

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

| | | |
|----------------------|---|---------------------|
| JAIME HERANDEZ, |) | |
| |) | No. 09 C 661 |
| Plaintiff, |) | |
| |) | HONORABLE JUDGE |
| vs. |) | ROBERT W. GETTLEMAN |
| |) | |
| THOMAS DART, ET AL., |) | |
| |) | |
| Defendants. |) | |

AMENDED NOTICE OF FILING

TO: Jaime Hernandez

PLEASE TAKE NOTICE that on November 6, 2009, I caused the attached **STATUS REPORT ON BEHALF OF THE DEFENDANTS** to be filed with the Clerk of the United States District Court, Northern District of Illinois, Eastern Division.

ANITA ALVAREZ
State's Attorney of Cook County

By: S/MICHAEL D. JACOBS
MICHAEL D. JACOBS
Assistant State's Attorney
500 Richard J. Daley Center
Chicago, Illinois 60602
(312) 603-3401

CERTIFICATE OF SERVICE

I, MICHAEL D. JACOBS, Assistant State's Attorney, certify that I served this notice by mailing a copy to the above named person at the above address by depositing a copy of same in the U.S. Mail at 500 Richard J. Daley Center, Chicago, Illinois 60602, postage prepaid, before 4:30 p.m. on November 6, 2009.

S/MICHAEL D. JACOBS
MICHAEL D. JACOBS

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| JAIME HERANDEZ, |) | |
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| Plaintiff, |) | |
| |) | HONORABLE JUDGE |
| vs. |) | ROBERT W. GETTLEMAN |
| |) | |
| THOMAS DART, ET AL., |) | |
| |) | |
| Defendants. |) | |

DEFENDANTS' AMENDED STATUS REPORT

NOW COME the Defendants, by their attorneys, ANITA ALVAREZ, State's Attorney of Cook County, and MICHAEL D. JACOBS, Assistant State's Attorney, and hereby report the following:

1. Pursuant to prior order of this Court, the parties were to prepare and file a joint status by November 6, 2009. Because Plaintiff has failed to initiate contact with the undersigned to prepare and submit a joint report, the Defendants submit this report.
2. The attorney of record for Defendant is Assistant State's Attorney Michael D. Jacobs. If this matter proceeds to trial, Mr. Jacobs will try the matter along with another attorney from the Office of the State's Attorney. At the present time, Plaintiff is appearing Pro-Se, it is unknown if Plaintiff will retain counsel.
3. Plaintiff has asserted jurisdiction pursuant to 42 U.S.C. § 1983 claiming alleged violations of his civil rights by the Defendants as well as pendent jurisdiction for certain state law claims.
4. The Plaintiff and all Defendants are seeking trial by jury for all claims for

which they may be entitled to a trial by jury.

5. Following the Court's June 10, 2009 ruling, the following claims remain before the Court:

- A. False Imprisonment (See Count 3) brought pursuant to 42 U.S.C. § 1983.
- B. False Arrest (See Count 4) brought pursuant to 42 U.S.C. § 1983.
- C. Equal Protection Violation (See Count 8) brought pursuant to 42 U.S.C. § 1983.
- D. Intentional Infliction of Emotional Distress (Unnumbered) brought as a pendent state law claim.

6. All remaining Claims and all other Defendants have been dismissed from this cause of action.

7. Defendants are not advancing any counter claims, but are offering the following affirmative defenses:

- A. The Defendants' conduct was at all times objectively reasonable and did not violate any of Plaintiff's clearly established Constitutional rights. Accordingly, the Defendants are entitled to the defense of Qualified Immunity.
- B. The Plaintiff seeks punitive damages in this action. Local governments are immune from punitive damages liability under section 1983. See *City of Newport v. Fact Concerts*, 453 U.S. 247 (1981).
- C. All actions with respect to plaintiff were taken in good faith and based

upon legitimate, non-discriminatory reasons.

8. Plaintiff has not provided a computation of his damages, but is seeking in excess of \$50,000 in compensatory damages plus punitive damages on each count.
9. All parties that remain in this cause of action following the June 10, 2009 ruling have been served.
10. The principle legal issues focus on the propriety of the Defendants' actions in arresting the Plaintiff following an incident at the Daley Center Courthouse.
11. The principle factual issues focus on the propriety of the Defendants' actions in arresting the Plaintiff following an incident at the Daley Center Courthouse.
12. The Defendants anticipate filing a motion for summary judgment.
13. The Defendants propose the following discovery plan:
 - A. No discovery has been conducted to date.
 - B. Counsel for Defendants has obtained the reports prepared incidental to Plaintiff's arrest and will tender them to Plaintiff at the next court date.
 - C. Non-Expert Discovery will close on January 31, 2010.
 - D. Plaintiff will disclose expert(s), if any, on or before February 28, 2010. Defendants will complete depositions of plaintiffs' experts by March 31, 2010.
 - E. Defendants will disclose their expert(s), if any, on or before April 30, 2010. Plaintiffs will complete depositions of defense experts by May 31, 2010.
14. Dispositive Motions are to be filed on or before June 30, 2010. If no experts

are disclosed, Dispositive Motions are to be filed on or before March 1, 2010.

15. The Parties anticipate being ready for trial sixty days from the date of ruling on any dispositive motions.

ANITA ALVAREZ
State's Attorney of Cook County

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One of the Attorneys for the Defendants