

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

SHERRICE D. KINCAID, etc.,	)	
et al.,	)	
	)	
Plaintiffs,	)	
	)	
v.	)	No. 12 C 600
	)	
POLICE OFFICER DAN MESSINA,	)	
et al.,	)	
	)	
Defendants.	)	

MEMORANDUM ORDER

This action was initially brought pursuant to 42 U.S.C. §§1983 and 1981 to charge a violation of the constitutional rights of a 17-year-old woman by Villa Park Police Officer Dan Messina ("Messina"). Its four-page Complaint conformed admirably to the dictate of Fed. R. Civ. P. ("Rule") 8(a)(2) that calls for "a short and plain statement of the claim."

Plaintiff's counsel then sought and was granted leave to file an Amended Complaint--but regrettably that new pleading, filed on April 13, has turned out to be a misguided effort. Quite apart from the all-too-common practice of employing different counts to splinter a single claim in terms of various different legal theories (see NAACP v. Am. Family Mut. Ins. Co., 978 F.2d 287, 291-93 (7th Cir. 1992)),<sup>1</sup> plaintiff's counsel has--for no apparent reason at all--repeated the same allegations

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<sup>1</sup> No one seems to read and comply with the literal language of Rule 10(b) any more.

in every one of the counts rather than employing incorporation by reference. That, coupled with the present assertion of no fewer than seven theories of recovery in as many counts, has caused the Amended Complaint to balloon to more than 20 pages, when more sensible drafting would have occupied only one-third to one-half that number. Just as importantly, it is a discourtesy to opposing counsel to have to repeat the same responses over and over, when once again a judicious use of incorporation by reference would do the job.

Accordingly the Amended Complaint is stricken, but with leave granted to file a Second Amended Complaint on or before May 11, 2012. But Messina and the Village of Villa Park (the latter having been added as a defendant in the Amended Complaint) are ordered to answer or otherwise plead to the Second Amended Complaint within 14 days after receipt of that new pleading.

A handwritten signature in black ink, reading "Milton I. Shadur". The signature is written in a cursive, flowing style.

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Milton I. Shadur  
Senior United States District Judge

Date: April 26, 2012