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

Michael Jones, *Plaintiff*, *-vs-*	))))	No. 23-cv-4975
City of Chicago, *et al.*, *Defendants.*	)))	*(Judge Alexakis)*

PLAINTIFF'S MEMORANDUM ON SUPPLEMENTAL AUTHORITY

Plaintiff, by counsel, files this memorandum on the recent ruling in *Harris v. City of Chicago*, No. 24-cv-03215, 2025 WL 2044020 (N.D. Ill. July 21, 2025).

1. As a district court decision, *Harris* "is not a precedent." *Midlock v. Apple Vacations West, Inc.*, 406 F.3d 453, 457 (7th Cir. 2005). The Court must therefore determine if *Harris* is "on point and persuasive on the proposition for which [defendant cites it]." *DM Trans, LLC v. Scott*, 38 F.4th 608, 620 (7th Cir. 2022).

2. *Harris* is not on point:

a. The operative complaint in this case includes allegations about ten persons who were harmed by the practice of evidence fabrication alleged by plaintiff. (ECF No. 50 at 9-10, Amended Complaint ¶ 38(a)-(j).) The complaint in *Harris* was different.

b. The plaintiff in *Harris* cited "specific cases involving unconstitutional evidence practices." *Harris*, 2025 WL 2044020, at *6. Simply alleging the existence of other lawsuits does not fairly allege that the facts asserted in the other complaints are true. "Just because somebody alleges something [in another case] does not make it so." *Hernandez v. Nielson*, No. 00 C 50113, 2002 WL 31804788, at *1 (N.D. Ill. Dec. 13, 2002). Moreover, alleging the existence of a previous lawsuit deprives the complaint of the

plausibility provided by Federal Rule of Civil Procedure 11(b)(3)—the good faith belief that the allegations "have evidentiary support."

c. Plaintiff in this case does not rely on other lawsuits to support the plausibility of his claim that "[a]s a direct result of the above-described code of silence, Chicago police officers have concocted false stories and fabricated evidence in numerous cases because they knew that there would be no consequence for their misconduct." (ECF No. 50 at 8, Amended Complaint ¶ 37.) Instead, plaintiff includes in his complaint ten examples of persons who were framed by Chicago police officers. (ECF No. 50 at 9-10, Amended Complaint ¶ 38(a)-(j).) Each of these allegations is supported by the certificate of good faith required by Rule 11, and the Court must "take as true the well-pleaded facts in the plaintiff's complaint." *Stanley v. City of Sanford* 145 S. Ct. 2058, 2062 (2025).

d. The district judge in *Arquero v. Dart*, 587 F. Supp. 3d 721 (N.D. Ill. 2022), recognized the difference between factual allegations of other applications of a widespread practice (as in this case) and allegations about other lawsuits (as in *Harris*). The court ruled in *Arquero* that an allegation "that more than half a dozen people experienced the same thing [gave rise to] a reasonable inference … there might be a lot more cases," *id.* at 729, and denied a motion to dismiss a *Monell* claim. The district judge dismissed a different *Monell* claim that was supported only by "cites to four lawsuits." *Id.* at 730.

3. *Harris* is not persuasive on the proposition for which defendant cites it.

a. Defendant cites *Harris* for the proposition that, to survive a Rule 12(b)(6) motion, a complaint must "confirm" the alleged unconstitutional practices through evidence of lawsuits adjudicated in favor of the plaintiff. (ECF No. 97 at 2.) But a complaint does not "confirm" allegations: "the time to demand evidence is the summary-judgment

stage. All the complaint need do is state a grievance. Details and proofs come later." *Thomas v. JBS Green Bay, Inc.*, 120 F.4th 1335, 1338 (7th Cir. 2024); *see also Pickett v. Dart*, No. 13 C 1205, 2014 WL 919673, at *4 (N.D. Ill. Mar. 10, 2014) ("allegations regarding the other instances of misconduct need not be proven true at the pleading stage").

b. In addition, defendant's reading of *Harris* is contrary to the decisions of the Seventh Circuit in *Flores v. City of South Bend*, 997 F.3d 725 (7th Cir. 2021) and *White v. City of Chicago*, 829 F.3d 837 (7th Cir. 2016).

c. The Court of Appeals in *Flores* reversed a Rule 12(b)(6) dismissal of a *Monell* claim that was supported by allegations of other incidents but did not include any assertions about previous lawsuits. The Court of Appeals held that allegations about three other incidents were enough to state a *Monell* claim. *Flores*, 997 F.3d at 733-34.

d. In *White*, the Seventh Circuit held that the plaintiff's allegation of a widespread practice was sufficient because he "was not required to identify every other or even one other individual who had been arrested pursuant to a warrant obtained through the complained-of process." *White*, 829 F.3d at 844.

Harris should be limited to cases where the plaintiff attempts to state a claim of a widespread practice by alleging the existence of other lawsuits. Plaintiff does not follow that path, and the Court should deny the motion to dismiss.

Respectfully submitted,

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