

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF INDIANA
INDIANAPOLIS DIVISION

RANDY LYNN,)	
)	
Plaintiff,)	
)	
-vs-)	CASE NO: 1:13-cv-00179-JMS-TAB
)	
CITY OF INDIANAPOLIS,)	
NATHAN CHALLIS and)	
TIMOTHY R. HUDDLESTON,)	Jury Trial Requested
)	
Defendants.)	

FIRST AMENDED COMPLAINT

Plaintiff, Randy Lynn, by counsel, now respectfully files his First Amended Complaint pursuant to Fed. R. Civ. P. 15(a)(1), and states as follows.

Introduction

1. This is an action for injunctive relief and damages brought by Plaintiff, Randy Lynn, against Defendants City of Indianapolis, and Police Officers Nathan Challis and Timothy R. Huddleston, that arises from an encounter between Lynn and Officer Challis and Officer Huddleston on February 2, 2011. While walking on a public sidewalk, Lynn suffered an epileptic seizure. The police officers called to the scene, despite being told that Lynn had possible suffered a seizure, theorized incorrectly that Lynn was intoxicated. Instead of protecting Lynn from harm, the police officers wrongfully seized, beat, tased, arrested and charged Lynn.

Jurisdiction, Venue and Cause of Action

2. This Court has original subject matter jurisdiction of the federal questions presented herein pursuant to 28 U.S.C. §§ 1331 and 1343. This Court has supplemental jurisdiction of the state law claims presented pursuant to 28 U.S.C. § 1367(a), because the

state and federal claims “derive from a common nucleus of operative fact.” *United Mine Workers v. Gibbs*, 383 U.S. 715, 725 (1966).

3. Venue is proper in this district pursuant to 28 U.S.C. § 1391(b), for some or all of the defendants reside in this judicial district and the events or omissions giving rise to these claims arose here.

4. This is an action brought pursuant to the right of action recognized by 42 U.S.C. § 1983, Title II of the Americans with Disabilities Act of 1990, 42 U.S.C. § 12131, *et seq.*, and by the laws of the State of Indiana.

Parties

5. Lynn was an adult citizen of the United States and Marion County, Indiana, at all relevant times.

6. Defendant City of Indianapolis (“Indianapolis”) is located in Marion County, Indiana; is a political subdivision of the State of Indiana; and is a person within the meaning of 42 U.S.C. § 1983. The Indianapolis Municipal Police Department (“IMPD”) is a division of the City of Indianapolis’s Department of Public Safety.

7. Defendant Nathan R. Challis (“Officer Challis”) was an adult resident of Indiana and a law enforcement officer employed by the IMPD at all relevant times. For the purposes of the Section 1983 claims against Officer Challis, he is named in his individual capacity.

8. Defendant Timothy R. Huddleston (“Officer Huddleston”) was an adult resident of Indiana and a law enforcement officer employed by the IMPD at all relevant times. For the purposes of the Section 1983 claims against Officer Huddleston, he is named in his individual capacity.

Factual Allegations

9. On or around February 2, 2011, Lynn had assisted his sister, Tracy Lynn, at her place of employment, near 2501 West Washington Street, Indianapolis, Indiana. Lynn had helped to try to clear ice and snow from the sidewalk in front of the store where Tracy then worked.

10. Lynn then departed that area by foot, and in the moments before 1:30 p.m., suffered an epileptic seizure, somewhere near 2236 West Washington Street, Indianapolis, Indiana. As a result of his seizure, Lynn fell in the snow and ice, bloodied his nose and scraped his face.

11. Epilepsy is a seizure disorder. Seizures are temporally transient fits of variable duration and intensity, and are changes in behavior, sensation or awareness caused by disturbances in brain activity. During the active portion of a seizure, body movements can be sudden, and there may be a loss of consciousness, dilated pupils, and change in skin color and breathing, among other symptoms.

12. The period of time after the active portion of a seizure is referred to as postictal. During the postictal period, a person who has suffered a seizure can remain confused, semi-conscious, and performing repetitive actions without any idea of what has just occurred.

13. A person in a postictal period may mumble, exhibit blank stares and be disoriented. Movement during this time may be stumbling, confused and unorganized, and such persons may be non-responsive to commands.

14. Approximately one in 26 people in the United States will develop epilepsy at some point in their lives.¹

15. Over two million people in the United States currently suffer from epilepsy.²

16. At all times relevant to this action, it was reasonably foreseeable that IMPD law enforcement officers would encounter citizens suffering from epileptic seizure.

17. After Lynn suffered the active part of his seizure, he suffered from typical postictal confusion, and was unable to respond to any request from anyone.

18. Upon information and belief, a witness to Lynn's seizure called authorities to alert them to the fact that a man was suffering a seizure at this location. Emergency Medical Technicians ("EMTs") and law enforcement officers were dispatched to the scene.

19. Prior to their arrival on the scene, law enforcement officers, including, but not limited to, Officer Huddleston and Officer Challis, were advised by dispatch that a male was down, and possibly suffering a seizure.

20. Upon information and belief, Officer Huddleston was the first to arrive upon the scene and encounter Lynn, who was suffering from typical postictal confusion.

21. Officer Huddleston saw Lynn "stumbling" around, with a bloody nose and scraped face, with a white substance under his nose and a blank stare, and decided that Lynn was under the influence of narcotics.

¹ See the Epilepsy Foundation of America, available at <http://www.epilepsyfoundation.org/livingwithepilepsy/onein26/index.cfm>, last visited February 20, 2013.

² *Id.*

22. Officer Huddleston placed his hands on Lynn, without permission from Lynn or sufficient legal reason, and held Lynn by one arm.

23. Officer Huddleston ordered Lynn to sit on the ice and snow, but Lynn could not sit or understand the order.

24. Officer Huddleston then tried to force Lynn to sit on the ice and snow, swept one of Lynn's legs out from under Lynn, took Lynn to the ground and attempted to handcuff him, but could not because Lynn was still postictal, unaware of his surroundings and was uncooperative.

25. On information and belief, Officer Challis was also dispatched to the scene, on or around 1:29 p.m. Upon his arrival, he found Officer Huddleston already present and attempting to handcuff Lynn, who was postictal, with the help of two citizens. Officer Challis then joined Officer Huddleston in an attempt to detain and handcuff Lynn (Officer Challis and Officer Huddleston hereinafter collectively referred to as the "Defendant Officers").

26. Officer Challis then tased Lynn in his neck and lower back.

27. Lynn allegedly attempted to pull the taser away from his back while he was being tased in his back.

28. Lynn never knowingly or intentionally attempted to take away the taser from Officer Challis.

29. Lynn never completely dispossessed Officer Challis of the taser.

30. Officer Huddleston then struck Lynn on his head three times.

31. Officer Challis then tased Lynn again, this time on Lynn's leg.

32. The Defendant Officers handcuffed and arrested Lynn, and Lynn was placed in an ambulance under the care of the EMTs.

33. In the midst of the foregoing events, Tracy Lynn arrived on the scene and tried to explain to the Defendant Officers that Lynn had suffered a seizure and was postictal, and was not intoxicated, but to no avail.

34. The Defendant Officers continued to try to restrain and arrest Lynn even after they had been apprised of this information.

35. During the foregoing events, Lynn was not in a state of intoxication caused by his use of alcohol or a controlled substance.

36. Lynn was transported to Wishard Hospital for medical treatment, then processed by the IMPD at the Arrestee Processing Center, and then taken to the Marion County Jail. Upon information and belief, no tests for alcohol or drug intoxication were performed.

37. Lynn was then incarcerated and held overnight at the Marion County Jail until his release on February 3, 2011.

38. As a direct and proximate result of the aforementioned events, on or around February 3, 2011, Lynn was charged with three crimes: disarming a law enforcement officer (a class C felony); resisting law enforcement (a class A misdemeanor); and public intoxication (a class B misdemeanor).

39. All three charges were maintained and prosecuted against Lynn until they were finally dismissed on November 28, 2012.

40. All conditions precedent to the filing of this action have occurred or been performed.

41. At all times relevant to this action the Defendant Officers were acting in the course and scope of their employment by Indianapolis. In the alternative, if they were not acting in this course and scope, then their conduct was either clearly outside the scope

of their employment, malicious, willful and wanton and/or calculated to benefit them personally.

Legal Claims

Count I – Violation of the Fourth Amendment Brought Pursuant to 42 U.S.C. § 1983, Against Officer Challis and Officer Huddleston

42. Each paragraph of this *Complaint* is incorporated as if fully restated herein.

43. At all times relevant to this action, the Defendant Officers acted under color of state law, within the course and scope of their employment, and they are persons within the meaning of 42 U.S.C. § 1983.

44. Under the circumstances described herein, on February 2, 2011, the Defendant Officers had a duty to: not unreasonably seize Lynn; not use excessive force during their encounter with Lynn; and to not effectuate an arrest of Lynn without probable cause.

45. In committing the acts described in the preceding paragraphs, the Defendant Officers committed an unreasonable seizure; used excessive force during their encounter with Lynn; and effectuated an arrest of Lynn without probable cause.

46. Each officer had a duty to intervene on behalf of Lynn, whose constitutional rights were being violated in each officer's presence, by others acting under color of state law.

47. The Defendant Officers failed to intervene or take any other reasonable step to prevent the deprivation of Lynn's rights.

48. The Defendant Officers violated clearly established law, of which a reasonable person in their position would have known.

49. The actions and omissions of the Defendant Officers described herein constitute a violation of the rights secured to Lynn by the Fourth Amendment to the United States Constitution.

50. As a proximate result of the actions and omissions discussed in this count, Lynn was injured, endured physical pain and mental suffering, experienced mental anguish and emotional distress and will continue to suffer from these injuries in the future.

Count II – *Monell* Liability
Brought Pursuant to 42 U.S.C. § 1983, Against the City of Indianapolis

51. Each paragraph of this Complaint is incorporated as if fully restated herein.

52. At all times relevant to this action, Indianapolis acted under color of state law, and is a person within the meaning of 42 U.S.C. § 1983.

53. The Defendant Officers violated Lynn's rights in the manners described in all other counts herein.

54. The violations of Lynn's rights were proximately caused by, and pursuant to, the policies, customs, usages, patterns and practices of Indianapolis.

55. Upon information and belief, these policies, customs, usages, patterns and practices of Indianapolis that caused the violations of Lynn's rights include, but are not limited to:

- a. Failing to train, supervise, discipline, and adopt and enforce adequate policies concerning the Fourth Amendment's requirements for arrest;

- b. Failing to train, supervise, discipline, and adopt and enforce adequate policies concerning the Fourth Amendment's prohibition on the use of excessive force and unreasonable seizure; and
- c. Failing to train, supervise, discipline, and adopt and enforce adequate policies concerning the care of people suffering from epileptic seizure.

56. At all relevant times, Indianapolis knew or should have known that the law enforcement officers of the IMPD would encounter people suffering from epileptic seizure, and would require training so that officers would not violate the rights of those whom they encounter who have suffered a seizure, but instead could protect such vulnerable people.

57. Nonetheless, Indianapolis failed to train, supervise, discipline, and adopt and enforce adequate policies to ensure that the rights of people suffering from epileptic seizure would not be violated.

58. As a proximate result of the actions and omissions discussed in this count, Lynn was injured, endured physical pain and mental suffering, experienced mental anguish and emotional distress and will continue to suffer from these injuries in the future.

**Count III – Assault
Brought Pursuant to State Law, Against Officer Challis and Officer
Huddleston, and Against the City of Indianapolis via *Respondeat Superior***

59. Each paragraph of this *Complaint* is incorporated as if fully restated herein.

60. At all times relevant to this action, the Defendant Officers acted within the course and scope of their employment by Indianapolis.

61. The wrongful conduct of the Defendant Officers, as described herein, was intended to cause a harmful or offensive contact to Lynn's person, and/or intended him to be in imminent apprehension of such contact.

62. The conduct of the Defendant Officers, as described herein, constitutes assault under the law of the State of Indiana.

63. Indianapolis is liable as a principal for all torts committed by its employees within the course and scope of their employment, described herein, via *respondeat superior*.

64. As a proximate result of the actions and omissions discussed in this count, Lynn was injured, endured physical pain and mental suffering, experienced mental anguish and emotional distress and will continue to suffer from these injuries in the future.

Count IV – Battery
Brought Pursuant to State Law, Against Officer Challis and Officer
Huddleston, and Against the City of Indianapolis via *Respondeat Superior*

65. Each paragraph of this *Complaint* is incorporated as if fully restated herein.

66. At all times relevant to this action, the Defendant Officers acted within the course and scope of their employment by Indianapolis.

67. The conduct of the Defendant Officers, as described herein, intentionally caused an unauthorized harmful or offensive contact to Lynn's person.

68. The conduct of the Defendant Officers, as described herein, constitutes battery under the law of the State of Indiana.

69. Indianapolis is liable as a principal for all torts committed by its employees within the course and scope of their employment, described herein, via *respondeat superior*.

70. As a proximate result of the actions and omissions discussed in this count, Lynn was injured, endured physical pain and mental suffering, experienced mental anguish and emotional distress and will continue to suffer from these injuries in the future.

Count V – False Imprisonment
Brought Pursuant to State Law, Against Officer Challis and Officer Huddleston, and Against the City of Indianapolis via *Respondeat Superior*

71. Each paragraph of this *Complaint* is incorporated as if fully restated herein.

72. At all times relevant to this action, the Defendant Officers acted within the course and scope of their employment by Indianapolis.

73. The conduct of the Defendant Officers, as described herein, intentionally and wrongfully restrained Lynn’s freedom of movement and liberty, and caused his incarceration, without consent, and Lynn was damaged as a result.

74. The conduct of the Defendant Officers, as described herein, constitutes false arrest under the law of the State of Indiana.

75. Indianapolis is liable as a principal for all torts committed by its employees within the course and scope of their employment, described herein, via *respondeat superior*.

76. As a proximate result of the actions and omissions discussed in this count, Lynn was injured, endured physical pain and mental suffering, experienced mental anguish and emotional distress and will continue to suffer from these injuries in the future.

Count VI – Excessive Force
Brought Pursuant to State Law, Against Officer Challis and Officer Huddleston, and Against the City of Indianapolis via *Respondeat Superior*

77. Each paragraph of this *Complaint* is incorporated as if fully restated herein.

78. At all times relevant to this action, the Defendant Officers acted within the course and scope of their employment by Indianapolis.

79. The conduct of the Defendant Officers, as described herein, used unreasonable and excessive force, which could not have been reasonably believed necessary to effect a lawful arrest, and violated Indiana Code § 35-41-3-3.

80. The conduct of the Defendant Officers, as described herein, constitutes the use of excessive force under the law of the State of Indiana.

81. Indianapolis is liable as a principal for all torts committed by its employees within the course and scope of their employment, described herein, via *respondeat superior*.

82. As a proximate result of the actions and omissions discussed in this count, Lynn was injured, endured physical pain and mental suffering, experienced mental anguish and emotional distress and will continue to suffer from these injuries in the future.

Count VII – Malicious Prosecution
Brought Pursuant to State Law, Against Officer Challis and Officer
Huddleston, and Against the City of Indianapolis via *Respondeat Superior*

83. Each paragraph of this *Complaint* is incorporated as if fully restated herein.

84. At all times relevant to this action, the Defendant Officers acted within the course and scope of their employment by Indianapolis.

85. The conduct of the Defendant Officers, as described herein, proximately caused the three criminal charges to be filed and maintained against Lynn; acted with malice in so doing; had no probable cause to do so; and the criminal charges were terminated in Lynn's favor.

86. The conduct of the Defendant Officers, as described herein, constitutes the tort of malicious prosecution under the law of the State of Indiana.

87. Indianapolis is liable as a principal for all torts committed by its employees within the course and scope of their employment, described herein, via *respondeat superior*.

88. As a proximate result of the actions and omissions discussed in this count, Lynn was injured, endured physical pain and mental suffering, experienced mental anguish and emotional distress and will continue to suffer from these injuries in the future.

**Count VIII – Violation of the Americans with Disabilities Act
Brought Pursuant to 42 U.S.C. § 12131, et seq., Against the City of
Indianapolis**

89. Each paragraph of this *Complaint* is incorporated as if fully restated herein.

90. At all times relevant to this action, the Defendant Officers acted within the course and scope of their employment by Indianapolis.

91. The Americans with Disabilities Act of 1990 (hereinafter the “ADA”), 42 U.S.C. § 12101, *et seq.*, is a federal statute that imposes enforceable standards addressing discrimination against individuals with disabilities in various institutions, services, and accommodations.

92. Title II of the ADA, 42 U.S.C. § 12131, *et seq.*, provides that “[s]ubject to the provisions of this subchapter, no qualified individual with a disability shall, by reason of such disability, be excluded from participation in or be denied the benefits of the services, programs or activities of a public entity, or be subjected to discrimination by any such entity.” *See* 42 U.S.C. § 12132.

93. A “qualified individual with a disability” is a disabled individual “who, with or without reasonable modification to rules, policies, or practices, the removal of architectural, communication, or transportation barriers, or the provision of auxiliary aids and services, meets the essential eligibility requirements for the receipt of services or the

participation in programs or activities provided by a public entity.” *See* 42 U.S.C. § 12131(2).

94. A “public entity” includes a state or local government, as well as any department, agency, special purpose district, or other instrumentality of a state or local government. *See* 42 U.S.C. § 12131(1).

95. Lynn’s epilepsy was and is a disability that substantially limits his major life activities.

96. At all times relevant to this action, Lynn was a qualified individual with a disability, pursuant to the ADA.

97. At all times relevant to this action, Indianapolis was a public entity, pursuant and subject to the ADA.

98. Indianapolis failed to properly train its police officers to recognize and aid citizens suffering seizures.

99. The Defendant Officers knew, or should have known, Lynn was disabled.

100. The Defendant Officers arrested Lynn because of Lynn’s legal conduct that was related to his disability.

101. By reason of his disability, as described herein, Lynn was excluded from participation in, or denied the benefits of the services, programs or activities of Indianapolis, or was subjected to discrimination by Indianapolis.

102. As a proximate result of the actions and omissions discussed in this count, Lynn was injured, endured physical pain and mental suffering, experienced mental anguish and emotional distress and will continue to suffer from these injuries in the future.

WHEREFORE, Randy Lynn, by counsel, respectfully requests that this Court enter judgment in his favor and against the Defendants for injunctive relief, compensatory damages, emotional distress damages, punitive damages, attorney fees, expenses and costs, and any other appropriate legal relief to which the Court may deem him entitled.

REQUEST FOR TRIAL BY JURY

Randy Lynn, by counsel, hereby requests a trial by jury with respect to any issues so triable.

Respectfully submitted,

CAPLIN SNIDERMAN P.C.

s/ Mark W. Sniderman

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CERTIFICATE OF SERVICE

The undersigned hereby certifies that a copy of the foregoing *First Amended Complaint* was filed electronically on the 20th day of February 2013. Notice of this filing will be sent to the following counsel by operation of the Court's electronic filing system. Parties and counsel may access this filing through the Court's System.

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