

ORIGINAL

Brady Byrum, Plaintiff

§

United States District Court

§

v

§

Northern District of Texas, Dallas

§

City of Plano, Defendant

§

James Forsythe, private capacity

§

Judge

8-10CV2244-N

CIVIL COMPLAINT FOR DAMAGES

PARTIES

U.S. DISTRICT COURT
 NORTHERN DISTRICT OF TEXAS
 FILED
 NOV - 5 2010
 CLERK, U.S. DISTRICT COURT
 By Deputy *[Signature]*

Comes now Brady Byrum, Plaintiff, (hereinafter also known as Byrum) in the above styled and numbered cause of action against the City of Plano, Defendant, (hereinafter also known as Plano), and against James Forsythe (hereinafter also known as Forsythe), in his private capacity.

1. Byrum presently has no Attorney for this action, and requests recognition by this Court of the status of "sui juris, propria persona", instead of the diminished capacity of pro-se. Ref: Black's 6th p. 792 and p. 1434.

CONTACT INFORMATION

2. Plaintiff Byrum can be reached at the home of 2802 Cary Drive, Mesquite, Texas 75150, telephone number 972-682-4729. Defendants Plano and Forsythe can be reached at 1520 Avenue K, Plano, Texas 75074, telephone number 972-941-7000.

VENUE

3. Because Byrum domiciles in Dallas County and because Plano has its situs in Collin County, and Forsythe is alleged to have worked for/at Plano at the time and place of the torts and rights deprivations committed by him against Byrum, the United States District Court, Northern District of Texas at Dallas is the proper venue for this suit.

JURISDICTION

4. The jurisdiction of this Court is invoked under the provisions of §§1331, 1332 and 1343(a)(1-4) of Title 28, U.S.C., and §§1983, 1985 and 1986 of Title 42, U.S.C., and the supplemental jurisdiction of this Court, under §1367 of Title 28, U.S.C., with respect to the causes of action under state law sounding in tort.

5. Because Byrum alleges Federal Deprivation of Rights protected by the 1st, 5th, 13th and 14th Amendments, and because Byrum alleges torts caused by Forsythe and Plano, that fit within the confines of the legislated language of 42 USC 1983, 1984, 1985 and 1986, and the **Religious Freedom Act, Federal Public Law, 103-141**, this court has Jurisdiction to hear and adjudicate this case.

6. Further, the amount in controversy is \$75,001.00 to invoke the jurisdiction of the Court under 28 USC 1332.

JURY TRIAL REQUESTED

7. Byrum hereby requests a Jury Trial and for the Jurors to decide on all issues capable of being heard and decided by a Jury. respectfully demand my right to trial by jury on all issues, in furtherance of my rights under the *Seventh* and *Fourteenth Amendments as it applies to the State of Texas*, and pursuant to F.R.C.P. 38.

CONTROLLING LAW

8. The First Amendment to the U.S. Constitution provides that: “Congress [or state legislatures] shall make no law respecting an establishment of religion, or prohibiting the free exercise thereof; or abridging the freedom of speech [or to choose not to speak and the right to privacy and to be left alone], or of the press; or the right of the people peacefully to assemble [which includes the right to interstate travel], and to petition the Government for a redress of grievances.”

9. The Fifth Amendment to the U.S. Constitution provides that: “No person...shall be compelled in any criminal case to be a witness against himself, nor be deprived of life, liberty, or property without due process of law; nor shall private property be taken for public use, without just compensation.”

10. The Thirteenth Amendment to the U.S. Constitution provides that: “Neither slavery nor involuntary servitude, except as punishment for crime whereof the party shall have

been duly convicted shall exist within the United States, or any place subject to their jurisdiction.”

11. The Fourteenth Amendment to the U.S. Constitution provides that: “...No State shall make or enforce any law which shall abridge the privileges or immunities of citizens of the United States; nor shall any State deprive any person of life, liberty, or property, without due process of law; nor deny to any person within its jurisdiction the equal protection of the laws.”

12. “Where rights secured by the Constitution are involved, there can be no rule making or legislation which would abrogate them.” *Miranda v. Arizona*, 384 U.S. 436, 491.

CAUSE OF ACTION NUMBER ONE

13. Byrum repeats and reiterate each and every allegation and statement contained in the paragraphs of this Complaint designated as 1 through 12 inclusive, with the same force and effect as though each were fully set forth at length herein.

Conspiracy, Forsythe has conspired with others to unlawfully extort funds from Defendant and other people outside the strict, limited, delegated powers that we entrusted him and all other Plano public servants with when he and the others gave us their OATH OF OFFICE, that we received and accepted as all of your contractual promises to not violate ANY of our rights at ANY time in ANY manner, while in OUR Offices.

CAUSE OF ACTION NUMBER TWO

14. Byrum repeats and reiterate each and every allegation and statement contained in the paragraphs of this Complaint designated as 1 through 13 inclusive, with the same force and effect as though each were fully set forth at length herein.

Breach of Contract, Forsythe has breached his OATH OF OFFICE by unlawfully committing false arrest and by filing false charges against Defendant in violation of the many laws shown in this Motion to Quash.

CAUSE OF ACTION NUMBER THREE

15. Byrum repeats and reiterate each and every allegation and statement contained in the paragraphs of this Complaint designated as 1 through 14 inclusive, with the same force and effect as though each were fully set forth at length herein.

Breach of Fiduciary Duty, Forsythe and all other public servants are in fact Fiduciaries in OUR Offices, and Forsythe has unlawfully breached that duty by committing false arrest and filing false charges, without OUR delegated permission, collecting extortion and using the funds for his and for other co-conspirators' pay.

CAUSE OF ACTION NUMBER FOUR

16. Byrum repeats and reiterate each and every allegation and statement contained in the paragraphs of this Complaint designated as 1 through 15 inclusive, with the same force and effect as though each were fully set forth at length herein.

Common Law Fraud, Forsythe has unlawfully committed fraud against Defendant, in his attempt to extort money from Defendant, by using the Court system powers available to him, that then collects fines, that then goes into the general funds of the City of Plano, that then goes into his and the other participants paychecks and raises, bonuses and other benefits.

CAUSE OF ACTION NUMBER FIVE

17. Byrum repeats and reiterate each and every allegation and statement contained in the paragraphs of this Complaint designated as 1 through 16 inclusive, with the same force and effect as though each were fully set forth at length herein.

Intentional Infliction of Emotional Distress, Forsythe has unlawfully caused the intentional infliction of emotional distress by committing false arrest and filing false charges, causing Byrum to fear reprisals from the City of Plano, Collin County and the State of Texas, for having brought these charges into public records.

CAUSE OF ACTION NUMBER SIX

18. Byrum repeats and reiterate each and every allegation and statement contained in the paragraphs of this Complaint designated as 1 through 17 inclusive, with the same force and effect as though each were fully set forth at length herein.

Defamation, Forsythe has unlawfully invaded Byrum's interest in his reputation and good name.

CAUSE OF ACTION NUMBER SEVEN

19. Byrum repeats and reiterate each and every allegation and statement contained in the paragraphs of this Complaint designated as 1 through 18 inclusive, with the same force and effect as though each were fully set forth at length herein.

Libel and Slander, Forsythe has unlawfully published Byrum's name in false charges, and this has further threatened to compel other agencies like Collin County and the State of Texas to attempt to penalize Byrum.

CAUSE OF ACTION NUMBER EIGHT

20. Byrum repeats and reiterate each and every allegation and statement contained in the paragraphs of this Complaint designated as 1 through 19 inclusive, with the same force and effect as though each were fully set forth at length herein.

Negligence, Forsythe has been negligent in his public servant duties, unlawfully acting outside the confines of a republican form of government, by committing false arrest and filing false charges against Byrum.

CAUSE OF ACTION NUMBER NINE

21. Byrum repeats and reiterate each and every allegation and statement contained in the paragraphs of this Complaint designated as 1 through 20 inclusive, with the same force and effect as though each were fully set forth at length herein.

Negligent Misrepresentation, by Forsythe having an indirect but inseparable

pecuniary interest in the false charges, by the potential funds collected in the form of fines, going into the general funds of the City, from which Forsythe is paid, and unlawfully misrepresented his actions as being lawful when they are not.

CAUSE OF ACTION NUMBER TEN

22. Byrum repeats and reiterate each and every allegation and statement contained in the paragraphs of this Complaint designated as 1 through 21 inclusive, with the same force and effect as though each were fully set forth at length herein.

Common Law Breach of Warranty, by having warranted Forsythe's actions and behaviors with an OATH and BOND, to be lawful at all times during his public service, when he has violated so many laws for making false arrest and filing false charges against Byrum.

CAUSE OF ACTION NUMBER ELEVEN

23. Byrum repeats and reiterate each and every allegation and statement contained in the paragraphs of this Complaint designated as 1 through 22 inclusive, with the same force and effect as though each were fully set forth at length herein.

18 USC §1346, **Failure to put forth Honest Government Service**, by Plano having failed to properly hire, train, supervise, discipline, correct, and block Forsythe from committing torts and crimes against Byrum, Plano has aided, abetted and participated, even encouraged Forsythe in his fraudulent deeds against Byrum to allow him to be a funds-creating, revenue agent for the City.

CAUSE OF ACTION NUMBER TWELVE

24. Byrum repeats and reiterate each and every allegation and statement contained in the paragraphs of this Complaint designated as 1 through 23 inclusive, with the same force and effect as though each were fully set forth at length herein.

DECEPTIVE TRADE PRACTICES, By the City of Plano putting forth the City of Plano Police Department as a validly created and enacted department, when it was never enacted or created by Ordinance, and by putting forth that Forsythe was a valid, lawfully enacted Plano Police Officer when both the Department he alleged to work for did not and does not exist, and when Forsythe personally had no valid Oath of Office to begin working as said Police Officer to begin with.

NEGATION OF IMMUNITIES

25. **Immunity Is Waived By The Illegal Acts Of The Agent.** When a state official or agency performs an illegal or unauthorized act, the official or agency is no longer acting for the State. Federal Sign v Texas S. Univ. 951 SW2d 401-401

26. The performance of an illegal or unauthorized act waives both immunity from suit and immunity from liability. Kubosh v City of Houston, 2 SW3d 463, 468-69.

27. A private litigant does not need legislative permission to sue State for a state official's violation of state law. Federal Sign. Id.

28. According to San Antonio v McKinney, 936 SW2d at 283 and Lake County Estates v Tahoe Reg'l Planning Agency, 440 U.S. 391, 400, Plano is NOT PROTECTED from suit by the 11th Amendment of the United States Constitution.

NOTICE OF WILLINGNESS TO MEDIATE

29. Byrum asserts the he is willing to attend affordable Mediation and to settle this case for less than the amount sued for, providing certain elements and conditions are met.

PRAYER FOR RELIEF

30. Plaintiff prays for monetary damages, non-monetary damages for the emotional trauma and distress as the Jury assigns such according to law, injunctive and declaratory relief to compel the City of Plano to avoid making false contact with Byrum, filing false charges against Byrum, by fake officers with invalid documents, in a fake department that does not exist at law.

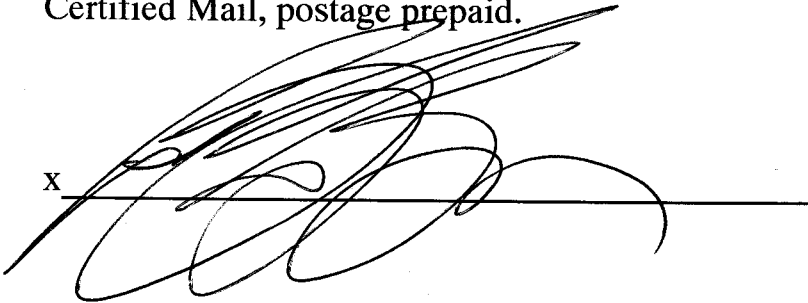
AFFIDAVIT

31. Byrum asserts and avers that the contents of this suit are true and correct and complete to the best of his knowledge, understanding and belief of the law, the caselaw, the facts and the evidence, under the penalties of perjury, 28 USC 1746(1).

x 

CERTIFICATE OF SERVICE

Byrum certifies that he will faithfully serve Defendants with a true and complete copy of the above numbered and entitled cause of action before the deadline time of service, by Certified Mail, postage prepaid.

x 

FIAT

Byrum moves this Honorable Court to now compel the Clerk of Court to set a Hearing Date at the earliest time available for the first pre-trial Hearing.

JS 44 (TXND Rev. 2/10)

CIVIL COVER SHEET

The JS 44 civil cover sheet and the information contained herein neither replace nor supplement the filing and service of pleadings or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. (SEE INSTRUCTIONS ON THE REVERSE OF THE FORM.)

I. (a) PLAINTIFFS

DEFENDANTS

(b) County of Residence of First Listed Plaintiff Dallas
(EXCEPT IN U.S. PLAINTIFF CASES)

County of Residence of First Listed Defendant Collin
(IN U.S. PLAINTIFF CASES ONLY)

NOTE: IN LAND CONDEMNATION CASES, USE THE LOCATION OF THE LAND INVOLVED.

(c) Attorney's (Firm Name, Address, and Telephone Number)

Attorneys (If Known) 8-10 CV 2244-N
unknown

pro persona

II. BASIS OF JURISDICTION (Place an "X" in One Box Only)

III. CITIZENSHIP OF PRINCIPAL PARTIES (Place an "X" in One Box for Plaintiff and One Box for Defendant)

- 1 U.S. Government Plaintiff
- 3 Federal Question (U.S. Government Not a Party)
- 2 U.S. Government Defendant
- 4 Diversity (Indicate Citizenship of Parties in Item III)

- | | | | | | |
|---|---------------------------------------|--------------------------------|---|--------------------------------|---|
| Citizen of This State | PTF <input type="checkbox"/> 1 | DEF <input type="checkbox"/> 1 | Incorporated or Principal Place of Business In This State | PTF <input type="checkbox"/> 4 | DEF <input checked="" type="checkbox"/> 4 |
| Citizen of Another State | <input checked="" type="checkbox"/> 2 | <input type="checkbox"/> 2 | Incorporated and Principal Place of Business In Another State | <input type="checkbox"/> 5 | <input type="checkbox"/> 5 |
| Citizen or Subject of a Foreign Country | <input type="checkbox"/> 3 | <input type="checkbox"/> 3 | Foreign Nation | <input type="checkbox"/> 6 | <input type="checkbox"/> 6 |

IV. NATURE OF SUIT (Place an "X" in One Box Only)

CONTRACT	TORTS	FORFEITURE/PENALTY	BANKRUPTCY	OTHER STATUTES	
<input type="checkbox"/> 110 Insurance <input type="checkbox"/> 120 Marine <input type="checkbox"/> 130 Miller Act <input type="checkbox"/> 140 Negotiable Instrument <input type="checkbox"/> 150 Recovery of Overpayment & Enforcement of Judgment <input type="checkbox"/> 151 Medicare Act <input type="checkbox"/> 152 Recovery of Defaulted Student Loans (Excl. Veterans) <input type="checkbox"/> 153 Recovery of Overpayment of Veteran's Benefits <input type="checkbox"/> 160 Stockholders' Suits <input type="checkbox"/> 190 Other Contract <input type="checkbox"/> 195 Contract Product Liability <input type="checkbox"/> 196 Franchise	PERSONAL INJURY <input type="checkbox"/> 310 Airplane <input type="checkbox"/> 315 Airplane Product Liability <input type="checkbox"/> 320 Assault, Libel & Slander <input type="checkbox"/> 330 Federal Employers' Liability <input type="checkbox"/> 340 Marine <input type="checkbox"/> 345 Marine Product Liability <input type="checkbox"/> 350 Motor Vehicle <input type="checkbox"/> 355 Motor Vehicle Product Liability <input type="checkbox"/> 360 Other Personal Injury CIVIL RIGHTS <input type="checkbox"/> 441 Voting <input type="checkbox"/> 442 Employment <input type="checkbox"/> 443 Housing/Accommodations <input type="checkbox"/> 444 Welfare <input type="checkbox"/> 445 Amer. w/Disabilities - Employment <input type="checkbox"/> 446 Amer. w/Disabilities - Other <input checked="" type="checkbox"/> 440 Other Civil Rights	PERSONAL INJURY <input type="checkbox"/> 362 Personal Injury - Med. Malpractice <input type="checkbox"/> 365 Personal Injury - Product Liability <input type="checkbox"/> 368 Asbestos Personal Injury Product Liability PERSONAL PROPERTY <input type="checkbox"/> 370 Other Fraud <input type="checkbox"/> 371 Truth in Lending <input type="checkbox"/> 380 Other Personal Property Damage <input type="checkbox"/> 385 Property Damage Product Liability	<input type="checkbox"/> 610 Agriculture <input type="checkbox"/> 620 Other Food & Drug <input type="checkbox"/> 625 Drug Related Seizure of Property 21 USC 881 <input type="checkbox"/> 630 Liquor Laws <input type="checkbox"/> 640 R.R. & Truck <input type="checkbox"/> 650 Airline Regs. <input type="checkbox"/> 660 Occupational Safety/Health <input type="checkbox"/> 690 Other LABOR <input type="checkbox"/> 710 Fair Labor Standards Act <input type="checkbox"/> 720 Labor/Mgmt. Relations <input type="checkbox"/> 730 Labor/Mgmt. Reporting & Disclosure Act <input type="checkbox"/> 740 Railway Labor Act <input type="checkbox"/> 790 Other Labor Litigation <input type="checkbox"/> 791 Empl. Ret. Inc. Security Act IMMIGRATION <input type="checkbox"/> 462 Naturalization Application <input type="checkbox"/> 463 Habeas Corpus - Alien Detainee <input type="checkbox"/> 465 Other Immigration Actions	<input type="checkbox"/> 422 Appeal 28 USC 158 <input type="checkbox"/> 423 Withdrawal 28 USC 157 PROPERTY RIGHTS <input type="checkbox"/> 820 Copyrights <input type="checkbox"/> 830 Patent <input type="checkbox"/> 840 Trademark SOCIAL SECURITY <input type="checkbox"/> 861 HIA (1395ff) <input type="checkbox"/> 862 Black Lung (923) <input type="checkbox"/> 863 DIWC/DIWW (405(g)) <input type="checkbox"/> 864 SSID Title XVI <input type="checkbox"/> 865 RSI (405(g)) FEDERAL TAX SUITS <input type="checkbox"/> 870 Taxes (U.S. Plaintiff or Defendant) <input type="checkbox"/> 871 IRS - Third Party 26 USC 7609 	<input type="checkbox"/> 400 State Reapportionment <input type="checkbox"/> 410 Antitrust <input type="checkbox"/> 430 Banks and Banking <input type="checkbox"/> 450 Commerce <input type="checkbox"/> 460 Deportation <input type="checkbox"/> 470 Racketeer Influenced and Corrupt Organizations <input type="checkbox"/> 480 Consumer Credit <input type="checkbox"/> 490 Cable/Sat TV <input type="checkbox"/> 810 Selective Service <input type="checkbox"/> 850 Securities/Commodities/Exchange <input type="checkbox"/> 875 Customer Challenge 12 USC 3410 <input type="checkbox"/> 890 Other Statutory Actions <input type="checkbox"/> 891 Agricultural Acts <input type="checkbox"/> 892 Economic Stabilization Act <input type="checkbox"/> 893 Environmental Matters <input type="checkbox"/> 894 Energy Allocation Act <input type="checkbox"/> 895 Freedom of Information Act <input type="checkbox"/> 900 Appeal of Fee Determination Under Equal Access to Justice <input type="checkbox"/> 950 Constitutionalality of State Statutes

RECEIVED
NOV - 5 2010
CLERK, U.S. DISTRICT COURT
NORTHERN DISTRICT OF TEXAS

V. ORIGIN (Place an "X" in One Box Only)

- 1 Original Proceeding
- 2 Removed from State Court
- 3 Remanded from Appellate Court
- 4 Reinstated or Reopened
- 5 Transferred from another district (specify)
- 6 Multidistrict Litigation
- 7 Appeal to District Judge from Magistrate Judgment

VI. CAUSE OF ACTION

Cite the U.S. Civil Statute under which you are filing (Do not cite jurisdictional statutes unless diversity):
42 USC 1983
 Brief description of cause:
Civil rights - Deprivation of Due process - religious discrimination - political discrimination.

VII. REQUESTED IN COMPLAINT:

CHECK IF THIS IS A CLASS ACTION UNDER F.R.C.P. 23 DEMAND \$ 75,001.00 CHECK YES only if demanded in complaint: JURY DEMAND: Yes No

VIII. RELATED CASE(S) (See instructions) PENDING OR CLOSED:

JUDGE _____ DOCKET NUMBER _____

DATE November 05, 2010 SIGNATURE OF ATTORNEY OF RECORD *[Signature]*

FOR OFFICE USE ONLY

RECEIPT # _____ AMOUNT _____ APPLYING IFP _____ JUDGE _____ MAG. JUDGE _____