



5. Defendant Officers Benton and Podbielniak are present or former employees of the City of Blue Island Police Department. At all relevant times, Defendant Officers were acting under the scope of their employment as duly appointed police officers of the Blue Island Police Department, and under color of law.
6. Defendant City of Blue Island is a municipal corporation organized under the laws of the State of Illinois. It is responsible for the policies, procedures, and practices implemented through its various agencies, agents, departments, and employees, and for injury occasioned thereby. The City of Blue Island is or was the employer of all Defendant Officers.

**Facts**

7. On the morning of April 20, 2009, Plaintiff Demetrius Anderson, who had been suffering from clinical depression and anxiety, attempted suicide by stabbing himself in the chest with a knife. His sister called 911 and requested an ambulance.
8. When the ambulance arrived, one of the three EMTs questioned Anderson as to preexisting conditions. Anderson informed the EMT that he was HIV positive. The EMT bandaged Anderson and led him down to the ambulance.
9. Anderson started to panic the closer he and the EMTs got to the ambulance. He was distraught, anxious, and frightened, and refused to go to the hospital without a family member present, and began to run away.
10. Mr. Anderson heard people shouting at him as he ran away. He thought that it was the EMTs yelling at him to come back, but he decided to keep running.

11. Unbeknownst to Plaintiff, Defendant Police Officers had arrived at some point and began to chase him. They shouted for him to stop, but Anderson, ignorant to the fact that it was police officers telling him to stop, continued running.
12. Plaintiff never heard Defendant Officers announce their office.
13. With no warning, Defendant Officer Benton then shot Anderson in the back with a taser, causing Anderson to fall to the ground.
14. Ultimately, Defendant Officer Podbielniak blocked Anderson's path and pointed his firearm at Anderson.
15. Defendant Benton Podbielniak stated, "Down to the ground, motherfucker."
16. Mr. Anderson immediately got down on the ground, face down.
17. While he was lying on the ground, Defendant Officers and possibly other officers present at that time stepped on Plaintiff's hands, feet, back, and neck, bruising and scraping Plaintiff and causing him pain. Finally, Defendant Officers handcuffed Mr. Anderson.
18. Anderson was handcuffed so tightly that the skin was torn on his wrists, leaving scars that were still visible two months later. The top of his right hand became numb as a result of these.
19. After placing Mr. Anderson in handcuffs, the Defendant Officers escorted him back to the ambulance.
20. Defendant Officer Podbielniak joined Mr. Anderson in the ambulance and continued to verbally assault him while on the way to the hospital, calling him an "animal," "retarded" and asked if he was "a fucking Muslim."
21. Mr. Anderson believed that the officer was suggesting that being Muslim and committing suicide were somehow related.

22. Plaintiff was taken to the hospital and treated for his stab wound. He was released from the hospital five days later, on April 25, 2009.
23. Upon his release Officer Mauricio, who is not a Defendant in this action, took Mr. Anderson from the hospital to the police station for booking.
24. When Officer Mauricio and Mr. Anderson arrived at the station, Defendant Officer Podbielniak was there, seemingly waiting for the chance to confront Mr. Anderson.
25. At that time, Defendant Officer Podbielniak again verbally assaulted Anderson, saying that he wished Anderson had picked up a rock so that he could have had an excuse to shoot him. He also said that, because of Mr. Anderson's HIV status, he would have nightmares for the rest of his life and that next time he tries killing himself he should jump off of the 127<sup>th</sup> Street Bridge.
26. He also made derisive comments regarding Mr. Anderson's sexual orientation and HIV status, which were meant to humiliate and emotionally devastate Mr. Anderson.
27. Anderson was charged with resisting arrest and he hired an attorney to represent him for the criminal case.
28. The charges against Mr. Anderson were disposed of in a manner indicative of his innocence.
29. At all relevant times to this action, the Blue Island Police Department had failed to train its officers to recognize and effectively deal with people suffering from mental illness.
30. On information and belief, Blue Island Police Officers are trained to assume control, which is often counter-productive in dealing with mentally ill arrestees.

31. On information and belief, none of the Defendant Officers who arrived at Demetrius Anderson's house on April 20, 2009 had been trained in crisis intervention with mentally-ill arrestees.

**Count I - §1983 Claim – Excessive Force**

32. Plaintiff re-alleges and reincorporates all of the allegations in the preceding paragraphs.

33. Under 42 U.S.C. §1983, a person who, acting under color of state law, deprives another person of his federal constitutional rights is liable to the injured party.

34. The Fourteenth Amendment to the United States Constitution, enforceable through 42 U.S.C. § 1983, provides that no state shall deprive any person of life, liberty, or property, without due process of the law.

35. Defendant Officers inflicted violence upon Anderson that was excessive, unnecessary, and grossly disproportionate to the need for action under the circumstances.

36. When they inflicted violence upon Anderson, Defendant Officers were acting under color of state law.

37. The actions of the Defendant Officers in inflicting violence upon Anderson were willful, intentional, and malicious, and/or done with a reckless indifference to, and callous disregard for, Anderson's rights, amounting to an abuse of power that shocks the conscience.

38. As a result of the excessive force inflicted by Defendant Officers, Anderson suffered great pain and lingering physical injuries, as well as mental and emotional pain and suffering, humiliation, and past and future psychological damage.

WHEREFORE, Plaintiff Demetrius Anderson respectfully requests that judgment be entered in his favor, awarding damages, including medical expenses, legal costs including attorneys' fees, and such other relief as the Court deems just and equitable.

**Count II – Intentional Infliction of Emotional Distress**

39. Plaintiff re-alleges and reincorporates all of the allegations in the preceding paragraphs.
40. The acts and conduct of Defendant Officers as set forth above, beginning with their first encounter with Plaintiff and continuing from there, were extreme and outrageous.
41. In particular, the excessive violence, threats of violence, and shocking verbal abuse and mockery to which Anderson was subjected placed him in a state of fear, anxiety, and humiliation, heightening his emotional distress.-
42. The conduct of Defendant Officers was particularly egregious given that they targeted their abuse at the very person they were called to assist.
43. Defendant Officers knew, or should have known, that Mr. Anderson was particularly vulnerable to any emotional abuse as he had just attempted to commit suicide.
44. Defendant Officers knew, or should have known, that Mr. Anderson was particularly vulnerable to any abuse regarding his HIV status or regarding his sexual orientation.
45. Defendant Officers intended to cause, or wantonly disregarded the probability that their conduct would cause, severe emotional distress to Anderson.
46. Defendant Officers' conduct was undertaken willfully, with malice and reckless indifference to Anderson's rights.
47. Defendant Officers' actions and conduct did directly and proximately cause Anderson to suffer severe emotional and physical injuries.

WHEREFORE, Plaintiff Demetrius Anderson respectfully requests that judgment be entered in his favor, awarding actual, compensatory, and punitive damages, including medical expenses, legal costs, attorneys' fees and other relief such as the Court deems just and equitable.

**Count III – Assault**

48. Plaintiff re-alleges and reincorporates all of the allegations in the preceding paragraphs.

49. Defendant Officers' actions put Plaintiff in reasonable fear of imminent bodily harm by standing on his hands, feet, back, and neck, and menacing him with at least one drawn weapon.

50. Defendant Officers' conduct was undertaken under color of law.

51. Defendant Officers' conduct was undertaken willfully, with malice, and/or reckless indifference towards the rights of Plaintiff.

52. Plaintiff has suffered physical and emotional injuries as a direct and proximate result of the Defendants' actions.

WHEREFORE, Plaintiff Demetrius Anderson respectfully requests that judgment be entered in his favor, awarding actual, compensatory, and punitive damages, including medical expenses, legal costs, attorneys' fees and other relief such as the Court deems just and equitable.

**Count IV – Battery**

53. Plaintiff re-alleges and reincorporates all of the allegations in the preceding paragraphs.

54. Without consent of Plaintiff, Defendant Officers intentionally, harmfully, and offensively battered Plaintiff by shooting him with a taser, standing on his hands, feet, back, and neck, and by handcuffing him so tightly as to cut his skin and cause numbness in his hands.

Their actions were calculated to cause him pain and injury and did, indeed, cause various injuries.

55. Defendant Officers had no cause, necessity, or justification for using such force.

56. Defendant Officers' conduct was undertaken willfully, maliciously, and with reckless indifference towards the rights of Plaintiff.

WHEREFORE, Plaintiff Demetrius Anderson respectfully requests that judgment be entered in his favor, awarding actual, compensatory, and punitive damages, including medical expenses, legal costs, attorneys' fees and other relief such as the Court deems just and equitable.

**Count V—Failure to Intervene, 42 USC § 1983**

57. Plaintiff re-alleges and reincorporates all of the allegations in preceding paragraphs as though fully set forth in their entirety herein.

58. Defendant Officers had a reasonable opportunity to prevent the others from using excessive force against Anderson, but failed to do so and, in fact, participated in the acts that caused Anderson's injuries.

59. Defendant Officers had a reasonable opportunity to prevent the other officers from effectively depriving Anderson of his constitutional right to due process, but failed to do so.

60. As a result of the Defendant Officers' failure to intervene, Anderson suffered pain and injury, as well as emotional distress.

61. This misconduct was objectively unreasonable and was undertaken intentionally with malice, willfulness, and reckless indifference to the rights of Anderson.

62. This misconduct was undertaken by the Defendant Officers within the scope of their employment and under color of law such that their employer, City of Blue Island, is liable for their actions.

WHEREFORE, Plaintiff Demetrius Anderson demands judgment against Defendant Officers for actual and compensatory damages in an amount deemed at time of trial to be fair and just, as well as reasonable attorneys' fees and legal costs.

**Count VI - 42 U.S.C. § 1983 - Unlawful Seizure**

63. Plaintiff re-alleges and reincorporates all of the allegations in the preceding paragraphs as though fully set forth herein.

64. As described above, the Defendant Officers, acting under color of law, conducted an unconstitutional seizure of Anderson.

65. Specifically, Anderson was fleeing from an ambulance after attempting to commit suicide. Instead of trying to help him, the officers tasered him, pointed a gun at him, stepped on him prior to handcuffing him, verbally abusing him the entire time and then arrested Anderson without probable cause, or any reasonable belief or indicia, supported by their own personal observations, that Anderson had committed any crime whatsoever.

66. As a result of this unlawful seizure, Anderson suffered physical damages to his body as well as severe emotional distress, including nightmares, increased and unreasonable anger and anxiety associated with law enforcement.

67. These actions were objectively unreasonable and were undertaken intentionally with malice, willfulness, and reckless indifference to Anderson's constitutional rights.

WHEREFORE, Plaintiff demands judgment against Defendant Officers for actual and compensatory damages in an amount deemed at time of trial to be fair and just, as well as reasonable attorneys' fees and legal costs, fees and other such relief as the court deems just and appropriate.

**Count VII – Malicious Prosecution**

68. Plaintiff re-alleges and reincorporates all of the allegations in the preceding paragraphs as though fully set forth herein.
69. The Defendant Officers maliciously caused criminal charges to be filed and prosecuted against Plaintiff. There was no probable cause for the institution of a criminal charge against Plaintiff. The criminal proceedings were commenced and continued maliciously.
70. On information and belief, Defendant Officers filed criminal charges against Plaintiff, in part, in retaliation for their belief that Plaintiff exposed them to HIV.
71. Defendant Officers arrested and prosecuted Anderson based on his HIV status rather than for any actual crime.
72. The individual Defendants facilitated this malicious prosecution by falsifying evidence, creating false police reports, and falsifying written criminal charges.
73. Plaintiff was wrongfully held in custody for several hours as a direct result of the prosecution of this criminal charge.
74. The charges against Mr. Anderson were disposed of in a manner indicative of his innocence.
75. Anderson was injured, including emotional and physical damage, legal fees, trauma, humiliation, loss of liberty, mental distress and anguish.
76. Defendants' conduct was willful and wanton.

WHEREFORE, Plaintiff Demetrius Anderson respectfully requests that judgment be entered in his favor, awarding actual, compensatory and punitive damages, including medical expenses and lost wages, legal costs, and other such relief as the Court deems just and appropriate.

**Count VIII - Indemnity**

77. Plaintiff re-alleges and reincorporates all of the allegations in the preceding paragraphs.

78. In committing the acts alleged above, Defendants acted within their scope of employment and under the color of law.

79. Defendant City of Blue Island is the employer of Defendant Officers.

80. In Illinois, public entities are directed to pay for any tort judgment for compensatory damages for which employees are liable within the scope of their employment activities.

745 ILCS 10/9-102.

WHEREFORE, Plaintiff demands judgment against Defendant City of Blue Island for actual and compensatory damages in an amount deemed at time of trial to be fair and just, as well as reasonable attorneys' fees and legal costs.

**Count IX – Monell Failure to Train Under 42 U.S.C. § 1983**

81. Plaintiff re-alleges and reincorporates all of the allegations in the preceding paragraphs.

82. Defendant City of Blue Island maintained policies, practices or customs exhibiting deliberate indifference to the constitutional rights of potential arrestees who have mental illness.

83. It was the policy, practice or custom of the Defendant City to inadequately supervise and train its police officers, including the Defendant Officers, on how to properly arrest or detain mentally ill persons without violating their constitutional rights.

84. The Defendant Officers acted knowingly and or intentionally, in bad faith, with deliberate indifference or with malice or reckless disregard for the rights of Demetrius Anderson.

85. As a direct and proximate result of the City of Blue Island's failure to train its police officers to properly arrest or detain mentally ill persons, Plaintiff Demetrius Anderson was

deprived of his right to liberty in violation of the Fourteenth Amendment to the United States Constitution.

WHEREFORE, Plaintiff demands judgment against Defendant City of Blue Island for actual and compensatory damages in an amount deemed at time of trial to be fair and just, as well as reasonable attorneys' fees and legal costs and such other and further relief as this Court deems proper.

**Count X – Violation of the Illinois Hate Crimes Act**

86. Plaintiff re-alleges and reincorporates all of the allegations in the preceding paragraphs.

87. In committing the actions alleged above, Defendants committed a hate crime, as defined in 720 ILCS 5/12-7.1.

88. Defendants committed assault, battery and/or disorderly conduct as defined by 720 ILCS 5/12-7.1.

89. Defendants committed the assault, battery and or disorderly conduct by reason of Demetrius Anderson's actual or perceived religion, sexual orientation and/or mental disability.

90. Demetrius Anderson was injured by Defendants' actions.

WHEREFORE, Plaintiff Demetrius Anderson respectfully requests that judgment be entered in his favor, awarding actual, compensatory and punitive damages, including medical expenses and lost wages, legal costs, and other such relief as the Court deems just and appropriate.

**PLAINTIFF DEMANDS TRIAL BY JURY.**

Respectfully Submitted,

DEMETRIUS ANDERSON

By One of HIS Attorneys:

s/ Laura K. Bautista

Laura K. Bautista  
Civil Rights Center, P.C.  
4554 N. Broadway, Suite 325  
Chicago, IL 60640  
773.907.0940

**NOTICE OF ASSIGNMENT**

Please be advised that all rights relating to attorneys' fees have been assigned to counsel.

Respectfully submitted,

s/ Laura K. Bautista  
Laura K. Bautista