

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

BRAD SANDEFUR,)	
)	
Plaintiff,)	
)	
v)	
)	Case No.
VILLAGE OF HANOVER PARK, ILLINOIS,)	
RONALD CRAIG, Individually and as President)	
of Hanover Park, RONALD MOSER, Individually)	
and Village Manager of Hanover Park, THOMAS)	
CORTESE, Individually and Deputy Chief of Police))	
of Hanover Park, MARK GATZ, Individually and as))	JURY TRIAL DEMANDED
Deputy Chief of Police of Hanover Park, John Doe))	
Hanover Park Police Officers,)	
Defendants.)	

COMPLAINT

NOW COMES BRAD SANDEFUR, an Individual, and by and through his attorneys, RONALD L. BELL & ASSOCIATES, P.C. and STEPHEN G. KEHOE and for his Complaint against the Defendants VILLAGE OF HANOVER PARK, ILLINOIS, RONALD CRAIG, RONALD MOSER, THOMAS CORTESE and MARK GATZ, states as follows:

I. General Nature of this Action

1. This is a civil action seeking compensatory and punitive damages against the individual defendants and the VILLAGE OF HANOVER PARK, ILLINOIS and equitable relief including but not limited to an injunction and declaratory judgment against the defendant entity VILLAGE, its President RONALD CRAIG, its Village Manager RONALD MOSER, AND its Deputy Chiefs of Police THOMAS CORTESE and MARK GATZ for depriving the Plaintiff, while acting under color of state law, of rights secured to him by the United States Constitution, including but not limited to the rights secured by the First, Fourth and Fourteenth Amendments

to the Constitution, laws of the United States, the Illinois Constitution and the laws of the State of Illinois.

II. Jurisdiction and Venue

2. This matter arises under the Constitution and laws of the United States, specifically the Fifth and Fourteenth Amendments to the Constitution of the United States and 42 U.S.C. §§ 1983, 1985 and 1988.

3. This Court has jurisdiction over this action pursuant to 28 U.S.C. §§ 1331 and 1343. Plaintiff further invokes the pendent jurisdiction of this Court pursuant to 28 U.S.C. § 1367 to consider claims arising under state law.

4. The claims made by Plaintiff in this action arose within this judicial district. Venue is proper pursuant to 28 U.S.C. § 1391(b).

III. Parties

5. Plaintiff, BRAD SANDEFUR (“PLAINTIFF”) is a United States Citizen residing at 7935 Berkshire Drive, Hanover Park, County of Cook, State of Illinois, Northern District of Illinois at all times pertinent hereto.

6. Defendant VILLAGE OF HANOVER PARK (“VILLAGE”) is a lawfully constituted Village in the State of Illinois. The VILLAGE is being sued only in its official capacity for purposes of obtaining appropriate injunctive and declaratory relief herein related to the actions taken by its defendant agents and employees recounted herein. No money damages are being sought against it.

7. Defendant RONALD CRAIG (“CRAIG”), is an employee of the VILLAGE and at all times pertinent hereto acted as the President of the Board of the Council governing the VILLAGE and as an individual in the actions he took against the PLAINTIFF herein, all under

color of state law. It was among his duties and responsibilities as President to monitor, restrict and control the actions of the Village Manager RONALD MOSER and the police of the VILLAGE to seek to replace them if necessary to maintain the rule of law. He is sued in his individual and official capacities.

9. Defendant, RONALD MOSER (“MOSER”), is Manager of the VILLAGE and at all times pertinent hereto acted both as an agent for the VILLAGE and as an individual in the actions he took against the PLAINTIFF herein, all under color of state law. As the chief administrative officer for the VILLAGE, he is responsible for day to day VILLAGE operations and appointed all department heads. He is sued in his individual capacity.

10. Defendant THOMAS CORTESE (“CORTESE”), is an employee of the VILLAGE and at all times pertinent hereto acted both as the Deputy Chief of Police in charge of Support Services for the VILLAGE and as an individual in the actions he took or failed to take which harmed the PLAINTIFF herein, all under color of state law. He is sued in his individual capacity.

11. Defendant, MARK GATZ (“GATZ”), is an employee of the VILLAGE and at all times pertinent hereto acted both as the Deputy Chief of Police in charge of Operations for the VILLAGE and as an individual in the actions he took or failed to take which harmed the PLAINTIFF herein, all under color of state law. He is sued in his individual capacity.

IV. Factual Allegations

12. PLAINTIFF is currently and at all times pertinent hereto has been a Sergeant of the Cook County Sheriff’s Department and has been assigned to work at the Cook County Jail for the past twenty-one (21) years. In that capacity, as a duly authorized law enforcement officer, PLAINTIFF is permitted by law to carry a firearm on his person, both on and off duty. Further,

federal law codified as the “Law Enforcement Officers Safety Act of 2004,” 18 U.S.C. Sec. 926B, provides that he may carry his weapon concealed while off duty.

13. On February 4, 2010 the VILLAGE Board was conducting its regularly scheduled monthly meeting wherein the PLAINTIFF, the Defendants and several of PLAINTIFF’s neighbors and acquaintances were in attendance at the VILLAGE hall premises. At that time, the PLAINTIFF, who was scheduled to present an issue related to a serious water flow and icing problem that was occurring in front of and adjacent to his Hanover Park property and that of several of his neighbors, began to make his verbal presentation to the Board accompanied by Mr. Paul Lussky, one of his impacted neighbors.

14. As part of his presentation, the PLAINTIFF was permitted to approach the area directly in front of the raised table of the Council and to place his exhibit photographs depicting the extent of the problem in front of them for review and evaluation. In doing so, it was necessary for him to raise his arms up and extend them forward to reach the table. Upon completion of his placement of the photographs, while continually talking to the Board about the problem, he turned and made his way back to the podium to complete his presentation.

15. Suddenly, however, after arriving back at the podium, PLAINTIFF was accosted by several Hanover Park officers who grabbed him and his neighbor, physically restraining PLAINTIFF and saying that they had observed a holster which they believed contained a weapon under his clothing. Despite PLAINTIFF’s immediate attempts to identify himself as a law enforcement officer and, indeed, one of the Board members, Lori Kaiser, indicating to the Defendants that she knew the PLAINTIFF to be such, the Hanover Park officers, which eventually included Defendants CORTESE and GATZ and defendant MOSER, continued to remove Plaintiff bodily from the meeting room and to restrain him, all to the dismay and shock

of those in attendance, especially those who knew the PLAINTIFF. At this point, the actions of the Defendants and the other unknown officers, undertaken after there was a reasonable basis to believe that PLAINTIFF was a law enforcement officer entitled to carry a concealed weapon and said parties ignored these facts, constituted a false imprisonment of the PLAINTIFF in violation of his constitutional and statutory rights.

16. Once outside the meeting chamber and while in the process of imposing their false imprisonment upon the PLAINTIFF, the Defendants forcibly removed PLAINTIFF's handgun from its holster. Attempting to obtain his identification to show the Defendants that they were mistaken in their removal of him from the meeting, PLAINTIFF was unable to do so as they continued to completely restrain him. One of the officers then reached into PLAINTIFF's pocket and removed his identification and gave it to the Defendants.

17. After a few minutes reviewing PLAINTIFF'S credentials, Defendant MOSER, with Defendants CORTESE and GATZ present, ordered the officers to release the PLAINTIFF and to return his gun to him. Defendant MOSER then also allowed PLAINTIFF'S neighbor Paul Lussky to return to the meeting to make his presentation concerning the icing problem.

18. However, when PLAINTIFF sought to re-enter the meeting, Defendant MOSER advised him that he could not come back in since he had already caused enough of a disturbance. MOSER further advised PLAINTIFF that he could come back to the next scheduled meeting instead if he wanted to make any further presentation but that he would be arrested for trespass if he did not leave immediately, whether or not he agreed to leave his gun outside. Additionally, he was told by the Defendants that he would be arrested for trespass if he ever tried to bring his gun into a meeting again. Protesting to no avail to these Defendants that he had the right to carry the

concealed weapon and to return to the meeting, PLAINTIFF was not permitted back into the meeting and thereupon left the premises.

19. Defendant MOSER then returned to the meeting room where he addressed the crowd saying that PLAINTIFF appeared to be a correctional officer, possessed a gun and a badge, and had been removed from the building. Defendant CRAIG then thanked the police for being observant, chuckled about the matter and the meeting continued. When Mr. Lussky offered to explain the situation involving PLAINTIFF, Defendant CRAIG stopped him stating simply “I don’t want to know.”

20. On or about February 11, 2010, the Daily Herald newspaper reported the incident, reciting the foregoing facts, including the fact that PLAINTIFF had been wearing a distinctive red Marine jacket when he was removed from the meeting and stating further that Defendant MOSER added when asked by the press that he made the call to bar the PLAINTIFF and that the officers who removed him handled the situation very well.

21. Several days after the February 4 meeting in question Defendant CRAIG telephoned PLAINTIFF to advise him that he need not return to the next meeting because the VILLAGE would be repairing the icing problem soon. Nonetheless, PLAINTIFF went to the next meeting, but without his gun because he feared arrest, to see what the Defendants would do. Upon his arrival, Defendant CORTESE took him aside and asked PLAINTIFF if he had his gun. When PLAINTIFF said “No”, Defendant CORTESE suddenly changed course and said that it would be allowable for him to wear the gun at future meetings. Thereafter, up to the present day, despite Defendant CRAIG’s assurances that the icing problem would be corrected without PLAINTIFF’s further exercise of his right to free speech and assembly, no one has ever done so and so the problem still exists.

22. Additionally, at no time did the Defendants make or attempt to make any public announcement at any meeting or otherwise seek to correct their position in the Press that their actions in removing PLAINTIFF from the meeting on February 4 was proper or that PLAINTIFF acted properly and in accordance with the law in wearing his gun into the meeting.

COUNT I

Section 1983- Deprivation Of First, Fourth, and Fourteenth Amendment Rights

23. The PLAINTIFF hereby incorporates and realleges paragraphs 1-22 of this Complaint as paragraphs 23 of this Count I as if fully restated herein.

24. The First Amendment of the United States Constitution protects United States citizens such as the PLAINTIFF in their right to freely speak and assemble in public forums to seek redress of grievances they may have about the conduct of their government, especially when it involves the safety and security of their homes and families.

25. The Fourth Amendment of the United States Constitution further protects United States citizens such as the PLAINTIFF against unreasonable searches and seizures and false imprisonments resultant therefrom as occurred here.

26. 42 U.S.C. Section 1983 provides in pertinent part that:

Every person who, under color of any statute, ordinance, regulation, custom or usage of any State or Territory or the District of Columbia subjects or causes to be subjected, any citizen of the United States or other persons within the jurisdiction thereof of the deprivation of any rights, privileges or immunities secured by the Constitution and laws shall be liable to the party injured in any action at law, suit in equity or other proper proceedings for redress...

27. The Defendants actions and inactions violated the PLAINTIFF's right to be free from undue restraints upon his liberty and deprivations of his right to free speech and assembly, to be free from unreasonable searches of his person and due process prior to imprisonment as

guaranteed by the First, Fourth and Fourteenth Amendments to the Constitution of the United States.

28. Upon information and belief, the Defendants acted in their individual capacities under color of state law to deprive the PLAINTIFF of his right to free speech, assembly, liberty, and due process when they physically restrained and removed him from the open meeting of the Board and thereafter searched him, falsely imprisoned him, seized both his weapon and his identification and prevented his return to the meeting, indicating in doing so that he was required to leave the premises or be arrested and would further be arrested for trespass if he ever returned with his weapon again, all without a hearing to challenge their actions and to protect his rights.

29. The Defendants actions and/or inactions under color of state law were with the knowledge that such actions were without basis in the law or were taken intentionally and recklessly without concern for the fact that they lacked any such basis, with the deliberate and malicious intent to cause PLAINTIFF great personal and economic harm, and deprive him of his rights under the United States Constitution and the law of the State of Illinois. This intent to harm is exemplified by the manner in which the defendants reported the incident to the Daily Herald Newspaper, as they characterized the actions of security at the meeting were handled very well and never once apologized to the PLAINTIFF for the actions taken against him or indicated that his attendance at the meeting with a concealed weapon was in compliance with the law.

30. The Defendants, in excess of their authority and their discretionary position and powers, issued an administrative order, illegal and punitive in nature, against the PLAINTIFF which deliberately caused him substantial personal and economic harm as aforesaid.

31. The restraint, removal and false imprisonment of the PLAINTIFF at the meeting despite the Defendants' knowledge that he was a law enforcement officer and the later wrongful

statements made against the PLAINTIFF to the Daily Herald Newspaper were improper and illegal actions taken under color of state law by each of the Defendants.

32. The aforementioned actions or inactions of the defendants and each of them were undertaken under color of state law and deprived the PLAINTIFF of due process of law and his rights to free speech, assembly and liberty without unreasonable searches, seizures and false imprisonments, all in violation of the First, Fourth and Fourteenth Amendments to the United States Constitution.

33. As a direct and proximate result of the intentional violation of the aforementioned free speech, due process and liberty rights, the PLAINTIFF suffered great mental anguish, severe emotional distress, injury to his reputation, exposure to public disgrace, scandal and humiliation. The failure and refusal of the defendants to rectify the situation by a retraction and clarification in the Press has further exacerbated the harm to the PLAINTIFF.

34. There is therefore a substantial likelihood that the PLAINTIFF will have success on the merits of this case. Moreover, PLAINTIFF will surely suffer irreparable and continuing harm to his personal reputation and well being even with a judgment for money against the Defendants. Since money alone will not be adequate to protect the PLAINTIFF and to properly balance the equities involved here, an affirmative injunction directing the Defendants to publish a retraction of their earlier statements to the Press about the propriety of their conduct toward PLAINTIFF at the open meeting in question along with an apology and a requirement that they never again restrict or restrain the PLAINTIFF or any other off duty law enforcement officials from carrying their weapons concealed during VILLAGE meetings in compliance with federal law is appropriate.

35. There will furthermore be no prejudice to the Defendants in the entry of declaratory and injunctive relief as the Defendants advised the PLAINTIFF when he attempted to return to a VILLAGE meeting two weeks later after the incident in question that they were changing their position and he would be permitted in the future to carry his service weapon at future meetings without incident. Nonetheless, because of the possibility that the Defendants might once again change their mind and bar PLAINTIFF entry to its public meetings on a whim as they did at the meeting of February 4, 2010, an injunction in PLAINTIFF's favor must be entered.

WHEREFORE, the PLAINTIFF, BRAD SANDEFUR, demands that this Honorable Court grant Judgment in his favor and against the Defendants VILLAGE OF HANOVER PARK, RONALD CRAIG, RONALD MOSER, THOMAS CORTESE and MARK GATZ, awarding the following relief:

A. Issue a declaratory judgment that the defendants and each of them violated the PLAINTIFF'S constitutional rights and his rights under federal statutory law to carry his service weapon concealed without restriction when they acted as they did on February 4, 2010 and thereafter.

B. Issue a preliminary and permanent injunction enjoining the VILLAGE and any of its agents, including but not limited to the individual Defendants, from ever barring or otherwise restricting access to its open meetings by any off duty law enforcement personnel who happen to be carrying their service weapon concealed and requiring the VILLAGE and the other defendants to publish a retraction of their comments in February 11, 2010 Daily Herald article and an apology to the PLAINTIFF for violating his rights as a duly authorized law enforcement officer.

- C. Award compensatory damages against the individual Defendants, RONALD CRAIG, RONALD MOSER, THOMAS CORTESE and MARK GATZ, jointly and severally, in an amount in excess of \$500,000.00 in accordance with the proofs;
- D. Award exemplary and punitive damages against the individual Defendants RONALD CRAIG, RONALD MOSER, THOMAS CORTESE and MARK GATZ in the total amount of \$1,000,000.00 or treble the amount of compensatory damages, whichever is the greater amount;
- E. Award reasonable and necessary attorney fees against the individual Defendants RONALD CRAIG, RONALD MOSER, THOMAS CORTESE and MARK GATZ incurred in presenting this case pursuant to 42 U.S. C. 1988;
- F. For other and further relief as this Honorable Court deems just and equitable.

COUNT II

**42 U.S.C. 1983- Supervisory Refusal /Neglect
To Properly Instruct, Supervise, Control and Discipline**

36. The PLAINTIFF restates and realleges the allegations of paragraphs 1-35 as paragraph 36 of this Count II as if fully set forth herein.

37. The Constitutional violations detailed above were only possible for CORTESE and GATZ and others unknown to perpetrate because of the customs, policies and practices of the Defendants VILLAGE, CRAIG and MOSER whereby said Defendants utterly failed and refused to instruct, supervise, control and discipline the aforesaid subordinate defendants.

38. At all times mentioned herein CORTESE and GATZ were acting under the supervision of Defendants CRAIG and MOSER and/or other unknown agents of the VILLAGE.

39. At all times mentioned herein Defendants CORTESE and GATZ were acting under the supervision of other unknown actors and Defendants CRAIG and MOSER.

40. The supervisory defendants at the VILLAGE failed to act and/or failed to direct the subordinate defendants to establish and follow policies and procedures in the VILLAGE for any proper and measured response to PLAINTIFF'S possession of a concealed weapon, all of which denied the PLAINTIFF his constitutional rights and proximately caused the injuries complained of herein.

41. The VILLAGE and its supervisory defendants furthermore failed and/or refused to carry out their respective duties to oversee, control and discipline the subordinate defendants, knowing that their failure to do so would likely cause a deprivation of the PLAINTIFF's constitutional rights by those subordinates.

42. The VILLAGE supervisory defendants' failure to properly supervise, on information and belief, has included a customary failure to take steps to control, instruct, monitor, and discipline the subordinate defendants to ensure that they were adhering to the principles and policies of any training that they received, thus maintaining an atmosphere where said subordinate defendants could and did violate the federal constitutional and state rights of the PLAINTIFF.

43. The VILLAGE supervisory defendants herein named had a duty to oversee their subordinates but they grossly disregarded that duty that a reasonable man in the supervisor's position would have performed, and knew or should have known that that dereliction of duty would certainly cause a violation of the PLAINTIFF's constitutional rights.

44. Acting under color of law and pursuant to official policy or custom, the above named supervisory defendants knowingly, recklessly or with gross negligence, failed to instruct, supervise, control, and discipline on a continuing basis the subordinate defendants from, inter alia:

A. Seizing and unreasonably restraining and imprisoning the PLAINTIFF, along with his weapon and his identification, and thereafter excluding him from an open meeting at the VILLAGE under threat of arrest, where he was attempting to exercise his right to free speech and assembly, without due cause; and

B. Unlawfully failing and refusing to provide a due process hearing with regard to the propriety of the actions taken against the PLAINTIFF;

45. On information and belief, no action has ever been taken to discipline, instruct or retrain RONALD CRAIG, RONALD MOSER, THOMAS CORTESE and MARK GATZ or anyone else responsible for the wrongful removal of PLAINTIFF from the February 4, 2010 open meeting or its aftermath as set forth above.

WHEREFORE, the Plaintiff, BRAD SANDEFUR, respectfully prays this Honorable Court grant Judgment against the Defendants VILLAGE OF HANOVER PARK, RONALD CRAIG, RONALD MOSER, THOMAS CORTESE and MARK GATZ., awarding the following relief:

A. Issue a declaratory judgment that the defendants and each of them violated the PLAINTIFF'S constitutional rights and his rights under federal statutory law to carry his service weapon concealed without restriction when they acted as they did on February 4, 2010 and thereafter.

B. Issue a preliminary and permanent injunction enjoining the VILLAGE and any of its agents, including but not limited to the individual defendants, from ever barring or otherwise restricting access to its open meetings by any off duty law enforcement personnel who happen to be carrying their service weapon concealed and requiring the VILLAGE and the other defendants to publish a retraction of their comments in February 11, 2010 Daily Herald article

setting forth, inter alia, an admission that their removal of him from the meeting was unlawful and an apology to the PLAINTIFF for violating his rights as a duly authorized law enforcement officer.

C. Award compensatory damages jointly and severally against the individual defendants RONALD CRAIG, RONALD MOSER, THOMAS CORTESE and MARK GATZ in an amount in excess of \$500,000.00 in accordance with the proofs;

D. Award exemplary and punitive damages against the individual defendants RONALD CRAIG, RONALD MOSER, THOMAS CORTESE and MARK GATZ in the total amount of \$1,000,000.00 or treble the amount of compensatory damages, whichever is the greater amount;

E. Award reasonable and necessary attorney fees against the individual defendants RONALD CRAIG, RONALD MOSER, THOMAS CORTESE and MARK GATZ incurred in presenting this case pursuant to 42 U.S. C. § 1988;

E. For other and further relief as this Honorable Court deems just and equitable.

Count III
False Light

46. The PLAINTIFF hereby realleges and restates paragraphs 1-45 of this Complaint as paragraph 46 of this Count III as if fully set forth herein.

47. The wrongful restraint and removal of the PLAINTIFF from the Board meeting, the refusal to allow his immediate return, the threat to arrest him for trespass if he did not leave immediately, the threat to arrest him if he later returned with his service weapon and the mischaracterization of his removal from the meeting as appropriate at the meeting and in the Press all put the PLAINTIFF in a false light to his family, his neighbors, his employer, other law enforcement officers and the community at large.

48. The wrongful actions of the defendants and each of them were undertaken with actual malice and put the PLAINTIFF in a false light to his family, his neighbors, his employer, other law enforcement officers and the community.

49. All the above actions and inactions by individual defendants were highly offensive and embarrassing to the PLAINTIFF and would have been so to any reasonable person. The public at large including, but not limited to the PLAINTIFF'S neighbors, his co-workers, his employer, as well as PLAINTIFF and his family were exposed to this false light.

50. As a direct and proximate result of the intentional placement of the PLAINTIFF in a false light by the Defendants, the PLAINTIFF suffered great mental anguish, severe emotional distress, injury to his relationship with his neighbors and to his reputation, exposure to public disgrace, scandal and humiliation.

WHEREFORE, the Plaintiff, BRAD SANDEFUR, demands that this Honorable Court grant Judgment against the Defendants VILLAGE OF HANOVER PARK, RONALD CRAIG, RONALD MOSER, THOMAS CORTESE and MARK GATZ awarding the following relief:

A. Issue a declaratory judgment that the defendants and each of them violated the PLAINTIFF'S rights under the law to carry his service weapon concealed without restriction when they acted as they did on February 4, 2010 and thereafter.

B. Issue a preliminary and permanent injunction enjoining the VILLAGE and any of its agents, including but not limited to the individual defendants, from ever barring or otherwise restricting access to its open meetings by any off duty law enforcement personnel who happen to be carrying their service weapon concealed and requiring the VILLAGE and the other defendants to publish a retraction of their comments in February 11, 2010 Daily Herald article setting forth, inter alia, an admission that their removal of him from the meeting was unlawful

and an apology to the PLAINTIFF for violating his rights as a duly authorized law enforcement officer.

C. Award compensatory damages jointly and severally against the individual Defendants RONALD CRAIG, RONALD MOSER, THOMAS CORTESE and MARK GATZ, in an amount in excess of \$500,000.00 in accordance with the proofs;

D. Award exemplary and punitive damages against the individual Defendants RONALD CRAIG, RONALD MOSER, THOMAS CORTESE and MARK GATZ, in the total amount of \$1,000,000.00 or treble the amount of compensatory damages, whichever is the greater amount;

E. Award reasonable and necessary attorney fees against the individual Defendants RONALD CRAIG, RONALD MOSER, THOMAS CORTESE and MARK GATZ, incurred in presenting this case pursuant to 42 U.S. C. 1988;

F. For other and further relief as this Honorable Court deems just and equitable.

Respectfully submitted,

BRAD SANDEFUR,
Plaintiff.

By: s/Ronald L. Bell
One of His Attorneys

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