

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

BEN BAKER and CLARISSA GLENN,)
Plaintiffs,)
v.) Case No. 16 C 8940
CITY OF CHICAGO, Former CHICAGO)
POLICE SERGEANT RONALD WATTS,)
OFFICER KALLATT MOHAMMED,)
SERGEANT ALVIN JONES, OFFICER)
ROBERT GONZALEZ, OFFICER)
CABRALES, OFFICER DOUGLAS)
NICHOLS, JR., OFFICER MANUEL S.)
LEANO, OFFICER BRIAN BOLTON,)
OFFICER KENNETH YOUNG, JR.,)
OFFICER ELSWORTH J. SMITH, JR.,)
PHILIP J. CLINE, KAREN ROWAN,)
DEBRA KIRBY, and as-yet-unidentified)
officers of the Chicago Police Department,)
Defendants.)
(This case is part of *In re: Watts Coordinated Pretrial Proceedings*, Master Docket Case No. 19 C 1717)

CITY OF CHICAGO'S MOTION FOR SUMMARY JUDGMENT

Defendant, the City of Chicago (“City”), by its attorneys, pursuant to Federal Rule of Civil Procedure 56, hereby moves this Court for summary judgment in its favor. In support thereof, the City states:

1. This lawsuit arises out of Plaintiff Baker's arrest on March 25, 2005 and the arrests of Plaintiffs Baker and Glenn on December 11, 2005. Plaintiffs were prosecuted on drug charges arising out of the arrests.

2. Plaintiffs have filed a Second Amended Complaint ("SAC") against the City and present or former Chicago police officers Ronald Watts, Kallatt Mohammed, Alvin Jones, Robert

Gonzalez, Douglas Nichols, Manuel Leano, Brian Bolton, and Elsworth J. Smith (“Defendant Officers”).¹ See generally dkt. 238. Plaintiffs’ SAC includes the following counts:

Count I	§1983 Due Process
Count II	§1983 Malicious Prosecution and Unlawful Pretrial Detention – Fourth and Fourteenth Amendments
Count III	§1983 First Amendment
Count IV	§1983 Failure to Intervene
Count V	§1983 Conspiracy to Deprive Constitutional Rights
Count VI	State Law Claim – Malicious Prosecution
Count VII	State Law Intentional Infliction of Emotional Distress
Count VIII	State Law Civil Conspiracy
Count IX	Loss of Consortium
Count X	State Law <i>Respondeat Superior</i>
Count XI	State Law Indemnification

3. Plaintiffs’ §1983 claims include a claim against the City under *Monell v. New York City Dept. of Social Services*, 436 U.S. 658 (1978).

4. For the reasons set forth in the City’s Memorandum of Law in Support of Its Motion for Summary Judgment, Plaintiffs have failed to produce evidence that creates a genuine issue of material fact as to their *Monell* claim against the City. Thus, the City is entitled to summary judgment on the §1983 *Monell* claim in Plaintiffs’ SAC.

5. In addition, Plaintiffs’ SAC references “as-yet-unidentified officers” in the caption and opening paragraph. Dkt. 238. However, Plaintiffs have not identified those unknown persons or have otherwise developed evidence as what any of those “unidentified employees” specifically did

¹ Defendant Officers Kenneth Young and Miguel Cabrales, and Supervisory Defendants Philip Cline, Debra Kirby, and Karen Rowan, have been dismissed with prejudice from the action. (Dkt. #377).

wrong. Under Seventh Circuit precedent, dismissal of the so-called unidentified defendants is warranted where Plaintiffs have failed during the discovery period to identify the unidentified parties in their complaint. *See Williams v. Rodriguez*, 509 F.3d 392, 402 (7th Cir. 2007) (Discovery is a plaintiff's opportunity to identify unknown and unnamed defendants; the failure to do so before the close of discovery warranted dismissal of unknown and unnamed defendants from the case); *Strauss v. City of Chicago*, 760 F.2d 765, 770 n. 6 (7th Cir. 1985) (dismissal of "John Doe" defendant proper where plaintiff did not identify that unknown defendant, because plaintiff has the responsibility of taking the steps necessary to identify the officer responsible for his injuries). Because Plaintiffs have failed to identify any unnamed officer or employee who caused them injury through wrongful conduct, Plaintiffs' claims against the "unidentified" City employees and the City (asserted through those unidentified employees) should be dismissed.

6. The Defendant Officers have separately moved for summary judgment on the federal and state claims asserted against them in the SAC. Plaintiffs assert vicarious theories of recovery against the City in Count X (*respondeat superior*) and Count XI (indemnity) of the SAC for the claims asserted against the Defendant Officers. In these derivative claims, Plaintiffs seek to recover against the City solely based on the alleged liability of the Defendant Officers. To the extent summary judgment is entered in favor of the Defendant Officers on any of Plaintiffs' claims against them, there would be no remaining basis to impose vicarious liability on the City for those claims through Count X and/or Count XI, and summary judgment should likewise be entered in favor of the City.

WHEREFORE, the City requests that summary judgment be entered in its favor and against Plaintiffs on the *Monell* claim asserted in Plaintiffs' Second Amended Complaint, and for costs. In addition, the claims against the "unidentified employees" should be dismissed with prejudice. Finally, to the extent summary judgment is entered in favor of the Defendant Officers on any of

Plaintiffs' claims, there would be no remaining basis to impose vicarious liability or seek indemnity from the City for those claims through Count X and/or Count XI, and summary judgment should likewise be entered in favor of the City.

Respectfully submitted,

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CERTIFICATE OF SERVICE

I hereby certify that on **September 5, 2024**, I electronically filed the foregoing **Defendant City of Chicago's Motion for Summary Judgment** with the Clerk of the Court using the ECF system, which sent electronic notification of the filing on the same day to counsel of record.

s/ Paul A. Michalik
