

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

QUINTIN SCOTT, et al.,)	
)	
<i>Plaintiffs,</i>)	
)	
v.)	Case No. 17-cv-7135
)	
SHERIFF OF COOK COUNTY and)	Hon. Martha M. Pacold
COOK COUNTY, ILLINOIS)	Magistrate Hon. David Weisman
)	
<i>Defendants.</i>)	

**DEFENDANT COOK COUNTY’S ANSWER AND AFFIRMATIVE DEFENSES TO
PLAINTIFFS’ SECOND AMENDED COMPLAINT**

Defendant, COOK COUNTY, ILLINOIS, by its attorney EILEEN O’NEILL BURKE, State’s Attorney of Cook County, through her Special Assistant State’s Attorneys, JOHNSON & BELL, LTD., answers Plaintiffs’ second amended complaint as follows:

1. This is a civil action arising under 42 U.S.C. § 1983. The jurisdiction of this Court is conferred by 28 U.S.C. § 1343.

ANSWER: Defendant admits that Plaintiffs bring this action under 42 U.S.C. § 1983 but denies that it has any liability for any claim.

2. Plaintiff Quintin Scott was a detainee at the Cook County Jail from June 25, 2013 through May 23, 2014.

ANSWER: Defendant lacks knowledge or information sufficient to form a belief about the truth of the allegations in this paragraph.

3. Plaintiff James DeSavieu was a detainee at the Cook County Jail from March 1, 2017 to December 12, 2017.

ANSWER: Defendant lacks knowledge or information sufficient to form a belief about the truth of the allegations in this paragraph.

4. Plaintiff Ernest Brown was a detainee at the Cook County Jail from December 27, 2016 to October 23, 2018.

ANSWER: Defendant lacks knowledge or information sufficient to form a belief about the truth of the allegations in this paragraph.

5. Plaintiff Mohammad Abid was a detainee at the Cook County Jail from April 20, 2017 to October 10, 2017.

ANSWER: Defendant lacks knowledge or information sufficient to form a belief about the truth of the allegations in this paragraph.

6. Plaintiff Darius L. Scott, Sr., was a detainee at the Cook County Jail from September 25, 2015 to January 27, 2017.

ANSWER: Defendant lacks knowledge or information sufficient to form a belief about the truth of the allegations in this paragraph.

7. Defendant Sheriff of Cook County is sued in his official capacity only.

ANSWER: Defendant admits the Sheriff of Cook County has been named in his official capacity only.

8. Under Illinois law, the Cook County Sheriff operates the Cook County Jail.

ANSWER: Defendant admits the Cook County Sheriff has certain responsibilities for Cook County Jail but lacks knowledge or information sufficient to form a belief about the truth of the remaining allegations in this paragraph.

9. Defendants Sheriff of Cook County and Cook County are responsible for the medical needs of detainees at the Cook County Jail.

ANSWER: Defendant admits that it provides certain medical care to detainees at Cook County Jail but lacks knowledge or information sufficient to form a belief about the truth of the remaining allegations in this paragraph.

10. Defendant Cook County controls the budget for the Cook County Jail, provides dental services for persons in custody at the Jail, and is a necessary party to this action.

ANSWER: Defendant admits that it provides dental services for persons in custody at the Jail and that it is a necessary party to this action but lacks knowledge or information sufficient to form a belief about the truth of the remaining allegations in this paragraph.

11. Before 2007, defendant Cook County employed a full time oral surgeon at the Cook County Jail, who provided treatment to detainees five days a week.

ANSWER: Defendant lacks knowledge or information sufficient to form a belief about the truth of the allegations in this paragraph.

12. In 2007, defendants discontinued the services of the oral surgeon at the Jail.

ANSWER: Defendant lacks knowledge or information sufficient to form a belief about the truth of the allegations in this paragraph.

13. An oral surgeon is a dentist who has received an additional three or four years of graduate training, gaining experience, *inter alia*, in performing extractions.

ANSWER: Defendant lacks knowledge or information sufficient to form a belief about the truth of the allegations in this paragraph.

14. When confronted with a patient presenting an extraction, a general dentist will often conclude that he (or she) lacks the training, skill, and experience to remove that tooth. The general dentist will then refer the patient to an oral surgeon.

ANSWER: Defendant lacks knowledge or information sufficient to form a belief about the truth of the allegations in this paragraph.

15. Delay in treatment by an oral surgeon will cause the patient to suffer gratuitous pain and subject the patient to a serious risk of harm, such as a more serious infection.

ANSWER: Defendant lacks knowledge or information sufficient to form a belief about the truth of the allegations in this paragraph.

16. Many of the detainees at the Cook County are held at the jail for more than six months before being released; this group includes many persons who require the extraction of wisdom teeth.

ANSWER: Defendant lacks knowledge or information sufficient to form a belief about the truth of the allegations in this paragraph.

17. After defendants discontinued the services of the oral surgeon at the Jail in 2007, defendant Cook County sought to provide essential oral surgery services to detainees by adopting a policy of sending detainees requiring those services to Stroger Hospital.

ANSWER: Defendant admits that some detainees receive oral surgery at Stroger Hospital but lacks knowledge or information sufficient to form a belief about the truth of the remaining allegations in this paragraph.

18. This attempt to provide essential oral surgery services was ineffective because defendant Sheriff failed to provide sufficient resources to transport detainees requiring oral surgery services to Stroger Hospital.

ANSWER: Defendant lacks knowledge or information sufficient to form a belief about the truth of the allegations in this paragraph.

19. The policymakers for defendant County turned a blind eye to the Sheriff's refusal to provide sufficient resources to transport detainees requiring oral surgery services to Stroger Hospital.

ANSWER: Defendant lacks knowledge or information sufficient to form a belief about the truth of the allegations in this paragraph.

20. As a result of the foregoing, detainees would wait for many months before receiving treatment from an oral surgeon and thereby experienced gratuitous pain and suffered a serious risk of harm.

ANSWER: Defendant lacks knowledge or information sufficient to form a belief about the truth of the allegations in this paragraph.

21. In 2011, defendants were informed by the chief of dental services at the Jail that it was "absolutely essential" to employ an oral surgeon to work full time at the Jail.

ANSWER: Defendant lacks knowledge or information sufficient to form a belief about the truth of the allegations in this paragraph.

22. The chief of dental services at the Jail specifically advised defendants in 2011 that detainees had "definitely suffered" from the absence of an oral surgeon working full time at the Jail.

ANSWER: Defendant lacks knowledge or information sufficient to form a belief about the truth of the allegations in this paragraph.

23. Defendants turned a blind eye to the fact that it was "absolutely essential" to employ an oral surgeon to work at the Cook County Jail and have yet to fill the oral surgeon position that has been vacant since 2007.

ANSWER: Defendant lacks knowledge or information sufficient to form a belief about the truth of the allegations in this paragraph.

24. As the direct and proximate result of defendants' above-described conduct, plaintiffs and numerous other similarly situated detainees at the Jail experienced gratuitous pain and personal injuries.

ANSWER: Defendant lacks knowledge or information sufficient to form a belief about the truth of the allegations in this paragraph.

25. Plaintiff Quintin Scott, while detained at the Cook County Jail, began to experience extreme pain from his upper right wisdom tooth in July of 2013.

ANSWER: Defendant lacks knowledge or information sufficient to form a belief about the truth of the allegations in this paragraph.

26. A dentist at the Jail examined Quintin Scott on August 8, 2013, concluded that Quintin Scott required treatment by an oral surgeon, and referred him for treatment by an oral surgeon at Stroger Hospital.

ANSWER: Defendant lacks knowledge or information sufficient to form a belief about the truth of the allegations in this paragraph.

27. As a result of defendants' above-described conduct, Quintin Scott was not treated by an oral surgeon until March 28, 2014.

ANSWER: Defendant lacks knowledge or information sufficient to form a belief about the truth of the allegations in this paragraph.

28. Quintin Scott experienced excruciating pain while he waited for treatment by an oral surgeon.

ANSWER: Defendant lacks knowledge or information sufficient to form a belief about the truth of the allegations in this paragraph.

29. Plaintiff DeSavieu, while detained at the Cook County Jail, began to experience dental pain in about July of 2017.

ANSWER: Defendant lacks knowledge or information sufficient to form a belief about the truth of the allegations in this paragraph.

30. A dentist at the Jail examined DeSavieu in about August of 2017, concluded that DeSavieu required treatment by an oral surgeon, and referred him for treatment by an oral surgeon at Stroger Hospital.

ANSWER: Defendant lacks knowledge or information sufficient to form a belief about the truth of the allegations in this paragraph.

31. On November 2, 2017, DeSavieu complained to Jail officials that he had not yet been treated and was experiencing pain at level “10” on a 1-10 scale.

ANSWER: Defendant lacks knowledge or information sufficient to form a belief about the truth of the allegations in this paragraph.

32. As a result of defendants’ above-described conduct, DeSavieu was not treated by an oral surgeon until November or December of 2017.

ANSWER: Defendant lacks knowledge or information sufficient to form a belief about the truth of the allegations in this paragraph.

33. DeSavieu experienced excruciating pain while he waited for treatment by an oral surgeon.

ANSWER: Defendant lacks knowledge or information sufficient to form a belief about the truth of the allegations in this paragraph.

34. Plaintiff Brown, while detained at the Cook County Jail, began to experience dental pain in about April or May of 2017.

ANSWER: Defendant lacks knowledge or information sufficient to form a belief about the truth of the allegations in this paragraph.

35. A dentist at the Jail examined Brown on May 26, 2017, concluded that Brown required treatment by an oral surgeon, and referred him for treatment by an oral surgeon at Stroger Hospital.

ANSWER: Defendant lacks knowledge or information sufficient to form a belief about the truth of the allegations in this paragraph.

36. As a result of defendants' above-described conduct, Brown was not treated by an oral surgeon until October 6, 2017.

ANSWER: Defendant lacks knowledge or information sufficient to form a belief about the truth of the allegations in this paragraph.

37. Brown experienced excruciating pain while he waited for treatment by an oral surgeon.

ANSWER: Defendant lacks knowledge or information sufficient to form a belief about the truth of the allegations in this paragraph.

38. Plaintiff Abid, while detained at the Cook County Jail, began to experience dental pain in about April or May of 2017.

ANSWER: Defendant lacks knowledge or information sufficient to form a belief about the truth of the allegations in this paragraph.

39. A dentist at the Jail examined Abid in May of 2017, concluded that Abid required treatment by an oral surgeon, and referred him for treatment by an oral surgeon at Stroger Hospital.

ANSWER: Defendant lacks knowledge or information sufficient to form a belief about the truth of the allegations in this paragraph.

40. As a result of defendants' above-described conduct, Abid was not treated by an oral surgeon until September of 2017.

ANSWER: Defendant lacks knowledge or information sufficient to form a belief about the truth of the allegations in this paragraph.

41. Abid experienced excruciating pain while he waited for treatment by an oral surgeon.

ANSWER: Defendant lacks knowledge or information sufficient to form a belief about the truth of the allegations in this paragraph.

42. Plaintiff Darius Scott, while detained at the Cook County Jail, began to experience dental pain in about December of 2015.

ANSWER: Defendant lacks knowledge or information sufficient to form a belief about the truth of the allegations in this paragraph.

43. A dentist at the Jail examined Darius Scott in December of 2015, concluded that Darius Scott required treatment by an oral surgeon, and referred him for treatment by an oral surgeon at Stroger Hospital.

ANSWER: Defendant lacks knowledge or information sufficient to form a belief about the truth of the allegations in this paragraph.

44. On August 16, 2016, and again on November 18, 2016, Darius Scott complained to Jail officials that he had not yet been treated and was experiencing severe pain.

ANSWER: Defendant lacks knowledge or information sufficient to form a belief about the truth of the allegations in this paragraph.

45. As a result of defendants' above-described conduct, Darius Scott was not treated by an oral surgeon until January 21, 2016.

ANSWER: Defendant lacks knowledge or information sufficient to form a belief about the truth of the allegations in this paragraph.

46. Darius Scott experienced excruciating pain while he waited for treatment by an oral surgeon.

ANSWER: Defendant lacks knowledge or information sufficient to form a belief about the truth of the allegations in this paragraph.

47. As the direct and proximate result of defendants' refusal to hire an oral surgeon and failure to provide sufficient resources to transport detainees requiring oral surgery services to Stroger Hospital, plaintiffs and others similarly situated experienced gratuitous pain, incurred personal injuries, and were therefore deprived of rights secured by the Fourth and Fourteenth Amendments to the Constitution of the United States.

ANSWER: Defendant lacks knowledge or information sufficient to form a belief about the truth of the allegations in this paragraph.

48. Plaintiffs bring this case individually and for the following proposed class: All persons confined at the Cook County Jail from November 1, 2013 to the date of entry of judgment in this case who were referred by a dentist at the Jail for treatment by an oral surgeon and who were not treated by an oral surgeon within 30 days thereafter.

ANSWER: Defendant admits that Plaintiffs have set forth the class they seek to represent but denies any wrongdoing and denies that this case is appropriate for class certification.

49. The proposed class satisfies each of the requirements of Rule 23(a) and certification is appropriate under Rule 23(b)(3).

ANSWER: Denied.

50. Plaintiffs demand trial by jury.

ANSWER: Defendant admits Plaintiffs have demanded a trial by jury but denies it has any liability for any claim.

AFFIRMATIVE DEFENSES

Further answering Plaintiffs' second amended complaint, Defendant alleges the following separate affirmative defenses against Plaintiffs:

I. Exhaustion of Administrative Remedies

1. The Prison Litigation Reform Act (PLRA) provides that “[n]o action shall be brought with respect to prison conditions under . . . 42 U.S.C. 1983 . . . by a prisoner confined in any jail, prison, or other correctional facility until such administrative remedies as are available are exhausted.” 42 U.S.C. § 1997e(a); *see also Dale v. Lappin*, 376 F.3d 652, 655 (7th Cir. 2004).

2. To the extent Plaintiffs failed to properly exhaust their administrative remedies, their claims are barred by the PLRA.

II. Immunity from Punitive Damages

3. Local governments are immune from punitive damages liability under 42 U.S.C. § 1983. *City of Newport v. Fact Concerts, Inc.*, 453 U.S. 247, 271 (1981).

4. Therefore, to the extent Plaintiffs seek punitive damages from Defendant, Defendant asserts immunity from the same.

III. Failure to Mitigate

5. To the extent Plaintiffs claim any damages against Defendant, Plaintiffs had a duty to mitigate those damages. *Wells v. City of Chicago*, No. 07 C 3372, 2009 WL 528307, at *8 (N.D. Ill. Feb. 25, 2009).

6. Without waiving its denials to Plaintiffs' allegations and to the extent Plaintiffs have failed to mitigate their damages, any award of damages must be reduced or eliminated for their failure to mitigate.

IV. Statute of Limitations

7. To the extent Plaintiffs seek damages from Defendant for injuries occurring more than two years before filing their complaint, Plaintiffs' claims are barred by the statute of limitations. *See Lewis v. City of Chicago*, 914 F.3d 472, 478 (7th Cir. 2019) ("A § 1983 claim borrows the statute of limitations for analogous personal-injury claims in the forum state; in Illinois that period is two years.").

V. Plaintiffs' Willful and Wanton Conduct

8. To the extent any injuries or damages claimed by Plaintiffs were proximately caused, in whole or in part, by negligent, willful, wanton, and/or other wrongful conduct on the part of Plaintiffs, any verdict or judgment obtained by Plaintiffs must be reduced by application of the principles of comparative fault in an amount commensurate with the degree of fault attributed to Plaintiffs by the jury in the case.

VI. Additional Affirmative Defenses

9. Defendant reserves the right to assert additional affirmative defenses as they become known through the course of litigation.

JURY DEMAND

With regard to any issue that may be appropriately heard by a jury in this cause of action, Defendant hereby demands a jury trial.

WHEREFORE, based on the foregoing, Defendant, COOK COUNTY, ILLINOIS, denies that Plaintiffs are entitled to any damages, injunctive relief, costs, attorney's fees, witness fees, or other relief. Defendant prays that this Honorable Court grant judgment in its favor and against Plaintiffs on all aspects of their complaint and further requests that this Honorable Court grant judgment of Defendant's fees, costs, and such other relief that this Court deems just and appropriate.

Respectfully submitted,

EILEEN O'NEILL BURKE
State's Attorney of Cook County

Dated: August 8, 2025

/s/ Samuel D. Branum
Special Assistant State's Attorney

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