to [redacted] and I asked [redacted] what he needed. [redacted] told us he was here to sign a complaint. I reminded [redacted] of our earlier conversation when I told him I would call him when we were ready to have him sign a complaint if it came to that point. [redacted] told me he spoke to his attorney and a "states attorney", both of which advised him he can sign a complaint now, so he came back to the station again. [redacted] gave me his attorney's business card, ([redacted]). I told [redacted] the case is under investigation and he would be notified when he needs to come in. [redacted] became upset and raised his voice continuously saying his attorney and a "states attorney" told him he can sign a complaint now. [redacted] was adamant about signing a complaint at this very time. I explained to [redacted] he signed a refusal initially but now he came in and wants us to drop everything we are doing. [redacted] said he "could have signed a complaint with Brown" but he didn't and now he wants to sign one. I explained to [redacted] we do not have a complaint for him to sign at this time, that it is our job to investigate the cases and we will contact him when we need to. [redacted] wasn't happy with this response and began to argue demanding to sign a complaint now.

Det. Cmdr. Klisz told [redacted] we are investigating his report and will contact him when we need to speak to him again. We ended the conversation.

At approximately 1655 hours, [redacted] came up to the 2nd floor lobby of the Police Station.

Det. Cmdr. Klisz and I spoke to [redacted] about the evening of 07-23-15 at the Elmerest Banquets.

[redacted] said he recalls standing just inside the east ballroom of the banquet hall with [redacted] and [redacted] said [redacted] entered the room and put his hand out to shake [redacted] hand. [redacted] said he heard [redacted] make a comment about not wanting to shake [redacted] hand. [redacted] said [redacted] said "hey Uncle [redacted]" and placed his right hand onto [redacted] shoulder as they faced each other.

Det. Ransom #4611

[Signature]

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[Signature]
Supervisor

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Investigative Action Report



ELMWOOD PARK POLICE DEPARTMENT



16-7105

█████ said "I'm not your Uncle" and brushed ██████ arm off his shoulder and "cupped" ██████ arm, then made a statement about being time for ██████ to leave. ██████ said ██████ shook his arm away from ██████ grasp as the two walked out of the east ballroom into the vestibule area.

█████ said ██████ said "I just came to do my thing" and ██████ said "you have to leave" and "you're not welcome here". ██████ said ██████ turned and made a movement as if to "bolt" towards ██████ stepped between ██████ and ██████ with his hands up as if to block ██████ from getting to ██████, saying "it's time to leave".

█████ said ██████ called ██████ a "rat" as they continued to walk out to the front lobby area of Elmerest. ██████ said ██████ was saying "Remember, you put this on yourself ██████ Remember that" as he walked out the front door.

█████ said he never saw ██████ strike ██████ in anyway. ██████ said he only saw ██████ brush ██████ hand off his own shoulder after ██████ placed it there. ██████ said at no time did he think ██████ was going to harm ██████

Nothing further at this time.

Det. Ransom #4611
m4611

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Chris Kuzin
Supervisor

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Investigative Action Report



ELMWOOD PARK POLICE DEPARTMENT
Investigations Division



Case Report: 15-7196
Title: Battery
Commander: Robert J. Klisz #2811
Date: 07-27-16

Case Action

On 07-27-15, I placed a copy of this reported incident, which was on a DVD-R, into evidence under the Best System.

Nothing further at this time.

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Commander Robert J. Klisz

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Supervisor

Investigative Action Report

ELMWOOD PARK POLICE DEPARTMENT

Case Report: 15-7195
Title: Battery
Officer: Brown #9026
Date: 7/25/15

Case Action

On 7/25/15 at 2160 hours, I spoke with [REDACTED] in the station lobby. He told me his lawyer advised him to sign a complaint in this case. I told [REDACTED] the case was forwarded to the detective bureau, and he would need to speak with detectives about any follow up actions in the case. I advised Commander Klsz and Detective Ransom of [REDACTED] intentions. Nothing further.

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Sergeant Tom Brown #9026 *23*

Investigative Action Report



ELMWOOD PARK POLICE DEPARTMENT
Investigations Division



Case Report: 15-7495
Title: Battery
Commander: Robert J. Kilsz #2844
Date: 07-30-15

Case Action

On 07-29-15, at 1110 hours, I left a message for [REDACTED].

On 07-29-15, at 1227 hours, I received a voice mail from [REDACTED]. At 1305 hours, I left [REDACTED] another message.

On 07-30-15, at approximately 1225 hours, I was notified by Records Clerk Warhulski that [REDACTED] was in the second floor lobby of the Elmwood Park Police Station requesting a copy of a police report.

Detective Astrella and I went to the lobby. I spoke with [REDACTED] and advised him the investigation of this report was complete. I advised him the investigation revealed there was not probable cause for an arrest in this case.

[REDACTED] told me he wanted a copy of the report. I advised him he needed to FOIA the report per department policy.

This case is closed by exception.

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Commander Robert J. Kilsz

COPY

Supervisor

IN THE CIRCUIT COURT OF COOK COUNTY, ILLINOIS

The People of the State of Illinois
on the relation of

VITTORIO VERRECCHIA;

v.

VILLAGE OF ELMWOOD PARK
11 CONTI PARKWAY
ELMWOOD PARK, IL 60707



No. 2015-CH-17858

SUMMONS IN MANDAMUS

To each defendant:

YOU ARE SUMMONED and required to file an answer in this case, or otherwise file your appearance in the office of the clerk of this court located in Room 802, Richard J. Daley Center, Chicago, Illinois, on or

before _____, _____. However, if this summons is served upon you less than 5 days before that date, you must file your answer or otherwise file your appearance on or before the 5th day after that date. IF YOU FAIL TO DO SO A JUDGEMENT BY DEFAULT MAY BE TAKEN AGAINST YOU FOR THE RELIEF ASKED IN THE PETITION, A COPY OF WHICH IS HERETO ATTACHED.

To the officer:

This summons must be returned by the officer or other person to whom it was given for service, with endorsement of service and fees, and if any, immediately after service. If service cannot be made, this summons shall be returned so endorsed. This summons may not be served later than the above date.

WITNESS, Wednesday 09 September, 2015



DOROTHY BROWN, Clerk of the
Circuit Court of Cook County

Atty. No.: 49168
Name: PARIKH LAW GRP LLC
Atty. for: VITTORIO VERRECCHIA
Address: 150 S WACKER#2600
City/State/Zip: CHICAGO, IL 60606
Telephone: (312) 725-3476

Date of Service: _____,
(To be inserted by officer on copy left with
Defendant or other person)

DOROTHY BROWN, CLERK OF THE CIRCUIT COURT OF COOK COUNTY, ILLINOIS

IN THE CIRCUIT COURT OF COOK COUNTY, ILLINOIS

The People of the State of Illinois
on the relation of

VITTORIO VERRECCHIA;

v.

ELMWOOD PARK POLICE DEPT.

7420 WEST FULLERTON
ELMWOOD PARK, IL 60707



No. 2015-CH-17858

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WITNESS, Wednesday 09 December, 2015



DOROTHY BROWN, Clerk of the
Circuit Court of Cook County

Atty. No.: 49168
Name: PARIKH LAW GRP LLC
Atty. for: VITTORIO VERRECCHIA
Address: 150 S WACKER#2600
City/State/Zip: CHICAGO, IL 60606
Telephone: (312) 725-3476

Date of Service: _____,
(To be inserted by officer on copy left with
Defendant or other person)

DOROTHY BROWN, CLERK OF THE CIRCUIT COURT OF COOK COUNTY, ILLINOIS

IN THE CIRCUIT COURT OF COOK COUNTY, ILLINOIS

The People of the State of Illinois
on the relation of

VITTORIO VERRECCHIA;

v.

ROBERT BORMANN
11 CONTI PARKWAY
ELMWOOD PARK, IL 60707



No. 2015-CH-17858

SUMMONS IN MANDAMUS

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WITNESS, Wednesday 09 December, 2015



DOROTHY BROWN, Clerk of the
Circuit Court of Cook County

Atty. No.: 49168
Name: PARIKH LAW GRP LLC
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Address: 150 S WACKER#2600
City/State/Zip: CHICAGO, IL 60606
Telephone: (312) 725-3476

Date of Service: _____,
(To be inserted by officer on copy left with
Defendant or other person)

DOROTHY BROWN, CLERK OF THE CIRCUIT COURT OF COOK COUNTY, ILLINOIS

Chancery DIVISION

Litigant List

Printed on 12/09/2015

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Plaintiffs

Plaintiffs Name	Plaintiffs Address	State	Zip	Unit #
VITTORIO VERRECCHIA				

Total Plaintiffs: 1

Defendants

Defendant Name	Defendant Address	State	Unit #	Service By
VILLAGE OF ELMWOOD PARK	11 CONTI PARKWAY ELMWOOD PARK,	IL	60707	Sheriff-Clerk
ELMWOOD PARK POLICE DEPT.	7420 WEST FULLERTON ELMWOOD PARK,	IL	60707	Sheriff-Clerk
ROBERT BORMANN	11 CONTI PARKWAY ELMWOOD PARK,	IL	60707	Sheriff-Clerk

Total Defendants: 3

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

VITTORIO VERRECCHIA,)	
)	Case No.: 16-CV-397
Plaintiff,)	
v.)	Judge Amy St. Eve
)	
VILLAGE OF ELMWOOD PARK,)	
VILLAGE OF ELMWOOD PARK)	
POLICE DEPARTMENT, and ROBERT)	
BORMANN, an individual,)	
)	
Defendants.)	

**DEFENDANTS' MOTION TO DISMISS PLAINTIFF'S AMENDED COMPLAINT FOR
FAILURE TO STATE A CLAIM PURSUANT TO RULE 12(b)(6)**

Defendants Village of Elmwood Park and Robert Bormann, by their attorneys, Julie A. Bruch and Benjamin M. Jacobi, move to dismiss Plaintiff Vittorio Verrecchia's Amended Complaint pursuant to Rule 12(b)(6) and in support thereof state as follows.

BACKGROUND

Verrecchia's Amended Complaint fails to cure the deficiencies of his initial complaint, which this court dismissed on March 15, 2016. (Doc. 17.) Although some additional facts are pled in the Amended Complaint, they do not sufficiently link Verrecchia's political affiliation with Pasquale Martorana to the adverse employment actions allegedly instituted by Defendant Bormann against Verrecchia. They fail to sufficiently allege that Bormann even knew about Verrecchia's alleged political affiliation with Martorana. The additional facts also fail to sufficiently allege a policy of political retaliation against the Village under *Monell*. As before, this court should dismiss Verrecchia's Amended Complaint. This time, the court should dismiss the Amended Complaint with prejudice.

In the Amended Complaint, Verrecchia alleges that he has worked as a code inspector for the Village from 2015 to present. (¶ 7.)¹ In that capacity, his job duties include regularly attending team meetings, routine and special building and home inspections, and performing other inspections to determine whether a code violation exists. (¶ 8.) Verrecchia alleges that he was busy at work on most days prior to the events that are the subject of the complaint. (¶ 8.)

Verrecchia alleges that throughout his employment as code inspector, “there was a widespread custom of verbally insulting, advocating against, disagreeing with, and actively working against anything that Pasquale Martorana did.” (¶ 9.) Verrecchia alleges that Martorana was a political opponent to Mayor Saviano and to all of the individuals currently in managerial positions, including Bormann. (¶ 10.)

Verrecchia alleges that on July 10, 2015, he attended a Cubs game with Martorana and another friend, and he took a photograph with Martorana and the other friend outside Wrigley Field. (¶ 11--12.) Verrecchia alleges that the “photograph was subsequently posted on Facebook and could be viewed by others.” (¶ 12.) A copy of the photograph is attached as Exhibit 1 to the Amended Complaint. (¶ 12.) Verrecchia alleges that “[f]ollowing the baseball game and the posting of the photograph, Plaintiff was harassed repeatedly by his boss Bormann, the Village’s Manager Paul Volpe, and multiple other individuals he worked with at the Village.” (¶ 13.)

Verrecchia further alleges, “The harassment included, but was not limited to, individuals telling Plaintiff to pass on threats to his ‘friend Pasquale.’” (¶ 13.) Verrecchia alleges, “Bormann, as a result of the posting of the photograph and through other sources of information, had knowledge that Plaintiff was affiliated with Pasquale Martorana.” (¶ 14.)

¹ Facts are taken from the Amended Complaint and deemed true for the purposes of this motion to dismiss. *Fries v. Helsper*, 146 F.3d 452, 457 (7th Cir. 1998). Paragraphs from the Amended Complaint are cited with a ¶ symbol.

Verrecchia alleges that Saviano held a political fundraiser at Elmcrest Banquets on July 23, 2015 to raise funds for Saviano's campaign. (§ 15.) Verrecchia alleges that Rocco Biscaglio ("Rocco") serves as Saviano's campaign treasurer. (§ 16.) Verrecchia alleges that on July 23, he "attempted to attend Saviano's fundraiser after receiving a formal invitation to attend via US Mail." (§ 17.) Verrecchia alleges that "[u]pon arriving at the event, [he] proceeded to walk in through the front and tender a check for a donation to Saviano's campaign." (§ 18.) Verrecchia alleges that Rocco was working the front door and was collecting money for the event in his role as Saviano's campaign treasurer. (§ 19.) Verrecchia alleges that when he entered the event, "Rocco immediately advised him to leave and stated that he is not welcome at the event." (§ 20.) Verrecchia alleges that he informed Rocco that he received an invitation and attempted to tender his donation. (§ 21.) According to Verrecchia, Rocco became increasingly angry and aggressive towards Verrecchia and, in an effort to get Verrecchia to leave the event, pushed Verrecchia several times, screamed at him, told Verrecchia that he is a rat and that he needed to leave, told Verrecchia "to get the fuck out of here before he [Plaintiff] gets hurt," and advised Verrecchia that he would be tearing up Verrecchia's check. (§ 22.)

Verrecchia alleges that "Saviano took notice of what was happening and simply walked away, refusing to help Plaintiff, his employee." (§ 23.) Verrecchia alleges that Rocco proceeded to put his hands on Verrecchia in an offensive and malicious manner in an attempt to push Verrecchia out of the event. (§ 24) Verrecchia then left the event. (§ 25.)

Verrecchia alleges that after leaving the event, he went directly to the Elmwood Park Police Department to file a report of what had transpired at the fundraiser. (§ 25) Verrecchia alleges that at the Police Department, Sargent (sic) Brown took Verrecchia's report. (§ 26.) Verrecchia alleges that he asked Sgt. Brown "if he could take a few days to decide whether he

wanted to press charges and sign a formal complaint against Rocco for the alleged assault.” (§ 26.) Verrecchia alleges, “Sargent Brown (sic) answered in the affirmative and advised Plaintiff that he could come back in the next 364 days to sign a complaint to file charges,” and that Sgt. Brown memorialized this in his report, which is attached as Exhibit 2 to the complaint. (§ 26.)

Verrecchia alleges that he returned to the Police Department two days later, and “[t]he Police Department denied Plaintiff’s request to sign the complaint.” (§§ 27–28.) According to Verrecchia, Police Chief Frank Fagiano “additionally denied Plaintiff the opportunity to sign the complaint.” (§ 29.) Verrecchia alleges that Commander Robert Klisz is Saviano’s “close friend,” and he subsequently took over the processing of the complaint. (§ 30.) Verrecchia alleges that Commander Klisz, too, denied Verrecchia an opportunity to sign and pursue the complaint against Rocco, and that he advised Verrecchia that he had closed the case after allegedly conducting interviews with witnesses at the fundraiser. (§ 30.) Verrecchia alleges that Commander Klisz was a guest at the fundraiser and “was reportedly intoxicated at the event.” (§ 31.) Verrecchia alleges that, to date, the Police Department has failed to allow him to sign and process a formal complaint against Rocco. (§ 30.)

Verrecchia alleges that subsequent to the event, he “began experiencing a change in how he was being treated at work.” (§ 33.) Verrecchia alleges, “Prior to the incident involving Rocco and the public’s knowledge that Plaintiff was affiliated with Pasquale Martorana, Plaintiff enjoyed a gratifying and busy workload in his capacity as a code inspector for the Village,” and that following the incident, “the way he was treated at work changed drastically.” (§§ 34–35.) Verrecchia alleges, “The Village passed a new policy removing Plaintiff’s vacation days and other benefits granted to employees of the Village. Upon information and belief, the new alleged

policy has only impacted Plaintiff's employment benefits." (¶ 36.) Verrecchia alleges that this "policy came straight from the office of the [sic] Saviano." (¶ 37.)

Verrecchia also alleges that Plaintiff "has and continues to receive a drastically reduced workload and responsibilities at work due to Defendant Bormann's instruction to do the same." (¶ 38.) Verrecchia alleges that the "custom and harassment towards Pasquale Martorana and his political group continued after this photo was posted. The custom was extended to include hatred and harassment towards Plaintiff due to his affiliation with Pasquale Martorana and his political group." (¶ 39.)

Verrecchia alleges that the "Village and Bormann stopped including Plaintiff in team meetings and fail to give Plaintiff assignments in the field, a sudden change from how Plaintiff was treated prior to his affiliation with Pasquale Martorana becoming public knowledge." (¶ 40.) Verrecchia asserts, "Defendant Bormann has and continues to make various statements indicating his strong dislike for Pasquale Martorana and his affiliates." (¶ 41.) Verrecchia alleges, "Most recently, in December 2015, Defendant Bormann referred to Pasquale Martorana as an 'ass' due to the fact that Pasquale Martorana had spoke at a public forum and Village meeting," and called Martorana an "asshole for attempting to bring about change in the Village and for calling out public officials in public." (¶ 42.)

Verrecchia alleges that Bormann treats Verrecchia differently than other employees, and that "since learning of Plaintiff's support for Pasquale Martorana, has abused his role with the Village to harass, demote, reduce Plaintiff's workload and job duties, reduce Plaintiff's employment benefits, and other acts." (¶ 44.) Verrecchia alleges that Village Manager Volpe suspended Verrecchia from writing code violations after Verrecchia issued citations to Antonio

Donato, whom Verrecchia asserts is a “well-known slum lord and political supporter of Mayor Saviano.” (§ 45.)

Verrecchia’s Amended Complaint asserts three counts. Count I is brought pursuant to § 1983 against the Village and alleges that the Village Police Department, acting as an agent for the Village, deprived Verrecchia of his “right to protection from his Village Police Department” based on his political affiliation. Count II also appears to be brought pursuant to § 1983 against the Village and Bormann for taking adverse employment actions in response to Verrecchia’s political affiliation. Count III is brought pursuant to § 1983 against the Village and again appears to be related to the alleged adverse employment actions suffered by Verrecchia.

Just like Verrecchia’s initial complaint, Verrecchia’s Amended Complaint fails to state a claim against either the Village or Bormann, and this court should dismiss the Amended Complaint.

MOTION TO DISMISS STANDARD

A 12(b)(6) motion challenges the sufficiency of the complaint to state a claim upon which relief can be granted. *Hallinan v. Fraternal Order of Police Chicago Lodge 7*, 570 F.3d 811, 820 (7th Cir.). Under *Twombly*, Rule 12(b)(6) dismissal is warranted if the complaint fails to set forth “enough facts to state a claim to relief that is plausible on its face.” *Bell Atlantic Corp. v. Twombly*, 550 U.S. 544, 570 (2007); *Ashcroft v. Iqbal*, 556 U.S. 662 (2009).

MONELL STANDARD

Under the long standing principle in *Monell*, a municipality “may not be sued under § 1983 for an injury inflicted solely by its employees or agents.” *Monell v. Dep’t of Soc. Servs.*, 436 U.S. 658, 694 (1978). Instead, the complaint must allege “that an official policy or custom not only caused the constitutional violation, but was ‘the moving force’ behind it.” *Estate of Sims v. County of Bureau*, 506 F.3d 509, 514 (7th Cir. 2007). “The ‘official policy’ requirement

for liability under § 1983 is to distinguish acts of the *municipality* from acts of *employees* of the municipality, and thereby make clear that municipal liability is limited to action for which the municipality is actually responsible.” *Id.* at 515 (citations omitted). “Misbehaving employees are responsible for their own conduct; units of local government are responsible only for their policies rather than misconduct by their workers.” *Id.* (quotes omitted). “A plaintiff may demonstrate an official policy through: (1) an express policy that causes a constitutional deprivation when enforced; (2) a widespread practice that is so permanent and well-settled that it constitutes a custom or practice; or (3) an allegation that the constitutional injury was caused by a person with final policymaking authority.” *Id.*

I. Count I Does Not Allege that Verrecchia’s Constitutional Rights Were Violated by a Village Policy as Required By *Monell*.

Count I theorizes that the Police Department, acting as the Village’s agent, deprived Verrecchia of a “right to protection” by denying Verrecchia the “right to process a complaint against Rocco,” and thus the Village is liable under § 1983. This theory fails to state a claim for several reasons.

First, Verrecchia cannot state a *Monell* claim against the Village merely by characterizing the police department as an “agent” of the Village. Verrecchia must still allege that his rights were violated as a result of an express policy, a widespread practice, or by a person with final policymaking authority, *Estate of Sims*, 506 F.3d at 514, and he has not. Verrecchia does not allege that the Village has an express policy commanding the Police Department to treat persons differently based on political associations. Verrecchia does not allege that the Police Department has engaged in a widespread practice of treating persons politically opposed to the mayor less favorably, and one instance does not suffice. *See Phelan v. Cook County*, 463 F.3d 773, 789 (7th Cir. 2006). Finally, Verrecchia does not allege that a person with final policymaking authority

for the Village violated his rights; the alleged “agent” Police Department is not a “final policymaker.” See *Aurlemma v. Rice*, 957 F.2d 397, 401 (7th Cir. 1992) (finding that the Chicago Police Superintendent is not a final policymaker).

Second, Verrecchia does not have a constitutional right to have a complaint processed. Generally, an individual does not have a constitutional right to have the police investigate his case at all, and still less of a constitutional right to do so to his level of satisfaction. *Rossi v. City of Chicago*, 790 F.3d 729, 735 (7th Cir. 2015); *Buchmeier v. City of Berwyn*, No. 14-C-6750, 2015 WL 4498742, at *3 (N.D. Ill. July 23, 2015) (“Private plaintiffs do not have a right to compel the government to file criminal charges against other individuals.”). Without an underlying constitutional violation, there can be no *Monell* claim in this case. *D.S. v. East Porter County Sch. Corp.*, 799 F.3d 793, 800 (7th Cir. 2015).

Finally, the Police Department is not a legal “agent” of the Village because, as Verrecchia has already conceded, the Police Department is not a separate entity from the Village. (Doc. 17 at 3.) Under certain circumstances, police officers may be “agents” of the Village for the purposes of holding the Village vicariously liable for their acts under a state law claim for respondeat superior, but it is well established that a claim under respondeat superior is not a claim under § 1983. *Estate of Sims*, 506 F.3d at 514. The difference between a claim for respondeat superior and a claim under § 1983 against a municipality is exactly what *Monell* and its progeny have sought to distinguish. The acts of the Police Department and its members are irrelevant under *Monell* unless they were caused by the Village’s official policy of retaliation. There are no such allegations, and Count I alleging a constitutional violation against the Village should be dismissed.

II. Count II Fails to Sufficiently Allege that Bormann Knew about Verrecchia's Association with Martorana or that Bormann Acted Because of Verrecchia's Association with Martorana.

Count II appears to assert a § 1983 claim against Bormann for allegedly retaliating against Verrecchia for his purported political association.² As in the initial complaint, Verrecchia fails to allege sufficient facts linking Verrecchia's political affiliation to Bormann's conduct. (Doc. 17 at 4.) In the initial complaint, Verrecchia alleged the following: (1) Verrecchia went to a Cubs game with the Mayor's political opponent, (2) Verrecchia took a photograph with the opponent, (3) someone posted the photograph on Facebook, and (4) Rocco then assaulted Verrecchia. This court already found that those facts were insufficient to allege that Bormann knew of Verrecchia's political affiliation and then acted because of the political affiliation. (Doc. 17 at 4) (citing *Minix v. Canarecci*, 597 F.3d 824, 933 (7th Cir. 2010) (“[I]ndividual liability under § 1983 requires ‘personal involvement in the alleged constitutional deprivation.’”)).

Verrecchia's Amended Complaint contains a few additional facts, but none that sufficiently alleged that Bormann knew of Verrecchia's political affiliation or that draw the necessary link between Bormann's conduct and his purported knowledge of the political affiliation. For example, Verrecchia alleges that “[f]ollowing the baseball game and the posting of the photograph, Plaintiff was harassed repeatedly by his boss Bormann, the Village's Manager Paul Volpe, and multiple other individuals he worked with at the Village,” and that “[t]he harassment included, but was not limited to, individuals telling Plaintiff to pass on threats to his ‘friend Pasquale.’” (¶ 13.) This allegation is vague; it alleges that individuals told Verrecchia to

² Although Count II does not reference § 1983 in its title like Counts I and III do, Paragraph 64 references Plaintiff's First Amendment rights. Defendants interpret Count II as being asserted under § 1983. If Count II is actually a state law claim for retaliation, it should be dismissed because Verrecchia has not been discharged. *Gaines v. K-Five Const. Corp.*, 742 F.3d 256, 269 (7th Cir. 2014).

pass on threats to Pasquale, but does not attribute those statements to Bormann (which would have been easy to do had they occurred). The allegation actually appears to assert that Bormann harassed Verrecchia, and that *other* individuals told Verrecchia to pass on threats to Pasquale; Verrecchia then tenuously assumes that Bormann's harassment was also related to Pasquale. That link is insufficient to impute knowledge to Bormann of Verrecchia's political association.

Also, as in the initial complaint, Verrecchia alleges that Bormann, "as a result of the posting of the photograph and through other sources of information, had knowledge that Plaintiff was affiliated with Pasquale Martorana." (§ 14.) As before, the mere existence of the photograph is insufficient to impute knowledge to Bormann of Verrecchia's political association. Notably, Verrecchia does not allege that Bormann actually saw the photograph. Also, even if he did, the photograph itself is not political at all, and neither is attendance at a Cubs game. Verrecchia's allegation does not sufficiently state a claim against Bormann.

Verrecchia also alleges that Bormann has made statements indicating a dislike for Pasquale Martorana. (§§ 41-42.) But, again, Verrecchia fails to plead that Bormann knew of Verrecchia's association with Martorana, or that that Bormann acted to deter Verrecchia's association with Martorana.

Verrecchia has failed to cure the deficiencies in his claims against Bormann. He fails to sufficiently allege that Bormann knew of Verrecchia's political association or affiliation with Martorana, or acted because of it. Count II against Bormann should be dismissed with prejudice.

III. This Court Should Dismiss Counts II and III Against the Village Because They Fail to State *Monell* Claims.

Counts II and III appear to duplicate a *Monell* claim against the Village for implementing adverse employment actions against Verrecchia in retaliation for exercising his rights under the First Amendment. As with Count I, see *supra* Section I, Verrecchia fails to plead that the

constitutional deprivations were the result of an express policy, a widespread practice, or the act of a final policymaker. *Estate of Sims*, 506 F.3d at 514.

As in his initial complaint, which this court dismissed, the only “policy” referenced in Verrecchia’s complaint is in Paragraph 36, where Verrecchia alleges, “[T]he Village passed a new policy seemingly removing Plaintiff’s vacation days and other benefits granted to employees of the Village. Upon information and belief, the new alleged policy has only impacted Plaintiff’s employment benefits.” (¶ 36.) Verrecchia fails to identify where this “policy” is formalized as an “express policy” (because there is no such formalized express policy), and the “policy” cannot constitute a widespread practice because Verrecchia admits that it only impacted him. *Phelan*, 463 F.3d at 789.

Verrecchia alleges in his Amended Complaint that the “policy came straight from the office of the [sic] Saviano.” (¶ 37.) This allegation is insufficient to state a claim under the “policymaker” theory because it does not allege that Mayor Saviano knew that Verrecchia was associated or affiliated with Martorana, or that Saviano single-handedly “passed a new policy removing Plaintiff’s vacation days and other benefits” to deter Verrecchia’s association with Martorana, or that Saviano, himself, retaliated against Verrecchia because of Verrecchia’s political association. The allegation that the purported policy came from the office of Saviano does not trigger a *Monell* claim.

Further, as in the initial complaint, even if Verrecchia has identified a policy (which he has not), Verrecchia has not pled facts sufficient from which to draw an inference that the policy was the “moving force” causing a constitutional deprivation. Although Verrecchia alleges that he experienced a reduction in benefits and workload (¶¶ 36, 38), was not allowed to attend team meetings (¶ 40), and was suspended from writing code citations (¶ 45), he fails to draw any

causal connection between a policy of retaliation and these purported deprivations. He even alleges that his suspension was the result of issuing several citations to Antonio Donato, not because of Verrecchia's political associations. (¶ 45.)

Finally, without an underlying constitutional violation, there can be no *Monell* liability against the Village. The allegations in Verrecchia's complaint do not rise to the level of constitutional violations, *supra* Section II, and this court should dismiss the *Monell* claims.

CONCLUSION

As in the initial complaint, Verrecchia fails to plead sufficient allegations that his alleged constitutional deprivation was caused by an official policy of the Village. Verrecchia also fails to plead facts from which the court can plausibly infer that Bormann knew of Verrecchia's political association with Martorana, or that Bormann retaliated against Verrecchia because of Verrecchia's political association with Martorana. This was Verrecchia's second attempt to state a claim, and he has failed. This court should dismiss this lawsuit with prejudice.

**VILLAGE OF ELMWOOD PARK,
ROBERT BORMANN**

By: *s/Benjamin M. Jacobi*
One of Their Attorneys

Julie A. Bruch, #6215813
Benjamin M. Jacobi, #6296811
O'Halloran Kosoff Geitner & Cook, LLC
650 Dundee Road, Suite 475
Northbrook, Illinois 60062
Telephone: (847) 291-0200
Facsimile: (847) 291-9230
Email: bjacobi@okgc.com

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

VITTORIO VERRECCHIA,)	
)	Case No.: 16-CV-397
Plaintiff,)	
v.)	Judge Amy St. Eve
)	
VILLAGE OF ELMWOOD PARK,)	
VILLAGE OF ELMWOOD PARK)	
POLICE DEPARTMENT, and ROBERT)	
BORMANN, an individual,)	
)	
Defendants.)	

CERTIFICATE OF SERVICE

I hereby certify that on April 26, 2016, I electronically filed *Defendants' Motion to Dismiss Plaintiff's Amended Complaint Pursuant to Rule 12(b)(6)* with the Clerk of Court using the CM/ECF system, which will send notification of such filing to the following registered CM/ECF participant(s):

Anish Parikh
Parikh Law Group, LLC
anish@plgfirm.com

VILLAGE OF ELMWOOD PARK,
ROBERT BORMANN

By: s/Benjamin M. Jacobi
One of Their Attorneys
O'Halloran, Kosoff, Geltner & Cook, LLC
650 Dundee Road, Suite 475
Northbrook, Illinois 60062
Telephone: (847) 291-0200
Facsimile: (847) 291-9230
bjacobi@okge.com

2015 WL 4498742

Only the Westlaw citation is currently available.

United States District Court,
N.D. Illinois, Eastern Division.

Loren W. Buchmeier and
Christopher W. Erffmeyer, Plaintiffs,
v.
City of Berwyn, Mayor Robert Lovero, and
Unit Command Officer Lt. James Sasseti of
the Berwyn Police Department, Defendants.

No. 14 C 6750

Signed July 23, 2015

Attorneys and Law Firms

Peter Michael Delongis, Joseph L. Ponselto, Law Offices of
Peter M. Delongis, Ltd., Oak Brook, IL, for Plaintiffs.

K. Austin Zimmer, Cynthia Sara Grandfield, Eric T. Stach,
Joseph Anthony Glambrone, Del Galdo Law Group, LLC,
Berwyn, IL, for Defendants.

MEMORANDUM OPINION AND ORDER

James B. Zagel, United States District Judge

*1 On September 2, 2014, Plaintiffs Loren Buchmeier and Christopher Erffmeyer (together, "Plaintiffs") filed a complaint against Defendants City of Berwyn, Mayor Robert Lovero, and Unit Command Officer Lt. James Sasseti of the Berwyn Police Department (the "BPD") (collectively, "Defendants"), alleging that Defendants conspired to deprive them of their right of access to the courts (Count I) under 42 U.S.C. § 1983. Plaintiffs have further alleged state law claims against City of Berwyn officials and members of the BPD for intentional infliction of emotional distress ("IIED") (Count II) and conspiracy to inflict emotional distress (Count III). Counts II and III are the basis for two further state law claims against Defendant City of Berwyn under *respondent superior* liability (Count IV) and indemnification liability (Count V). Defendants move to dismiss Plaintiffs' complaint in its entirety pursuant to Federal Rules of Civil Procedure 12(b)(6). For the following reasons, Defendants' motion is granted on all Counts.

FACTUAL BACKGROUND

The following facts are adopted from Plaintiffs' complaint and are accepted as true for the purpose of evaluating Defendants' motion to dismiss.

Plaintiffs' allegations stem from an incident (the "Incident") on September 2, 2012 inside a pub in Berwyn, Illinois. Plaintiff Buchmeier, who is a City of Berwyn police officer, was off duty while patronizing the pub with his cousin, Plaintiff Erffmeyer. In the late evening hours, the Plaintiffs were beaten by known assailants ("Assailants"), including the niece of Defendant Mayor Lovero. Plaintiffs characterize the attack as severe and claim that it constituted criminal aggravated assault and criminal aggravated battery. The BPD dispatched numerous officers to the scene, where they arrested seven individuals whom Plaintiffs identified as their Assailants. The supervising officer that evening was Sergeant Ramon Ortiz. Plaintiff Buchmeier indicated to Ortiz that he wanted to sign criminal complaints against the Assailants, and he confirmed this desire with another police officer at the scene. Plaintiffs were then transported to MacNeal Hospital for treatment of their injuries.

Meanwhile, Ortiz was contacted on his cell phone by Defendant Sasseti. After learning what happened and who had been arrested, Sasseti informed Ortiz that the arrested individuals were political allies and friends of Mayor Lovero. Sasseti instructed Ortiz to convince Plaintiffs—through the offer of monetary restitution, if necessary—to agree not to sign criminal complaints against Assailants. Ortiz went to the hospital and followed Sasseti's instructions, but Buchmeier refused to accept monetary compensation from Assailants' families in exchange for his renunciation of criminal charges. Sasseti then took matters into his own hands. He went to the hospital in the early morning hours of September 3, 2012 and pressured Plaintiffs into signing criminal refusal forms under duress. Once the forms were signed, the BPD immediately released all of the arrested individuals with no charges filed. All investigations of the matter ceased.

*2 In an attempt to redress what he viewed as a conspiracy to cover up the Incident, Buchmeier retained legal counsel. His attorney communicated with the BPD Police Chief, who said that an internal investigation was open regarding any crimes that may have taken place with respect to the Incident. The Chief promised to keep the attorney apprised of the investigation and indicated that all communications from the

City of Berwyn would come through him. Notwithstanding this promise, Buchmeier's attorney was contacted separately by Mayor Lovero, who invited him to a meeting with two other attorneys, ostensibly the Mayor's own counsel and counsel for the Assailants. At the meeting, Mayor Lovero implied that if Buchmeier were to press criminal charges against the Assailants, Buchmeier might also be charged criminally on the basis of racist remarks he allegedly said on the night of the incident. Buchmeier's attorney then attempted to negotiate a civil damages resolution with the attorney seemingly representing the Assailants, but an agreement could not be reached. Buchmeier's attorney reiterated that his client was not interested in exchanging money for his refusal to press criminal charges.

The BPD Chief failed to contact Buchmeier's attorney to share the results of the internal investigation. Via a Freedom of Information Act request, Buchmeier learned that the Assailants would not be charged criminally and that Sasseti was found to be responsible for the investigation and documentation of the incident. The BPD file indicated that Sasseti delayed the investigation; allowed arrested individuals to be released without proper interviews or documentation; and attempted to negotiate monetary deals without adequate justification for his or his subordinates BPD officers' conduct. In October 2013, Buchmeier's attorney sent the BPD a letter requesting that an independent investigative agency be appointed to look into the criminal culpability of the Assailants. In response, the City of Berwyn officially rescinded Plaintiffs' signed refusals to prosecute and invited them to file a complaint with the BPD. As a result of the incident and his resultant injuries, Buchmeier had to call in sick for five days, was placed on extended medical leave for 33 days, and was assigned to light duty for 102 days.

LEGAL STANDARD

A motion to dismiss under Rule 12(b)(6) does not test the merits of a claim; rather, it tests the sufficiency of the complaint. *Gibson v. City of Chicago*, 910 F.2d 1510, 1520 (7th Cir.1990). In deciding a 12(b)(6) motion, the court accepts all well-pleaded facts as true, and draws all reasonable inferences in favor of the plaintiff. *Id.* at 1521. To survive a 12(b)(6) motion, "a complaint must contain sufficient factual matter, accepted as true, to state a claim to relief that is plausible on its face." *Ashcroft v. Iqbal*, 556 U.S. 662, 678 (2009). "A claim has facial plausibility when the plaintiff pleads factual content that allows the court to

draw the reasonable inference that the defendant is liable for the misconduct alleged." *Id.* "While legal conclusions can provide the framework of a complaint, they must be supported by factual allegations." *Id.* at 679.

DISCUSSION

I. Denial of Access to Courts Claim (Count I)

Plaintiffs allege that Defendants, individually, jointly and in conspiracy covered up the criminal and civil culpability of the Assailants by intimidating Plaintiffs into signing criminal refusals, obstructing a proper investigation of the incident, and falsely and/or incompletely documenting evidence of the incident. Plaintiffs plead that Defendants thereby violated their constitutional rights to judicial redress for their alleged injuries under the First, Fifth, and Fourteenth Amendments.

A plaintiff may bring a valid claim for relief under § 1983 if he can show that someone acting under color of state law deprived him of a right protected by the Constitution. *Rossi v. City of Chicago*, No. 13-3795, 2015 WL 3827324, at *3 (7th Cir. June 22, 2015). The Supreme Court has affirmed that the First and Fourteenth Amendments safeguard an individual's right to seek legal redress for claims that have a reasonable basis in law and fact. *Christopher v. Harbury*, 536 U.S. 403, 414-15 (2002). Accordingly, efforts by state actors to interfere with an individual's right of court access may be actionable as a deprivation of constitutional rights under § 1983. *Bounds v. Smith*, 430 U.S. 817, 822 (1977). Based on the requirement that judicial access be "adequate, effective, and meaningful," *id.* at 822, the Seventh Circuit has held that "when police officers conceal or obscure important facts about a crime from its victims rendering hollow the right to seek redress, constitutional rights are undoubtedly abridged." *Vasquez v. Hernandez*, 60 F.3d 325, 329 (7th Cir.1995). The question for this Court is whether the facts as alleged rendered hollow Plaintiffs' right to seek redress.

*3 A generous reading of Plaintiffs' complaint recognizes three underlying causes of action that were potentially impeded by Defendants' conduct: criminal aggravated assault, criminal aggravated battery, and civil battery. With respect to the first two criminal claims, Plaintiffs base their corresponding denial of access claim on the assumption that they have a "right to testify on behalf of the People of the State of Illinois in a criminal proceeding." This assumption, however, is not grounded in any constitutional right. Private plaintiffs do not have a right to compel the government to

file criminal charges against other individuals. See *Dorko v. Godinez*, 2012 WL 5268675, at *6 (S.D.Ill. Oct. 24, 2012) (citing *Diamond v. Charles*, 476 U.S. 54, 64–65 (1986)); *Cole v. Johnson*, No. 14–CV–01059–JPG, 2014 WL 5785282, at *5 (S.D.Ill. Nov. 6, 2014) (referencing *Esmail v. Macrane*, 53 F.3d 176 (7th Cir.1995)) (noting that selective prosecution is only actionable under the Constitution if allegedly based on retaliation or denial of equal protection). Nor do Plaintiffs have a prosecutorial right, as they claim, under the “Illinois Victims Bill of Rights,”¹ which expressly states that it does not grant any person a cause of action for damages or attorney fees. 725 Ill. Comp. Stat. Ann. 120/9. Without any underlying right to press criminal charges against their Assailants, Plaintiffs have no corresponding right of judicial access with which Defendants could have interfered. Therefore, the only right on which Plaintiffs’ denial of access claim can possibly be based is their right to pursue a civil action.

The Seventh Circuit recently decided a case with facts that closely track those here. In *Rossi v. City of Chicago*, No. 13–3795, 2015 WL 3827324, at *4 (7th Cir. June 2015), the plaintiff claimed that police officers failed to investigate an assault against him in order to shield another police officer involved in the attack from criminal scrutiny. The Seventh Circuit affirmed the lower court’s grant of summary judgment for defendants, explaining that “mere inactivity by police does not give rise to a constitutional claim.” *Id.*, at *4. Like the plaintiff in *Rossi*, Plaintiffs Buchmeier and Erfmeyer were not precluded from seeking civil relief due to the alleged misconduct of Defendants. In both cases, the plaintiffs were attacked by known assailants in an identified location, and they had access to witnesses, medical records, and other documentary evidence. *Id.*, at *5. Indeed, Plaintiffs emphasized in their complaint that they personally identified the Assailants for the police; moreover, each Plaintiff could presumably rely on his cousin and co-Plaintiff to testify as an eyewitness to the incident. As the Seventh Circuit has found in similar cases, Plaintiffs were not deprived meaningful access to the courts where they were personally involved in the incident and thus had firsthand knowledge of the facts necessary to file a civil action when the claim arose. *Id.* See also *Thompson v. Boggs*, 33 F.3d 847, 852 (7th Cir.1994).

While Defendants need not “literally bar the courthouse door” for a right of access claim to arise, *Bell v. City of Milwaukee*, 746 F.2d 1205, 1261 (7th Cir.1984), *overr’d on other grounds by Russ v. Watts*, 414 F.3d 783 (7th Cir.2005), their alleged interference in the Plaintiffs’ civil action does not rise to the level of a constitutional violation. Plaintiffs’ signing

of criminal refusal forms (whether coerced or not) did not preclude them from filing a civil action. In fact, as Defendants point out in their motion to dismiss, Plaintiffs previously filed a civil lawsuit against eight individual defendants for claims related to the Incident, indicating Plaintiffs’ unobstructed ability to seek legal redress.² Further, Plaintiffs’ allegations do not state that the City attempted to legitimize any particular competing view of the factual circumstances surrounding the Incident so as to alter the presumptions that would apply in a civil suit. Like the plaintiff in *Rossi*, Plaintiffs’ civil case likely would have been stronger had Defendants conducted a thorough investigation of the Incident, *Rossi*, at *5, but that fact alone does not support the conclusion that Plaintiffs were deprived of their rights to seek legal redress. *Id.* See also *Cook v. City of Chicago*, No. 06 C 5930, 2014 WL 4493813, at *7 (N.D.Ill. Sept. 9, 2014) (denial of access to courts only arises where an alleged cover-up is to some extent successful).

*4 For all of the reasons set forth above, Plaintiffs have failed to state an actionable claim of denial of judicial redress under § 1983. Plaintiffs’ § 1983 conspiracy claims also fail, as a constitutional deprivation is a necessary predicate to a § 1983 conspiracy action. *Bisford v. City of Chicago, Ill.*, No. 08 C 214, 2009 WL 4639747, at *4 (N.D.Ill. Dec. 3, 2009) (citing *Goldschmidt v. Patchett*, 686 F.2d 582, 585 (7th Cir.1982)). Similarly, given Plaintiffs’ failure to state any viable claim under § 1983, Plaintiffs cannot hold Defendant City of Berwyn liable for such a claim under a theory of *respondeat superior*, and this Court need not evaluate the merits of the parties’ arguments under *Monell v. Dep’t of Soc. Servs.*, 436 U.S. 658 (1978). I therefore grant Defendants’ motion to dismiss Count I against all Defendants.

II. State Law Claims (Counts II–V)

Plaintiffs allege the following state law claims against Defendants: intentional infliction of severe emotional distress (Count II), conspiracy to inflict severe emotional distress (Count III), *respondeat superior* liability against Defendant City of Berwyn (Count IV), and indemnification liability against Defendant City of Berwyn under 745 ILCS § 10/9–102 (Count V).

A. Statute of Limitations for State Law Claims

Defendants argue that all of Plaintiffs’ state law claims are time-barred under the Tort Immunity Act. Although plaintiffs are generally not required to negate statute of limitations defenses in their complaints, they may plead themselves out of court by alleging facts that clearly show the applicable

statute of limitations period has passed. *Cancer Found., Inc. v. Cerberus Capital Mgmt., LP*, 559 F.3d 671, 675 (7th Cir.2009). In determining whether Plaintiffs have done so here, this Court addresses two intertwined questions: (1) whether Plaintiffs have alleged a “continuing violation” of their state law rights by Defendants, and (2) whether Plaintiffs have asserted state law claims against Defendants as individuals or solely as City of Berwyn officials.

The Tort Immunity Act requires that civil actions against local government entities and their employees be commenced within one year from the date that the injury was received or cause of action accrued. 745 Ill. Comp. Stat. 10/8–101(a). Defendants argue that all of Plaintiffs’ allegations concern the Incident on September 2, 2014, which occurred more than one year prior to the filing of this lawsuit. In response, Plaintiffs argue that their state law claims were pled in part against Defendants Sassetti and Lovero as individuals and are thus subject to a two-year statute of limitations. See 735 Ill. Comp. Stat. Ann. 5/13–202. Moreover, Plaintiffs assert that their complaint states violations based on *ongoing* wrongful conduct—namely, covering up the Assailants’ civil and criminal culpability—which they claim continued through November 2013 (when the BPD rescinded Plaintiffs’ signed refusals to prosecute). For the following reasons, I find that Plaintiffs’ state law claims against only Sassetti, and not Lovero or the City of Berwyn, are time-barred under the Tort Immunity Act.

1. Claims against Defendant City of Berwyn

Both parties rely on *Feltmeier v. Feltmeier*, 798 N.E.2d 75 (Ill.2003), where the Supreme Court of Illinois explained that with a properly pled “continuing violation,” the statute of limitations period does not begin to run until the date of the last injury or the date that the unlawful acts cease. *Id.* at 278. The *Feltmeier* court emphasized that a “continuing violation” is occasioned by ongoing unlawful acts and conduct, “not by continual ill effects from an initial violation.” *Id.* Plaintiffs’ complaint alleges a cover-up by BPD police officers, involving a failure to bring criminal charges against the Assailants and “extreme and outrageous” conduct related to the investigation of the Incident. Although much of the conduct complained of stems from the night of the Incident, Plaintiffs have alleged subsequent actions on the part of the BPD that could plausibly be interpreted as continuing acts meant to protect the Assailants from legal redress. For example, when Plaintiff Buchmeier’s attorney contacted the BPD Chief to insist on pressing criminal charges (at some unspecified time after the Incident but

before October 2013), the Chief indicated that a criminal investigation of the Incident was open. This assertion was contrary to the Plaintiffs’ understanding that all investigations of the matter had ceased and could indicate that the BPD was conducting a sham investigation to cover up the Assailants’ culpability. Consequently, the facts alleged do not definitely preclude Plaintiffs’ theory of a continuing violation. See *Ollins v. O’Brien*, No. 03 C 5795, 2005 WL 730987, at *15 (N.D.Ill. Mar. 28, 2005) (holding that a continuing tort theory may apply when plaintiffs alleged intentional infliction of emotional distress due to a continuing cover-up by city officials).

2. Claims against Defendant Sassetti

*5 Unlike Plaintiffs’ allegations against the City of Berwyn (by way of its employees in the BPD), all of the allegations against Defendant Sassetti stem from the night of the Incident and the following morning. Plaintiffs accuse Sassetti of various unlawful actions, including coercing them into signing criminal releases, exercising undue influence over the investigation of the Incident, and releasing prisoners without having the proper documentation completed. All of this alleged misconduct occurred by September 3, 2012, when Plaintiffs signed the criminal release forms, and all investigations of the Incident supposedly ceased. Given the lack of subsequent allegations against Sassetti, his acts cannot plausibly be interpreted as a “continuing violation.” With this in mind, we must next determine the applicable statute of limitations. Because the instant lawsuit was filed on September 2, 2014—more than one year after the misconduct alleged against Sassetti—the state law claims against him are time-barred if the Tort Immunity Act applies.

For an employee to be covered by the Tort Immunity Act, he must be acting within the scope of his employment at the time of the alleged injury. *Hedges v. Cnty. of Cook*, No. 96 C 6228, 1997 WL 269632, at *4 (N.D.Ill. May 13, 1997). Illinois courts consider an employee’s conduct “within the scope of employment” if his acts are “closely connected with what [he] is employed to do, and so fairly and reasonably incidental to it, that they may be regarded as methods, even though quite improper ones, of carrying out the objective of employment.” *Id.* (internal citations omitted). All of Plaintiffs’ allegations against Sassetti revolve around his handling of the investigation, which clearly falls within the scope of his employment as a police officer. See *Walley v. Placenta*, No. 02 C 6296, 2005 WL 2737001, at *3 (N.D.Ill. Oct. 20, 2005) (finding that police officer was acting in his official capacity regardless of plaintiff’s assertion that officer

was sued in his own behalf); *Wilson v. City of Chicago*, 900 F.Supp. 1015, 1029 (N.D.Ill.1995) (finding that police officers were acting within the scope of their employment, despite ulterior motives, because they were acting in the course of an official police investigation). Therefore, the state law claims against Sasseti are subject to the one-year statute of limitations of the Tort Immunity Act and are, accordingly, dismissed.³

3. Claims Against Defendant Mayor Lovero

Like Plaintiffs' allegations against Sasseti, their allegations against Mayor Lovero cannot plausibly be considered a "continuing violation." The complaints against Lovero boil down to a single act: his alleged threat that criminal charges could be filed against Plaintiff Buchmeier. Even if the Plaintiffs continued to experience residual distress, any injuries attributable to the Mayor stemmed from this discrete threat and were not the result of an ongoing violation. Nonetheless, Plaintiffs' state law claims against the Mayor cannot be dismissed on the basis of any statute of limitation because the complaint does not specify the date of the Mayor's alleged misconduct. To that end, this Court cannot determine whether the corresponding claims are time-barred. There is thus no need to evaluate whether Plaintiffs' claims were asserted against Mayor Lovero individually or solely as a City of Berwyn official and, consequently, whether the Tort Immunity Act applies.

B. Substantive Causes of Action for State Law Claims

*6 Plaintiffs allege that every City of Berwyn official, member of the BPD, and other non-defendants committed—and conspired to commit—extreme and outrageous conduct by covering up the Assaultants' culpability in the Incident. Having disposed of the claims against Defendant Sasseti as time-barred, I will address the remaining claims against Defendant Lovero and Defendant City of Berwyn separately. For the reasons set forth below, I find that Plaintiffs have failed to state sufficient claims of intentional infliction of severe emotional distress against all remaining Defendants.

Under Illinois law, IIED claims must allege that (1) the defendants' conduct was extreme and outrageous; (2) the defendants either intended their conduct to inflict severe emotional distress or knew there was a high probability of such result; and (3) the defendants' conduct in fact caused severe emotional distress. *Love v. City of Chicago*, No. 09 C 03631, 2015 WL 2193712, at *13 (N.D.Ill. May 7, 2015). To constitute "extreme and outrageous" conduct, a defendant's

behavior must be "so outrageous in character, and so extreme in degree, as to go beyond all possible bounds of human decency," *id.* (citations omitted), such that a "reasonable person would hear the facts and be compelled to feelings of resentment and outrage." *Parker v. Side by Side, Inc.*, 50 F.Supp.3d 988, 1023 (N.D.Ill.2014). As a result, the standard for showing IIED is high, and liability does not extend to "mere insults, indignities, threats, annoyances, petty oppressions or trivialities." *Arce v. Chicago Transit Auth.*, No. 14 C 102, 2015 WL 3504860, at *9 (N.D. Ill. June 2, 2015) (citing *Pub. Fin. Corp. v. Davis*, 360 N.E.2d 765, 767 (Ill.1976)). To that end, it is not enough to demonstrate that a defendant's actions were motivated by tortious, malicious, or even criminal intent. *Id.*

1. Claims against Defendant Mayor Lovero

The IIED claim against Mayor Lovero is rooted in his alleged threat that criminal charges could be filed against Buchmeier if Plaintiffs pursued criminal complaints against the Assaultants. Although threats are generally not sufficient to support an IIED action, *id.*, Illinois courts have found that a threat can rise to the level of extreme and outrageous behavior "if the defendant is in the position to carry out that threat by virtue of the authority or control he or she exerts over the plaintiff, action which would constitute an abuse of the defendant's position." *Torres v. All Town Bus Services, Inc.*, No. 1-10-1853, 2011 WL 10069610, at *5 (Ill.App.Ct. Mar. 25, 2011). Even then, Illinois courts have refused to recognize IIED claims absent allegations that a defendant carried out his supposed threat. *See, e.g., Torres*, at *5 (stating that "no showing has been made that the defendants abused their position by carrying out the alleged threat. Absent a showing of abuse, we cannot say the threats the plaintiff attributes to the defendants rose to the level of extreme and outrageous behavior..."). In the present case, Plaintiffs do not claim that Mayor Lovero took any affirmative steps to act on his alleged threat and materially abuse his position of power. Absent such additional allegations, the Mayor's position of authority alone does not elevate his behavior beyond the realm of non-actionable "insults, indignities, threat, [and] annoyances." *Arce*, 2015 WL 3504860, at *9.

Even in cases where defendants wrongly accuse plaintiffs of something as serious as breaking the law, Illinois courts have maintained the high threshold for "extreme and outrageous" conduct and have generally sustained only those claims where false accusations led to substantive legal action against the plaintiffs. *See, e.g., Holder v. Ivanjack*, 39 F.Supp.2d 965, 969-70 (N.D.Ill.1999); *Wallace v. City of Zion*, No. 11C2859,

2011 WL 3205495, at *6 (N.D. Ill. July 28, 2011). Here, Plaintiffs have not claimed that Lovero's supposedly false accusation led to any legal process, such as the filing of a criminal complaint. *See Holder*, 39 F.Supp.2d at 969-70 (holding that police officers' filing of false criminal charges following their threatening confrontation with plaintiff can underpin an IIBD claim). Plaintiffs have not even alleged that Lovero communicated his accusations to the police. *See Wallace*, 2011 WL 3205495, at *6 (finding valid IIBD claim where defendant called police and falsely accused plaintiff of breaking the law, leading to police officers' beating and arresting plaintiff). Instead, Plaintiffs' complaint depicts an isolated threat that never materialized and thus fails to reach the requisite level of "extreme and outrageous" behavior. *See Henry v. Ramos*, No. 97 C 4025, 1997 WL 610781, at *2 (N.D.Ill. Sept. 28, 1997) (finding plaintiff's IIBD claim sufficient because "defendants did not abuse their power over plaintiff with threats alone. Instead, defendants used their power to arrest and eventually convict an innocent person ...") (emphasis added). For all of the reasons set forth above, Plaintiffs have failed to state a sufficient claim of IIBD against Defendant Lovero.

2. Claims Against Defendant City of Berwyn

*7 Plaintiffs' claim against other City of Berwyn officials also fails to reach the requisite level of extreme and outrageous conduct. Plaintiffs assert that members of the BPD orchestrated a sham investigation of the Incident in an attempt to justify their failure to pursue criminal charges against the Assailants. Like the Mayor, the BPD officers occupy positions of authority, and their conduct is subjected to heightened scrutiny under the "extreme and outrageous" standard. *See Love*, 2015 WL 2193712, at *13. Nevertheless, "there must be allegations of more than a misuse of police authority to support a claim of extreme and outrageous behavior...." *Carr v. Vill. of Richmond*, No. 96 C 50203, 1996 WL 663921, at *8 (N.D.Ill. Nov. 15, 1996). In a case similar to the present action, this Court found that allegations against police officers for a negligent investigation and failure to

press charges against potential offenders failed to establish an IIBD claim. *Shelton v. Schneider*, No. 05 C 5955, 2006 WL 59364, at *7 (N.D.Ill. Jan. 4, 2006). In *Shelton*, the court held that actions by police chiefs and officers in relation to their investigation—or lack thereof—of allegedly unlawful conduct did not rise to the level of extreme and outrageous behavior. *Id.* Similarly, Plaintiffs' claim against members of the BPD, based on allegations of an improper or non-existent investigation, fails to plead more than a mere "misuse of police authority," *Carr*, at *8, and thus does not state a claim that BPD officials' conduct was "extreme and outrageous." Consequently, Plaintiffs have failed to state an actionable claim of IIBD against the City of Berwyn employees in the BPD.

For all of the reasons set forth above, Plaintiffs have failed to sufficiently plead state law claims of intentional infliction of severe emotional distress. I therefore dismiss Count II against all Defendants. Following the dismissal of Plaintiffs' Count II claims, Plaintiffs are precluded from alleging a state claim of conspiracy to inflict emotional distress. *See Davis v. City of Chicago*, No. 03 C 8631, 2004 WL 728215, at *3 (N.D.Ill. Apr. 2, 2004) (holding that failure to state an emotional distress claim precludes corresponding conspiracy claim). Therefore, Count III is dismissed against all Defendants. Given the dismissal of all the underlying claims against city employees, Plaintiffs' derivative claims against Defendant City of Berwyn for *respondeat superior* (Count IV) and indemnification (Count V) are also dismissed.

CONCLUSION

For the foregoing reasons, Defendants' motion to dismiss is granted in its entirety.

All Citations

Slip Copy, 2015 WL 4498742

Footnotes

- 1 This Court assumes that Plaintiffs' unattributed reference to the "Illinois Victims Bill of Rights" is to the Rights of Crime Victims and Witnesses Act.
- 2 This Court may take judicial notice of matters of public record, including the lawsuit referenced by Defendants. *Gen. Elec. Capital Corp. v. Lease Resolution Corp.*, 128 F.3d 1074, 1000-81 (7th Cir.1997). Therefore, contrary to Plaintiffs' assertion, Defendants' reference to Plaintiffs' previously filed lawsuit does not convert their motion to dismiss into one for summary judgment.

2015 WL 4498742

- 3 In their response to Defendants' motion to dismiss, Plaintiffs request leave to amend their complaint in the event that their allegations failed to charge either Defendant as an individual. This Court chooses to exercise its broad discretion to deny such requests when an amendment would be futile. See *McCoy v. Iberdrola Renewables, Inc.*, 760 F.3d 674, 684 (7th Cir.2014). Plaintiffs' allegations clearly portray Sassetti as acting within the scope of his employment, so any amended complaint that properly charged him as an individual in Counts II and III would nonetheless fall to state a non-time-barred claim.

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May 23, 2016

CERTIFIED MAIL - RETURN RECEIPT REQUESTED

Paul Volpe
Village of Elmwood Park
11 Conti Parkway
Elmwood Park IL 60707

RE: ICRMT Participant: Village of Elmwood Park
Plaintiffs: Vittorio Verrecchia
Claim number: 151217W011
Date Claim Made: 12/16/2015
Retro Coverage: 04/30/1987
ICRMT Participant #: 16-260
Policy Number: ICRMT2016260
Policy Period: 12/01/2015 to 11/30/2016
Deductible: \$25,000.00

Dear Mr. Volpe:

IPMG Claims Management Services serves as the claims administrator for the Illinois Counties Risk Management Trust (the "ICRMT") of which the Village of Elmwood Park is a member. On behalf of the ICRMT, this letter confirms receipt of the above captioned lawsuit filed in the Circuit Court of Cook County, Illinois, Chancery, Division entitled Vittorio Verrecchia v Village of Elmwood Park, et al (hereafter, the "Underlying Complaint"), case number 2015-CH-17858. The intent of this letter is to point out potential coverage issues as they relate to this lawsuit, and to further confirm the personal liability exposure the individually named Village defendants may face.

I. Background facts

The plaintiff filed his complaint alleging Section 1983 claims of equal protection and retaliation as the result of his participation in the Mayoral candidate's campaign. According to the complaint the plaintiff is friends with a political opponent of the Village's Mayor. He attended a baseball game and posted a picture of his self with the opponent at the game. Following the posting he was harassed by his boss and the Village Manager.

The plaintiff was invited to attend a fund raiser being held by the opponent and when he arrived the treasurer for the opponent began yelling obscenities at the plaintiff and physically threw him out of the event. The plaintiff went to the police station to file charges against the opponent's Treasurer, but apparently the Chief of Police and Sargent the plaintiff dealt with are also friends with the opponent and refused to allow the plaintiff to file his charges.

In addition to the treatment at the police department the plaintiff alleges following the fundraising incident his treatment at work changed. He alleges his vacation days were taken away along with other benefits granted to employees of the Village. Work assignment changed including reduced workload, reduced responsibilities and no field assignments. The plaintiff was excluded from team meetings and was suspended from writing code citations after citations were written to a well-known slumlord and political supporter of the Mayoral opponent.

The plaintiff alleges he continues to be treated differently than other employees based on his political affiliations and the incident involving the Treasurer. The Plaintiff also filed a Writ of Mandamus asking the court to force the Police Department to file the charges against the Treasurer and to conduct a proper investigation.

The plaintiff alleges due to the treatment he received from the police department his right to equal protection has been violated. In addition, plaintiff alleges pursuing a private complaint against an individual is a protected activity that he engaged in and is causing him to fear his employment will be terminated as the result. As a result the plaintiff seeks in excess of \$50,000 in compensatory damages, an unspecified amount of punitive damages, his attorney's fees and cost

II. The ICRMT Policy

Village of Elmwood Park is afforded coverage under the Illinois Counties Risk Management Trust program via certificate number 16-334, with effective dates of 12/1/2015 to 11/30/2016 under policy number ICRMT2016334. This claim falls under Coverage Part I: Liability, Section V: Public Officials Liability – Claims Made and Reported. The total limit available on a per occurrence basis with this program is \$1,000,000 each occurrence which applies to any loss and expense payment, not to mention any additional limits the Village may have purchased under this program. The Village carries a \$25,000 deductible each occurrence under this section. The deductible also applies to any loss payment and expense payment. The ICRMT policy provides coverage in relevant part:

* * *

ICRMT PUBLIC ENTITY COVERAGE FORM

* * *

COVERAGE PART I – LIABILITY

SECTION I — WHO IS AN INSURED

1. The term **Insured** as used herein means the entity stated in the **Declarations** as the **Named Insured** and except as excluded by endorsement to this **Policy**:
 - (a) A governmental entity, agency or authority, county, subdivision, department, municipal body, district, board or commission, or other similar unit that is:
 - (1) Operated by you; and
 - (2) Subject to your oversight, control, direction or governance.
But no such governmental entity, agency, authority, subdivision, department, municipal body, district, board or commission, administrative department or other similar unit that is an autonomous entity; or that is wholly subject to independent or outside oversight, control or direction; or whose liability is not the result of the oversight, control or direction of the **Insured**, will be an **Insured** under this policy unless listed in the **Declarations** or by endorsement hereon.
 - (b) An individual while appointed as a director or executive officer, but only with respect to their duties as your officers or directors;
 - (c) A board member, commissioner, trustee, or council person, but only as respects their duties as a board member, commissioner, council person or trustees for the **Named Insured**;
 - (d) An employee or staff member but solely while acting within the scope of their employment by you;
 - (e) An elected or appointed official or a member of your governing body, board, commission, council or agency of yours, but solely while acting within the scope of their duties for you as such;
 - (f) A partnership or **Joint Venture**, including a mutual assistance pact, joint powers agreement or similar agreement, but only with respect to the conduct of your operations and only to the extent of your sole participation or interest;
 - (g) A volunteer, unpaid worker, leased or temporary worker, but solely while acting within the scope of such duties for you and as authorized by an official of the **Named Insured** at your direction;
 - (h) Your Medical Directors in conjunction with the medical facilities covered under this **Policy**, but only with respect to their administrative duties on your behalf. Administrative duties include the establishment of department procedures, standing orders, and protocol.

The term **Insured** shall include all individuals and entities as cited in (a) through (h) above.

* * *

SECTION V – PUBLIC OFFICIALS LIABILITY COVERAGE – CLAIMS MADE AND REPORTED

CLAIMS MADE AND REPORT POLICY: THIS INSURANCE COVERAGE IS ON A CLAIMS MADE AND REPORTED BASIS. COVERAGE APPLIES ONLY TO THOSE **CLAIMS** THAT ARE FIRST MADE AND REPORTED DURING THE **POLICY PERIOD** AND ANY EXTENDED REPORTING PERIOD, IF APPLICABLE, AS THOSE TERMS ARE DESCRIBED IN THIS **POLICY**. COVERAGE DOES NOT APPLY TO ANY **WRONGFUL ACT** COMMITTED BEFORE THE RETROACTIVE DATE STATED ON THE **SCHEDULE OF COVERAGE PAGE** OR AFTER THE EXPIRATION OF THE **POLICY PERIOD**.

1. INSURING AGREEMENT

The **Trust** will pay on behalf of the **Insured** all **Ultimate Net Losses** which the **Insured** becomes legally obligated to pay for any **Claim** arising out of a **Wrongful Act** which is reported during the **Policy Period** and within the **Policy Territory**, provided that:

- (a) The **Claim** on account of such **Wrongful Act** is first made against an **Insured** and reported to us, in compliance with **Section VI – General Conditions, 13. – Insured Duties** in the event of an **Occurrence, Offense, Loss, Wrongful Act, or Claim**, during the **Policy Period** or any applicable reporting period under **Section V - #3. - Extended Reporting Periods**; and
- (b) As of the inception date of this **Policy**, no **Insured** had any knowledge of any circumstance likely to result in or give rise to such **Claim** nor could any **Insured** have reasonably foreseen that such **Claim** might be made; and
- (c) The **Wrongful Act** takes place on or after the Retroactive Date shown in the **Declarations** and before the end of the **Policy Period**.

For purposes of Paragraph 1 of **Section V – Insuring Agreement**: If, during the **Policy Period** an **Insured** gives written notice to us of a **Wrongful Act** likely to result in a **Claim**, then any **Claim** that may subsequently be made against an **Insured** resulting from such **Wrongful Act** shall be deemed to have been made during the **Policy Period**.

* * *

6. PUBLIC OFFICIALS LIABILITY EXCLUSIONS

In addition to those exclusions found in **Section VII – General Policy Exclusions**, the **Trust** shall not be liable to make any payment for nor defend any **Claims** arising out of a **Wrongful Act** for:

- (c) **Bodily Injury, Property Damage, Personal Injury or Advertising Injury**

Claims arising out of:

- (1) **Bodily Injury** or any mental anguish associated with such **Bodily Injury**;
- (2) **Property Damage**;
- (3) **Personal Injury**; except for **Claims** arising out of **Employment Practices**; or
- (4) **Advertising Injury**.

- (f) **Malicious Acts Arising Out of Acts or Omissions**

Claims arising out of an act or omission that is dishonest, fraudulent, criminal, malicious, or committed with intentional disregard of the law.

* * *

SECTION VII - GENERAL POLICY EXCLUSIONS

Unless otherwise expressly provided in the **Declarations**, under specific coverages, or by endorsement, the coverage provided in this **Policy** does not apply to or provide coverage for:

18. Expected or Intended Injury

Claims arising out of **Bodily Injury** or **Property Damage** expected or intended from the standpoint of the **Insured** unless such act or acts arises solely from the use of reasonable force for the protection of person or property.

This exclusion does not apply to **Section III - Law Enforcement Liability**.

39. Punitive and Exemplary Damages

Claims in whole or in part seeking punitive or exemplary damages, including attorney's fees, defense costs, claims cost, suit or any other legal or administrative action or expense. We shall have no duty to defend any claim, or part thereof, seeking punitive or exemplary damages.

* * *

SECTION VIII -- DEFINITIONS

6. BODILY INJURY means bodily injury, sickness, mental anguish, shock, emotional distress or disease sustained by any person, including death at any time resulting there from. All **Bodily Injury** arising out of continuous or repeated exposure to substantially the same general conditions shall be considered as arising out of one **Occurrence**.

37. NAMED INSURED means the political subdivision within the State of Illinois which is a present participant in the **Trust** and listed as the **Named Insured** within the **Declarations**.

60. ULTIMATE NET LOSS means the total sum excess of any applicable self-insured retention(s) or deductible(s) and other insurances, whether recoverable or not, for which the **Insured** is obligated to pay because of **Loss** or **Damages** covered under any section of this **Policy**, either through adjudication or compromise, after making proper deductions. All recoveries and salvage will be deducted from **Ultimate Net Loss**. **Ultimate Net Loss** includes:

- (a) Hospital, medical and funeral charges and all sums paid as salaries, wages, compensation, fees, expenses for doctors and nurses;
- (b) Legal expenses, premiums to release attachments or appeal bonds, expenses for lawyers and investigators and other persons for defense, settlement or investigation of **Claims** and **Suits** which are paid or which we incur; provided, however, nothing contained in this definition of **Ultimate Net Loss** shall create a duty to defend under this **Policy** if no coverage exists.

Ultimate Net Loss does not include:

- (1) Judgments or acts deemed uninsurable by law;
- (2) Fines, penalties, punitive **Damages**, exemplary damages, penalties or any **Damages** resulting from the multiplication of compensatory **Damages**;
- (3) The return of fees, commissions, or brokerage charges;
- (4) Costs, fees and other expenses paid by you to a claim handling organization or any other organization handling your **Claims** and any expenses incurred by you or the organization or any other organization handling your **Claims** in the administration, investigation, adjustment or settlement of any covered **Claim** or litigation;
- (5) Payments, including salaries and expenses, to any employee or official of an **Insured** for services rendered in administering any **Claim** or in the investigation, adjustment and litigation of any **Claim**;
or
- (6) Court costs, interest, fines or penalties assessed against you or claims administrator.

64. **WRONGFUL ACT** means any actual or alleged error, misstatement, misleading statement, act or omission, malicious prosecution, neglect or breach of duty including misfeasance, malfeasance, or nonfeasance which occurs during the **Policy Period**, including:

- (a) **Wrongful Acts** relating to the **Administration** or **Breach of Fiduciary Duty** of an **Employee Benefits** program by the **Insured** and;
- (b) **Employment Practices** of the **Insured** by an **Insured**.

For the purpose of determining the **Trust's** limit of liability, all **Claims** or **Damages** arising out of a single **Wrongful Act**, interrelated **Wrongful Acts**, or a series of legally or factually related **Wrongful Acts** by one or more **Insureds** against one or more claimants shall be considered as arising from a single **Wrongful Act**. If such **Wrongful Act** takes place over more than one policy period in which coverage is provided to the **Insured**, the **Wrongful Act** shall be deemed to have taken place during the first policy period during which any of the related **Wrongful Acts** occurred and coverage was provided by the **Trust** and only the limit of liability during said first policy period shall apply.

Continuous or repeated exposure to substantially the same generally harmful conditions shall be considered a single **Wrongful Act**.

* * *

III. Reservation of Rights

Please be advised we have reviewed the Underlying Complaint and the applicable policy provision of the ICRMT policy. There are several issues that preclude or limit coverage for the Village of Elmwood Park and Village of Elmwood Park individually named defendants. In particular, it is our understanding the plaintiff allege 1983 claims of equal protection and retaliation as the result of his participation in the Mayoral candidate's campaign. The plaintiff alleges due to the treatment his right to equal protection has been violated, and alleges pursuing a private complaint against an individual is a protected activity that he engaged in and is causing him to fear his employment will be terminated as the result.

We cite the above to address that if any intentional or deliberate type of dishonest conduct is determined by evidence or otherwise adjudicated by the court, no coverage will be afforded for such conduct.

Based on the above, this confirms the punitive damage claims made against the individually named defendants are not covered under this insurance program. Personal counsel may be retained, at their own expense, to provide consultation on any personal liability exposure they may face relative to any punitive damage claim being made against them.

As the amount sought in the suit is unspecified, it currently cannot be determined with any degree of certainty whether the amount of money or damages claimed may be in excess of your policy limits. However, it must be pointed out the ICRMT and their reinsurer cannot be responsible for any amount in excess of the aforementioned limits.

The ICRMT has assigned Ben Jacobi of O'Halloran, Kosoff, Geitner & Cook to provide a defense for the Village of Elmwood Park and individually named Village defendants in this action. However, if ever at such time the individually named defendants question their personal liability exposure and desires separate counsel, at their own expense, please advise.

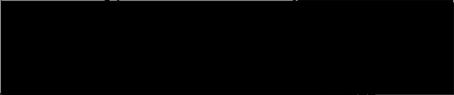
Based on the foregoing, the ICRMT, in conjunction with their reinsurer, accepts coverage for this matter under a complete reservation of rights. Both the ICRMT and their reinsurer do not waive any rights under the policy; including the right to deny coverage for any uncovered damages. In addition, the position stated in this letter shall not constitute a waiver of rights or obligations under the ICRMT policies or available by law and the ICRMT's investigation of the Underlying Complaint or the coverage determination made should not be considered an admission of any obligation under the ICRMT policies. If you believe that any additional information or documents may impact the ICRMT's coverage determination, please provide such information or documents to me, in writing, immediately for consideration.

Paul Volpe
Village of Elmwood Park
May 23, 2016

6

If you have any questions about the coverage issues raised in this letter, or the position in this matter subject to a full reservation of its rights, please do not hesitate to contact me.

Sincerely,



Karen E. Mangrum, CCLA
Claim Representative
IPMG Claims Management Services
630-485-5904
Karen.Mangrum@ipmg.com

KM

Via Email

cc: Gregg Peterson, President/CEO, IPMG
Todd Greer, Sr. VP, IPMG
Mike Castro, Sr. VP, IPMG CMS
Stephanie Christensen, Claims Manager, IPMG CMS
Ben Jacobi, O'Halloran, Kosoff, Geitner & Cook, P.C.
Mike Alesia, Mesirow Insurance Services, Inc.

IN THE CIRCUIT COURT OF COOK COUNTY, ILLINOIS

The People of the State of Illinois
on the relation of

VITTORIO VERRECCHIA;

v.

VILLAGE OF ELMWOOD PARK

11 CONTI PARKWAY
ELMWOOD PARK, IL 60707



No. 2015-CH-17858

SUMMONS IN MANDAMUS

To each defendant:

YOU ARE SUMMONED and required to file an answer in this case, or otherwise file your appearance in the office of the clerk of this court located in Room 802, Richard J. Daley Center, Chicago, Illinois, on or

before _____, _____. However, if this summons is served upon you less than 5 days before that date, you must file your answer or otherwise file your appearance on or before the 5th day after that date. IF YOU FAIL TO DO SO A JUDGEMENT BY DEFAULT MAY BE TAKEN AGAINST YOU FOR THE RELIEF ASKED IN THE PETITION, A COPY OF WHICH IS HERETO ATTACHED.

To the officer:

This summons must be returned by the officer or other person to whom it was given for service, with endorsement of service and fees, and if any, immediately after service. If service cannot be made, this summons shall be returned so endorsed. This summons may not be served later than the above date.

WITNESS, Wednesday 09 December, 2015



DOROTHY BROWN, Clerk of the
Circuit Court of Cook County

Atty. No.: 49168
Name: PARIKH LAW GRP LLC
Atty. for: VITTORIO VERRECCHIA
Address: 150 S WACKER#2600
City/State/Zip: CHICAGO, IL 60606
Telephone: (312) 725-3476

Date of Service: _____
(To be inserted by officer on copy left with Defendant or other person)

DOROTHY BROWN, CLERK OF THE CIRCUIT COURT OF COOK COUNTY, ILLINOIS

IN THE CIRCUIT COURT OF COOK COUNTY, ILLINOIS

The People of the State of Illinois
on the relation of

VITTORIO VERRECCHIA;

v.

VILLAGE OF ELMWOOD PARK
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DOROTHY BROWN
CLERK OF THE CIRCUIT COURT

WITNESS, Wednesday, 09 December, 2015



DOROTHY BROWN, Clerk of the
Circuit Court of Cook County

Atty. No.: 49168
Name: PARIKH LAW GRP LLC
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Telephone: (312) 725-3476

Date of Service: _____,
(To be inserted by officer on copy left with
Defendant or other person)

DOROTHY BROWN, CLERK OF THE CIRCUIT COURT OF COOK COUNTY, ILLINOIS

IN THE CIRCUIT COURT OF COOK COUNTY, ILLINOIS
COUNTY DEPARTMENT, CHANCERY DIVISION

VITTORIO VERRECCHIA,)
an individual,)
)
Plaintiff,)
)
v.) No. 2015
)
VILLAGE OF ELMWOOD PARK,)
VILLAGE OF ELMWOOD PARK)
POLICE DEPARTMENT, and)
ROBERT BORMANN, an individual,)
)
Defendants.)

VERIFIED COMPLAINT

NOW COMES Plaintiff, VITTORIA VERRECCHIA (“Plaintiff”), by and through his attorneys, Parikh Law Group, LLC, and as his Verified Complaint (“Complaint”) against Defendants Village of Elmwood Park (the “Village”), Village of Elmwood Park Police Department (the “Police Department”), and Robert Bormann (“Bormann”), he states as follows:

INTRODUCTION

Plaintiff brings this suit against the Village, the Police Department, and Bormann based on various claims. First, Plaintiff sets forth a cause of action for the issuance of a writ of mandamus based on the Police Department’s failure to allow Plaintiff to sign a complaint against alleged perpetrator Rocco Biscaglio (“Rocco”) and follow its own proper procedures for the processing of a complaint. Next, Plaintiff sets forth a cause of action for a violation of his equal protection rights against the Police Department based on its refusal to correctly and adequately process a complaint due to Plaintiff’s political affiliations. Plaintiff then sets forth a cause of action against the Village and Bormann for retaliation based on the Village limiting Plaintiff’s

job duties due to Plaintiff's political affiliations. Finally, Plaintiff sets forth a cause of action against the Village based on a violation of Plaintiff's right to equal protection.

PARTIES AND JURISDICTION

1. Plaintiff is a resident of the Village of Norridge in Cook County, Illinois.
2. Defendant Village is a municipality incorporated under the laws of the state of Illinois and is located in Cook County, Illinois.
3. Defendant Police Department is a police department created under Section 38-1 of the Village's Code.
4. Defendant Robert Bormann is an individual serving as the Director of Code Administration and Building Commissioner for the Village.
5. This Court has jurisdiction over this case because the events leading up to this case all transpired in Cook County and because Plaintiff is seeking remedies based on violations of Illinois law.
6. Venue is proper in Cook County because all events transpired in Cook County.

STATEMENT OF FACTS

7. Plaintiff resided in the Village from on or around September 2013 to October 2014.
8. Plaintiff currently works as a code inspector for the Village. He has had this job since June 1, 2015.
9. In his capacity as a code inspector for the Village, Plaintiff's job duties include regularly attending team meetings, routine and special building and home inspections, and performing other inspections to determine whether a code violation exists. Prior to the events leading up to the filing of this Complaint, Plaintiff received a great deal of work from the Village and was busy most days at work.

10. On July 10, 2015, Plaintiff attended a Chicago Cubs game with two of his friends, one of who is a political opponent of the Village's mayor, Angelo "Skip" Saviano ("Saviano").
11. During the July 10, 2015 baseball game, Plaintiff took a picture with his two friends outside of Wrigley Field. This photograph was subsequently posted on Facebook and could be viewed by others. An accurate copy of the photograph taken on July 10, 2015 is attached hereto as Exhibit 1.
12. Following the baseball game and the posting of the photograph, Plaintiff was harassed repeatedly by his boss, Defendant Bormann, and by the Village's Manager, Paul Volpe.
13. On July 23, 2015, Saviano held a political fundraiser at Elmcrest Banquets. The purpose of the event was to raise funds for Saviano's campaign.
14. Rocco serves as Saviano's campaign treasurer.
15. On July 23, 2015, Plaintiff attempted to attend Saviano's fundraiser after receiving a formal invitation to attend via US Mail.
16. Upon arriving at the event, Plaintiff proceeded to walk in through the front and tender a check for a donation to Saviano's campaign.
17. Rocco, as Saviano's campaign treasurer, was working the front door at the July 23, 2015 event. In his role as treasurer, Rocco was collecting money for the event given by guests attending the event.
18. When Plaintiff entered the event, Rocco immediately advised him to leave and stated that he is not welcome at the event.

19. Plaintiff informed Rocco that he had received an invitation and attempted to tender his donation.
20. Rocco become increasingly angry and aggressive towards Plaintiff. In an effort to get Plaintiff to leave the event, Rocco pushed Plaintiff several times, screamed at him, told Plaintiff that he is a rat and that he needed to leave, told Plaintiff to get the fuck out of here before he [Plaintiff] gets hurt, and advised that he would be tearing up Plaintiff's check. This, of course, caused a huge scene.
21. Saviano took notice of what was happening and simply walked away, refusing to help Plaintiff, his employee.
22. Rocco proceeded to put his hands on Plaintiff in an offensive and malicious manner in an attempt to push Plaintiff out of the event.
23. Plaintiff, after being treated this way and after being assaulted by Rocco, left the event and went directly to the Police Department to file a report of what had transpired at the fundraiser.
24. At the Police Department, Sargent Brown was the police officer who took Plaintiff's initial report. Plaintiff asked Sargent Brown if he could take a few days to decide whether he wanted to press charges and sign a formal complaint against Rocco for the alleged assault. Sargent Brown answered in the affirmative and advised Plaintiff that he could come back in the next 364 days to sign a complaint to file charges. Sargent Brown even memorialized this in the report he prepared that day. *See Exhibit 2.*
25. Just two (2) days later, Plaintiff went back to the Police Department after deciding to pursue the complaint against Rocco.
26. The Police Department denied Plaintiff's request to sign the complaint.

27. The Police Department's Chief, Frank Fagiano, additionally denied Plaintiff the opportunity to sign the complaint.
28. Commander Robert Klisz, Saviano's close friend, subsequently took over the processing of Plaintiff's complaint; however, he, too, denied Plaintiff the opportunity to sign and pursue the complaint against Rocco. Commander Klisz advised Plaintiff that he had closed the case after allegedly conducting interviews with witnesses at the fundraiser.
29. The Police Department assigned Commander Klisz to Plaintiff's case despite the fact that he, too, was a guest at Saviano's fundraiser and was reportedly intoxicated at the event.
30. To date, the Police Department has failed to allow Plaintiff to sign and process a formal complaint against Rocco.
31. Subsequent to the above event, Plaintiff began experiencing a change in how he was being treated at work.
32. Prior to the incident involving Rocco, Plaintiff enjoyed a gratifying and busy workload in his capacity as a code inspector for the Village.
33. Following the incident, the way he was treated at work changed drastically.
34. To begin with, the Village passed a new policy seemingly removing Plaintiff's vacation days and other benefits granted to employees of the Village. Upon information and belief, the new alleged policy has only impacted Plaintiff's employment benefits.
35. Additionally, Plaintiff has and continues to receive a drastically-reduced workload and responsibilities at work.

36. The Village and Bormann even do not include Plaintiff in team meetings, and they fail to give Plaintiff assignments in the field.
37. Village Manager Paul Volpe most recently suspended Plaintiff from writing code citations after Plaintiff issued several citations to Antonio Donato, a well-known slumlord and political supporter of Saviano.
38. Plaintiff continues to be treated differently than other employees, based on his political affiliations and the incident involving Rocco.

**COUNT I – WRIT OF MANDAMUS
AGAINST DEFENDANT POLICE DEPARTMENT**

39. Plaintiff re-alleges paragraphs 1 through 38 as though fully stated herein.
40. “[A] writ of *mandamus* commands a public officer to perform an official, nondiscretionary duty that the petitioner is entitled to have performed and that the officer has failed to perform.” *Chicago Bar Ass'n v. Illinois State Bd. of Elections*, 161 Ill. 2d 502, 507 (1994).
41. Plaintiff went to the Police Department on July 23, 2015 following the alleged assault by Rocco and made a report of the incident.
42. Following the report, Plaintiff was advised by the Police Department that he did not need to sign the complaint that day and could instead return to the Police Department to sign the complaint within one (1) year.
43. Plaintiff went back to the Police Department a few days later, but the Police Department refused and continues to refuse to allow Plaintiff to sign a formal complaint against Rocco.

44. Plaintiff, as an employee of the Village and as an individual who frequently is present in the Village, is owed the same protection by the Police Department as that given to other residents of the Village.
45. Plaintiff has an absolute right to file, sign, and process a complaint against Rocco because the incident at issue in this case occurred in the Village.
46. The Police Department, by its own admission, represented to Plaintiff that he would have the opportunity to process a complaint within one (1) year. *See Exhibit 2.*
47. Plaintiff, by his repeated trips to the Police Department, attempted to process the complaint just days after the incident in question.
48. The Police Department has wholly failed to perform its duties in violation of the rights afforded to Plaintiff.

WHEREFORE, Plaintiff, **VITTORIO VERRECCHIA**, respectfully requests that a writ of mandamus be issued against the Police Department mandating that it accept a signed complaint from Plaintiff, that it conducts a proper investigation into the incident in question, and for any and all other relief this Court deems just and appropriate.

**COUNT II – VIOLATION OF EQUAL PROTECTION – 42 U.S.C. §1983
AGAINST DEFENDANT POLICE DEPARTMENT**

49. Plaintiff re-alleges paragraphs 1-38 as though fully set forth herein.
50. Plaintiff, through his political affiliations, is a member of a certain class.
51. The Police Department acts in its capacity as provided under Illinois state law and the laws of the Village.
52. Based on Plaintiff's political affiliations, Plaintiff was denied the right by the Police Department to process a complaint against Rocco, the current Mayor of Elmwood Park's campaign treasurer.

53. In denying Plaintiff the right to process a complaint against Rocco, the Police Department acted recklessly or callously indifferent towards the equal rights afforded to Plaintiff and all other victims of an offense occurring in the Village.

54. As a result of the Police Department's violation of Plaintiff's rights based on his political affiliations, Plaintiff has been deprived the right to equal protection by not being able to properly pursue a complaint against Rocco.

55. Other individuals similarly situated to Plaintiff do not and have not received this type of adverse treatment from the Police Department.

WHEREFORE, Plaintiff, **VITTORIO VERRECCHIA**, respectfully requests that a judgment be entered against the Police Department for a violation of his rights in an amount to be determined at trial but in excess of \$50,000.00, for punitive damages, for attorney's fees as provided under the statute in question, and for any and all other relief this Court deems just and appropriate.

**COUNT III – RETALIATION
AGAINST DEFENDANTS VILLAGE AND BORMANN**

56. Plaintiff re-alleges paragraphs 1-38 as though fully set forth herein.

57. Plaintiff, until recently, enjoyed a pleasant and fulfilling work environment in which he was given many assignments and projects in his capacity as a code inspector for the Village.

58. Plaintiff has been employed by the Village since on or around June 1, 2015.

59. Plaintiff, to date, maintains that employment with the Village.

60. Ever since Plaintiff attempted to make a report against Rocco for the alleged assault that occurred at Saviano's fundraiser in July 2015, Plaintiff has been retaliated against in his place of employment with the Village.

61. Bormann has taken it upon himself to minimize Plaintiff's job duties at work.
62. Plaintiff no longer gets assigned to projects involving duties as a code inspector.
63. Plaintiff no longer is invited to attend team meetings or other important meetings involving his employment or the duties to be performed by other employees in his same position.
64. Plaintiff fears that his employment will be terminated as a result of him pursuing a complaint against Rocco.
65. Pursuing a private complaint against an individual is a protected activity that Plaintiff was engaging in.

WHEREFORE, Plaintiff, **VITTORIO VERRECCHIA**, respectfully requests that a judgment be entered against the Village and against Bormann for retaliation in an amount to be determined at trial but in excess of \$50,000.00, for attorney's fee, and for any and all other relief this Court deems just and appropriate.

**COUNT IV – VIOLATION OF EQUAL PROTECTION - 42 U.S.C. §1983
AGAINST DEFENDANT VILLAGE**

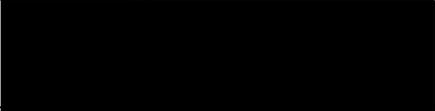
66. Plaintiff re-alleges paragraphs 1-38 as though fully set forth herein.
67. Plaintiff, by virtue of his political affiliation, is a member of a certain class of individuals.
68. The Village acts under state law and under the laws of the Village.
69. Due to his political affiliations and his allegations against Rocco, Plaintiff has been treated differently than other individuals similarly situated.
70. For instance, the Village, based on Plaintiff's employment with it, has stripped Plaintiff of certain employment benefits, including vacation days.

71. The Village has additionally reduced Plaintiff's job duties, prevented him from attending team and inspector meetings, and placed him on probation from issuing citations to individuals in the Village.

72. The Village, through its employees, further harasses Plaintiff based on his political affiliations.

WHEREFORE, Plaintiff, **VITTORIO VERRECCHIA**, respectfully requests that a judgment be entered against the Village for a violation of his rights in an amount to be determined at trial but in excess of \$50,000.00, for punitive damages, for attorney's fees as provided under the statute in question, and for any and all other relief this Court deems just and appropriate.

Respectfully submitted,
VITTORIO VERRECCHIA

By: 
Attorney for Plaintiff

PARIKH LAW GROUP, LLC
Firm ID #49168
Attorneys for Plaintiff
150 S. Wacker Drive, Suite 2600
Chicago, Illinois 60606
Tel: (312) 725-3476

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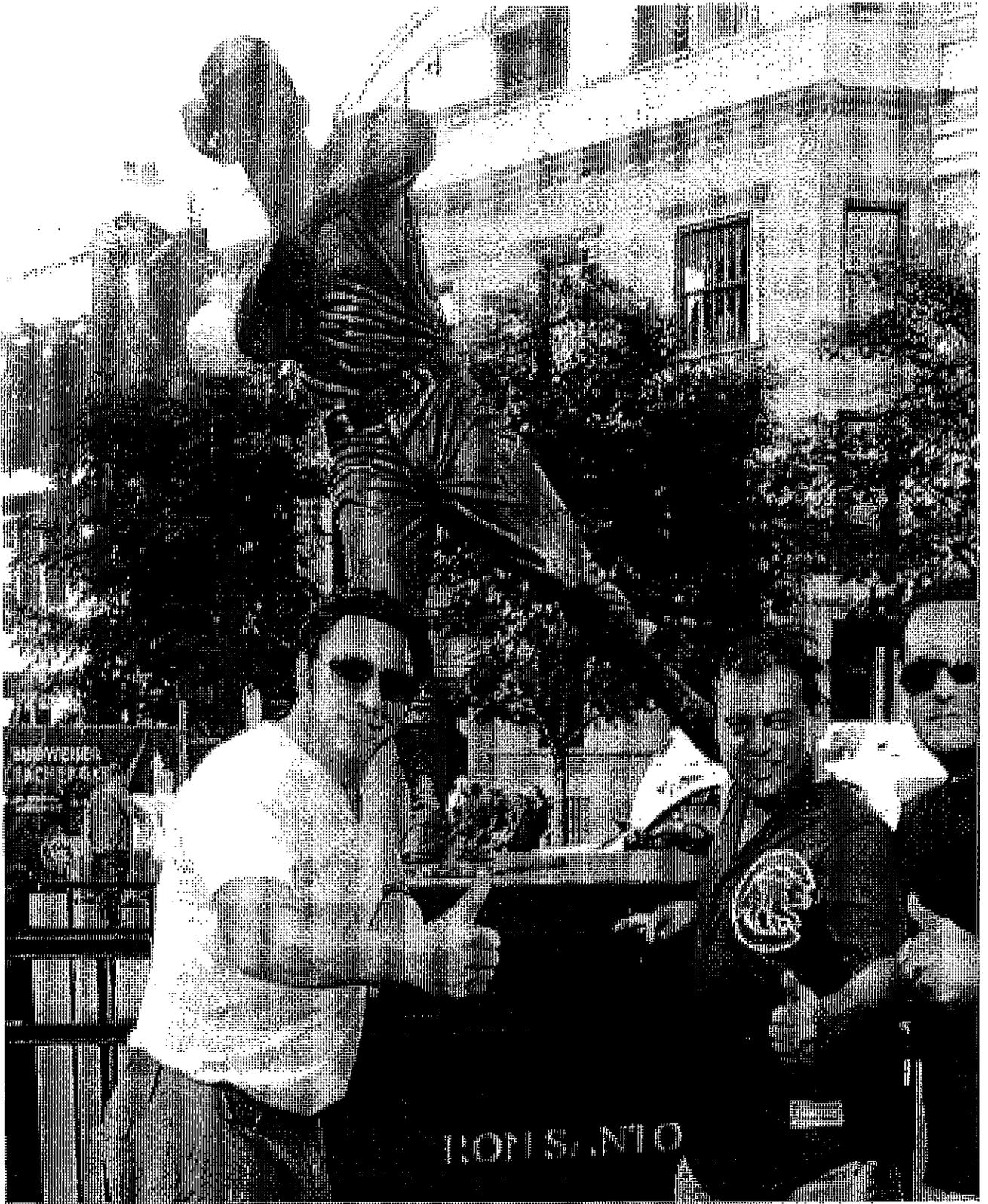


EXHIBIT 1

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ELMWOOD PARK POLICE DEPARTMENT

OFFENSE REPORT

REPORT NUMBER	(1) DEPARTMENT OR DIVISION	(2) DATE	(3) INCIDENT NUMBER
	7	2	15-7195
VICT	(4) REPORT DATE	(5) INCIDENT CLASSIFICATION	
	7 23 15 Thurs 2004	Battery	
METHOD CODE	(6) LOCATION OF INCIDENT	(7) FIRM NAME IF BUSINESS	
	7370 Grand Avenue	Blumrest Banquets	
PLACE CODE	(8) VICTIM NAME (Last, First, Middle)	(9) RESIDENCE OR BUSINESS ADDRESS	
CASE STATUS	(10) RESIDENCE PHONE	(11) BUSINESS PHONE	(12) SEX
		453-7300	m
	(13) REPORTED BY (Last, First, Middle)	(14) WITNESS W/ VICT	(15) AGE
	Victim		41
	(16) RESIDENCE PHONE	(17) BUSINESS PHONE	(18) SEX
	(19) NATURE AND EXTENT OF INJURY	(20) HOSPITALIZED / WHERE TREATED	
	None stated		
	(21) AFTER TENDON / DISLOCATION / PHYSICAL	(22) TRANSPORTED BY	(23) PRONOUNCED DEAD
	(24) WEAPON	(25) DESCRIBE WEAPON	(26) BLUE STEEL
	(27) WAS THERE ANY WEAPON TO THE OFFENSE?	(28) YES	(29) PLACE AN X IN BOX A
	See narrative		
	(30) CAN THE SUSPECT BE IDENTIFIED?	(31) YES	(32) PLACE AN X IN BOX C
	unstated		
	(33) CAN SUSPECT BE LOCATED?	(34) YES	(35) PLACE AN X IN BOX D
	(36) CAN SUSPECT BE IDENTIFIED?	(37) YES	(38) PLACE AN X IN BOX E
	victim		
	(39) HAS SUSPECT BEEN PREVIOUSLY BREED?	(40) YES	(41) PLACE AN X IN BOX F
	(42) REPORTING OFFICER	(43) SUPERVISOR APPROVING	(44) REPORT REVIEWED
	B. Rain	B. Rain	

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VEHICLE STATUS										IF YES PLACE AN X IN BOX			
<input type="checkbox"/> SUSPECT <input type="checkbox"/> STOLEN <input type="checkbox"/> VICTIM VEHICLE			VEHICLE DESCRIPTION	YEAR	MAKE	MODEL	BODY	COLOR					
LICENSE NUMBER	STATE	EXPIRES	VIN	DESCRIBE DAMAGE TO VEHICLE									
VEHICLE MAKE AND ADDRESS													
IDENTIFYING FEATURES										LEADS NUMBER		INVENTORY	
										<input type="checkbox"/> YES <input type="checkbox"/> NO		<input type="checkbox"/> YES <input type="checkbox"/> NO	
VEHICLE STOLEN/PROPERTY TRACEABLE										IF YES PLACE AN X IN BOX			
INDEX	ARTICLE	QUANTITY	DESCRIPTION	SERIAL NUMBER	LEADS NUMBER	DESCRIPTION	VALUE						
HAS EVIDENCE TECH. WORK BEEN REQUESTED? <input type="checkbox"/> YES PLACE AN X IN BOX													
WILL VICTIM/COMPLAINANT PROSECUTE IF ARREST IS MADE? <input type="checkbox"/> YES PLACE AN X IN BOX													
IS THERE SIGNIFICANT INFO. PRESENT? <input type="checkbox"/> YES PLACE AN X IN BOX													
PLACE OF ATTACK		TYPE OF BUILDING		POINT OF ENTRY		METHOD AND SUSPECT ACTIONS							
<input type="checkbox"/> Highway <input type="checkbox"/> Vehicle <input type="checkbox"/> Street <input type="checkbox"/> Alley <input type="checkbox"/> Park <input type="checkbox"/> Yard <input type="checkbox"/> Parking Lot <input type="checkbox"/> Other <input type="checkbox"/> Unknown		<input type="checkbox"/> Apartment <input type="checkbox"/> Apartment/Condo/Alex <input type="checkbox"/> Office <input type="checkbox"/> Business <input type="checkbox"/> Garage <input type="checkbox"/> House <input type="checkbox"/> School <input type="checkbox"/> Storage Locker <input type="checkbox"/> Basement <input type="checkbox"/> Other		<input type="checkbox"/> Front Door <input type="checkbox"/> Rear Door <input type="checkbox"/> Window <input type="checkbox"/> Back/Side Light <input type="checkbox"/> Opened Door <input type="checkbox"/> Garage Side Door <input type="checkbox"/> Wall <input type="checkbox"/> Yardside <input type="checkbox"/> Unknown <input type="checkbox"/> Other		<input type="checkbox"/> Unknown <input type="checkbox"/> Jimmy <input type="checkbox"/> Drive Force <input type="checkbox"/> Spread Grab <input type="checkbox"/> Vice Grip <input type="checkbox"/> Cut Lock <input type="checkbox"/> Kick Pulled <input type="checkbox"/> Key <input type="checkbox"/> Slip Lock <input type="checkbox"/> Broken/Damaged Glass <input type="checkbox"/> Unlocked/Opens <input type="checkbox"/> Hit in Building <input type="checkbox"/> Force Snatch <input type="checkbox"/> Chain Snatch <input type="checkbox"/> Home Invasion <input type="checkbox"/> Search/Grab Aids <input type="checkbox"/> Thrift Store Patron <input type="checkbox"/> Rented/Used/Altered <input type="checkbox"/> Other							
OCCUPANCY		ALARM SYSTEM											
<input type="checkbox"/> Occupied <input type="checkbox"/> Unoccupied <input type="checkbox"/> Abandoned/Vacant		<input type="checkbox"/> YES <input type="checkbox"/> NO <input type="checkbox"/> YES <input type="checkbox"/> NO											
CASE SUMMARY: PROVIDE BRIEF SUMMARY OF THE EVENTS AS THEY OCCURRED													
<p>On 7/23/15 at 2004 hours I handled a station report for a battery. [redacted] m [redacted] stated he went to Blinnwood Bouquels, 7370 Grand Avenue, for a find mixer. [redacted] gave a check for \$100 upon his entry into the banquet hall. He said hello to numerous people in the party and approached [redacted] m [redacted] reached his hand out to [redacted] to shake his hand. [redacted] did not offer his hand in return. [redacted] next reached his hand out to [redacted] but [redacted] refused to shake his hand. [redacted] told [redacted] "You're a fuckin rat, got the fuck out!" [redacted] asked "what did I do?" [redacted] said "You're a rat! You're a rat! Get the fuck out! You're a rat!" [redacted] placed both hands on [redacted] s shoulder, began pushing [redacted] towards the exit, and told him to get out. [redacted] pushed [redacted] out. [redacted] called out to [redacted] asking, "Do you see what he is doing?" [redacted] said "stop. Let it go." [redacted] continued pushing [redacted] out of the room and into the main lobby. [redacted] said, "get the fuck out you piece of shit! You're a rat!" [redacted] asked [redacted] what he did. [redacted] told him,</p>													
CAN OFFENSE BE SOLVED WITH REASONABLE AMOUNT OF INVESTIGATIVE EFFORT? <input type="checkbox"/> YES PLACE AN X IN BOX													
IS THERE A REASON TO BELIEVE THAT INVESTIGATION CANNOT BE COMPLETED AT THIS TIME? <input type="checkbox"/> YES PLACE AN X IN BOX													
BLOCK #	RE ENTER PREVIOUS INFORMATION RELATED TO THIS BLOCK ABOVE WITH COMMENTS OR A BLOCK NUMBER AT LEFT												
	<p>"You're a rat. You don't know what a rat is?" [redacted] asked [redacted] if he paid. [redacted] told him he wrote a check. [redacted] told [redacted] he would rip up his check. [redacted] told him, "you want me to leave, I am going to leave." [redacted] said he believed he was called a rat because of a picture on Facebook of him with [redacted] and [redacted] said he did not want to sign a complaint at this time. He signed a refusal to prosecute form after I explained to him that the form did not prevent him from signing a complaint at a future time.</p>												

COPY

ELMWOOD PARK POLICE DEPARTMENT
CRIMINAL INVESTIGATIONS DIVISION
15-7195

Investigative Action Report

Case Report: 15-7195
Title: Battery
Officer: Detective Mark Astrella #9645
Date: 07/28/15
Action Taken

07/28/15

I was informed by Commander Klisz that a suspect in a named report was in the police department lobby waiting to be interviewed.

Commander Klisz led [redacted] M [redacted] to our investigations office. I read [redacted] his Miranda warnings from a preprinted form at 1250 hours. (See attached)

[redacted] reviewed, signed, and agreed to speak with me regarding the current battery investigation.

[redacted] related that he was at a fundraiser for Mayor Angelo "Skip" Saviano on the date of 07/23/15, which was held at the Elmerest Banquet Hall located at 7370 W Grand Avenue, Elmwood Park, Illinois 60707.

[redacted] related that he is the chairman for the fundraising event "Citizens for Saviano" that was held on the above date of 07/23/15. [redacted] related that as the chairman, he was in charge of the event along with security. [redacted] related the individuals who were working security at the event, were notified prior to the event starting about the following individuals:

- [redacted]
- [redacted]
- [redacted]

[redacted] related that he spoke with his security team and related to them that [redacted] and [redacted] were not to be allowed at the function. [redacted] related that the above subjects have a political agenda against Mayor Saviano and were not welcomed at this private event. [redacted] related that while he was standing in the main room of the banquet hall, he was approached by [redacted] who stated "Hi uncle [redacted] related that he is of no relation to [redacted] extended his hand out in an attempt to shake hands when [redacted] declined. [redacted] related that [redacted] placed his hand on his shoulder, squeezed it, and stated "what's the problem." [redacted] related that he did not want [redacted] touching him so he pushed him arm off of him and placed his hand around the lower back of [redacted] and told him he wasn't allowed to be at this private party and it was time to leave. [redacted] related that [redacted] who was working the function was present and witnessed the exchange between him and [redacted] walked out of the banquet hall and towards the front lobby leaving without further incident. [redacted] denied that he struck [redacted] and related that it was [redacted] who physically touched him first.

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Det. Astrella #9645

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C. Klisz
Supervisor

ELMWOOD PARK POLICE DEPARTMENT
CRIMINAL INVESTIGATIONS DIVISION
15-7195

██████████ related that the check ██████████ provided was voided and sent back to his residence.
██████████ related that ██████████ left the premises without further incident.
I ended my interview with ██████████

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Det. Astrella
Det. Astrella/9645

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Case Kuz
Supervisor

Investigative Action Report



ELMWOOD PARK POLICE DEPARTMENT



15-7195

Case Report: 15-7195
Title: Battery
Officer: Ransom #4011
Date: 07-27-15

The following is a summary of my actions relative to the investigation of a reported battery which took place at or about 07-23-15 2004 hours at 7370 W Grand Ave, Elmwood Park, 60707, Cook County, Illinois. Any witnesses and/or suspect statements contained herein are not in their entirety nor verbatim.

07-27-15

Upon arriving at the Elmwood Park Police station on 07-27-15 at about 0920 hours, Det. Cmdr. Klisz asked me to assist him with this battery report. I was advised the complainant [redacted] was in the lobby waiting to talk to us.

Det. Commander Klisz said he had a copy of the Elmorest Banquets video recording from the evening of the reported battery.

At approximately 0945 hours I went to the second floor lobby area of the police station with Commander Kmiecik. I explained to [redacted] I needed to read the report, review the video and speak to the other parties he named as witnesses in the report. [redacted] said he doesn't know terminology and is not sure what a witness is but there were no witnesses. [redacted] said there was one guy who was there who said something when "it" happened, one guy who did not say anything and the guy who touched him. [redacted] said he came in to see me so he could sign a complaint and he has been sitting here for 45 minutes. I reminded him I did not tell him to come to the police station at 9 AM. I have not spoken to him before this time and I do not begin work until 10 AM. I said we are not to the point of signing a complaint so I would not have asked him to come in yet. I advised [redacted] I would call him when I need to talk to him again. [redacted] said his lawyer told him "the longer it takes, the worse it's gonna be for everyone".

Cmdr. Kmiecik told [redacted] we are conducting a police investigation and we are not going to be threatened by him or his lawyer. We ended the conversation.

Det. Cmdr. Klisz called [redacted] (a [redacted] who [redacted] claimed was present during the altercation. [redacted] said he could come to the station to talk to us this afternoon after he gets off work.

Det. Ransom #4011
D. Ransom

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Cmdr. Klisz
Supervisor

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Investigative Action Report



ELMWOOD PARK POLICE DEPARTMENT

15-7195

Det. Cmdr. Klisz and I went to the Elmwood Park Village Hall at 11 Conti Pkwy. We spoke to [redacted] said he recalls on 07-23-15 [redacted] walking out of the Elmcrest east banquet hall ball room "backwards" with his hands up asking "Uncle [redacted], what did I do?" [redacted] said [redacted] was talking to [redacted] as he walked behind [redacted] said to [redacted] "Let it go". [redacted] said he did not see [redacted] strike [redacted] in any manner.

At approximately 1640 hours, I was advised by records clerk Warchulski [redacted] [redacted] was in the lobby of the 2nd floor, waiting for me or Cmdr. Klisz.

Det. Cmdr. Klisz and I spoke to [redacted] and I asked [redacted] what he needed. [redacted] told us he was here to sign a complaint. I reminded [redacted] of our earlier conversation when I told him I would call him when we were ready to have him sign a complaint if it came to that point. [redacted] told me he spoke to his attorney and a "states attorney", both of which advised him he can sign a complaint now, so he came back to the station again. [redacted] gave me his attorney's business card, [redacted]. I told [redacted] the case is under investigation and he would be notified when he needs to come in. [redacted] became upset and raised his voice continuously saying his attorney and a "states attorney" told him he can sign a complaint now. [redacted] was adamant about signing a complaint at this very time. I explained to [redacted] he signed a refusal initially but now he came in and wants us to drop everything we are doing. [redacted] said he "could have signed a complaint with Brown" but he didn't and now he wants to sign one. I explained to [redacted] we do not have a complaint for him to sign at this time, that it is our job to investigate the cases and we will contact him when we need to. [redacted] wasn't happy with this response and began to argue demanding to sign a complaint now.

Det. Cmdr. Klisz told [redacted] we are investigating his report and will contact him when we need to speak to him again. We ended the conversation.

At approximately 1655 hours, [redacted] came up to the 2nd floor lobby of the Police Station.

Det. Cmdr. Klisz and I spoke to [redacted] about the evening of 07-23-15 at the Elmcrest Banquets.

[redacted] said he recalls standing just inside the east ballroom of the banquet hall with [redacted] and [redacted] said [redacted] entered the room and put his hand out to shake [redacted] hand. [redacted] said he heard [redacted] make a comment about not wanting to shake [redacted] hand. [redacted] said [redacted] said "hey Uncle [redacted]" and placed his right hand onto [redacted] shoulder as they faced each other.

Det. Klisz
Supervisor

Det. Runson #4611

Runson

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Investigative Action Report



ELMWOOD PARK POLICE DEPARTMENT



15-7195

█████ said "I'm not your Uncle" and brushed ██████ arm off his shoulder and "cupped" ██████ arm, then made a statement about being time for ██████ to leave. ██████ said ██████ shook his arm away from ██████ grasp as the two walked out of the east ballroom into the vestibule area.

█████ said ██████ said "I just came to do my thing" and ██████ said "you have to leave" and "you're not welcome here". ██████ said ██████ turned and made a movement as if to "bolt" towards ██████ stepped between ██████ and ██████ with his hands up as if to block ██████ from getting to ██████ saying "it's time to leave".

█████ said ██████ called ██████ a "rat" as they continued to walk out to the front lobby area of Elmhurst. ██████ said ██████ was saying "Remember, you put this on yourself. Remember that" as he walked out the front door.

█████ said he never saw ██████ strike ██████ in anyway. ██████ said he only saw ██████ brush ██████ hand off his own shoulder after ██████ placed it there. ██████ said at no time did he think ██████ was going to harm ██████

Nothing further at this time.

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Det. Ransom #4611
m-4611

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C. K. [Signature]
Supervisor

Investigative Action Report



ELMWOOD PARK POLICE DEPARTMENT
Investigations Division



Case Report: 15-7196
Title: Battery
Commander: Robert J. Klisz #2611
Date: 07-27-15

Case Action

On 07-27-15, I placed a copy of this reported incident, which was on a DVD-R, into evidence under the Best System.

Nothing further at this time.

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Commander Robert J. Klisz

Supervisor

Investigative Action Report

ELMWOOD PARK POLICE DEPARTMENT

Case Report: 15-7195
Title: Battery
Officer: Brown #9026
Date: 7/25/15

Case Action

On 7/25/15 at 2150 hours, I spoke with [REDACTED] in the station lobby. He told me his lawyer advised him to sign a complaint in this case. I told [REDACTED] the case was forwarded to the detective bureau, and he would need to speak with detectives about any follow up actions in the case. I advised Commander Kisz and Detective Ransom of [REDACTED] intentions. Nothing further.

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Sergeant Tom Brown #9026 *23*

Investigative Action Report



ELMWOOD PARK POLICE DEPARTMENT
Investigations Division



Case Report: 16-7105
Title: Battery
Commander: Robert J. Klisz #2611
Date: 07-30-15

Case Action

On 07-29-15, at 1110 hours, I left a message for [REDACTED].

On 07-29-15, at 1227 hours, I received a voice mail from [REDACTED]. At 1305 hours, I left another message.

On 07-30-15, at approximately 1225 hours, I was notified by Records Clerk Warchulski that [REDACTED] was in the second floor lobby of the Elmwood Park Police Station requesting a copy of a police report.

Detective Astrella and I went to the lobby. I spoke with [REDACTED] and advised him the investigation of this report was complete. I advised him the investigation revealed there was not probable cause for an arrest in this case.

[REDACTED] told me he wanted a copy of the report. I advised him he needed to FOIA the report per department policy.

This case is closed by exception.

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Commander Robert J. Klisz

COPY

Supervisor

Chancery DIVISION

Litigant List

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Plaintiffs

Plaintiffs Name	Plaintiffs Address	State	Zip	Unit #
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VITTORIO VERRECCHIA

Total Plaintiffs: 1

Defendants

Defendant Name	Defendant Address	State	Unit #	Service By
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VILLAGE OF ELMWOOD PARK	11 CONTI PARKWAY ELMWOOD PARK,	IL	60707	Sheriff-Clerk ✓
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ELMWOOD PARK POLICE DEPT.	7420 WEST FULLERTON ELMWOOD PARK,	IL	60707	Sheriff-Clerk
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ROBERT BORMANN	11 CONTI PARKWAY ELMWOOD PARK,	IL	60707	Sheriff-Clerk
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Total Defendants: 3