

**UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF ILLINOIS
EASTERN DIVISION**

PHILIP A. GIUFFRE)	
)	
)	Case No. 14 CV 3692
)	
Plaintiff,)	Judge: John Z. Lee
)	
v.)	Magistrate Judge: Jeffrey T. Gilbert
)	
)	JURY DEMAND
P.O. KAREN JEFFERSON #6856)	
P.O. AMY HURLEY #19490,)	
P.O. MICHAEL SHEPHARD #9736,)	
P.O. MARLENE SMOLEK #5499,)	
P.O. MALCOLM DOMIO #7900,)	
P.O. MAUREEN WEBB #12525 and)	
the CITY OF CHICAGO)	
)	
Defendants,)	

FIRST AMENDED COMPLAINT

Now Comes the Plaintiff, PHILIP A. GIUFFRE, by and through his attorneys, Gregory E. Kulis & Associates, Ltd., and Ciardelli, Cummings & Campagna, complaining against the Defendants, P.O. KAREN JEFFERSON #6856, P.O. AMY HURLEY #19490, P.O. MICHAEL SHEPHARD #9736, P.O. MARLENE SMOLEK #5499, P.O. MALCOLM DOMIO #7900, P.O. MAUREEN WEBB #12525, individually, and THE CITY OF CHICAGO as follows:

COUNT I – EXCESSIVE FORCE

1) This action is brought pursuant 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, PHILIP A. GIUFFRE and accomplished by acts and/or omissions of the Defendants, P.O. KAREN JEFFERSON #6856, P.O. AMY HURLEY #19490, P.O. MICHAEL SHEPHARD #9736, P.O. MARLENE SMOLEK #5499, P.O.

MALCOLM DOMIO #7900, P.O. MAUREEN WEBB #12525, individually, committed under color of law.

2) Jurisdiction is based on Title 28 U.S.C. §1343 and §1331 and supplemental jurisdiction of the State of Illinois.

3) The Plaintiff, PHILIP A. GIUFFRE was at all relevant times, a resident of Chicago, Illinois, a paramedic and a firefighter for the City of Chicago's Fire Department.

4) The Defendants, P.O. KAREN JEFFERSON #6856, P.O. AMY HURLEY #19490, P.O. MICHAEL SHEPHARD #9736, P.O. MARLENE SMOLEK #5499, P.O. MALCOLM DOMIO #7900, P.O. MAUREEN WEBB #12525, were at all relevant times, duly appointed Chicago Police Officers acting within the scope of employment and under color of law.

5) On or about July 11, 2013, the Plaintiff, PHILIP A. GIUFFRE was at the CVS parking lot at 10300 S. Pulaski in Chicago, Illinois.

6) The Plaintiff, PHILIP A. GIUFFRE was on his cell phone.

7) Several police officers pulled into the lot and ordered him to get off the phone and exit the vehicle.

8) The Plaintiff, PHILIP A. GIUFFRE grabbed his badge and exited the vehicle as ordered by the police.

9) The Plaintiff, PHILIP A. GIUFFRE exited the vehicle and showed his badge.

10) The Plaintiff, PHILIP A. GIUFFRE was not breaking any laws.

11) The Plaintiff, PHILIP A. GIUFFRE was not committing any crimes.

12) Without just cause or just provocation, the Defendants, P.O. KAREN JEFFERSON #6856, P.O. AMY HURLEY #19490, P.O. MICHAEL SHEPHARD #9736, P.O. MARLENE

SMOLEK #5499, P.O. MALCOLM DOMIO #7900, P.O. MAUREEN WEBB #12525, started firing their weapons at the Plaintiff several times.

13) The Defendants continued to shoot.

14) Said use of deadly force was excessive.

15) Said use of deadly force was unreasonable.

16) The actions of the Defendants, P.O. KAREN JEFFERSON #6856, P.O. AMY HURLEY #19490, P.O. MICHAEL SHEPHARD #9736, P.O. MARLENE SMOLEK #5499, P.O. MALCOLM DOMIO #7900, P.O. MAUREEN WEBB #12525, were intentional, willful and wanton.

17) As a result of the actions of the Defendants, P.O. KAREN JEFFERSON #6856, P.O. AMY HURLEY #19490, P.O. MICHAEL SHEPHARD #9736, P.O. MARLENE SMOLEK #5499, P.O. MALCOLM DOMIO #7900, P.O. MAUREEN WEBB #12525, the Plaintiff, PHILIP A. GIUFFRE was seriously injured.

18) Said actions of the Defendants, P.O. KAREN JEFFERSON #6856, P.O. AMY HURLEY #19490, P.O. MICHAEL SHEPHARD #9736, P.O. MARLENE SMOLEK #5499, P.O. MALCOLM DOMIO #7900, P.O. MAUREEN WEBB #12525, were in violation of PHILIP A. GIUFFRE's Fourth and Fourteenth Amendment rights as protected by 42 U.S.C. §1983.

19) As a result of said actions of the Defendants, P.O. KAREN JEFFERSON #6856, P.O. AMY HURLEY #19490, P.O. MICHAEL SHEPHARD #9736, P.O. MARLENE SMOLEK #5499, P.O. MALCOLM DOMIO #7900, P.O. MAUREEN WEBB #12525, the Plaintiff, PHILIP A. GIUFFRE has incurred and will incur pain, suffering, disfigurement, permanent injury, monetary loss, loss of enjoyment of life, fear, emotional distress and anxiety.

Wherefore the Plaintiff, PHILIP A. GIUFFRE prays for judgment against the Defendants, P.O. KAREN JEFFERSON #6856, P.O. AMY HURLEY #19490, P.O. MICHAEL SHEPHARD #9736, P.O. MARLENE SMOLEK #5499, P.O. MALCOLM DOMIO #7900, P.O. MAUREEN WEBB #12525, jointly and separately for compensatory damages in excess of One Million Dollars (\$1,000, 000.00) and punitive damages in excess of Five Hundred Thousand Dollars (\$500,000.00) plus attorneys' fees and costs.

COUNT II – BATTERY / STATE LAW

1-10) The Plaintiff, PHILIP A. GIUFFRE, realleges and incorporates his allegations of paragraphs 3-13 of Count I as his respective allegations of paragraphs 1-13 of Count II as though fully set forth herein.

14) The actions of the Defendants, P.O. KAREN JEFFERSON #6856, P.O. AMY HURLEY #19490, P.O. MICHAEL SHEPHARD #9736, P.O. MARLENE SMOLEK #5499, P.O. MALCOLM DOMIO #7900, P.O. MAUREEN WEBB #12525, constitute battery under Illinois Law.

15) As a result of the actions of the Defendants P.O. KAREN JEFFERSON #6856, P.O. AMY HURLEY #19490, P.O. MICHAEL SHEPHARD #9736, P.O. MARLENE SMOLEK #5499, P.O. MALCOLM DOMIO #7900, P.O. MAUREEN WEBB #12525, the Plaintiff, PHILIP A. GIUFFRE has incurred and will incur pain, suffering, disfigurement, permanent injury, monetary loss, loss of enjoyment of life, emotional distress and anxiety.

Wherefore the Plaintiff, PHILIP A. GIUFFRE, prays for judgment against the Defendants, P.O. KAREN JEFFERSON #6856, P.O. AMY HURLEY #19490, P.O. MICHAEL SHEPHARD #9736, P.O. MARLENE SMOLEK #5499, P.O. MALCOLM DOMIO #7900, P.O. MAUREEN WEBB #12525, jointly and separately, for compensatory damages in excess of One

Million Dollars (\$1,000, 000.00) and punitive damages in excess of Five Hundred Thousand Dollars (\$500,000.00) plus attorneys' fees and costs.

COUNT III – CITY OF CHICAGO/INDEMNIFICATION

1-19. Plaintiff, PHILIP A. GIUFFRE, hereby re-alleges and incorporates the allegations of all paragraphs of Count I-II as though fully set forth herein.

20. Illinois law provides that public entities are directed to pay any tort judgment for compensatory damages for which employees are liable within the scope of their employment activities.

21. All the Defendants are employees of the City of Chicago Police Department who acted within the scope of their employment in committing the misconduct described herein.

WHEREFORE, should Defendants, P.O. KAREN JEFFERSON #6856, P.O. AMY HURLEY #19490, P.O. MICHAEL SHEPHARD #9736, P.O. MARLENE SMOLEK #5499, P.O. MALCOLM DOMIO #7900, P.O. MAUREEN WEBB #12525, be found liable for the acts alleged above, Defendant CITY OF CHICAGO would be liable to pay the Plaintiff any judgment obtained against P.O. KAREN JEFFERSON #6856, P.O. AMY HURLEY #19490, P.O. MICHAEL SHEPHARD #9736, P.O. MARLENE SMOLEK #5499, P.O. MALCOLM DOMIO #7900, P.O. MAUREEN WEBB #12525.

JURY DEMAND

The Plaintiff, PHILIP A. GIUFFRE, hereby requests trial by jury.

Respectfully submitted,
PHILIP A. GIUFFRE

By: /s/ Gregory E. Kulis
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