

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF MICHIGAN  
SOUTHERN DIVISION

ANDREW ROBERT DICKINSON,

Plaintiff,

-vs-

KEVIN SIMPSON, JASON MURPHY,  
DAMMEON PLAYER, GERRY DENEAL,  
THOMAS TREWHELLA, BENJAMIN WAGNER,  
In their individual capacities,  
Jointly and Severally,

Defendants.

CASE NO.:

HON.

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BEN M. GONEK (P43716)  
Ben M. Gonek, P.C.  
101 West Big Beaver Road  
10<sup>th</sup> Floor  
Troy, Michigan 48084  
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There is no other pending or resolved civil action  
between these parties arising out of the same  
transaction or occurrence alleged in this Complaint.

**COMPLAINT AND JURY DEMAND**

NOW COMES, the Plaintiff, ANDREW ROBERT DICKINSON, by and through his  
attorney, BEN M. GONEK, and for his Complaint in this matter, states the following:

**INTRODUCTION**

1. This cause of action is civil in nature and arises from the actions of individuals employed  
as police officers through the Detroit Police Department contrary to 42 U.S.C. § 1983 and  
the Fourth and Fourteenth Amendments to the Constitution of the United States of  
America.

2. Defendants, acting intentionally with malice and ill will and in wanton and willful disregard to Plaintiff ANDREW ROBERT DICKINSON's (hereinafter, "Mr. Dickinson") Constitutional Rights, caused Mr. Dickinson to be subjected to an amount of force far in excess than what was legally justified, to be falsely arrested without probable cause, and to be maliciously prosecuted in violation of his Constitutional Rights.

### **PARTIES**

3. Plaintiff, Mr. Dickinson, is a resident of the City of Commerce Township, County of Oakland, State of Michigan.
4. Upon information and belief, DEFENDANT KEVIN SIMPSON (hereinafter, "Simpson") is a resident of the City of Detroit, County of Wayne, State of Michigan, and at all times relevant to this Complaint, was employed as a police officer by the Detroit Police Department, and is being sued in his individual capacity.
5. Upon information and belief, DEFENDANT JASON MURPHY (hereinafter, "Murphy") is a resident of the City of Detroit, County of Wayne, State of Michigan, and at all times relevant to this Complaint, was employed as a police officer by the Detroit Police Department, and is being sued in his individual capacity.
6. Upon information and belief, DEFENDANT DAMMEON PLAYER (hereinafter, "Player") is a resident of the City of Detroit, County of Wayne, State of Michigan, and at all times relevant to this Complaint, was employed as a police officer by the Detroit Police Department, and is being sued in his individual capacity.
7. Upon information and belief, DEFENDANT GERRY DENEAL (hereinafter, "Deneal") is a resident of the City of Detroit, County of Wayne, State of Michigan, and at all times

relevant to this Complaint, was employed as a police officer by the Detroit Police Department, and is being sued in his individual capacity.

8. Upon information and belief, DEFENDANT THOMAS TREWHELLA (hereinafter, “Trehella”) is a resident of the City of Detroit, County of Wayne, State of Michigan, and at all times relevant to this Complaint, was employed as a police officer by the Detroit Police Department, and is being sued in his individual capacity.
9. Upon information and belief, DEFENDANT BENJAMIN WAGNER (hereinafter, “Wagner”) is a resident of the City of Detroit, County of Wayne, State of Michigan, and at all times relevant to this Complaint, was employed as a police officer by the Detroit Police Department, and is being sued in his individual capacity.
10. At all times relevant herein and in their actions described herein, the individually named Defendants were acting under the color of state law.
11. At the time the events alleged in this Complaint occurred, the individually named Defendants were violating Mr. Dickinson’s clearly established Constitutional Rights and Defendants’ actions were clearly unreasonable and illegal. As such, Defendants are not entitled to the defenses of either qualified or governmental immunity.

#### **JURISDICTION AND VENUE**

12. This action is brought pursuant to 42 U.S.C. §§ 1983 and 1988, as well as the Fourth and Fourteenth Amendments to the Constitution of the United States and jurisdiction is appropriate in Federal District Court under 28 U.S.C § 1343(3).
13. Venue is appropriate in the Eastern District of Michigan, Southern Division under 28 U.S.C. § 1391(b) since, upon information and belief, all Defendants reside in said Judicial District. Further, venue is appropriate in the Eastern District of Michigan,

Southern Division under 28 U.S.C. § 1391(b) since the substantial part of the events that led to this Complaint occurred in said Judicial District.

### **FACTS**

14. Plaintiff incorporates by reference paragraphs one (1) through thirteen (13) of this Complaint as if fully stated herein.
15. On September 5, 2009, at around 5:30 pm, Mr. Dickinson was driving on westbound on Interstate-94 and attempting to merge on to westbound Interstate-96.
16. As Mr. Dickinson attempted to merge on to the access ramp, an unmarked black car approached rapidly from the rear.
17. As Mr. Dickinson continued to merge, the black car began to honk its horn at Mr. Dickinson and flash their headlights.
18. Eventually, the black car activated their red and blue sirens and Mr. Dickinson immediately pulled over to the side of the road.
19. Two men exited the black car wearing baggy jeans, long tees, side-ways hats, and were carrying guns with no visible badges.
20. Fearing that the men were not police officers, Mr. Dickinson pulled away from the men and had a female passenger in the car call 911 to make sure that the two men were actually police officers.
21. Initially, the 911 dispatch operator informed Mr. Dickinson that there were no police cars in the area and that the operator would check with other agencies.
22. While still on the phone with the 911 dispatch operator, a marked police car came into view and positioned itself immediately in front of Mr. Dickinson's vehicle.

23. Even though the 911 dispatch operator had not yet confirmed that it was police officer on the scene, Mr. Dickinson again pulled over to the side of the road, with the marked car in front of Mr. Dickinson and the black car behind him.
24. The individuals in the marked car remained in the vehicle while the two individuals in long tees and side-ways hats again jumped out of their car and ran toward Mr. Dickinson with guns drawn and no visible police badges.
25. Still thinking that something was amiss with the situation, fearing for his life, and without confirmation that the individuals were actually officers, Mr. Dickinson pulled back onto the highway.
26. Once Mr. Dickinson received confirmation from the 911 dispatch operator that the individuals in the unmarked black car were indeed police officers, Mr. Dickinson pulled his vehicle to the side of the road.
27. The two vehicles quickly boxed Mr. Dickinson in and again the two men from the unmarked black car ran at Mr. Dickinson with guns drawn and no visible badges.
28. Mr. Dickinson put his hands in the air and the Defendant ripped his door open, unlocked Mr. Dickinson's seatbelt, threw him on the ground, and dragged him away from the vehicle.
29. While face down on the road surface with a gun pressed to the back of Mr. Dickinson's head, the Defendants proceeded to violently punch and kick Mr. Dickinson.
30. The Defendants then cuffed Mr. Dickinson and slammed him up against the hood of the car in order to search him.

31. While one of the individually named Defendants proceeded to search Mr. Dickinson, another Defendant continued to hold Mr. Dickinson by the neck tight enough to cause Mr. Dickinson to temporarily lose consciousness.
32. Mr. Dickinson was then thrown into the back of one the squad cars and was forced to sit and listen while the Defendants berated and insulted him in front of his girlfriend for not being able to protect her.
33. Mr. Dickinson was arrested and transported to the Police Station where he was issued a citation and was eventually charged with Fleeing and Eluding a Police Officer.
34. All charges were dismissed against Mr. Dickinson at the preliminary examination in front of the Hon. Roberta Archer at 36<sup>th</sup> District Court.

**FIRST CLAIM**  
**Use of Excessive Force under 42 U.S.C. § 1983**  
**and the Fourth and Fourteenth Amendments**

35. Plaintiff incorporates by reference paragraphs one (1) through thirty-four (34) of this Complaint as if fully stated herein.
36. Defendants Murphy and Player, and the other individually named Defendants who either joined in, or failed to stop, the beating of Mr. Dickinson, acting individually and in concert under the color of law, used excessive force by holding a gun to Mr. Dickinson's head, kicking and punching him in the back, slamming him up against the hood of the vehicle, and choking him until he lost consciousness when he had submitted to the Defendant's show of authority and was not a resistance or flight risk where there was no legal basis for such action, and acted with malice and ill will in wanton and willful disregard to Mr. Dickinson's Constitutional Rights.

37. Any reasonable person or police officer should have known that such actions were in violation of Mr. Dickinson's Constitutional Rights, thus Defendants are not entitled to qualified immunity.

38. As a direct and proximate result of Defendants' actions, Mr. Dickinson suffered injury and damage including, but not limited to, the following:

- a. Physical injuries;
- b. Pain, suffering, and emotional distress;
- c. Injuries to his reputation;
- d. Aggravation of pre-existing medical conditions;
- e. Humiliation, mortification, and embarrassment;
- f. Post-traumatic stress disorder, anxiety, and depression; and
- g. Other injuries, damages, and/or consequences that are found to be related to the incident that develop or manifest themselves during the course of discovery and trial.

**SECOND CLAIM**

**False Arrest under 42 U.S.C. § 1983  
and the Fourth and Fourteenth Amendments**

39. Plaintiff incorporates by reference paragraphs one (1) through thirty-eight (38) of this Complaint as if fully stated herein.

40. By arresting Mr. Dickinson where there was no probable cause to do so, the individually named Defendants, acting individually or in concert under the color of law, acted intentionally, maliciously, and with ill will in willful and wanton disregard to Mr. Dickinson's rights under the Constitution.

41. Any reasonable person or police officer should have known that such actions were in violation of Mr. Dickinson's Constitutional rights, thus Defendants are not entitled to qualified immunity.
42. As a direct and proximate result of Defendants' actions, Mr. Dickinson suffered injury and damage including, but not limited to, the following:
  - a. Physical injuries;
  - b. Pain, suffering, and emotional distress;
  - c. Injuries to his reputation;
  - d. Aggravation of pre-existing medical conditions;
  - e. Humiliation, mortification, and embarrassment;
  - f. Post-traumatic stress disorder, anxiety, and depression; and
  - g. Other injuries, damages, and/or consequences that are found to be related to the incident that develop or manifest themselves during the course of discovery and trial.

**THIRD CLAIM**  
**Malicious Prosecution under 42 U.S.C. § 1983**  
**and the Fourth and Fourteenth Amendments**

43. Plaintiff incorporates by reference paragraphs one (1) through forty-two (42) of this Complaint as if fully stated herein.
44. By unlawfully arresting Mr. Dickinson where there was not probable cause to do so and causing Mr. Dickinson to be charged with the criminal count of Fleeing and Eluding a Police Officer, the individually named Defendants, acting individually and in concert under the color of law, through fabricated police reports, investigator's reports, and



warrant requests, acted intentionally, maliciously, and in willful and wanton disregard to Mr. Dickinson's rights under the Constitution.

45. Any reasonable person or police officer should have known that such actions were in violation of Mr. Dickinson's Constitutional rights, thus Defendants are not entitled to qualified immunity.

46. As a direct and proximate result of Defendants' actions, Mr. Dickinson suffered injury and damage including, but not limited to, the following:

- a. Physical injuries;
- b. Pain, suffering, and emotional distress;
- c. Injuries to his reputation;
- d. Aggravation of pre-existing medical conditions;
- e. Humiliation, mortification, and embarrassment;
- f. Post-traumatic stress disorder, anxiety, and depression; and
- g. Other injuries, damages, and/or consequences that are found to be related to the incident that develop or manifest themselves during the course of discovery and trial.

**PRAYER FOR RELIEF**

**WHEREFORE**, Plaintiff ANDREW ROBERT DICKINSON respectfully requests that this Honorable Court grant the following relief against the Defendants:

- A. Compensatory damages in an amount which is fair, just and reasonable;
- B. Punitive damages in an amount to be determined by the Court or at trial which is fair, just, and reasonable based on the intentional, malicious, and willful conduct of the Defendants;

- C. Equitable relief, including that this Court may enjoin and order that Defendants, their officers, agents, employees, and successors in office, be made to adopt appropriate policies to prevent future instances of the type of unlawful practices described herein;
- D. Attorney fees, costs of this action, and costs of other actions that may be associated with the events and actions described in this Complaint; and
- E. Such other and further relief as this Court may deem equitable, necessary, appropriate, and just.

Respectfully Submitted,

/s/ Ben M. Gonek  
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Ben M. Gonek, P.C.  
Attorney for Plaintiff  
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Dated: February 25, 2010

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF MICHIGAN  
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ANDREW ROBERT DICKINSON,

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CASE NO.:

HON.

**COMPLAINT AND JURY DEMAND**

NOW COMES, the Plaintiff, ANDREW ROBERT DICKINSON, by and through his attorney, BEN M. GONEK, and hereby demands a trial by jury on all issues so triable.

Respectfully Submitted,

/s/ Ben M. Gonek  
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Dated: February 25, 2010