

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF ILLINOIS
EASTERN DIVISION

Ben Baker and Clarissa Glenn,)	
)	Case No. 16 C 8940
Plaintiffs)	
v. .)	Hon. Franklin Valderrama
)	
City of Chicago, et al.,)	
)	
Defendants)	

**PLAINTIFFS' RESPONSES TO DEFENDANT OFFICERS' STATEMENT OF
UNDISPUTED FACTS**

Plaintiffs, Ben Baker and Clarissa Glenn, by their attorneys, submit the following responses to Defendant Officers' statement of undisputed facts pursuant to Local Rule 56.1(a)(3).

PARTIES

1. Plaintiffs Ben Baker and Clarissa Glenn are residents of Chicago, Illinois. At the time of the events giving rise to this suit, they lived together in the Ida B. Wells housing complex ("Wells complex") in Chicago. Second Amended Complaint ("SAC"), ECF No. 238, ¶ 10. At all times relevant, Defendants Ronald Watts, Kallatt Mohammed, Alvin Jones, Robert Gonzalez, Douglas Nichols, Jr., Manuel S. Leano, Brian Bolton, and Elsworth J. Smith, Jr. were Chicago police officers employed by the Chicago Police Department. (SAC, ¶ 11.) Defendant City of Chicago ("City") is a municipal corporation of the State of Illinois. (SAC, ¶ 15.)

RESPONSE: Admit.

JURISDICTION AND VENUE

2. This court has original jurisdiction over Plaintiffs' federal claims (see 28 U.S.C. §§ 1331, 1343), and supplemental jurisdiction over their state law claims (see 28 U.S.C. § 1367). Venue in this judicial district is proper. See 28 U.S.C. § 1391(b).

RESPONSE: Admit.

BACKGROUND

3. Baker and Glenn lived in the 527 extension building (the “527 ext.”) at the Wells complex with their three children. (Id. at ¶16.) At the time, the complex was actively patrolled by a tactical team of CPD officers led by Defendant Watts. (Id. at ¶17.)

RESPONSE: Admit.

4. The Wells complex was a hotbed of narcotics trafficking and infamously known as an open-air drug market.¹ Drugs were sold in its buildings, including the 527 ext., all day and all night, seven days a week. (Ex. A-1 at 20:2-3; 88:19-21; Ex. A-2 at 26:19-22; Ex. A-3 at 185:8-11; Ex. A-4 at 23: 9-17; Ex. A-5 at 141:2-7; Ex. A-9 at 42:24-43:4; Ex-10 at 17:19-20.) Baker testified at his criminal trial that the 527 ext. was dangerous and the site of heavy narcotics trafficking at the time of his arrest. (Ex. E at 79:14-21.)

RESPONSE: Plaintiffs object to this paragraph as irrelevant under Federal Rule of Evidence 401. Plaintiffs further object to this paragraph, and in particular the characterizations of Ida B. Wells as a “hotbed” and “infamously known” as immaterial, vague, argumentative, and inflammatory in violation of Local Rule 56.1(b)(3)(C). *See De v. City of Chicago*, 912 F. Supp. 2d 709, 712, 714 (N.D. Ill. 2012). Answering further, Plaintiffs admit in part and dispute in part. Plaintiffs admit that in the cited testimony, witnesses testified that drugs were prevalent at Ida B. Wells. Plaintiffs dispute Defendants’ characterization of the Ida B. Wells housing complex as a “hotbed of narcotics

¹ (See e.g., Ex. A-1, Sharika Dotts February 15, 2023 Deposition at 19:2-3; 19:24-20:3; 81:19-82:1; Ex. A-2, Gregory Young February 16, 2024 Deposition 26:19-27:2; Ex. A-3, Raynard Carter May 12, 2022 Deposition 185:5-11, 19-20; Ex. A-4, Bobby Coleman November 13, 2023 Deposition 23: 9-17; 25: 17-26:3; Ex. A-5, Milton Delaney July 26, 2021 Deposition 93:20-94:3; 141:2-13; Ex. A-6, Willie Gaddy December 1, 2022 Deposition 10:23-11:1; Ex. A-7, Goleather Jefferson June 27, 2022 Deposition 105:18-106:7; Ex. A-8, Arthur Kirksey December 6, 2022 Deposition 37:42-12; Ex. A-9, Jesse Lockett February 27, 2024 Deposition 42:16-18, 24-43:4; Ex. A-10, Damica Nickerson May 31, 2019 Deposition 17:15-20; Ex. A-11, Calvin Robinson December 15, 2022 Deposition 186:7-20; Ex. A12, Henry Thomas March 16, 2021 Deposition 284:23-285:5).

trafficking,” as that language does not appear in the cited exhibits. Defendants’ statement that drugs were sold in Ida B. Wells 24 hours per day, seven days per week is not undisputed. To the contrary, there is evidence that at times during the relevant time period, drug sales completely ceased in the Complex. Indeed, as part of the joint investigation with the Chicago Police Department, the FBI documented that “the level of narcotics activity was at a minimal while” Watts and Mohammed “were not on duty,” but that when they “were present for duty, the level of narcotics activity was much higher.” Ex. 1 (PL JOINT 002917-PL JOINT 002918); *see also* Ex. 2 (FBI000743-744), a less redacted version of the same memorandum. Plaintiffs also dispute Defendants’ assertion that the Complex was “infamously known” as an open-air drug market, as Defendants’ record citations do not support this assertion. *See* Def Exhibit A-5 at 141:8-10 (witness agreeing only to the characterization of “open-air drug market”).

5. The Gangster Disciples controlled and operated that drug enterprise. (Ex. B, Ben Baker August 9, 2023 Deposition at 306:12-16; Ex. C, Operation Sin City Report at CITY-BG-028596-028598.) Baker was a member of the Gangster Disciples from the time he was 18 years old until 2012 and began trafficking drugs at the 527 ext. in 1998. (Ex. B at 29:20-30:2; 307:13-15; Ex. D at 39:18-40:4.) Baker was 33 years old at the time of his arrests and was referred to as “Pops.” (Ex. E, Ben Baker May 23, 2006 Criminal Trial Testimony at 32:20-21; Ex. B at 18:5-7.)

RESPONSE: Plaintiffs object to this paragraph as a violation of Local Rule 56.1 because it groups multiple distinct statements into one paragraph and because the statements are immaterial. Plaintiffs further object that “Exhibit C, Operation Sin City Report” lacks foundation and is inadmissible hearsay, and further object to the portion of that exhibit that refers to complaints concerning the role of the Gangster Disciples as hearsay within hearsay under Rule 805. *Jordan v. Binns*, 712 F.3d 1123, 1132-33 (7th Circ. 2013) (“[U]nder FRE 805, each layer of hearsay must be admissible on an independent basis. . . Accordingly, third-party statements contained in a police report do not become admissible for their truth by virtue of their presence in a public record and instead must have an independent basis for admissibility.”) The cited Operation Sin City Report does not reflect first hand observations of an officer and is therefore not admissible. Plaintiffs also dispute the statement that the Gangster Disciples controlled the “drug enterprise” at the Complex. For one, the cited testimony does not support the assertion. Mr. Baker agreed with the characterization that, “for the most part,” Ida B. Wells was “Gangster Disciples” territory, but that general question and answer does not support the proposition that the Gangster Disciples

controlled a “drug enterprise” at Ida B. Wells. Moreover, there is substantial evidence in the record that no one person or entity controlled drug trafficking at Ida B. Wells. Ex. 3 (Dep of Elgen Moore), Feb. 28, 2024, at 29:15-20, 30:1-15 (Moore denying that the Gangster Disciples are the prominent gang at Ida B. Wells and stating that the Black Disciples and Black Stones also engaged in gang activity at the complex) (Moore disagreeing that there were more Gangster Disciples than Black Disciples or Black Stones and further denying that the Gangster Disciples ran the 527 building). To the extent that one person or entity controlled the “drug enterprise” at Ida B. Wells, Defendant City of Chicago has determined that the entity was the Watts team. Specifically, as the Civilian Office of Police Accountability (“COPA”) has explained, the team was confident that it would receive “deference” as law enforcement officials, and “[s]uch deference enabled the Team’s control of drug trafficking in the Wells Homes.” *See, e.g.*, Ex. 4 (COPA SRI for Log #1087742) at PL JOINT 068087. Plaintiffs admit that Baker was a member of the Gangster Disciples from the time he was 18 years old until 2012 and began trafficking drugs at the 527 ext. in 1998. Plaintiffs, however, object to the extent that Defendants seek to improperly admit this testimony as propensity evidence in violation of FRE 404(a). Plaintiffs otherwise admit that Baker was 33 years old at the time of his arrests and was referred to as “Pops.”

6. Baker supported himself and contributed to the support of his wife and his children by selling drugs, heroin and crack, in the 527 ext. (Ex. E at 71:20-22; Ex. F, Clarissa Glenn September 20, 2023 Deposition at 54:15-55:1.) It was possible for Baker to earn as much as \$20,000 per day from the drug sales he controlled. (Ex. D, Baker August 10, 2023 Deposition at 39:18-40:4; 190:3-9; 245:18-24.) Through the time of his arrests, Baker had never been employed. (Ex. D at 97:17-21; Ex. F at 54:10-14; 192:22-193:4.) Baker continued to sell heroin and crack after his release from prison in January 2016. (Ex. B at 34:13-22; 41:22-42:10; 43:18-44:5; 44:11-46:7; 51:1-7.)

RESPONSE: Plaintiffs object to the assertion that Baker supported his wife and children by selling “drugs, heroin and crack, in the 527 ext.” First, the cited testimony from Ben Baker says nothing about “heroin” or “crack.” Second, Defendants mischaracterize Clarissa Glenn’s testimony, which specifically related to the time period of March 2005. Def. Ex. F at 54:10-16 (witness is asked “was he contributing to household expenses at all **at that time?**”). Glenn testified that Baker was contributing to household expenses at that time. The cited testimony from Glenn does not say that Baker contributed to the household by selling drugs, and Baker denies selling drugs at that time. Def. Ex. B at 216:4-15 (Baker states he did not sell narcotics from January 2005

to March 2005). Plaintiffs also dispute that the cited testimony supports the proposition that it was possible for Baker to earn as much as \$20,000 per day from drug sales. In the cited testimony, Baker answers questions about the range of money he could have earned by saying it was “possible” but that he did not remember the exact amounts and that he “can’t say for sure.” Ex. 5 (Dep. of Ben Baker) Aug. 10, 2023, at 190:3-9, 245:18-22. In context, it appears that is he answering in the sense that anything is possible. Defendants’ statement mischaracterizes that testimony because their statement reads as though Baker has testified affirmatively that he made up to \$20,000 per day. Plaintiffs otherwise admit the allegations in this paragraph.

7. Baker’s drug dealing was known to the Chicago Police Department (“CPD”) and Defendant Officers as well as other CPD officers. (Ex. G, Douglas Nichols April 18, 2022 Deposition at 149:15-25.) Nichols and other officers knew Baker controlled the drug sales at the 527 ext. (*Id.*) An extensive CPD investigation (named “Operation Sin City”) identified him as the “manager” of the Gangster Disciples’ drug operations at Ext. 527. (Ex. C at CITY-BG-028602.)

RESPONSE: Plaintiffs dispute that Nichols knew of Baker’s drug dealing before Baker’s March 2005 arrest. Nichols testified that he knew Baker was a drug dealer because he “arrested him.” Def. Ex. G at 149:20. He further testified that he arrested Baker “one time.” *Id.* at 150:4. The “one time” that Nichols arrested Baker was during the March 2005 arrest that forms the basis of Baker’s Fourth Amendment malicious prosecution claim. Plaintiffs also dispute that the cited testimony supports the statement that Nichols “knew” Baker was a drug dealer. Although Plaintiffs acknowledge that Nichols stated he knew Baker was a drug dealer because Nichols arrested Baker, an arrest does not prove that the underlying conduct happened. *See Michelson v. United States*, 335 U.S. 469, 482 (1948) (holding that an arrest cannot be used to prove the underlying conduct occurred). Plaintiff further objects to the assertion that Nichols knew Baker controlled the drug sales at the 527 ext. Defendant’s record citation is hearsay and for the same reason further dispute that the cited testimony supports the proposition that Baker’s drug dealing was known to the Chicago Police Department, the Defendant Officers, and other CPD officers. Def. Ex. G at 149:24-25 (witness states he knows Baker controlled 527 ext because “other officers informed [him]).” Even if the cited testimony Exhibit G is not hearsay, Plaintiffs dispute that it proves that Nichols even believed that Baker was a drug dealer before he arrested him given Nichols’ testimony, noted earlier in this paragraph, he learned Baker was a drug dealer by arresting him. Plaintiffs also dispute that Baker “controlled the drug sales at the 527 ext.” Baker denies selling narcotics from January 2005 to March 2005. Ex. 6 (Dep. of Ben Baker) Aug. 9, 2023, at 216:4-15. Furthermore, when Baker was not present in the 527 ext., for instance when he was incarcerated, drug sales

continued. Ex. 6 (Dep. of Ben Baker) Aug. 9, 2023, at 207:19-20 (Baker stating that even when he was in jail, cocaine called “knockout” was still being sold out of the Complex). Plaintiffs further object that “Exhibit C, Operation Sin City Report” is inadmissible hearsay. *See Jordan v. Binns*, 712 F.3d 1123, 113 (7th Cir. 2013) (holding that “[p]olice reports have generally been excluded except to the extent to which they incorporate firsthand observations of the officer.”) Even if Exhibit C was not inadmissible hearsay and lacking foundation, the purported fact that Ben Baker was a “manager of the Gangster Disciples’ drug operations” is not undisputed. Indeed, the lead prosecutor who oversaw Operation Sin City has admitted that the investigation did not lead to sufficient evidence to prosecute Ben Baker for drug crimes, thus calling into question the idea that a picture from that investigation showing Ben Baker with the word “Building Manager” establishes an undisputed fact that Baker was in fact a manager for a drug operation. Ex. 7 (Dep. of Kevin Hughes), June 3, 2024, at 20:8-22 (stating that Baker was never prosecuted as a result of the sin city investigation). Similarly, an investigative summary of Operation Sin City extensively discusses the investigation into drug dealing at the 527 E. Browning Building starting in early February 2005 and continuing through July 2005. COPA-WATTS-003505-COPA-WATTS003518. Mr. Baker’s name does not appear once in that summary. *Id.* Indeed, the report lists “(8) identified subjects” of the Sin City Operation at the 527 E. Browning building, and Baker is not among them. *Id.* at COPA-WATTS003514.

8. Elgen Moore and Bryant Patrick sold drugs for Baker. (Ex. B at 323:8-17). Both were identified as drug dealers in Operation Sin City and Moore was also identified as a manager at the 527 ext. (Ex. C at CITY-BG-028592; CITY-BG-028602.) Moore, while dealing drugs for Baker, was arrested for selling heroin to an undercover officer in that investigation. (Ex. H, Elgen Moore February 28, 2024 Deposition at 194:24-195:11; 195:14-17.) Moore was 11 years younger than Baker. (*Id.* at 23:22-24; 59:14-22.) Bryant Patrick and Charles Niles, who acted as a lookout in the 527 ext., were also arrested during that investigation. (Ex. D at 273:19-274:9; 274:15-275:7.)

RESPONSE: Plaintiffs object that “Exhibit C, Operation Sin City Report” is inadmissible hearsay and as lacking foundation. *See Jordan v. Binns*, 712 F.3d 1123, 113 (7th Cir. 2013) (holding that “[p]olice reports have generally been excluded except to the extent to which they incorporate firsthand observations of the officer.”) Even if Exhibit C was not inadmissible hearsay and lacking foundation, Plaintiffs dispute that it accurately identifies drug dealers and alleged “managers” in

the Ida b. Wells housing complex as evidenced by the incorrect identification of Ben Baker noted above. Additionally, Plaintiffs object to the statement that “Moore was 11 years younger than Baker” as irrelevant under Federal Rule of Evidence 401 as well as immaterial and inflammatory in violation of Local Rule 56.1(b)(3)(C). *See De v. City of Chicago*, 912 F. Supp. 2d 709, 712, 714 (N.D. Ill. 2012). Plaintiffs also dispute that Moore was selling drugs for Baker when Moore was arrested as part of the Sin City operation because Baker has testified that he was not selling drugs during that time period. Def. Ex. B at 216:4-15 (Baker stating that he did not sell narcotics from January 2005 to March 2005).

9. The Gangster Disciples named the drug lines they controlled and sold out of the extension buildings for marketing purposes. (Ex. C at CITY-BG-028597; Ex. B at 206:17-21.) Baker named the heroin he sold out of the 527 ext. “CPR” (as in cardio pulmonary respiration) because he thought that was “clever.” (Ex. B at 205:24-206:16, 22-24.) Baker named his cocaine line “knockout.” (*Id.* at 207:1-8.) No other dealers in the Wells complex were allowed to use Baker’s brand names while he was selling the drugs. (*Id.* at 207:9-11.) Baker testified that Defendant Officers knew the names of his drug lines. (*Id.* at 205:10-206:4.)

RESPONSE: Plaintiffs object that “Exhibit C, Operation Sin City Report” is inadmissible hearsay. *See Jordan v. Binns*, 712 F.3d 1123, 113 (7th Circ. 2013) (holding that “[p]olice reports have generally been excluded except to the extent to which they incorporate firsthand observations of the officer.”) Additionally, Plaintiffs dispute that the drug lines were named for “marketing purposes” as Defendants’ record citations do not support this assertion. *See* Def. Ex. B at 205:24-207:20 (Baker discussing what different narcotics were called in the Complex but never stating that they were so named for marketing purposes). Plaintiffs further object to the statement that Baker named the heroin “CPR” because he thought that was “clever” as irrelevant under FRE 401 and as immaterial and inflammatory in violation of Local Rule 56.1(b)(3)(C). *See De v. City of Chicago*, 912 F. Supp. 2d 709, 712, 714 (N.D. Ill. 2012). Finally, the assertion that Defendant officers knew the names of Baker’s drug line mischaracterizes Baker’s testimony. Baker testified that the officers would sometimes say “CPR working” when they came to the Complex. Def. Ex. B at 205:22. When asked what “CPR working” meant, Baker responded that it was “one of the names in the building for heroin.” *Id.* at 206:1-2. It is unclear whether Defendant Officers believed at the time that “CPR” was specifically the name of Baker’s drug line or if they simply understood that it was a commonly used name for heroin at the 527 ex. *See e.g.* Ex. 3 (Dep. of Elgen Moore)

at 66:15-17 (Moore confirming that people would solicit drug sales outside the complex by yelling out “CPR, CPR”).

10. Individuals who worked for Baker selling drugs would themselves hire other to assist in the drug sales. (*Id.* at 224:4-8.) Gregory Young (a/k/a “Bebe” or “Baybay”) was a drug addict and Baker’s neighbor. (Ex. E at 80:6-12, 18-24; Ex. B at 238:17-239:1.) Bebe sold drugs for Baker in exchange for a sufficient amount of heroin to relieve his drug sickness (withdrawal symptoms) when he did not have sufficient funds to purchase the drug himself. (Ex. B at 223:3-21; 238:24-239:2.) Antwoine Bradley (a/k/a “Twanny”) was a sixteen old who also sold drugs for Baker. (*Id.* at 224:1-8; Ex. K December 21, 2023 Deposition of Antwan Bradley at 9:1-2.) Bryant Patrick lived at the 527 ext. and sold heroin for Baker. (*Id.* at 149:12-24.) Baker paid Patrick for selling Baker’s drugs on a daily basis. (*Id.* at 150:4-10.) Elgen Moore sold heroin for Baker from early 2005 through July 2005. (*Id.* at 82:8-16; 150:15-17.)

RESPONSE: Plaintiffs dispute that Antwoine Bradley sold drugs for Baker. For one, Defendants’ statement mischaracterizes Bakers testimony because it reads as though Baker was directly involved with Bradley. In fact, when asked if Bradley sold narcotics for him, Baker said that he did not know and then speculated about Bradley’s possible role in the drug trade. See Def. Ex. B at 224:1-3 (“I don’t know. He probably served for somebody that was selling for me. I don’t know”). In the line just preceding the one cited by Defendants, Baker again stated that he “don’t know who Twanny was working for.” Def. Ex. B 223:22-24. Further, even if true, Plaintiffs object to assertions that Twanny or Bebe sold drugs for Baker as irrelevant under FRE 401 and inflammatory in violation of Local Rule 56.1(b)(3)(C). *See De v. City of Chicago*, 912 F. Supp. 2d 709, 712, 714 (N.D. Ill. 2012). Baker was not selling narcotics during the March 23, 2005 incident. Ex. 6 (Dep. of Ben Baker) Aug. 9, 2023, at 216:4-15. (Baker stating that he was not selling narcotics from January 2005 to March 2005). Finally, Plaintiffs object to the statement that Twanny was 16 when he sold drugs for Baker for the additional reasons that it is irrelevant under FRE 402 and immaterial and inflammatory in violation of Local Rule 56.1(b)(3)(C). *See De v. City of Chicago*, 912 F. Supp. 2d 709, 712, 714 (N.D. Ill. 2012).

11. Baker is not sure how many people he had on his payroll. (Ex. B at 150:11-14.) Moore testified that Baker was the biggest drug dealer in the 527 ext. and that he had dozens of

people working for him, including Twanny and Gregory Young (Bebe) and other individuals who were addicted to drugs. (Ex. H at 66:7-67:12; 69:7-9; 79:9-80:19; 156:20-158:5-14; 196:8-18.)

Baker was one of Moore's closest friends. (*Id.* at 56:15-16.)

RESPONSE: Plaintiffs object to the statement that "Baker was the biggest drug dealer in the 527 ext." as lacking foundation. Moore's status as one of Baker's "closest friends" does not establish the requisite knowledge necessary to opine on the size of Baker's drug-dealing operation. Plaintiffs further object to the statement that Baker had "dozens of people working for him" for the same reasons. Plaintiffs dispute that the cited material shows that Baker was one of Moore's closest friends because Defendants did not provide the Court with page 56 of the cited deposition transcript.

12. Baker sold drugs in the hallways, out of his apartment in the 527 ext. and downstairs. (Ex. B at 150:20-151:4; 151:18-152:3.) Baker had the codes in the vacant apartments at the 527 ext. and stored his narcotics in them. (*Id.* at 152:19-153:7.) Other people also had the codes but Baker was not concerned about anyone stealing his narcotics and no one had ever stolen his narcotics. (*Id.* at 153:8-18.)

RESPONSE: Plaintiffs admit that Baker testified to the assertions made in this paragraph. Plaintiffs, however, object to the extent that Defendants seek to improperly admit this testimony as propensity evidence in violation of FRE 404(a).

13. Prior to his March 23, 2005 arrest, Baker had been convicted of five felony offenses: a 1989 possession of crack cocaine conviction from an August 26, 1989 arrest for which he received probation; a 1993 unlawful use of a weapon by a felon conviction from an October 17, 1993 arrest for which he received a sentence 2 years; a 1993 attempted murder conviction from an October 29, 1993 arrest for which he received a sentence of 6 years; and a 2003 conviction from a February 4, 2002 narcotics-related arrest, which was ultimately pled down to the less serious offense of possession of a controlled substance. (Ex. B at 300:20-301:5; 301:21- ; 302:15-303:23; Ex. R, PL JOINT 036731-036735, Certified Copy of Conviction, 02 CR 0599201.) Baker served 3 years and 9 months in IDOC on the unlawful use of a weapon by a felon felony gun and attempted

murder convictions, and those sentences were served consecutively. (Ex. S, PL JOINT 036724 Certified Copy of Conviction, 93 CR 2839701) He was released on July 10, 1997 and returned to living with Glenn at the 527 ext. (Ex. B. at 305:3-9, 11-14.)

RESPONSE: Plaintiffs admit that Baker testified to the assertions made in this paragraph. Plaintiffs, however, object to the extent that Defendants seek to improperly admit this testimony as propensity evidence in violation of FRE 404(a). Plaintiffs further object to this paragraph as immaterial, argumentative, and inflammatory in violation of Local Rule 56.1(b)(3)(C). *See De v. City of Chicago*, 912 F. Supp. 2d 709, 712, 714 (N.D. Ill. 2012).

14. In 1998, Baker was convicted of selling narcotics at the Wells complex from the 527 ext. (*Id.* at 306:17-307:15.) In 2004, Baker was on still on probation for another his 2003 narcotics-related conviction. (*Id.* at 154:1-2, 8-11; Ex. T, March 23, 2005 Ben Baker VCR HL251205.) Baker does not recall the year or month of that arrest or who arrested him but it was not any officer from Watts' unit. (Ex. B at 154:12-17; 155:14-21.)

RESPONSE: Plaintiffs admit that Baker testified to the assertions made in this paragraph. Plaintiffs, however, object to the extent that Defendants seek to improperly admit this testimony as propensity evidence in violation of FRE 404(a).

15. Baker claims that on Mother's Day 2004, Watts demanded that Baker pay him money or he would send Baker to jail for dealing drugs. (Ex. D; 129:10-130:16; Ex. B at 333:13-334:2.) Baker refused but continued selling drugs. (Ex. D at 129:10-130:4; 132:23-24; Ex. B at 334:2-4.) No Defendant Officer was present at the time. (Ex. D at 132:15-19; Ex. B at 334:14-335:1.)

RESPONSE: Plaintiffs admit that Baker testified to the assertions made in this paragraph.

16. Baker also claims that in June 2004, Patrick Frazier called him and told him that Watts and other officers were looking for Baker because they had found drugs in his mailbox in the 527 ext. (Ex. E at 35:18-21; 36:24-38:7; Ex. D at 135:136:9.) Baker claims that one of Watts' "snitches" took Baker to a pay phone at which Baker spoke to Watts. (Ex. E at 38:11-23; 39:4-19;

42:2-43:6; Ex. D at 141:2-21; 141:24-142:13; 145:1-4, 11-13, 21-23.) Watts told him that if wanted to beat the charges for the drugs found in the mailbox, he would have to pay Watts \$1000. (Ex. E at 44:3-45:1; Ex. D at 146:7-18; Ex. B at 346-347:4.) Baker refused and hung up the phone. (Ex. E at 45:6-9; Ex. D at 146:18-22; Ex. B at 347:5-8.)

RESPONSE: Plaintiffs admit that Baker testified to the assertions made in this paragraph.

17. Baker claims that he was subsequently falsely arrested by Watts, Jones, Young and Smith and charged with possession of the drugs found in the mailbox in July 2004. (Ex. E at 46:2-49:5.) Based on Young's testimony at a hearing on a motion to suppress, the charges in that case were dismissed. (SAC, ¶¶41-41.) Baker is not asserting any claims in connection with his 2004 arrest. (Dkt. 78 at n. 1.); see also *Baker v. City of Chicago*, 483 F. Supp. 3d 543, 556–57 and n. 5 (N.D. Ill. 2020) (remarking that such claims would have been time-barred).

RESPONSE: Plaintiffs admit that Baker testified to the assertions made in this paragraph.

Baker's March 23, 2005 Arrest

18. On March 23, 2005, Baker was taken into custody by Nichols and Leano and charged with possession of narcotics. (SAC, ¶48.) He was released on bond without any restrictions on the same day he was arrested. (Ex. B at 236:14-20; 237:13-15.) A grand jury indicted Baker on April 7, 2005. (Ex. I, April 7, 2005 Grand Jury Transcript at 6:7mi.) Officer Nichols was the only officer who testified before the grand jury. (*Id.* at 3:5-5:21.)

RESPONSE: Plaintiffs object to Defendants' assertion that Baker was "released on bond without any restrictions." Defendants' citation to the record is misleading. When Baker is asked if he had any conditions he had to follow upon his release, Baker responded "not that I recall." Def. Ex. B at 237:13-15. Defendants, understanding that this was unlikely, immediately followed up and asked Baker "you know, when you bond out, for instance, you sign a piece of paper, and it says you're not going to engage in criminal activity, that type of thing?" Baker then responded, "I mean, probably. I'm not sure." Def. Ex. B 237:16-19. Defendants leave out these lines from their citations to the record. Plaintiffs also dispute that Baker was released on bond "the same day he was arrested" because the record does not support that contention. Rather, the docket sheet from his

criminal case shows that he was not released until the following day. Ex. 8 (docket sheet). Plaintiffs do not dispute that Defendant Nichols was the only officer who testified at the grand jury proceeding cited above.

19. Prior to Baker's trial, his counsel requested and received documents relating to an investigation by the Bureau of Internal Affairs ("IAD") into allegations of corruption against Watts. (See City of Chicago's Rule 56.1 Statement of Undisputed Facts ("CSOF") at ¶¶29-32, 41.) Also prior to Baker's trial, his counsel met with prosecutors in the special prosecution unit of the Cook County State's Attorney's Office. (CSOF, ¶¶29, 31.)

RESPONSE: Plaintiffs object to this paragraph as it improperly cites to another Rule 56.1 statement rather than the record, in violation of Rule 56.1 ("Each Local Rule 56.1 statement of material fact or response must cite to the evidentiary record and cannot cite to briefs filed by the parties or to other Local Rule 56.1 statements or responses.") *See also Rivera v. Guevara*, 319 F. Supp. 3d 1004, 1019 (N.D. Ill. 2018) ("Local Rule 56.1 requires citations to the record evidence rather than cross reference to a reference to a citation; using a cross-reference saves counsel time but offloads on the court the burden of identifying what is factually disputed and whether the dispute is material.")

Baker's Criminal Trial and Deposition Testimony

20. At his criminal trial and depositions in this case, Baker testified that on March 23, 2005, he encountered Twanny and Bebe on the third-floor landing of the stairwell in the 527 ext. (Ex. E at 54:22-55:3, 13-23, 77:22-78:1-4, 80: Ex. B at 222:6-9, 21-23.) Baker admitted that Twanny and Bebe were in possession of and selling crack cocaine and heroin respectively. (Ex. E at 55:24-56:2; Ex. B at 224:14-23.)

RESPONSE: Plaintiffs admit that Baker testified to the assertions made in this paragraph but object that the testimony that Twanny and Bebe were selling drugs lacks foundation given that no other individuals were in the hallway, and Defendants did not ask any questions about how Baker knew whether Twanny or Bebe were selling drugs. Additionally, Twanny denies having drugs on him that day. Ex. 9 (Antwan Bradley Deposition) at 39:12-16. Bebe denies ever selling drugs with Twanny. Ex. 10 (2/16/2024 Gregory Young Deposition) at 186:9-11.

21. While they were in the stairwell, Nichols approached from the hallway with his gun

drawn and ordered them to come out of the stairwell and place their hands against the wall. (Ex. E at 56:3-57:3; Ex. B at 224:23-10.) Nichols was alone. (Ex. E at 56:10-11, 58:11-15.)

RESPONSE: These facts are not undisputed. Nichols denies that he had his gun out. Nichols and Leano have testified that Leano was with Nichols and that Nichols was not alone on the third floor. Ex. 11 (4/18/2022 Nichols Deposition) at 154:8-17; 151:23-152:2. Ex. 12 (1/26/2022 Leano Deposition) at 32:9-15.

22. Twanny and Bebe threw the drugs to the floor. (Ex. B at 225:12-14; 226:20-24; 227:16-18.)

RESPONSE: Plaintiffs object that Defendants' record citations do not support the assertions in this paragraph. When Baker is asked what Bebe did with the heroin that he had, he responded "I don't know. He might have threw it down." Def. Ex. B at 225:12-13. Then, when Baker is asked what happened to Twanny, Baker stated that he was "still up there with Nichols," making no reference to whether Twanny threw down any drugs. *Id.* at 225:22-23. Moreover, Twanny (Mr. Bradley) denies that he had any drugs with him that day. Ex. 9 (Antwan Bradley Deposition) at 39:12-16. Leano has no recollection of seeing Baker or anyone else with drugs, and Nichols has no independent memory of whether Baker was alone or not when he saw him. Ex. 12 (1/26/2022 Leano Deposition) at 32:21-33:3. Ex. 11 (4/18/2022 Nichols Deposition) at 176:22-25.

23. All three complied with Nichols' order. (Ex. E at 57:5-8.) After placing his hands on the wall in the hallway, Bebe took off and ran back into the stairwell. (*Id.* at 57:9-14.) Baker also took off, followed Bebe into the stairwell and ran down to the first floor lobby and Nichols gave chase. (*Id.* at 57:15-18; 58:6-7; 81:12-15.) Baker did not know whether Twanny also ran. (*Id.* at 84:15-17.) Baker testified at his deposition that "if the police was coming in the building, whoever had drugs on them would run." (Ex. B at 279:22-23; *id.* at 281:21-22 ("Whoever had drugs would run if the police came.")).

RESPONSE: Plaintiffs admit that Baker testified to the assertions made in this paragraph regarding his, Bebe's, and Twanny's conduct. Plaintiffs dispute that Baker stated that Nichols "gave chase." See Def. Ex. E at 81:16-19 (Baker testifying that Nichols was *not* behind him when he ran down the stairs). Further, Plaintiffs object as these facts are not undisputed. Nichols does not state that he gave any orders. Instead, Nichols testified that Baker fled down the stairs as soon as he first saw him. Ex. 11 (4/18/2022 Nichols Deposition) at 154:22-23. Additionally, Bebe

testified that he has never ran away from the police. Ex. 10 (2/16/2024 Gregory Young Deposition) at 186:17-23. While Plaintiffs admit that Baker testified that people would run if they had drugs, Plaintiffs object to Defendants attempt to draw inferences in their favor by juxtaposing multiple facts in violation of the applicable summary judgement standard. Plaintiffs further object that this paragraph violates Local Rule 56.1 as it groups multiple distinct statements into one paragraph.

24. When they reached the lobby, Bebe ran out the back door of the building and Baker ran out the front door of the building (*Id.* at 58:7-8, 90:3-18.) Bebe escaped but Baker was stopped by Officer Leano who was entering the building. (*Id.* at 58:7-10, 15-20; 90:9-24; 91:7-11.) No other officers were present when Leano stopped Baker or on the scene. (Ex. E at 81:24-82:4; 83:24-84:2.)

RESPONSE: These facts are not undisputed. Bebe denied ever running away from the police. Ex. 10 (2/16/2024 Gregory Young Deposition) at 186:17-23. Leano testified that he chased Baker down the stairs, not that he stopped him while entering the building. Ex. 12 (1/26/2022 Leano Deposition) at 32:1-3. Nichols testified that it was Officers Gonzalez and Bolton that stopped Baker, not Leano. Ex. 11 (4/18/2022 Nichols Deposition) at 156:20-157:6.

25. While Nichols was still in the stairwell, Leano searched Baker, did not find any drugs on him and put him into a squad car. (*Id.* at 59:1-2, 9-11, 16-18.) Baker admitted he had \$819 in his pocket when he was searched after his arrest and that the cash was inventoried by police. ((*Id.* at 77:12-17, 85:2-7; Ex. B at 219:22-220:9.) After Baker was in the squad, Nichols exited the building holding Twanny and Bebe's drugs in his hand and gave the two bags to Leano. (Ex. E at 59:9-23, 60:17-21, 84:18-22; Ex. B at 226:20-24; 227:16-18.)

RESPONSE: These facts are not undisputed. Nichols testified that it was Officers Gonzalez and Bolton that stopped Baker, not Leano. Ex. 11 (4/18/2022 Nichols Deposition) at 156:20-157:6. Nichols further testified that he was the one to arrest Baker. *Id.*

26. Nichols got into the squad and made a phone call. (Ex. E at 61:23-62:13.) As Nichols was driving away, Baker saw Watts and Jones approaching. (*Id.* at 63:2-6.) Nichols parked, exited the squad and began talking to Watts while Jones went over to the squad, opened

the back door and told Baker “I told you we were going to get you.” (*Id.* at 63:12-18.)

RESPONSE: Plaintiffs admit.

27. At the station, Officers Gonzalez, Bolton, Jones and Kenneth Young were filling out the arrest report. (*Id.* at 66:10-18.)² Baker saw Nichols type and then pass the report to Leano who also did some typing and then passed the report to Gonzalez who did some typing and then passed the report to Jones who did some typing and then passed the report to Bolton. (*Id.* at 85:18-86:14.) Baker admitted he does not know which facts each officer added. (Ex. B at 234:235:7; 235:14-236:3.)

RESPONSE: Plaintiffs admit.

28. Baker did not make any incriminating statements at the station. (Ex. E at 68:14-16.) Baker admits he was released on bond without any restrictions on the same day he was arrested. (Ex. B at 236:14-20; 237:13-15.)

RESPONSE: Plaintiffs admit that Baker testified that he did not make any admissions. Plaintiffs object to Defendants’ assertion that Baker was “released on bond without any restrictions.” Defendants’ citation to the record is misleading. When Baker is asked if he had any conditions he had to follow upon his release, Baker responded “not that I recall.” Def. Ex. B at 237:13-15. Defendants, understanding that this was unlikely, immediately followed up and asked Baker “you know, when you bond out, for instance, you sign a piece of paper, and it says you’re not going to engage in criminal activity, that type of thing?” Baker then responds, “I mean, probably. I’m not sure.” Def. Ex. B 237:16-19. Defendants leave out these lines from their citations to the record. Plaintiffs also dispute that Baker was released on bond “the same day he was arrested” because the record does not support that contention. Rather, the docket sheet from his criminal case shows that he was not released until the following day. Ex. 8 (docket sheet).

29. Nichols and Leano were not present when Baker was arrested in July 2004. (Ex. E. at 93:7-22.) The first time Baker ever saw Nichols was in early 2005. (*Id.* at 72:17-18.) Nichols

² Although Baker testified that Officer Kenneth Young also participated in filling out the police reports, Officer Young was not on duty because he had that day off. (Ex. M-1 Attendance and Assignment Record for March 23, 2005 at CITY-BG-003501.) **RESPONSE: The cited document is inadmissible hearsay and does not establish that Young was in fact not present on the day of this arrest.**

did not arrest him that day or on the next occasion Baker saw Nichols. (*Id.* at 72:24-73:7.) Baker continued to see Nichols at the 527 ext. conducting searches of the building prior to March 23, 2005. (*Id.* at 73:8-12, 16-18.) Baker had seen Leano a few times before his March arrest and had been detained by him; however, the first time Leano ever arrested him was on March 23, 2005. (*Id.* at 82:3-23.) Although Baker saw Nichols, Leano and the other Defendant Officers several times in the 527 ext. from early 2005 through the day prior to his arrest and was detained at times along with others while the officers conducted narcotics checks, neither Nichols nor Leano nor any other Defendant Officer arrested him on any of those occasions. (*Id.* at 73:8-12, 16-18; 74:2-3; 15-17, 21-24; 75:6-76:9.)

RESPONSE: Plaintiffs object to the statements in this paragraph as immaterial. The cited statements do not suggest that Nichols saw Baker on any of the reference occasions, and there is no obvious relevance to the fact that Nichols did not arrest Baker on a day when Nichols may not have even seen Baker. Put differently, that *Baker* saw Nichols does not mean that *Nichols* saw Baker. Even if he did, that Nichols did not arrest Baker every time he may have seen him is not a material fact that is relevant for summary judgment. Subject to those objections, Plaintiffs admit that Baker testified to the remaining assertions made in this paragraph.

30. Baker admitted that Watts had informants who would advise CPD on drug activity at the complex and extension buildings. (*Id.* at 38:15-23; Ex. D at 141:10-21; Ex. B at 342:16-17; 345:12-16.)

RESPONSE: Plaintiffs object on the ground that the cited testimony does not support the statement. Baker testified only that he knew of an individual by the name of Charles Lawrence who acted as “Watt’s snitch.” Ex. E at 38:15-23; Def. Ex. D at 141:10-21. Baker never testified that he knew of the existence of multiple informants or that they would specifically advise on the drug activity at the Ida B. Wells housing complex.

Nichols Testimony at Baker’s Criminal Trial

31. Nichols testified that on March 23, 2005, he was assigned to the Wells complex, and his duties were to conduct premise checks at each and every building in the complex. (*Id.* at

9:14-10:3.) Watts directed him and his partner, Officer Leano, to the 527 ext. to conduct a premise check pursuant to a report of high narcotics activity. (*Id.* at 10:17-11:3; 20:6-17.) Watts did not tell them to look for anyone in particular nor did he direct them to a particular location within the 527 ext. (*Id.* at 20:18-21:4.) It was not unusual for Watts to direct members of his unit to specific buildings to conduct premises checks. (*Id.* at 27:17-20.)

RESPONSE: Plaintiffs object that the record as cited does not support the factual assertions contained in this paragraph because the referenced testimony is not contained within Individual Defendants' Exhibit B or Exhibit D—Both exhibits are transcripts of Ben Baker's deposition testimony in this case. Assuming Defendants intended to cite to their Exhibit E, "Baker Criminal Trial Testimony," that exhibit also does not contain the material cited by Defendants. Exhibit E only contains Ben Baker's testimony at trial. Thus, Plaintiffs dispute that the cited material supports the statements of fact in the above paragraph.

32. After they arrived, Nichols and Leano began the premise check starting in the back stairwell and moving up to the third floor. (*Id.* at 12:13-24.) When they arrived at the third floor, they exited the stairwell and, as they turned right into the hallway, they saw Baker and two other individuals standing in the hallway about five feet away from them. (*Id.* at 13:1-14:2.) Nichols' gun was holstered when he encountered Baker and the other two individuals. (*Id.* at 22:15-21.)

RESPONSE: Plaintiffs object that the record as cited does not support the factual assertions contained in this paragraph because the referenced testimony is not contained within Individual Defendants' Exhibit B or Exhibit D—Both exhibits are transcripts of Ben Baker's deposition testimony in this case. Assuming Defendants intended to cite to their Exhibit E, "Baker Criminal Trial Testimony," that exhibit also does not contain the material cited by Defendants. Exhibit E only contains Ben Baker's testimony at trial. Thus, Plaintiffs dispute that the cited material reflects this statement of fact. Further, even if the cited record shows that Nichol's testified as such, the events surrounding Baker's March 23, 2005, arrest are clearly in dispute as shown by Defendants' own Statement of Facts and Plaintiffs' response to those Statements of Fact. *Supra* ¶¶20-26 (relaying Baker's version of the events).

33. Nichols saw a clear plastic bag in Baker's hand which contained numerous smaller

Ziploc baggies with a white powder substance in them. (*Id.* at 14:3-8.) When Nichols identified himself and Leano as police officers, Baker fled down the front stairwell and he and Leano gave chase. (*Id.* at 14:18-23.) As they chased Baker down the stairs, Nichols radioed that they were in a foot chase and when they reached the lobby, Officer Gonzalez had detained Baker. (*Id.* at 15:1-22.) Nichols reached the lobby within seconds of Baker. (*Id.* at 25:18.)

RESPONSE: Plaintiffs object that the record as cited does not support the factual assertions contained in this paragraph because the referenced testimony is not contained within Individual Defendants' Exhibit B or Exhibit D—Both exhibits are transcripts of Ben Baker's deposition testimony in this case. Assuming Defendants intended to cite to their Exhibit E, "Baker Criminal Trial Testimony," that exhibit also does not contain the material cited by Defendants. Exhibit E only contains Ben Baker's testimony at trial. Thus, Plaintiffs dispute that the cited material reflects this statement of fact. Further, even if the cited record showed that Nichol's testified as such, the events surrounding Baker's March 23, 2005, arrest are clearly in dispute as shown by Defendants' own Statement of Facts and Plaintiffs' response to those Statements of Fact. *Supra* ¶¶20-28 (relaying Baker's version of the events).

34. The bag of drugs was still in Baker's hand. (*Id.* at 15:21-16:4.) Nichols recovered the bag from Baker and placed him into custody. (*Id.* at 16:3-4.) The bag contained 110 Ziploc baggies containing what looked like heroin. (*Id.* at 16:5-7.) Nichols then searched Baker and found another bag containing 68 smaller plastic bags with white rocks that appeared to be crack cocaine and \$819 in his pants pockets. (*Id.* at 16:8-20.) Nichols turned the two bags over to Leano. (*Id.* at 18:11-15.)

RESPONSE: Plaintiffs object that the record as cited does not support the factual assertions contained in this paragraph because the referenced testimony is not contained within Individual Defendants' Exhibit B or Exhibit D—Both exhibits are transcripts of Ben Baker's deposition testimony in this case. Assuming Defendants intended to cite to their Exhibit E, "Baker Criminal Trial Testimony," that exhibit also does not contain the material cited by Defendants. Exhibit E only contains Ben Baker's testimony at trial. Thus, Plaintiffs dispute that the cited material reflects this statement of fact. Further, even if the cited record shows that Nichol's testified as such, the events surrounding Baker's March 23, 2005, arrest are clearly in dispute as shown by Defendants' own Statement of Facts and Plaintiffs' response to those Statements of Fact. *Supra* ¶¶20-28

(relaying Baker's version of the events). Additionally, Baker has consistently denied that he was selling narcotics during the March 23, 2005 incident. Ex. 6 (Dep. of Ben Baker) Aug. 9, 2023, at 216:4-15. (Baker stating that he was not selling narcotics from January 2005 to March 2005).

35. Baker was transported to the station, Mirandized and stated that the heroin ("blows") was his but not the crack cocaine ("rocks"). (*Id.* at 16:23-18:10.)

RESPONSE: Plaintiffs object that the record as cited does not support the factual assertions contained in this paragraph because the referenced testimony is not contained within Individual Defendants' Exhibit B or Exhibit D—Both exhibits are transcripts of Ben Baker's deposition testimony in this case. Assuming Defendants intended to cite to their Exhibit E, "Baker Criminal Trial Testimony," that exhibit also does not contain the material cited by Defendants. Exhibit E only contains Ben Baker's testimony at trial. Thus, Plaintiffs dispute that the cited material reflects this statement of fact. Further, even if the cited record shows that Nichol's testified as such, the events surrounding Baker's March 23, 2005, arrest are clearly in dispute as shown by Defendants' own Statement of Facts and Plaintiffs' response to those Statements of Fact. *Supra* ¶¶20-28 (relaying Baker's version of the events).

36. Nichols did not instruct Baker and the other two individuals to put their hands on the wall. (*Id.* at 22:22-23:7.) Nichols does not know what the other two individuals did because Baker took off as soon as Nichols announced his office and his attention was focused on Baker. (*Id.* at 23:8-13.)

RESPONSE: Plaintiffs object that the record as cited does not support the factual assertions contained in this paragraph because the referenced testimony is not contained within Individual Defendants' Exhibit B or Exhibit D—Both exhibits are transcripts of Ben Baker's deposition testimony in this case. Assuming Defendants intended to cite to their Exhibit E, "Baker Criminal Trial Testimony," that exhibit also does not contain the material cited by Defendants. Exhibit E only contains Ben Baker's testimony at trial. Thus, Plaintiffs dispute that the cited material reflects this statement of fact. Further, even if the cited record shows that Nichol's testified as such, the events surrounding Baker's March 23, 2005, arrest are clearly in dispute as shown by Defendants' own Statement of Facts and Plaintiffs' response to those Statements of Fact. *Supra* ¶¶20-28 (relaying Baker's version of the events).

37. Watts gave Nichols performance reviews. (*Id.* at 21:13-15.) The reviews did not affect Nichols' raises or eligibility for promotions. (*Id.* at 21:16-18.) To get promoted, officers

were required to take a test and raises were automatically given on an annual basis. (*Id.* at 21:19-22.) Watts did not approve time off for the officers in his unit. (*Id.* at 21:23-22:1-2, 5-6.)

RESPONSE: Plaintiffs object that the record as cited does not support the factual assertions contained in this paragraph because the referenced testimony is not contained within Individual Defendants' Exhibit B or Exhibit D—Both exhibits are transcripts of Ben Baker's deposition testimony in this case. Assuming Defendants intended to cite to their Exhibit E, "Baker Criminal Trial Testimony," that exhibit also does not contain the material cited by Defendants. Exhibit E only contains Ben Baker's testimony at trial. Thus, Plaintiffs dispute that the cited material reflects this statement of fact. Plaintiff also disputes that to get promoted, officers were required to take a test. Promotions could also be given through a "meritorious process" where sergeants could make reports recommending individuals for promotion. *see e.g.* Ex. 13 (2/26/2020 Alvin Jones Deposition) at 79:22-80:13 (explaining that he was not promoted through the process of sitting for the sergeant exam but was instead promoted through the "meritorious process" which included such written recommendations).

38. Nichols was assigned to Watts' unit in November 2004, less than 5 months before Baker's March 2005 arrest. (*Id.* at 26:19-21.) Nichols had never seen Watts engage in anything he might suspect was criminal activity. (*Id.* at 26:14-18.)

RESPONSE: Plaintiffs object that the record as cited does not support the factual assertions contained in this paragraph because the referenced testimony is not contained within Individual Defendants' Exhibit B—Exhibit B is a transcript of Ben Baker's deposition testimony in this case. Assuming Defendants intended to cite to their Exhibit E, "Baker Criminal Trial Testimony," that exhibit also does not contain the material cited by Defendants. Exhibit E only contains Ben Baker's testimony at trial. Thus, Plaintiffs dispute that the cited material reflects this statement of fact.

Nichols' Deposition Testimony

39. At his April 19, 2022 deposition, Nichols testified that he not aware of any disciplinary investigation or complaints being made with the Bureau of Internal Affairs regarding Nichols' falsely arresting Baker nor has he been contacted regarding any alleged misconduct in connection with Baker. (Ex. J at 140:15-141:1.)

RESPONSE: Plaintiffs admit that defendant Nichols testified as stated.

Stipulation Regarding Leano's Testimony at Baker's Criminal Trial

40. Leano did not testify at Baker's criminal trial. (See generally, Ex. E.) Baker stipulated that if called to testify, Leano would testify:

That on March the 23rd, 2005, he received from Officer Nichols, Star No. 12415, two plastic bags which contained 110 and 68 smaller plastic bags respectively which he kept within the safekeeping and control from the time of receipt until the inventory of said items. That he inventoried those items under Inventory No. 1050335 pursuant to Chicago Police Department inventory procedures by heat sealing them and in an inventory envelope for delivery to the Illinois State Police crime lab. That when the items left his possession they were in a sealed condition. That if he were shown inventory listed in IB above in open court he would testify that the items are in substantially the same condition with the exception of crime lab notation markings made through in analysis as when they were recovered.

(*Id.* at 28:10-29:8; 30:24-31:1.)

RESPONSE: Plaintiffs object as the cited stipulation is inadmissible hearsay without exception, pursuant to Federal Rules of Evidence 801 through 804, to the extent that Defendants are offering the statements for the truth of the matters. Additionally, Plaintiffs object that the record as cited does not support the factual assertions contained in this paragraph because the testimony referred to is not contained within Individual Defendants' Exhibit E—Exhibit E only contains Ben Baker's testimony at trial. Thus, Plaintiffs dispute the cited material reflects this statement of fact.

41. Baker also stipulated that, if called to testify, forensic chemist Joseph Gillono, an employee of the Illinois State Police, would testify:

[T]hat he received the inventory listed in IB above in a heat sealed condition from the Chicago Police Department. That said inventory envelope was opened and found to contain 110 and 68 items of plastic bags.

(*Id.* at 29:9-16.)

That after performing the tests on the contents of 41 of the 110 items and 26 of the 68 items recovered the chemist's expert opinion within a reasonable degree of scientific certainty that the contents of the 41 bags of the 110 that were tested were positive for presence of heroin and the actual weight was 15.3 grams. It is further in his expert opinion within a reasonable degree of scientific certainty that 26 of the 68 bags were tested were positive for the presence of cocaine and the actual weight of the 26 out of 68 bags which were tested was 5.3 grams. That the chemist would further testify that the items estimated a total weight of the 110 items would be 41.1 grams and the total estimated weight of the 68 bags would be 13.9 grams. That after the testing and analysis of Inventory No. 10503356 was complete he would further testify that it was again sealed and he would be

able to identify in open court as the same items that he tested, that they were still in a sealed condition. And that a proper chain of custody was maintained at all times.

(*Id.* at 30:1-31:1.)

RESPONSE: Plaintiffs object as the Plaintiffs object as the cited stipulation is inadmissible hearsay without exception, pursuant to Federal Rules of Evidence 801 through 804 to the extent that Defendants are offering the statements for the truth of the matters asserted. Additionally, Plaintiffs object that the record as cited does not support the factual assertions contained in this paragraph because the referenced testimony is not contained within Individual Defendants' Exhibit E—Exhibit E only contains Ben Baker's testimony at trial. Thus, Plaintiffs dispute that the cited material reflects this statement of fact.

Officer Jones' Testimony at Baker's Criminal Trial

42. Officer Jones testified that he was responding to a call about a chase but arrived after Baker's arrest and after Baker was already in the squad. (*Id.* at 101:14-102:12; 109:1-9; 109:23-110:3.) Jones also testified that he did not have any conversation with Baker on March 23, 2005. (*Id.* at 102:22-103:1.) Jones testified that he was at the station when Baker arrived but did not hear Baker get Mirandized and did not recall Baker saying: "the blow is mine but not the rocks." (*Id.* at 107:12-14, 15-21.) Jones further testified that he did not type any reports and was listed as assisting in the arrest because he responded to the call for assistance and was present when Baker was put into the car. (*Id.* at 108:9-24.)

RESPONSE: Plaintiffs object to this paragraph because it violates Local Rule 56.1 by containing multiple, discrete assertions. "[T]he numbered paragraphs should be short; they should contain only one or two individual allegations, thereby allowing easy response." *Malec v. Sanford*, 191 F.R.D. 581, 583 (N.D. Ill. 2000); see also, *Wilcox v. Allstate Corp.*, No. 11 C 814, 2012 WL 6569729, at *4 (N.D. Ill. Dec. 17, 2012) (citing N.D. Ill. R. 56.1(a)). It is "inappropriate to confuse the issues by alleging multiple facts in a single paragraph in hopes of one's opponent missing one." *Malec*, 191 F.R.D. at 583. Plaintiffs further object that the record as cited does not support the factual assertions contained in this paragraph because the testimony referred to is not contained within Individual Defendants' Exhibit E—Exhibit E only includes Ben Baker's testimony at trial.

43. Jones testified that he did not take any drug payments from an individual named Shock. (*Id.* at 105:24-106:6.) Jones testified that he had never seen Watts accepting any payments from drug dealers. (*Id.* at 106:17-21.)

RESPONSE: Plaintiffs object as this assertion is immaterial to the issues presented for summary judgment and thus violates Local Rule 56.1. The 56.1(a) statement should be limited to material facts, that is, facts pertinent to the resolution of the issues identified in the summary judgment motion. *Malec v. Sanford*, 191 F.R.D. 581, 583 (N.D. Ill. 2000). For summary judgment purposes, only facts that are outcome-determinative under the substantive law are “material.” *Alber v. Illinois Dep’t of Mental Health & Developmental Disabilities*, 816 F. Supp. 1298 (N.D. Ill. 1993). The central question here is whether Defendant Officers took part in framing Baker and Glenn for drug crimes that they did not commit. The fact that Jones denied ever accepting drug payments from “Shock” has no bearing on whether he was involved in falsely arresting and framing Baker and Glenn. The same logic applies to the fact that Jones said he never saw Watts accepting money from drug dealers. Additionally, Plaintiffs object that the record as cited does not support the factual assertions contained in this paragraph because the testimony referred to is not contained within Individual Defendants’ Exhibit E—Exhibit E only includes Ben Baker’s testimony at trial.

Officer Gonzalez’ Testimony at Baker’s Criminal Trial

44. Officer Gonzalez testified that he and Officer Bolton went to the 527 ext. to do a premise check and, while they were still in the lobby, they heard a radio call about a foot chase, Baker came out of the stairwell and he and Bolton detained him. (*Id.* at 111:19-112:10, 22-24.)

RESPONSE: Plaintiffs object that the record as cited does not support the factual assertions contained in this paragraph because the testimony referred to is not contained within Individual Defendants’ Exhibit E—Exhibit E only includes Ben Baker’s testimony at trial.

45. Gonzalez did not see any drugs in Baker’s hand when Baker first exited the stairwell but caught a glimpse of the narcotics when Nichols physically detained him. (*Id.* at 113:5-7; 116:8-10; 119:7-14.) Gonzalez saw crack recovered from Baker’s pants pocket. (*Id.* at 119:20-120:16.)

RESPONSE: Plaintiffs object that the record as cited does not support the factual assertions contained in this paragraph because the testimony referred to is not contained within Individual Defendants’ Exhibit E. Exhibit E only includes Ben Baker’s testimony at trial. Subject to that objection, admit that is what Gonzalez testified but dispute that Baker had any drugs on him or was selling drugs on March 23, 2005. (Ex. E, at 54:24-59:8) (Baker’s criminal trial testimony about circumstances of his false arrest and that he had no drugs on him that day) (Ex. B, at 222:6-226:5) (Baker’s account of the circumstances leading up to his March 23, 2005 arrest). Ex. B, at 230:14-24) (Baker did not see Gonzalez until he was at the police station).

46. Baker stopped when he saw Gonzalez. (*Id.* at 116:1-7.) Gonzalez did not have his gun drawn nor did he try to grab Baker. (*Id.* at 116:1-3.) Baker did not try to run or fight Gonzalez.

(*Id.* at 116:11-14.) Gonzalez thought Baker was put in Nichols and Leano's car. (*Id.* at 117:10-14.)

Gonzalez did not see Jones have a conversation with Baker. (*Id.* at 117:24-118:2.) Gonzalez did not type any reports. (*Id.* at 114:2-7.)

RESPONSE: Plaintiffs object to this paragraph because it violates Local Rule 56.1 by containing multiple, discrete assertions. "[T]he numbered paragraphs should be short; they should contain only one or two individual allegations, thereby allowing easy response." *Malec v. Sanford*, 191 F.R.D. 581, 583 (N.D. Ill. 2000); see also, *Wilcox v. Allstate Corp.*, No. 11 C 814, 2012 WL 6569729, at *4 (N.D. Ill. Dec. 17, 2012) (citing N.D. Ill. R. 56.1(a)). It is "inappropriate to confuse the issues by alleging multiple facts in a single paragraph in hopes of one's opponent missing one." *Malec*, 191 F.R.D. at 583. Additionally, Plaintiffs object that the record as cited does not support the factual assertions contained in this paragraph because the testimony referred to is not contained within Individual Defendants' Exhibit E—Exhibit E only includes Ben Baker's testimony at trial. Subject to that objection, there is a dispute of fact as to which Defendant Officer(s) stopped Baker on March 23, 2005 in the lobby of 527. Baker maintains that Leano stopped him. (Ex. E, at 54:24-59:8) (Ex. B, at 222:6-226:5, 230:14-24). But the officers claim that Gonzalez and Bolton stopped Baker. (Pls.' Ex. 14, ROP trial volume 1, p. 15) (Pls.' Ex. 15, ROP trial volume 2, pp. 111-112).

47. Neither Smith nor Bolton testified at Baker's criminal trial. (See generally, *Id.*)

RESPONSE: Plaintiffs object because the record as cited does not support the factual assertions contained in this paragraph because the testimony referred to is not contained within Individual Defendants' Exhibit E—Exhibit E only contains Ben Baker's testimony at trial and does not include the full trial transcript.

48. No police reports were admitted at Baker's trial nor were the contents of the reports discuss. (*Id.*) Baker's March 23, 2005 Vice Case Report and Arrest Report are attached at Ex. T and U.

RESPONSE: Plaintiffs object that the record as cited does not support the factual assertions contained in this paragraph because Defendants failed to cite any specific pages and Exhibit E only includes Ben Baker's trial testimony. Subject to the objection, Plaintiffs dispute that the contents of Baker's March 23, 2005 Vice Case Report and Arrest Report were not discussed at the bench trial. To the contrary, the police reports document the officers' version of Baker's arrest, including the purported recovery of drugs. There was substantial testimony at trial about the officers' version of Baker's arrest, including the purported recovery of drugs from Baker. (Pls.' Ex. 14, ROP trial volume 1, pp. 9-18).

December 11, 2005 Arrest

49. On December 11, 2005, Baker and Glenn were travelling in a vehicle near 511 E. Browning when they were pulled over by a uniformed Chicago police officer in a marked squad

for a traffic violation. (SAC, ¶¶72-78; Ex. E at 260:15-261:3.) Other than Watts and Jones, no other Defendant Officer was present at the scene of Baker and Glenn's arrest. (Ex. B at 285:8-17; Ex. L, Clarissa Glenn August 26, 2021 Deposition at 292:8-13.) Baker testified that Watts and Jones were present when Baker and Glenn were pulled over because they had just conducted a sting operation at the 574 extension building and had been informed that Baker was pulling up to the 527 ext. (Ex. B at 285:18-286:1, 10-19.)

RESPONSE: Plaintiffs object to this paragraph because it violates Local Rule 56.1 by containing multiple, discrete assertions. "[T]he numbered paragraphs should be short; they should contain only one or two individual allegations, thereby allowing easy response." *Malec v. Sanford*, 191 F.R.D. 581, 583 (N.D. Ill. 2000); *see also, Wilcox v. Allstate Corp.*, No. 11 C 814, 2012 WL 6569729, at *4 (N.D. Ill. Dec. 17, 2012) (citing N.D. Ill. R. 56.1(a)). It is "inappropriate to confuse the issues by alleging multiple facts in a single paragraph in hopes of one's opponent missing one." *Malec*, 191 F.R.D. at 583. Plaintiffs further object that the cited materials do not support that Baker and Glenn were pulled over for a traffic violation. Subject to those objections, Plaintiffs dispute that they violated any traffic signs while driving. (Ex. B, at 255:14-256:24). Plaintiffs also dispute that no other Defendant Officers were on scene for their arrest on December 11, 2005. (Pls.' Ex. 16, COPA Interview of Alvin Jones, Jan. 25, 2019, at 79:7-80:5, 83:23-24) (Jones testifying that other officers were involved in the traffic stop and that "Mohammed was there" for this arrest of Baker and Glenn) (Pls.' 17, Dep. of Alvin Jones), July 19, 2023 at 118:10-120:2. Plaintiffs otherwise admit the remainder of this paragraph

50. Jones walked up to Baker's door and told him to get out of the car. (*Id.* at 264:24.) Watts directed Baker and Glenn to go stand with the uniformed police officer and he and Jones began searching their car. (*Id.* at 265:9-13.) According to Glenn, Watts and Jones were searching different areas of the car and were on opposite sides of the car while they were searching. (Ex. L at 288:15-19; 289:3-7.)

RESPONSE: Plaintiffs object to this paragraph because it violates Local Rule 56.1 by containing multiple, distinct assertions for the reasons previously outlined in Plaintiffs' responses. *See Malec v. Sanford*, 191 F.R.D. 581, 583 (N.D. Ill. 2000); *see also, Wilcox v. Allstate Corp.*, No. 11 C 814, 2012 WL 6569729, at *4 (N.D. Ill. Dec. 17, 2012) (citing N.D. Ill. R. 56.1(a)). Further, Plaintiffs object that the record as cited does not support some of the factual assertions contained in this paragraph. Specifically, Baker testified that he had exited the vehicle and shut the door before Jones walked up to him. (Ex. B, 265:3-13). In his COPA interview, Jones recounted that he and Watts pulled over Baker and Glenn on December 11, 2005, and that as they approached the car, Jones saw Glenn hand Baker an object. (Pls.' Ex.

16, COPA Interview of Alvin Jones, Jan. 25, 2019, at 78:1-8). When Jones searched the vehicle, he claimed that he found narcotics in the armrest of the door. *Id.* Plaintiffs otherwise admit the remainder of this paragraph.

51. Glenn testified that Watts pulled a plastic bag out of his sleeve, held it up and said he found it. (*Id.* at 289:13-16.) Jones was at the hatch at the back of the car when this happened. (*Id.* at 289:17-18.) Watts was in between the open driver-side door and the inside of the car. (*Id.* at 289:21-24.) According to Baker, Jones was standing with him and Glenn when Watts was searching the driver's side door and when Watts stated he found drugs. (Ex. B at 272:8-15, 20-23.) After Watts said he found the drugs, Glenn accused him of pulling the drugs out of his sleeve. (Ex. L at 291:13-23.)

RESPONSE: Plaintiffs object to this paragraph because it violates Local Rule 56.1 by containing multiple, distinct assertions for the reasons previously outlined in Plaintiffs' responses. *See Malec v. Sanford*, 191 F.R.D. 581, 583 (N.D. Ill. 2000); *see also, Wilcox v. Allstate Corp.*, No. 11 C 814, 2012 WL 6569729, at *4 (N.D. Ill. Dec. 17, 2012) (citing N.D. Ill. R. 56.1(a)). Plaintiffs further object that the record as cited does not support some of the factual assertions contained in this paragraph because it is an incomplete and misleading representation of Baker's testimony on this topic. *See* (Ex. B, 272:8-274:24) (Baker testified that he, Glenn, and Jones were all standing together at the time Watts claimed to find drugs and could see the driver's side of the car and Watts from where they all stood).

52. Glenn was transported to the station by a female officer. (*Id.* at 292:14-18.) When she arrived at the station, Glenn saw 7 to 10 other arrestees who she recognized as residents at the Wells complex. (Ex. F at 249:2-11, 22-24; 250:1-6.) Glenn also saw Mohammed at the station. (Ex. L at 293:6-22.) Mohammed sat down at a desk and began typing a report. (*Id.* at 257:14-24.) Mohammed was using a typewriter not a computer. (*Id.* at 259:10-16.)

RESPONSE: Plaintiffs object to this paragraph because it violates Local Rule 56.1 by containing multiple, distinct assertions for the reasons previously outlined in Plaintiffs' responses. *See Malec v. Sanford*, 191 F.R.D. 581, 583 (N.D. Ill. 2000); *see also, Wilcox v. Allstate Corp.*, No. 11 C 814, 2012 WL 6569729, at *4 (N.D. Ill. Dec. 17, 2012) (citing N.D. Ill. R. 56.1(a)). In addition, Plaintiffs object that the last two sentences are not supported by the record as cited, which is demonstrated below. Plaintiffs otherwise admit the remainder of this paragraph.

<i>Cited Source</i>	<i>Actual Testimony</i>
Ex. L at	Q. What did you do after you picked the boys up from school?

257:14-24	<p>A. We went to this -- like a little -- a store on 26th or 27th off of Wabash, I believe, and it's like a store that sells, like, off -- name brand clothing and socks and things like that. And we went and got the boys some clothes, swim trunks and things like that.</p> <p>Q. Out of all the hotels in the city, why did you choose the Hyatt?</p> <p>A. I guess because it was close -- close to the neighborhood. I'm assuming. But we -- I have no idea. Close.</p> <p>Q. As we've gone through your day and realizing that, you know, you would have picked the boys up from school at 2:45, then you stopped to get swim trunks, are you now recalling approximately what time you might have checked into the hotel?</p>
Ex. L at 259:10-16	<p>Q. So how did you handle that?</p> <p>A. Well, first, as soon as we -- well, after we check in and got our room and everything, the boys was anxious to go swim. So, of course, they have their swim trunks and all the rest of their uniform, because they were in uniform. So yeah. And then there's a sink, so yeah. Make do.</p>

Even if Defendants meant to cite Exhibit F, instead of Exhibit L, the record still does not support the assertions contained in the last two sentences of this paragraph. Defendants inaccurately represent that Glenn affirmatively stated that Mohammed was at a typewriter during their interaction at the police station.

<i>Alternate Source</i>	<i>Actual Testimony</i>
Ex. F at 257:14-24	<p>Q. Now -- and I believe this is from an affidavit that you did for -- to vacate your -- your conviction in which you said, "When Officer Mohammed saw us," meaning Ben and you, "he asked what we were doing there."</p> <p>A. Yes.</p> <p>Q. Okay. So what did you tell him?</p> <p>A. Ben said, Your boy, your boy Watts or ask -- your boy Watts or ask your boy Watts. But he said, "your boy." And then he said "Watts" at the end.</p>
Ex. F at 259:10-16	<p>Q. Going back to this report, was Mohammed actually sitting at, like, a typewriter? Or was it a computer terminal? Or was it a laptop? I'm trying to put it in context.</p> <p>A. Something's saying a typewriter, but I'm not 100 percent sure, but I believe it was a typewriter.</p>

53. According to Baker, after the arrest, other than Watts, only Mohammed, Jones, Gonzalez and Bolton were at the station. (Ex. B at 291:3-6.) Although Baker thought Nichols was there as well, he could not be certain. (*Id.* at 291:7-9, 19-22.) In fact, Nichols and Bolton both had

the day off and were not at the station. (Ex. M-2, December 11, 2005 Attendance and Assignment Record at CITY-BG-003523 (Bolton) and CITY-BG-003525 (Nichols).)

RESPONSE: Plaintiffs object to this paragraph because it violates Local Rule 56.1 by containing multiple, distinct assertions for the reasons previously outlined in Plaintiffs' responses. *See Malec v. Sanford*, 191 F.R.D. 581, 583 (N.D. Ill. 2000); *see also, Wilcox v. Allstate Corp.*, No. 11 C 814, 2012 WL 6569729, at *4 (N.D. Ill. Dec. 17, 2012) (citing N.D. Ill. R. 56.1(a)). Subject to that objection, admit the first two sentences. Plaintiffs also admit that Ex. M-2 does not affirmatively show that Nichols and Bolton were working that day, but Plaintiffs dispute that the piece of paper provides undisputed evidence that they were not in fact working that day

54. Baker testified there were at least 8 other arrestees in the room. (Ex. B at 287:3-10.) Baker testified that the officers were doing paperwork and talking to one another but he did not hear what they were saying. (*Id.* at 292:16-21; 294:3-9.) Although he admitted he could not hear what the officers were saying, Baker claimed that they were filing out "the report" as a team. (*Id.* at 294:7-12.) Baker testified that Mohammed was typing "the report" but "he was taking dictation." (*Id.* at 294:14-15). Baker did not see any other officer typing his report. (*Id.* at 294:23-295:1.)

RESPONSE: Plaintiffs object to this paragraph because it violates Local Rule 56.1 by containing multiple, distinct assertions for the reasons previously outlined in Plaintiffs' responses. *See Malec v. Sanford*, 191 F.R.D. 581, 583 (N.D. Ill. 2000); *see also, Wilcox v. Allstate Corp.*, No. 11 C 814, 2012 WL 6569729, at *4 (N.D. Ill. Dec. 17, 2012) (citing N.D. Ill. R. 56.1(a)). Subject to that objection, admit.

55. Glenn testified that she saw Watts at the station walking around with paper in his hand going to different officers desks, handing them the paper and instructing them on what to type on the paper but the only thing she could recall Watts saying was that Mohammed was typing too slow and causing him to miss the Bears game. (Ex. L at 298:10-16; 299:10-14.) Glenn testified that although COPA documented that Glenn had assumed Mohammed was typing her report in her statement, Glenn "really felt" that Watts had a part in her report. (Ex. F at 258:4-259:2.)

RESPONSE: Plaintiffs object to this paragraph because it violates Local Rule 56.1 by containing multiple, distinct assertions for the reasons previously outlined in Plaintiffs' responses. *See Malec v. Sanford*, 191 F.R.D. 581, 583 (N.D. Ill. 2000); *see also, Wilcox v.*

Allstate Corp., No. 11 C 814, 2012 WL 6569729, at *4 (N.D. Ill. Dec. 17, 2012) (citing N.D. Ill. R. 56.1(a)). Plaintiffs further object that the record as cited does not support some of the factual assertions contained in this paragraph. Specifically, Glenn testified that she recalls Watts saying to the other arrestees, "Don't ask me any questions" or "Don't ask me to do anything." Glenn also testified that Watts approached a male arrestee with a narcotics bag and asked him if he wanted to "claim it." (Ex. L, 298:10-299:14).

56. Baker testified that Willie Robinson (a/k/a Fred), a man he knew for years, was among the other arrestees from the sting operation at the 574 ext. (Ex. B at 249:18-250:6; Ex. D at 22:5-21; 24:15-17.) As they were waiting to be processed, Fred told Baker that the drugs Watts was claiming were found in Baker and Glenn's car were his drugs and that Watts had just confiscated those drugs from him when he was arrested in the sting at the 574 ext. (Ex. B at 287:15-21.) Fred also told Baker that after he had been detained at the 574 ext., Watts received a call from an informant who told Watts that Baker had arrived at 527 ext. with a supply of narcotics. (Id. at 286:10-10-19; Ex. D at 23:13-16.)

RESPONSE: Plaintiffs object to this paragraph because it violates Local Rule 56.1 by containing multiple, distinct assertions for the reasons previously outlined in Plaintiffs' responses. *See Malec v. Sanford*, 191 F.R.D. 581, 583 (N.D. Ill. 2000); *see also, Wilcox v. Allstate Corp.*, No. 11 C 814, 2012 WL 6569729, at *4 (N.D. Ill. Dec. 17, 2012) (citing N.D. Ill. R. 56.1(a)). Plaintiffs also object that the record as cited does not support some of the factual assertions contained in this paragraph. Specifically, the record does not support that an informant told Watts that Baker had arrived at 527 with a supply of narcotics. Under Local Rule 56.1, it is improper for a party to misstate the cited record. *Nat'l Inspection & Repairs v. George S. May Int'l Co.*, No. 03-CV-5529, 2008 WL 4389834, at *2 (N.D. Ill. Sept. 24, 2008). Plaintiffs further object that anything Willie Robinson allegedly told Baker at the police station in December 2005 is inadmissible hearsay under Federal Rules of Evidence 801-804. Subject to those objections, Plaintiffs dispute that Robinson told Baker the drugs were his. Pls.' Ex. 18, (Dep. of Willie Robinson), at 65:1-67:24.

57. Glenn admitted she knew Nichols and Bolton (Ex. F at 129:5-9; 137:6-9; 16-22.) She also admitted that neither Nichols nor Bolton had ever planted drugs on her, stolen from her, or falsely arrested her. (Id. at 129:18-130:1; 137:16-22.) Glenn admitted that she could not recall Baker telling her that either Bolton or Nichols had planted drugs on him or falsely arrested him or otherwise engage in misconduct towards him. (Id. at 130:2-6; 137:23-138:2.) Glenn also admitted

that she had no knowledge of whether Nichols engaged in misconduct with any other individuals and does not recall whether he was involved in her arrest. (*Id.* at 137:10-12; 138:7-11.)

RESPONSE: Plaintiffs object to this paragraph because it violates Local Rule 56.1 by containing multiple, distinct assertions for the reasons previously outlined in Plaintiffs' responses. *See Malec v. Sanford*, 191 F.R.D. 581, 583 (N.D. Ill. 2000); *see also, Wilcox v. Allstate Corp.*, No. 11 C 814, 2012 WL 6569729, at *4 (N.D. Ill. Dec. 17, 2012) (citing N.D. Ill. R. 56.1(a)). Plaintiffs further object that the last two sentences in this paragraph are immaterial. For one, the fact that Glenn does not remember if Baker talked to her about any misconduct committed by Nichols or Bolton does not support or undermine either party's position. Thus, it is immaterial. Moreover, by including these statements, Defendants imply that the lack of evidence Glenn can personally provide about Nichols' and Bolton's misconduct supports their position that Nichols and Bolton did not engage in any misconduct. But the absence of evidence is not evidence of absence. This is a logical fallacy and improperly shifts the burden at summary judgment to Plaintiffs. Subject to those objections, and to be clear, Glenn testified that she "vaguely remember[s]" Bolton and that she knows who Nichols is. (Ex. F, 129:5-9, 137:6-15). Plaintiffs admit the remainder of the paragraph

58. Because Nichols and Bolton were not on duty on December 11, 2005, the day Baker and Glenn were arrested, they could not and did not author or sign any reports, sign the criminal complaint, recover or handle the drugs, or testify in any related judicial proceeding arising from the December arrests. (Ex. M-2 at CITY-BG-003523 (Bolton) and CITY-BG-003525 (Nichols)).

RESPONSE: Plaintiffs object to this paragraph because it violates Local Rule 56.1 by containing multiple, distinct assertions for the reasons previously outlined in Plaintiffs' responses. *See Malec v. Sanford*, 191 F.R.D. 581, 583 (N.D. Ill. 2000); *see also, Wilcox v. Allstate Corp.*, No. 11 C 814, 2012 WL 6569729, at *4 (N.D. Ill. Dec. 17, 2012) (citing N.D. Ill. R. 56.1(a)). Moreover, Plaintiffs object to lack of foundation and because the cited material does not support that Nichols and Bolton could not and did not author or sign any reports, sign the criminal complaint, recover or handle the drugs, or testify in any related judicial proceeding arising from the December arrests.

59. Glenn admitted that she knew Gonzalez, Leano and Smith and did not recall seeing them at the scene of the December arrests. (Ex. F at 123:3-14; 124:19-24; 138:12-21.) Glenn admitted that neither Gonzalez nor Leano had ever planted drugs on her or stolen money from her or falsely arrested her. (*Id.* 123:3-124:2; 125:6-10; 138:22-139:4.) Glenn admitted that she had never seen Gonzalez plant drugs on anyone. (*Id.* at 123:15-17.) Glenn admitted that she had no knowledge of Gonzalez, Leano or Smith engaging in any misconduct towards other individuals

and that she could not recall Baker telling her that Gonzalez or Leano had ever planted drugs on him, falsely arrested him or otherwise engaged in misconduct toward him. (*Id.* at 124:3-12; 125:20-126:5; 139:10-19.)

RESPONSE: Plaintiffs object to this paragraph because it violates Local Rule 56.1 by containing multiple, distinct assertions for the reasons previously outlined in Plaintiffs' responses. *See Malec v. Sanford*, 191 F.R.D. 581, 583 (N.D. Ill. 2000); *see also, Wilcox v. Allstate Corp.*, No. 11 C 814, 2012 WL 6569729, at *4 (N.D. Ill. Dec. 17, 2012) (citing N.D. Ill. R. 56.1(a)). Plaintiffs further object that the record as cited does not support some of the factual assertions contained in this paragraph. Specifically, the record does not support that Glenn testified about Leano never falsely arresting her. (Ex. F, 125:6-10). Subject to those objections, Plaintiffs dispute that the portions of the record cited support the above contentions. When asked if she knew Officer Gonzalez, Glenn testified, "maybe," if she saw his face. (Ex. F, 122:8-9). Glenn testified that she knows these officers now, but not, as Defendants suggest in this paragraph, that she knew them at the time of her false arrest in December 2005. Plaintiffs otherwise admit the remainder of this paragraph.

60. Glenn admitted that Bolton, Gonzalez and Leano were included in this action because they were on "Watts' crew." (*Id.* at 122:10-12; 124:13-18; 129:5-7.)

RESPONSE: Admit that Glenn made that statement, but disputed to the extent that Defendants are suggesting that they are not liable because Glenn did not articulate the legal basis for their liability at her deposition.

61. Glenn admitted that Jones had never planted drugs on her or stolen money from her or falsely arrested her; that she had no knowledge of Jones engaging in any misconduct towards other individuals; and that she could not recall Baker telling her that Jones had planted drugs on him at any time prior to their December arrests. (*Id.* at 120:17-122:5.)

RESPONSE: Plaintiffs object on the ground that the portions of the record cited do not support the above contentions that Glenn admitted Jones never planted drugs on her or falsely arrested her. Glenn never testified as such. Rather, Glenn testified only that Jones never stole money from her and that she had no knowledge of Jones engaging in misconduct toward others, excluding her and Baker. (*Id.* at 120:17-122:5.) Thus, Plaintiffs dispute the contention that Glenn admitted Jones never planted drugs on her or falsely arrested her.

62. Glenn was detained overnight and released on bond the next day. 300:22:23; 304:7-9. Baker was detained from December 11, 2005 until January 20, 2006, when he was released on bond. (Ex. N, January 20, 2006 Hearing.)

RESPONSE: Assuming Defendants meant to cite Exhibit L for the first sentence, admit.

63. On December 29, 2005, Jones testified about the circumstances of the arrest before a Cook County grand jury. (Ex. O, December 29, 2005 Grand Jury Transcript at 3-5:8.) The grand jury indicted Plaintiffs on December 29, 2005. (*Id.* at 5:21.)

RESPONSE: Plaintiffs admit that Jones testified before a Cook County grand jury about the arrest but deny that he talked about the “circumstances” of the arrest. Jones provided a fabricated version of the arrest. For example, Jones testified that upon approaching Baker’s vehicle, he observed Glenn handing Baker a bag of narcotics while they were both in their vehicle. (Ex. O, 4:3-8). On the other hand, Glenn testified that she and Baker did not have drugs in the vehicle, and after a lengthy search of their car, Watts pulled drugs from his sleeve while claiming he found them in their vehicle. (Ex. L, at 278:17-282:20, 286:1-289:16). Plaintiffs otherwise admit the remainder of this paragraph.

64. On September 18, 2006, Plaintiffs pleaded guilty. (Ex. P, September 18, 2006 Plea Transcript.) Prior to their pleas, the court properly admonished them:

THE COURT: Do you understand both of you that nobody is forcing you to plead guilty here. Under the law you do have a right to continue with the pleas of not guilty entered earlier and have trials before myself or before a jury that would be impaneled by the lawyers in the case. If either of you did have a jury trial, you could not be found guilty here unless all 12 jurors picked by the lawyers after the evidences concluded -- after hearing the evidence concluded that you have been proved guilty beyond a reasonable doubt. When you have a jury trial that is a standard or burden of proof. If you had a bench trial, I would be bound to the same burden. That is I could not find you guilty unless I were convinced from that you had been proved guilty beyond a reasonable doubt. Do you understand that, Mr. Baker?

DEFENDANT BAKER: Yes.

THE COURT: And, Ms. Glenn, and each of you have signed jury waivers; correct?

DEFENDANT BAKER: Yes,

THE COURT: You are giving up your right to jury trial? That's what you want to do?

DEFENDANT BAKER: Yes,

THE COURT: Ms. Glenn, DEFENDANT GLENN: Yes.

(*Id.* at 21: 14-24: 22: 1-15.)

[THE COURT:] Your lawyer if you did go to trial and either instance would have the opportunity at trial to cross-examine or ask questions of each witness who came to court to testify here against you. You would also have the opportunity to present your side of the story if either of you chose to take the witness stand and testify here under oath. And

you would also have the opportunity to present such other evidence that you might have by way of defense to the charges here if indeed you had a defense. When you plead guilty, however you will be giving up of each of those rights. Do you understand that, Mr. Baker?

DEFENDANT BAKER: Yes.

THE COURT: And you, Ms. Glenn?

DEFENDANT GLENN: Yes.

THE COURT: Other than the results of the conference that had been made known to the both of you, have there been any other promises made to either of you to cause you to plead guilty?

DEFENDANT BAKER: No.

DEFENDANT GLENN: No.

THE COURT: Has anybody threatened you or coerced you to make you plead guilty, Mr. Baker?

DEFENDANT BAKER: No.

THE COURT: Ms. Glenn?

DEFENDANT GLENN: No.

THE COURT: You each are pleading guilty of your own freewill with the full understanding of the consequences that I have explained to you. Is that right?

DEFENDANT BAKER: Yes,

DEFENDANT GLENN: Yes.

(*Id.* at 23:20-25:1-4.)

RESPONSE: Plaintiffs object to this paragraph because it violates Local Rule 56.1 by containing multiple, distinct assertions for the reasons previously outlined in Plaintiffs' responses. *See Malec v. Sanford*, 191 F.R.D. 581, 583 (N.D. Ill. 2000); *see also, Wilcox v. Allstate Corp.*, No. 11 C 814, 2012 WL 6569729, at *4 (N.D. Ill. Dec. 17, 2012) (citing N.D. Ill. R. 56.1(a)). Subject to that objection, Plaintiffs admit.

65. Plaintiffs admit their pleas were negotiated. (Ex. B at 298:22-300:1.) Their primary motivation was to ensure Glenn did not receive any prison time. (*Id.* at 298:22-23.) Because of the pleas, Glenn, who was facing 4 to 15 years on a non-probational Class 1 felony due to the amount of narcotics recovered. (*Id.* at 20:10-19; 21:8-13, received 1 year probation.

RESPONSE: Plaintiffs object that the portions of the record cited support the above contention that because of the pleas, Glenn, who was facing 4 to 15 years on a non-probational Class 1 felony, received 1 year probation. (Ex. B at 20:10-19; 21:8-13). Plaintiffs also object to the use of the language, "primary motivation," in this context as incomplete and

misrepresentative of Baker's testimony. (Ex. B, at 298:22-299:19) (Baker's testimony that they also pled guilty so Glenn could be there for their young children). Subject to those objections, Plaintiffs dispute the conclusion that Glenn received probation "because of the pleas" rather than because she was framed. Plaintiffs otherwise admit the remainder of this paragraph.

66. Baker was facing 6 to 30 years for a Class X felony the charges arising from the December arrests. (Ex. P at 22:19-23:8.) Because of his plea, the Class X charges were dismissed and Baker was charged with a Class 1 felony which carried a sentence of 4 to 15 years and the amount of narcotics was also reduced to make his sentence probational as well. (*Id.* at 20:10-21:2; 22:19-23:7.) Also because of the plea, Baker received only 4 years on the Class 1 felony. Baker was also facing 5 years on a Class 3 felony weapons charge that he has not challenged which carried a 2 to 5 year sentence. (*Id.* at 20:23-21:2; 23:2-6.) Because of the plea, Baker was sentenced to the minimum of 2 years. (*Id.* at 23:5-8) Baker's conviction for the Class 3 felony weapons charge still stands.

RESPONSE: Plaintiffs object to this paragraph because it violates Local Rule 56.1 by containing multiple, distinct assertions for the reasons previously outlined in Plaintiffs' responses. *See Malec v. Sanford*, 191 F.R.D. 581, 583 (N.D. Ill. 2000); *see also, Wilcox v. Allstate Corp.*, No. 11 C 814, 2012 WL 6569729, at *4 (N.D. Ill. Dec. 17, 2012) (citing N.D. Ill. R. 56.1(a)). Plaintiffs further object as the statements about the weapons charge (as outlined in the last three sentences) are immaterial to the issues presented for summary judgment and thus violates Local Rule 56.1. The 56.1(a) statement should be limited to *material* facts, that is, facts pertinent to the resolution of the issues identified in the summary judgment motion. *Malec v. Sanford*, 191 F.R.D. 581, 583 (N.D. Ill. 2000). For summary judgment purposes, only facts that are outcome-determinative under the substantive law are "material." *Alber v. Illinois Dep't of Mental Health & Developmental Disabilities*, 816 F. Supp. 1298 (N.D. Ill. 1993). Baker's unrelated plea on a weapons charge is not pertinent to his §1983 claims against Defendants. Moreover, Defendants have not cited any record evidence for the proposition in the last sentence of the above paragraph, that "Baker's conviction for the Class 3 felony charge still stands."

67. And they again raised the issue of purported corruption at the plea hearing (and during the pre-trial proceedings arising from the March arrest). (Ex. P at 4-5; 6:7-19; 7:6-7.)

RESPONSE: Admit.

68. The prosecutors knew about their allegations and the allegations of other drug

dealers at the Wells complex before Baker's trial arising from the March arrest. (*Id.*; see also Ex. F at 264:17-19. The prosecutors knew about the ongoing investigation into Watts. (Ex. P at 6:13-19, 6:23-7:5.) Those prosecutors nevertheless chose to continue Baker and Glenn's prosecution. (CSOF, ¶¶36.)

RESPONSE: Plaintiffs object to this paragraph because it violates Local Rule 56.1 by containing multiple, distinct assertions for the reasons previously outlined in Plaintiffs' responses. *See Malec v. Sanford*, 191 F.R.D. 581, 583 (N.D. Ill. 2000); *see also, Wilcox v. Allstate Corp.*, No. 11 C 814, 2012 WL 6569729, at *4 (N.D. Ill. Dec. 17, 2012) (citing N.D. Ill. R. 56.1(a)). Plaintiffs further object to the vague and ambiguous phrase, "the prosecutors," because it is unclear who this refers to. Subject to those objections, Plaintiffs admit that former ASA Dave Navarro knew of an investigation into Watts but dispute that the cited evidence shows that he knew the full scope of investigations into Watts and others on his crew.

69. Glenn admitted that Patrick Frazier, Baker's friend, told Glenn that he saw what happened at the December arrests and he was willing to testify on her and Baker's behalf. (Ex. F at 189:13-20; 190:11-21.) Glenn knew where Frazier lived and how to find him if she needed him. (*Id.* at 190:22-191:3.)

RESPONSE: Plaintiffs object that the cited materials do not support the above contention that Patrick Frazier told Glenn he would testify for them if they needed him. (Ex. F at 189:13-20; 190:11-21). Plaintiffs otherwise admit the remainder of this paragraph.

70. Glenn admitted that she knew Bebe and that he lived in the 527 ext. (*Id.* at 61:19-21.) Glenn and Baker lived at the 527 ext. 8 to 10 years. (*Id.* at 214:8-11.)

RESPONSE: Admit.

71. Baker and Glenn knew that CPD has a process pursuant to which citizens could file complaints against police officer. Glenn dep. In fact, Baker and Glenn themselves filed complaints with CPD. (*Id.* at 75:18-77:4. And Glenn did so multiple times starting in 2001. (*Id.* at 80:21:-81:7.)

RESPONSE: Plaintiffs object to this paragraph because it violates Local Rule 56.1 by failing to sufficiently cite source in the record to support it. When a movant fails to substantiate a factual assertion by citing to the record, courts may disregard those assertions. *See De v. City of Chicago*, 912 F. Supp. 2d 709, 712 (N.D. Ill. 2012) ("The consequence of De's failure to comply with Local

Rule 56.1 by neglecting to cite the record in many of his responses is that those responses are disregarded by the Court.”). Rule 56.1 requires parties to include proper citations to exact pieces of the record that support the factual contention contained in the paragraph. In other words, citations must include page (or paragraph) numbers, as opposed to simply citing an entire deposition, affidavit, or other exhibit document. *Malec v. Sanford*, 191 F.R.D. 581, 583 (N.D. Ill. 2000). It “is not the court’s responsibility to ferret through the record to locate evidence a party references but could easily supply.” *Quirin v. Lorillard Tobacco Co.*, 13 C 2633, 2015 WL 13883251, at *2 (N.D. Ill. Jan. 27, 2015). Subject to those objections, admit.

72. Baker admitted that no Defendant Officer ever demanded money from him. (Ex. B at 210:18-20; 211:17-22.) Baker admitted that he has never seen anyone pay a law enforcement officer a bribe. (Ex. B at 141:7-9.) Although Baker claims he had seen Watts and Jones “plant” drugs on two people prior to his arrests, he was unable to testify to any such event in an intelligible manner. (Ex. B at 142:9-143:4; 145:17-149:6.)

RESPONSE: Plaintiffs object to this paragraph because it violates Local Rule 56.1 by containing multiple, distinct assertions for the reasons previously outlined in Plaintiffs’ responses. *See Malec v. Sanford*, 191 F.R.D. 581, 583 (N.D. Ill. 2000); *see also, Wilcox v. Allstate Corp.*, No. 11 C 814, 2012 WL 6569729, at *4 (N.D. Ill. Dec. 17, 2012) (citing N.D. Ill. R. 56.1(a)). Plaintiffs further object to Defendants’ argumentative and misleading assertions that Baker was unable to testify about this matter in an “intelligible manner.” (Ex. B at 142:9-143:4; 145:17-149:6.)

73. Baker admitted that he continued to sell drugs after his release from custody in November 2004. (*Id.* at 205:10-13.) Baker also admitted that at no time between his release in November 2004 and his March arrest did any Defendant Officer arrest him or plant drugs on him or demand money from him even though he saw them and interacted with almost daily. (*Id.* at 205:14-20; 208:8-20; 210:18-20; 211:17-22.)

RESPONSE: Plaintiffs object to this paragraph because it violates Local Rule 56.1 by containing multiple, distinct assertions for the reasons previously outlined in Plaintiffs’ responses. *See Malec v. Sanford*, 191 F.R.D. 581, 583 (N.D. Ill. 2000); *see also, Wilcox v. Allstate Corp.*, No. 11 C 814, 2012 WL 6569729, at *4 (N.D. Ill. Dec. 17, 2012) (citing N.D. Ill. R. 56.1(a)). Plaintiffs further object to Defendants’ misleading characterization of Baker’s testimony on this subject. Specifically, when asked about selling drugs after he was released for the mailbox case, Baker testified that he probably did but he was not sure. (Ex. B, at 205:10-13). Later in that deposition, defense counsel asked Baker if he was selling heroin or cocaine from January 2005 through March 22, 2005 (the day before his first false arrest). In response, Baker testified that he did not believe he was. (Ex. B, at 216:4-15). Subject to those objections, Plaintiff admits the remainder of this paragraph.

74. Baker admitted that his allegations against Jones were based on Baker's speculation as to the meaning of a couple of passing remarks Jones made to him (Ex. B at), his allegations against Nichols were based on his March arrest (*id.* at), and his allegations against the other Defendant Officers were based on "guilt by association", "the apple doesn't fall far from the tree", and if Watts' is dirty, they're all dirty (*id.* at 142:9-18).

RESPONSE: Plaintiffs object to this paragraph because it violates Local Rule 56.1 by failing to sufficiently cite source in the record to support it. When a movant fails to substantiate a factual assertion by citing to the record, courts may disregard those assertions. *See De v. City of Chicago*, 912 F. Supp. 2d 709, 712 (N.D. Ill. 2012) ("The consequence of De's failure to comply with Local Rule 56.1 by neglecting to cite the record in many of his responses is that those responses are disregarded by the Court."). Rule 56.1 requires parties to include proper citations to exact pieces of the record that support the factual contention contained in the paragraph. In other words, citations must include page (or paragraph) numbers, as opposed to simply citing an entire deposition, affidavit, or other exhibit document. *Malec v. Sanford*, 191 F.R.D. 581, 583 (N.D. Ill. 2000). Without a citation to the record, Plaintiffs cannot adequately respond. And it "is not the court's responsibility to ferret through the record to locate evidence a party references but could easily supply." *Quirin v. Lorillard Tobacco Co.*, 13 C 2633, 2015 WL 13883251, at *2 (N.D. Ill. Jan. 27, 2015).

75. Glenn admitted that no other Defendant Officer was present when Glenn claims Jones and Watts confronted her about complaints she made to CPD. (Ex. F at 93:11-94:7; Ex. L at 53:6-54:4).

RESPONSE: Plaintiffs object that the cited materials do not support the above contention that Glenn admitted that no other Defendant Officer was present when Jones and Watts confronted her about complaints she made to CPD. (Ex. F at 93:11-94:7; Ex. L at 53:6-54:4).

<i>Cited Source</i>	<i>Actual Testimony</i>
Ex. F at 93:11-94:7	<p>Q. So I think we're talking about different incidents. So, again, I really want to focus on --</p> <p>A. No, they -- no. And no. I think we're talking about the same incident. I'm thinking we're speaking about did anyone follow up regarding the complaint. And the person who follows up was Watts because Watts the only one that came to me face to face regarding a complaint that I made to OPS...So that's why I thought you were talking about the complaint. That's the only one that had verbally started off a communication, and his partner walked past and disrespected me, called me out my name and also stated that I was going to prison. So those are the only ones that communicated with me regarding this --regarding any OPS, anything.</p>

	Q. So I'm pulling up again what I've marked as Exhibit 14, which is C.R. Number 207177. Going to the final paragraph of this page, which is, again, the OPS records related to the complaint you made, it indicates that the complainant, which would be you, gave no incident date and/or time identifiers for her numerous complaints.
Ex. L at 53:6-54:4	<p>A. That last paragraph would be incorrect.</p> <p>Q. Which portion?</p> <p>A. It would be friends -- we're going to start off with "friend and with sitting in her car in the parking lot of 527 East Browning. Officer Mohammed" -- it should be Officer Watts -- "came out of 527 East Browning, approached Glenn vehicle." And then the next sentence, it says, "Officer Jones soon walked out behind Officer Mohammed." It should be Watts.</p> <p>Q. And then just to -- because that stops off in the middle of the sentence, I'm going to scroll to page 9, just so we can finish that paragraph up. Is the remainder of that paragraph accurate?</p> <p>A. Correct.</p> <p>Q. So beyond changing Officer Mohammed's name to Officer Watts's name, is the remainder of the information contained within the last paragraph on page 8 that goes into the first two lines of page 9 correct?</p> <p>MR. TEPFER: Objection, mischaracterizes prior testimony.</p> <p>BY THE WITNESS: A. I answered it.</p>

76. No evidence of any benefits to the officers. IAD and FBI investigation failed to result in any charges against them notwithstanding surveillance and wiretapping, investigation also failed to discover any irregularities in officers' financial accounts.

RESPONSE: Plaintiffs object to this paragraph because it violates Local Rule 56.1 by failing to cite any source in the record to support it. When a movant fails to substantiate a factual assertion by citing to the record, courts may disregard those assertions. *See De v. City of Chicago*, 912 F. Supp. 2d 709, 712 (N.D. Ill. 2012) ("The consequence of De's failure to comply with Local Rule 56.1 by neglecting to cite the record in many of his responses is that those responses are disregarded by the Court."). Without a citation to the record, Plaintiffs cannot adequately respond. And it "is not the court's responsibility to ferret through the record to locate evidence a party references but could easily supply." *Quirin v. Lorillard Tobacco Co.*, 13 C 2633, 2015 WL 13883251, at *2 (N.D. Ill. Jan. 27, 2015).

77. Shannon Spaulding, one of the CPD officers who suspected that Watts was accepting bribes, participated in the FBI investigation, including conducting surveillance, and conducted her own investigation which also included surveillance, testified that she had never seen any of Defendant Officers frame anyone, falsely arrest anyone, steal from anyone, plant evidence

on anyone or engage in any criminal or other illegal activity at any time. (Ex. Q, Shannon Spalding June 6, 2023 Deposition at 147:6-148:21; 151:5-19; 153:20-9; 155:10-12; 157:2-163-16; 164:6-24; 175:2-176:11; 177:21-178:16.) Spaulding further testified that she knew Baker was “a big drug dealer in Ida B. Wells”; that he ran the [527 ext.]; that he was at the top of his game in the early 2000s; that she had chased him for 10 years; and that she had predicted he would go back to selling drugs after he was released from prison in 2016. (*Id.* at 39:3-18; 46:3-17.) And Spaulding was quoted in an Intercept article as saying “ben was one of the biggest drug dealers in the Ida B. Wells [complex].” (*Id.* at 39:3-9.)

RESPONSE: Plaintiffs object to this paragraph because it violates Local Rule 56.1 by containing multiple, distinct assertions for the reasons previously outlined in Plaintiffs’ responses. *See Malec v. Sanford*, 191 F.R.D. 581, 583 (N.D. Ill. 2000); *see also, Wilcox v. Allstate Corp.*, No. 11 C 814, 2012 WL 6569729, at *4 (N.D. Ill. Dec. 17, 2012) (citing N.D. Ill. R. 56.1(a)). Plaintiffs further object that this paragraph is largely immaterial, lacks foundation, prejudicial, contains improper character evidence and speculation. Specifically, Spalding testified that she never worked with Nichols, Leano, or Smith—either on the same unit, team, or partners. (Ex. Q, at 151:20-152:23, 160:17-162:12, 163:1-15). Moreover, Plaintiffs object that the cited materials do not support that Spalding made statements about Baker’s drug dealing. This paragraph also improperly and implicitly asks the Court to weigh Baker’s credibility against Defendant Officers, which is improper for summary judgment. Spalding’s statements about Baker and drug dealing are, and will be at trial, inadmissible under Federal Rules of Evidence 401, 403, 404 and 701.

Respectfully submitted,

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