

UNITED STATES DISTRICT COURT

for the Eastern District of Wisconsin

RECEIVED DEC 31 2024 WEST ALLIS CITY ATTORNEY

CEDRIC BANKS

Plaintiff MICHAEL LAZARIS (in his individual capacity), MICHAEL DOBSCHUETZ (in his individual capacity), and PATRICK MITCHELL (in his official capacity) Defendant

Civil Action No. 24-cv-01487

NOTICE OF A LAWSUIT AND REQUEST TO WAIVE SERVICE OF A SUMMONS

To: Patrick Mitchell, West Allis Police Department, 11301 W. Lincoln Ave, West Allis, WI 53227 (Name of the defendant or - if the defendant is a corporation, partnership, or association - an officer or agent authorized to receive service)

Why are you getting this?

A lawsuit has been filed against you, or the entity you represent, in this court under the number shown above. A copy of the complaint is attached.

This is not a summons, or an official notice from the court. It is a request that, to avoid expenses, you waive formal service of a summons by signing and returning the enclosed waiver. To avoid these expenses, you must return the signed waiver within 30 days (give at least 30 days, or at least 60 days if the defendant is outside any judicial district of the United States) from the date shown below, which is the date this notice was sent. Two copies of the waiver form are enclosed, along with a stamped, self-addressed envelope or other prepaid means for returning one copy. You may keep the other copy.

What happens next?

If you return the signed waiver, I will file it with the court. The action will then proceed as if you had been served on the date the waiver is filed, but no summons will be served on you and you will have 60 days from the date this notice is sent (see the date below) to answer the complaint (or 90 days if this notice is sent to you outside any judicial district of the United States).

If you do not return the signed waiver within the time indicated, I will arrange to have the summons and complaint served on you. And I will ask the court to require you, or the entity you represent, to pay the expenses of making service.

Please read the enclosed statement about the duty to avoid unnecessary expenses.

I certify that this request is being sent to you on the date below.

Date: 12/27/2024

Handwritten signature of Paul A. Kinne

Signature of the attorney or unrepresented party

Paul A. Kinne

Printed name

Gingras, Thomsen & Wachs, LLP 8150 Excelsior Drive Madison, WI 53717

Address

kinne@gttlawyers.com

E-mail address

(608) 833-2632

Telephone number

UNITED STATES DISTRICT COURT
for the
Eastern District of Wisconsin

CEDRIC BANKS

Plaintiff
MICHAEL LAZARIS (in his individual capacity),
MICHAEL DOBSCHUETZ (in his individual capacity),
and PATRICK MITCHELL (in his official capacity)
Defendant

Civil Action No. 24-cv-01487

WAIVER OF THE SERVICE OF SUMMONS

To: Paul A. Kinne
(Name of the plaintiff's attorney or unrepresented plaintiff)

I have received your request to waive service of a summons in this action along with a copy of the complaint, two copies of this waiver form, and a prepaid means of returning one signed copy of the form to you.

I, or the entity I represent, agree to save the expense of serving a summons and complaint in this case.

I understand that I, or the entity I represent, will keep all defenses or objections to the lawsuit, the court's jurisdiction, and the venue of the action, but that I waive any objections to the absence of a summons or of service.

I also understand that I, or the entity I represent, must file and serve an answer or a motion under Rule 12 within 60 days from December 27, 2024, the date when this request was sent (or 90 days if it was sent outside the United States). If I fail to do so, a default judgment will be entered against me or the entity I represent.

Date:

Signature of the attorney or unrepresented party

Patrick Mitchell

Printed name of party waiving service of summons

Printed name

Address

E-mail address

Telephone number

Duty to Avoid Unnecessary Expenses of Serving a Summons

Rule 4 of the Federal Rules of Civil Procedure requires certain defendants to cooperate in saving unnecessary expenses of serving a summons and complaint. A defendant who is located in the United States and who fails to return a signed waiver of service requested by a plaintiff located in the United States will be required to pay the expenses of service, unless the defendant shows good cause for the failure.

"Good cause" does not include a belief that the lawsuit is groundless, or that it has been brought in an improper venue, or that the court has no jurisdiction over this matter or over the defendant or the defendant's property.

If the waiver is signed and returned, you can still make these and all other defenses and objections, but you cannot object to the absence of a summons or of service.

If you waive service, then you must, within the time specified on the waiver form, serve an answer or a motion under Rule 12 on the plaintiff and file a copy with the court. By signing and returning the waiver form, you are allowed more time to respond than if a summons had been served.

COPY

UNITED STATES DISTRICT COURT

for the
Eastern District of Wisconsin

CEDRIC BANKS

Plaintiff

MICHAEL LAZARIS (in his individual capacity),
MICHAEL DOBSCHUETZ (in his individual capacity), and
PATRICK MITCHELL (in his official capacity)

Defendant

Civil Action No. 24-cv-01487

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Signature of the attorney or unrepresented party

Paul A. Kinne

Printed name

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Madison, WI 53717

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kinne@gtwlawyers.com

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UNITED STATES DISTRICT COURT
for the
Eastern District of Wisconsin

CEDRIC BANKS

Plaintiff

MICHAEL LAZARIS (in his individual capacity),
MICHAEL DOBSCHUETZ (in his individual capacity),
and PATRICK MITCHELL (in his official capacity)

Defendant

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Civil Action No. 24-cv-01487

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(Name of the plaintiff's attorney or unrepresented plaintiff)

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Date:

Signature of the attorney or unrepresented party

Patrick Mitchell

Printed name of party waiving service of summons

Printed name

Address

E-mail address

Telephone number

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"Good cause" does not include a belief that the lawsuit is groundless, or that it has been brought in an improper venue, or that the court has no jurisdiction over this matter or over the defendant or the defendant's property.

If the waiver is signed and returned, you can still make these and all other defenses and objections, but you cannot object to the absence of a summons or of service.

If you waive service, then you must, within the time specified on the waiver form, serve an answer or a motion under Rule 12 on the plaintiff and file a copy with the court. By signing and returning the waiver form, you are allowed more time to respond than if a summons had been served.

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF WISCONSIN

CEDRIC BANKS,

Plaintiff,

v.

Civil Action No.: _____

[Trial by Jury Demanded]

MICHAEL LAZARIS
(In his individual capacity),

MICHAEL DOBSCHUETZ
(In his individual capacity),

and

PATRICK MITCHELL
(In his official capacity),

Defendants.

COMPLAINT

NOW COMES Plaintiff, CEDRIC BANKS, through his attorneys, GINGRAS, THOMSEN & WACHS, LLP, and offers the following as the Complaint in this matter:

INTRODUCTION

1. This is a civil rights action under 42 U.S.C. § 1983 to redress the deprivation under color of law of Plaintiff's rights to be free of excessive force in violation of the due process clause as secured by the Fourth and Fourteenth Amendments to the United States Constitution.

NATURE OF PROCEEDINGS

2. Plaintiff brings this case via 42 U.S.C. § 1983, under the Fourth and Fourteenth Amendments of the United States Constitution. Plaintiff alleges Defendants Michael Lazaris and Michael Dobschuetz used excessive force by dragging Plaintiff out of his vehicle and assaulting him, including the use of pepper spray and a Taser. The plaintiff also alleges that the policies, procedures and practices in force at the West Allis Police Department, as adopted and enforced by Police Chief Patrick Mitchell, caused harm to Plaintiff.

JURISDICTION AND VENUE

3. The Court has jurisdiction over this matter pursuant to 28 U.S.C. sec. 1331 and 28 U.S.C. § 1343(a)(3) because all claims arise under federal law.

4. Venue is proper under 28 U.S.C. sec. 1391 in that all of the acts alleged to have been committed by the defendants occurred within the Eastern District of Wisconsin.

PARTIES

5. Plaintiff Cedric Banks (Banks) is an adult resident of the State of Wisconsin.

6. Defendant Michael Lazaris (Lazaris) has at all times relevant hereto been a police officer with the West Allis Police Department. The claims against him are in his individual capacity, and the conduct attributed to him was taken under color of law, within the scope of his employment, and it was intentional.

7. Defendant Michael Dobschuetz (Dobschuetz) has at all times relevant hereto been a police officer with the West Allis Police Department. The claims against

him are in his individual capacity, and the conduct attributed to him was taken under color of law, within the scope of his employment, and it was intentional.

8. Defendant Patrick Mitchell (Mitchell) has at all times relevant hereto been the Chief of Police for the West Allis Police Department, giving him final policy making authority with respect to the department. The claims alleged against him are in his official capacity only.

FACTS

9. On May 9, 2024, Lazaris stopped the vehicle driven by Banks.

10. Lazaris asked Banks to give him (Lazaris) his keys while Banks was sitting in his vehicle.

11. As Banks was complying with the order, Lazaris physically attacked Banks. Dobschuetz then joined in the attack. Lazaris and / or Dobschuetz administered pepper spray on Banks's face. Lazaris and / or Dobschuetz then Tasered Banks.

12. The use of force was not justified. It was excessive.

13. Banks suffered physical and emotional injuries as a result of the officers' use of excessive force.

14. Banks also suffered economic damages as a result of the officers' unlawful conduct.

15. Officers with the West Allis Police Department, including Lazaris and Dobschuetz, are trained to use force against complying detainees in a manner consistent with the way Lazaris and Dobschuetz treated Banks on May 9, 2024.

16. It is the policy of the West Allis Police Department to use force against complying detainees in a manner consistent with the way Lazaris and Dobschuetz treated Banks on May 9, 2024.

**CLAIM FOR RELIEF AGAINST LAZARIS AND DOBSCHUETZ -
VIOLATION OF THE FOURTH AND FOURTEENTH AMENDMENTS -
EXCESSIVE FORCE**

17. Plaintiff realleges and incorporates by reference, all preceding allegations.

18. By engaging in the conduct described in this Complaint, Lazaris and Dobschuetz used excessive force against Banks in violation of the Fourth and Fourteenth Amendments to the United States Constitution.

19. This violation of Banks's rights has caused Banks severe and permanent physical, emotional and economic damages.

THIRD CLAIM FOR RELIEF: MONELL CLAIM

20. Plaintiff realleges and incorporates by reference all the allegations in the preceding paragraphs.

21. The policies, practices and training at the West Allis Police Department, as described in this Complaint, resulted in Lazaris and Dobschuetz using excessive force against Banks.

22. This violation of Banks's rights has caused Banks severe and permanent physical, emotional and economic damages.

WHEREFORE, the plaintiff demands judgment against the defendants, jointly and severally, as follows:

a. Against Lazaris and Dobschuetz in their individual capacities, for compensatory damages, for the severe injuries caused by the use of excessive force against Banks, as set forth above, and for the violation of his rights as set forth above in an amount to be determined at trial of this matter;

b. Against Lazaris and Dobschuetz in their individual capacities for punitive damages in an amount to deter them and others from engaging in similar conduct;

c. Against Mitchell in his official capacity for compensatory damages for the severe injuries, as set forth above, and for the violation of Banks's rights as set forth above in an amount to be determined at trial of this matter.

d. For all costs, disbursements and actual attorneys' fees pursuant to 42 U.S.C. § 1988, and for such other relief as the Court deems just and equitable.

PLAINTIFF HEREBY DEMANDS A JURY TRIAL OF THIS MATTER ON ALL ISSUES SO TRIABLE.

Respectfully Submitted:

November 15, 2024

GINGRAS, THOMSEN & WACHS, LLP

Electronically signed by s/ Paul A. Kinne

Paul A. Kinne

State Bar No.: 1021493

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Madison, WI 53717

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Email: Kinne@gtwlawyers.com