

**IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF MARYLAND**

RUDOLPH L. BELL, JR.

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v.

Civil No. – JFM-13-982

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BALTIMORE CITY POLICE  
DEPARTMENT, ET AL.

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**MEMORANDUM**

This case was originally filed in the Circuit Court for Baltimore City, Maryland. Named as defendants are the Baltimore City Police Department and several unidentified officers of the Department. The Department removed the action to this court, and it has filed a motion to dismiss the amended complaint.

Count V of the amended complaint is entitled “Violation of U.S. Constitution, Fifth Amendment, Defendant Police Department’s Failure to Properly Train.” The Department reasonably construed this count as alleging a *Monell* claim in violation of federal law, and it was on this basis that the removal petition was filed. In his opposition memoranda, plaintiff avers that he was not intending to assert a federal claim but rather was stating only a state claim for failure to properly train and that the Fifth Amendment of the US Constitution merely establishes the standard of care to a failure to train claim. It may very well be that plaintiff has no cognizable claim under state law. This court, however, will take plaintiff at his word that he is not stating a federal claim. Of course, plaintiff’s representation to this court that he is not asserting any *Monell* claim judicially estops him from asserting a *Monell* claim at a later stage of this litigation.

