

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

ALEXANDER GRAY,)	
)	
<i>Plaintiff,</i>)	Case No. 23-cv-1931
)	
v.)	
)	
CITY OF EVANSTON, et al.)	
)	
<i>Defendants.</i>)	

**DEFENDANT KUBIAK'S RESPONSE TO
PLAINTIFF'S FIRST SET OF INTERROGATORIES**

Defendant Kubiak, by his undersigned attorneys, Leinenweber Baroni & Daffada, LLC, submits the following responses to Plaintiff's first set of interrogatories:

1. State your full name, month and year of birth, and place of birth.

ANSWER: Martin Kubiak, February 14, 1968. Olsztyn, Warmian Masurian Voivodeship, Poland.

2. List each high school, college, university, graduate school, trade or technical school which you have attended and your dates of attendance in each and what degree or certificate, if any, you received from such institution.

ANSWER: High School, Olsztyn, Poland – High School Diploma (1982-1986), Academy of Physical Education in Warsaw, Poland, Faculty of Physical Therapy (1987-1988), Faculty of Physical Education (1988-1989), Wilbur Wright College, Chicago IL, Emergency Medical Technician – Ambulance Course (1994), Attained EMT-A License, Harry S. Truman College, Chicago IL, General Coursework (1995-1997), Cook County Police Academy, Triton College, Chicago IL (2001), University of Phoenix (2007-2009) Degree of Bachelor of Science in Business Management

3. Did you ever serve in the military? If so, state:

- a) Rank;
- b) Serial number;

- c) Branch of service;
- d) Approximate dates of entry and discharge;
- e) The type of discharge, whether honorable or otherwise, and if for medical reasons, state and describe the medical disability with reasonable specificity; and
- f) Whether you were ever the subject of any disciplinary proceedings in the military service, and if so, describe the nature and state the outcome of such proceedings.

ANSWER: No.

4. Identify each of your employers, in chronological order, starting with your graduation from high school and including all current and part- time employment. In your answer include the following:

- a) The name and address of each employer;
- b) The date you began each employment;
- c) A general description of your job duties;
- d) The date and reason for leaving each employment; and
- e) A general description of your job duties at the time you left each position.

ANSWER:

1. Brunon Dymowski Construction

- a. N/a
- b. 1993 – 1994
- c. General Construction

2. Joseph W. Fell Antique Oriental Rugs

- a. 3221 N. Clark St, Chicago IL
- b. 1994 – 1997
- c. Porter and assistant to the Owner

3. Minasian Oriental Rugs

- a. 1244 Chicago Ave, Evanston IL
- b. 1997 – 1999
- c. Porter

4. Autobarn Chrysler and Jeep

- a. 1015 Chicago Ave, Evanston IL
- b. 1999
- c. Sales Associate

5. Minasian Oriental Rugs

- a. 1244 Chicago Ave, Evanston IL
- b. 1999 – 2001
- c. Sales Associate

6. Evanston Police Department – 2001 – 2021

- a. 1454 Elmwood Ave, Evanston IL**
- b. 2001 – 2021**
- c. Police officer and Detective**
- d. Retired 05/2021**

7. Adlai E. Stevenson High School

- a. 1 Stevenson Dr, Lincolnshire, IL 60069**
- b. 05/2021 – Current**
- c. Support Staff and Security**

5. Have you ever been the subject of any citizen complaint concerning your actions or inactions as a police officer of the City of Evanston, and if so, state the disposition of each such complaint.

ANSWER: Defendant objects to this interrogatory as vague, overly broad, and because it does not seek relevant information that is proportional to the needs of the case. Subject to and without waiving the objection, Defendant does not recall.

6. Have you ever been the subject of any disciplinary proceedings, including but not limited to citizen complaints to the Police Department of the City of Evanston, which resulted in the imposition of any disciplinary action, including but not limited to a written or verbal warning, suspension, or reassignment?

ANSWER: Defendant objects to this interrogatory as vague, overly broad, and because it does not seek relevant information that is proportional to the needs of the case. Subject to and without waiving the objection, Defendant received written warnings for avoidable auto accidents, court absences and tardiness. Defendant given one day suspension with pay for exceeding the amount of preventable car accidents. Defendant was never suspended or reassigned.

7. Describe any awards, recognitions, or commendations you have received in the course of your employment as an Evanston police officer.

ANSWER: Certificate of Recognition: 2003 Arrest of violent combative armed subject, 2004 Arrest of vehicular invasion and robbery subject, 2007 Bomb threat investigation resulting in

suspect's identification, arrest and charging, 2012 Home invasion investigation resulting in suspect's identification, arrest, charging and recovery of stolen art, 2012 Theft, unlawful use of a credit card, fraud investigation resulting in suspects identification, arrest and charging.

8. While serving as an Evanston police officer, have you ever applied for promotion to a higher paying position than your currently hold? Unless your response is a unqualified "no," provide details for each application made, including the position name, application date, and the outcome.

ANSWER: Passed Sergeant tests with scores in highly qualified category in 2013 and 2016. Never promoted.

9. Have you ever been a party, whether plaintiff or defendant, in any lawsuit? If so, state:

- a) The court in which the case was filed;
- b) The year of filing;
- c) The title and case number; and
- d) The final resolution of the case

ANSWER: No.

10. Have you ever been arrested, irrespective of whether the arrest has been expunged or sealed and irrespective of whether the arrest was made while you were a juvenile? Is so, please state for each such arrest:

- a) The date and location of the arrest;
- b) The arresting authority and names of officers involved;
- c) If any criminal charges were filed in connection with the arrest, state the nature of the charges, the jurisdiction and disposition; and
- d) Have the records of the arrest been expunged or sealed?

ANSWER: No.

11. Have you ever been interviewed, whether in person, by telephone, or any other method, by any law enforcement officer related to any alleged wrongdoing, whether on your part or on the part of another? If yes, for each instance, state:

- a) The date and location of the interview;
- b) The name of the interviewing authority and person or persons conducting the interview;
- c) The subject matter of the interview; and

- d) Whether you were informed about any constitutional or legal rights before or during the interview, and if so, what those rights were?

ANSWER: No.

12. Did the plaintiff make any statements (written, oral, or otherwise) to you or to anyone else within earshot, other than those captured on your body cameras Officers Brown, Burgers, Conley, Kubiak, and Kane? If yes, state the words plaintiff spoke or, if you are unable to recall the exact words, describe the content as fully and accurately as you can.

ANSWER: Defendant does not recall Plaintiff making any statements other than those recorded by the body cam.

13. Did you state “Do what we tell you to do and you won’t get hurt” as alleged in paragraph 15 of the amended complaint?

ANSWER: Yes.

14. Do you contend that plaintiff was lawfully detained on March 31, 2021 at the time and place described in the amended complaint in this case?

ANSWER: Yes.

15. Unless the answer to the preceding interrogatory is an unqualified “no,” state the facts and circumstances that support your belief that plaintiff was lawfully detained March 31, 2021 at the time and place described in the amended complaint in this case.

ANSWER: A citizen called 911 EDP and reported observing a subject armed with a handgun in the close vicinity of the park. The caller provided a description of the subject and his location. Upon responding to the area, I observed a subject matching the description given by the caller, the subject was located in the area described by the caller. Believing that the subject (Plaintiff) was possibly armed with the handgun and having a duty to investigate this matter in a safe manner I did what was necessary to deal with this situation in a manner most safe to me, the Plaintiff and the public.

16. Do you contend that a reasonable police officer could have believed that it was lawful to detain plaintiff on March 31, 2021 at the time and place specified in the amended complaint in this case?

ANSWER: Yes.

17. Unless the answer to the preceding interrogatory is an unqualified “no,” state the facts and circumstances that support your belief that a reasonable police officer could have believed that it was lawful to detain plaintiff on March 31, 2021 at the time and place specified in the amended complaint in this case.

ANSWER: Subject was believed to be armed with a handgun in public near a beach on the walking path and park.

18. Why did you unholster your firearm and point it at plaintiff in the manner depicted in the image included as paragraph 10 of the amended complaint?

ANSWER: Believing Plaintiff to be armed I had to investigate the matter in a manner most safe to me, the Plaintiff and the public.

19. Were you acting in accordance with any rule, regulation, or policy of the City of Evanston when you unholstered your firearm and pointed it at plaintiff in the manner depicted in the image included as paragraph 10 of the amended complaint?

ANSWER: Yes.

20. Unless the answer to the preceding interrogatory is an unqualified “no,” identify any rule, regulation, or policy which authorized you to unholster your firearm and point it at plaintiff in the manner depicted in the image included as paragraph 10 of the amended complaint.

ANSWER: Defendant has no present recollection of the rule, regulation, or policy.

21. Are you aware that you will be personally responsible for the payment of any award of punitive damages that may be made against you in this lawsuit?

ANSWER: Yes.

22. Do you own or hold any interest in real property? Unless your answer to is an unqualified “no,” state the location of any such property, the names under which the title is held, and the extent of your ownership or interest.

ANSWER: Defendant objects to this interrogatory as premature and because the interrogatory seeks information of a private nature. Subject to and without waiving the foregoing objection, Defendant will answer said interrogatory upon the entry of a protective order limiting and or restricting the dissemination of such information.

23. Do you own any cash or checking or savings accounts? Unless your answer is an unqualified “no,” state the total value of the items owned and state, for each checking or savings account:

- a) The name of the financial institution the account is in;
- b) The type of account; and
- c) The present balance and the highest balance in the preceding 12-month period.

ANSWER: Defendant objects to this interrogatory as premature and because the interrogatory seeks information of a private nature. Subject to and without waiving the foregoing objection, Defendant will answer said interrogatory upon the entry of a protective order limiting and or restricting the dissemination of such information.

24. State your 10-year salary history.

ANSWER: Between \$85,000 - \$103,000.

25. Have you signed any financial statement or statements in the past ten years? Unless your answer is an unqualified “no,” state for each financial statement:

- a) Date prepared;
- b) Entity to which the financial statement was submitted;
- c) Reason for submission of the statement;
- d) Whether you have access to a copy of such statement.

ANSWER: No.

Dated: September 26, 2023

Respectfully Submitted,

/s/ Thomas M. Leinenweber
Thomas M. Leinenweber
One of the Attorneys for Defendant

Thomas M. Leinenweber
James V. Daffada
Leinenweber Baroni & Daffada, LLC
120 N. LaSalle St., Suite 2000
Chicago, Illinois 60602
Tel: (312) 217-8357

CERTIFICATE OF SERVICE

I, Thomas M. Leinenweber, an attorney, hereby certify that a true and correct copy of the foregoing was served upon the attorneys of record via Electronic Mail on September 26, 2023.

/s/ Thomas M. Leinenweber