

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

TIAWANDA MOORE,

Plaintiff,

v.

CITY OF CHICAGO, Chicago Police Officers
JASON WILSON, RICHARD PLOTKE and
LUIS ALEJO,

Defendants.

COMPLAINT

Plaintiff, TIAWANDA MOORE, through her attorneys, Smith, Johnson & Antholt LLC, brings the following complaint against Defendants CITY OF CHICAGO and Chicago Police Officers JASON WILSON, RICHARD PLOTKE and LUIS ALEJO:

1. This action is brought pursuant to 42 U.S.C. Section 1983 to redress the deprivation under color of law of Plaintiff's rights as secured by the United States Constitution.

JURISDICTION & VENUE

2. This Court has jurisdiction of the action pursuant to 28 U.S.C. §§ 1331 and 1367.

3. Venue is proper under 28 U.S.C. § 1391(b). All parties reside in this judicial district, and the events giving rise to the claims occurred within this district.

PARTIES

4. Plaintiff Tiawanda Moore is a twenty-one-year-old resident of Decatur, Georgia and at the time of the incident was a resident of Chicago, Illinois.

5. At all relevant times, Officer Jason Wilson, Sgt. Richard Plotke and Officer Luis Alejo (referred to collectively as “Defendant Officers” were sworn members of the Chicago Police Department, employed by Defendant City and acting under color of law and within the scope of their employment.

6. Defendant City is a municipal corporation, duly incorporated under the laws of the State of Illinois, and the employer and principal of Defendant Officers at all relevant times.

FACTS

7. On approximately July 6, 2010, the police were called to Plaintiff’s home in response to a previously reported domestic dispute.

8. Defendant Officer Jason Wilson and his partner responded to the call.

9. Ms. Moore’s then-boyfriend allowed the officers into the home and Officer Wilson went upstairs to the bedroom where Ms. Moore was located to interview Ms. Moore.

10. During his interview, Officer Wilson physically groped Ms. Moore’s breasts and buttocks.

11. Before leaving the bedroom, Officer Wilson wrote his home phone number on a piece of paper and told Ms. Moore to call him because they should “hook-up”.

12. Ms. Moore called the Chicago Police Department to report Officer Wilson’s misconduct.

13. At Chicago Police Department headquarters, Ms. Moore met with Lt. Richard Plotke and Officer Luis Alejo from the Internal Affairs Division (“IAD”).

14. Instead of investigating Ms. Moore’s complaint and arresting Officer Wilson, IAD investigators worked to discourage Ms. Moore from filing the complaint.

15. After Ms. Moore described the assault and inappropriate conduct by Officer Wilson, Defendants Plotke and Alejo sought to prevent Ms. Moore from proceeding with an official complaint against Officer Wilson.

16. Ms. Moore asked that two new officers be assigned to help her file her complaint, Lt. Plotke refused to reassign new personnel.

17. When Ms. Moore got up to leave the interview room, Lt. Plotke closed the door and told her to sit down and that she was not going anywhere.

18. While under a reasonable suspicion that the officers had committed a crime, were about to commit a crime and were committing a crime against her, Ms. Moore recorded the conversation with Defendant Officers on her Blackberry telephone.

19. During several minutes of recording, Defendants Plotke and Alejo attempted to convince Ms. Moore to drop the complaint.

20. When Defendants Plotke and Alejo suspected that Ms. Moore's Blackberry, which was sitting on the table between them, was recording their conversation they stopped the conversation and arrested her.

21. Defendants Plotke and Alejo wrongfully arrested Ms. Moore and charged her with violating the Illinois Eavesdropping Statute. The statute, however, specifically exempts persons who record "under reasonable suspicion that another party to the conversation is committing, is about to commit ... a criminal offense against the person ... and there is reason to believe that evidence of the criminal offense may be obtained by the recording." 720 ILCS § 5/14-3.

22. Defendants Plotke and Alejo knew that by stopping Ms. Moore from leaving the interview room and attempting to prevent her from filing a complaint against Officer Wilson

they were committing the crimes of unlawful restraint, official misconduct and were attempting to commit the crime of obstruction of justice.

23. As a result of the arrest, Ms. Moore spent over two weeks in Cook County Jail and was forced to spend a year fighting the baseless criminal charge.

24. On August 25, 2011, a jury in the Cook County Circuit Court found Ms. Moore not guilty.

COUNT I: Fourth Amendment – Unreasonable Seizure

25. Each of the foregoing Paragraphs is incorporated as if restated fully herein.

26. As described in the preceding paragraphs, Defendant Wilson unreasonably seized Plaintiff in violation of the Fourth Amendment of the United States Constitution.

27. The misconduct described in this Count was objectively unreasonable and was undertaken intentionally with willful indifference to Plaintiff's Constitutional rights.

28. As a result of Defendant's misconduct, Plaintiff suffered injuries including emotional distress.

COUNT II: Fourth Amendment – False Arrest

29. Each of the foregoing Paragraphs is incorporated as if restated fully herein.

30. As more fully described above, the Defendant Plotke and Alejo arrested Plaintiff without a probable cause in violation of the Fourth Amendment of the United States Constitution.

31. The misconduct described in this Count was objectively unreasonable and was undertaken intentionally with willful indifference to Plaintiff's Constitutional rights.

32. As a result of Defendants' misconduct, Plaintiff suffered injuries including emotional distress.

COUNT III: Illinois Malicious Prosecution

33. Each of the foregoing Paragraphs is incorporated as if restated fully herein.

34. Defendant Officers Plotke and Alejo caused criminal proceedings against Plaintiff to be commenced and continued without probable cause for the crime charged.

35. Defendant Officers Plotke and Alejo acted with malice and with willful and wanton disregard for the truth.

36. Plaintiff was acquitted of the charge in a manner indicative of Plaintiff's innocence, which fully and finally terminated the case in Plaintiff's favor.

37. As a result of Defendants' misconduct, Plaintiff suffered injuries including emotional distress.

38. Illinois law provides that public entities, such as Defendant City, are directed to pay any compensatory damages on a tort judgment against an employee who was acting within the scope of his or her employment.

39. At all relevant times, Defendant Officers were agents of Defendant City, and acting within the scope of their employment as a Chicago Police Officers. Defendant City, therefore, is liable as principal for all torts committed by Defendant Officers.

WHEREFORE, Plaintiff respectfully requests that this Court enter judgment in her favor and against Defendants, awarding compensatory damages for the injuries that she has suffered, costs and reasonable attorneys' fees, and punitive damages against the Defendant Officers and all such other relief as this Court finds just and equitable.

PLAINTIFF DEMANDS TRIAL BY JURY.

RESPECTFULLY SUBMITTED,

/s/ Robert W. Johnson
Attorneys for Plaintiff

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Christopher R. Smith
James Baranyk
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CIVIL COVER SHEET

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

(a) PLAINTIFFS

Tiawanda Moore

DEFENDANTS

CITY OF CHICAGO, Chicago Police Officers JASON WILSON, RICHARD PLOTKE and LUIS ALEJO,

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

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

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

(c) Attorney's (Firm Name, Address, and Telephone Number)
Robert Johnson, Smith, Johnson, & Antholt, LLC, 112 S. Sangamon, Third Floor, Chicago, IL, 60607, 312.432.0400

Attorneys (If Known)

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

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

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

- | | | | | | |
|---|----------------------------|----------------------------|---|----------------------------|----------------------------|
| Citizen of This State | <input type="checkbox"/> 1 | <input type="checkbox"/> 1 | Incorporated or Principal Place of Business In This State | <input type="checkbox"/> 4 | <input type="checkbox"/> 4 |
| Citizen of Another State | <input type="checkbox"/> 2 | <input type="checkbox"/> 2 | Incorporated and Principal Place of Business In Another State | <input type="checkbox"/> 5 | <input type="checkbox"/> 5 |
| Citizen or Subject of a Foreign Country | <input type="checkbox"/> 3 | <input type="checkbox"/> 3 | Foreign Nation | <input type="checkbox"/> 6 | <input type="checkbox"/> 6 |

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

CONTRACT	TORTS	FORFEITURE/PENALTY	BANKRUPTCY	OTHER STATUTES
<input type="checkbox"/> 110 Insurance <input type="checkbox"/> 120 Marine <input type="checkbox"/> 130 Miller Act <input type="checkbox"/> 140 Negotiable Instrument <input type="checkbox"/> 150 Recovery of Overpayment & Enforcement of Judgment <input type="checkbox"/> 151 Medicare Act <input type="checkbox"/> 152 Recovery of Defaulted Student Loans (excl. vet.) <input type="checkbox"/> 153 Recovery of Overpayment of Veteran's Benefits <input type="checkbox"/> 160 Stockholders' Suits <input type="checkbox"/> 190 Other Contract <input type="checkbox"/> 195 Contract Product Liability <input type="checkbox"/> 196 Franchise	PERSONAL INJURY <input type="checkbox"/> 310 Airplane <input type="checkbox"/> 315 Airplane Product Liability <input type="checkbox"/> 320 Assault, Libel & Slander <input type="checkbox"/> 330 Federal Employers' Liability <input type="checkbox"/> 340 Marine <input type="checkbox"/> 345 Marine Product Liability <input type="checkbox"/> 350 Motor Vehicle <input type="checkbox"/> 355 Motor Vehicle Product Liability <input type="checkbox"/> 360 Other Personal Inj.	<input type="checkbox"/> 362 Personal Injury—Med. Malpractice <input type="checkbox"/> 365 Personal Injury—Product Liability <input type="checkbox"/> 368 Asbestos Personal Injury Product Liability PERSONAL PROPERTY <input type="checkbox"/> 370 Other Fraud <input type="checkbox"/> 371 Truth in Lending <input type="checkbox"/> 380 Other Personal Property Damage <input type="checkbox"/> 385 Property Damage Product Liability	<input type="checkbox"/> 422 Appeal 28 USC 158 <input type="checkbox"/> 423 Withdrawal 28 USC 157 PROPERTY RIGHTS <input type="checkbox"/> 820 Copyrights <input type="checkbox"/> 830 Patent <input type="checkbox"/> 840 Trademark	<input type="checkbox"/> 400 State Reapportionment <input type="checkbox"/> 410 Antitrust <input type="checkbox"/> 430 Banks and Banking <input type="checkbox"/> 450 Commerce/ICC Rates/etc. <input type="checkbox"/> 460 Deportation <input type="checkbox"/> 470 Racketeer Influenced and Corrupt Organizations <input type="checkbox"/> 480 Consumer Credit <input type="checkbox"/> 490 Cable/Satellite TV <input type="checkbox"/> 810 Selective Service <input type="checkbox"/> 850 Security/Commodity/Exch. <input type="checkbox"/> 875 Customer Challenge 12 USC 3410 <input type="checkbox"/> 891 Agricultural Acts <input type="checkbox"/> 892 Economic Stabilization Act <input type="checkbox"/> 893 Environmental Matters <input type="checkbox"/> 894 Energy Allocation Act <input type="checkbox"/> 895 Freedom of Information Act <input type="checkbox"/> 900 Appeal of Fee Determination Under Equal Access to Justice <input type="checkbox"/> 950 Constitutionality of State Statutes <input type="checkbox"/> 890 Other Statutory Actions
REAL PROPERTY <input type="checkbox"/> 210 Land Condemnation <input type="checkbox"/> 220 Foreclosure <input type="checkbox"/> 230 Rent Lease & Ejectment <input type="checkbox"/> 240 Torts to Land <input type="checkbox"/> 245 Tort Product Liability <input type="checkbox"/> 290 All Other Real Property	CIVIL RIGHTS <input type="checkbox"/> 441 Voting <input type="checkbox"/> 442 Employment <input type="checkbox"/> 443 Housing/Accommodations <input type="checkbox"/> 444 Welfare <input type="checkbox"/> 445 ADA—Employment <input type="checkbox"/> 446 ADA—Other <input checked="" type="checkbox"/> 440 Other Civil Rights	PRISONER PETITIONS <input type="checkbox"/> 510 Motions to Vacate Sentence Habeas Corpus: <input type="checkbox"/> 530 General <input type="checkbox"/> 535 Death Penalty <input type="checkbox"/> 540 Mandamus & Other <input type="checkbox"/> 550 Civil Rights <input type="checkbox"/> 555 Prison Condition	LABOR <input type="checkbox"/> 710 Fair Labor Standards Act <input type="checkbox"/> 720 Labor/Mgmt. Relations <input type="checkbox"/> 730 Labor/Mgmt. Reporting & Disclosure Act <input type="checkbox"/> 740 Railway Labor Act <input type="checkbox"/> 790 Other Labor Litigation <input type="checkbox"/> 791 Empl. Ret. Inc. Security Act	SOCIAL SECURITY <input type="checkbox"/> 861 HIA (1395ff) <input type="checkbox"/> 862 Black Lung (923) <input type="checkbox"/> 863 DIWC/DIWW (405(g)) <input type="checkbox"/> 864 SSID Title XVI <input type="checkbox"/> 865 RSI (405(g)) FEDERAL TAX SUITS <input type="checkbox"/> 870 Taxes (U.S. Plaintiff or Defendant) <input type="checkbox"/> 871 IRS—Third Party 26 USC 7609

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

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

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

42 U.S.C. Section 1983 for violations of the U.S. Constitution

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

VIII. REQUESTED IN COMPLAINT:

CHECK IF THIS IS A CLASS ACTION UNDER F.R.C.P. 23

DEMAND \$

CHECK YES only if demanded in complaint:
JURY DEMAND: Yes No

IX. This case

is not a refiling of a previously dismissed action.

is a refiling of case number _____, previously dismissed by Judge _____

DATE 1/12/2012

SIGNATURE OF ATTORNEY OF RECORD

/s Robert W. Johnson