

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF ILLINOIS
EASTERN DIVISION

FILED
J.N
NOV 22 2005

MICHAEL W. DOBBINS
CLERK, U.S. DISTRICT COURT

RONALD BRABEC,)
)
Plaintiff,)
)
v.)
)
P.O. DAVID GREEN, P.O. CIROLIA)
and P.O. M. OSCHNER, individually)
)
Defendants,)

Case No.

Judge

Jury Demand

05C 6646

JUDGE ASPEN

MAGISTRATE JUDGE DENLOW

COMPLAINT

NOW COMES the Plaintiff, RONALD BRABEC, by and through his attorneys,
GREGORY E. KULIS AND ASSOCIATES, LTD. and complaining against the Defendants,
P.O. DAVID GREEN, P.O. CIROLIA and P.O. M. OSCHNER individually, and states as
follows.

COUNT I-EXCESSIVE FORCE

1) This action is brought pursuant to the Laws of the United States Constitution,
specifically, 42 U.S.C. §1983 and §1988, and the laws of the State of Illinois, to redress
deprivations of the Civil Rights of the Plaintiff, and accomplished by acts and/or omissions of
the Defendants, committed under color of law.

2) Jurisdiction is based on Title 28 U.S.C. §1331 and §1343;

3) The Plaintiff, RONALD BRABEC, at all relevant times was a United States
citizen and permanent resident of the State of Illinois.

4) The Defendants, P.O. DAVID GREEN, P.O. CIROLIA and P.O. M. OSCHNER
were at all relevant times duly appointed police officers of the Village of Berwyn and at all
relevant times were acting within their scope of employment and under color of law.

- 5) On September 19, 2004, the Plaintiff, RONALD BRABEC was with his wife and friends at Salerno Restaurant located at 3250 S. Grove in Berwyn, Illinois.
- 6) The Plaintiff had a dispute with the restaurant staff regarding the order.
- 7) The Defendant P.O. DAVID GREEN came over to the table and identified himself as a Berwyn Police Officer.
- 8) The Defendant, P.O. DAVID GREEN without just cause or provocation attacked Plaintiff, RONALD BRABEC.
- 9) The Plaintiff was not committing a crime or breaking any laws
- 10) The force used by Defendant was unprovoked, unnecessary, and excessive.
- 11) Said actions of the Defendant, were intentional, willful and wanton.
- 12) Said actions of the Defendant violated the Plaintiff's Fourth Amendment Rights of the United States Constitution and were in violation of said rights protected by 42 U.S.C. §1983.
- 13) As a direct and proximate consequence of said conduct of the Defendant, P.O. DAVID GREEN, the Plaintiff, RONALD BRABEC, suffered a violation of his constitutional rights, emotional anxiety, mental trauma, humiliation, fear, anxiety, pain suffering and monetary loss.

WHEREFORE, the Plaintiff, RONALD BRABEC, prays for judgment in his favor and against the Defendant, P.O. DAVID GREEN, in an amount in excess of THIRTY THOUSAND AND 00/100 (\$30,000.00) DOLLARS compensatory damages and TWENTY FIVE THOUSAND AND 00/100 (\$25,000.00) DOLLARS in punitive damages, plus attorney's fees and costs.

COUNT II-P.O.CIROLIA and P.O. OSCHNER
FAILURE TO INTERVENE

(1-11) The Plaintiff hereby realleges and incorporates his allegations of paragraphs

1-11 of Count I as his respective allegations of paragraphs 1-11 of Count II as though fully forth herein.

12) The Defendants P.O. CIROLIA and P.O. OSCHNER arrived on the scene and observed P.O. DAVID GREEN beating the Plaintiff.

13) The Defendants P.O. CIROLIA and P.O. OSCHENR had an opportunity to intervene but failed and refused to do so.

14) As a result thereof the Plaintiff was injured.

15) Said actions of the Defendants were intentional, wilful and wanton

16) Said actions of the Defendants violated the Plaintiff's Fourth Amendment Rights of the United States Constitution and were in violation of said rights protected by 42 U.S.C. §1983.

17) As a direct and proximate consequence of said conduct of the Defendants, P.O. CIROLIA and P.O. OSCHNER, the Plaintiff, RONALD BRABEC, suffered a violation of his constitutional rights, emotional anxiety, mental trauma, humiliation, fear, anxiety, pain suffering and monetary loss.

WHEREFORE, the Plaintiff, RONALD BARBEC, prays for judgment in his favor and against the Defendants, P.O. CIROLIA and P.O. OSCHNER, in an amount in excess of THIRTY THOUSAND AND 00/100 (\$30,000.00) DOLLARS compensatory damages and TWENTY FIVE THOUSAND AND 00/100 (\$25,000.00) DOLLARS in punitive damages, plus attorney's fees and costs.

COUNT III- FALSE ARREST

1-10) The Plaintiff hereby realleges and incorporates his allegations of paragraphs 1-10 of Count I as his respective allegations of paragraphs 1-10 of Count II as though fully set forth herein.

11) The Defendant, P.O. DAVID GREEN in an effort to cover up his illegal and

unprovoked beating charged the Plaintiff, RONALD BRABEC with several criminal charges including battery.

12) Said actions of the Defendant were intentional, willful and wanton.

13) Said actions of the Defendant violated the Plaintiff's Fourth Amendment Rights of the United States Constitution and were in violation of said rights protected by 42 U.S.C. §1983.

14) As a direct and proximate consequence of said conduct of the Defendant, P.O. DAVID GREEN, the Plaintiff, RONALD BRABEC, suffered a violation of his constitutional rights, emotional anxiety, mental trauma, humiliation, fear, anxiety, pain suffering and monetary loss.

WHEREFORE, the Plaintiff, RONALD BRABEC, prays for judgment in his favor and against the Defendant, P.O. DAVID GREEN, in an amount in excess of THIRTY THOUSAND AND 00/100 (\$30,000.00) DOLLARS compensatory damages and TWENTY FIVE THOUSAND AND 00/100 (\$25,000.00) DOLLARS in punitive damages, plus attorney's fees and costs.

COUNT IV-MALICIOUS PROSECUTION

1-10) The Plaintiff RONALD BRABEC, realleges and incorporates his allegations of paragraphs 3-12 of Count III as his respective allegations of paragraphs 1-10 of Count IV as though fully set forth herein.

11) The Defendant P.O. DAVID GREEN, proceeded with the criminal charges knowing they were false.

12) The charges were resolved in favor of the Plaintiff RONALD BRABEC.

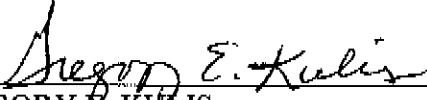
13) As a result thereof, RONALD BRABEC, suffered pain, suffering, emotional anxiety, fear and monetary loss.

WHEREFORE, the Plaintiff, RONALD BRABEC, prays that this Honorable Court grant judgement against the Defendant, P.O. DAVID GREEN, in an amount in excess of THIRTY THOUSAND AND 00/100 (\$30,000.00) DOLLARS compensatory damages and TWENTY THOUSAND AND 00/100 (\$20,000.00) DOLLARS in punitive damages, plus attorney's fees and costs.

JURY DEMAND

The Plaintiff, RONALD BRABEC, requests a trial by jury.

Respectfully submitted,
RONALD BRABEC,



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