

**IN THE UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF PENNSYLVANIA**

**ERIC SIMPSON,**

**Plaintiff,**

**v.**

**MICHAEL FERRY, et al.,**

**Defendants.**

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**CIVIL ACTION**

**No. 14-166**

**ORDER**

**AND NOW**, this 9<sup>th</sup> day of August, 2016, upon consideration of Defendant, City of Philadelphia’s “Second Motion to Dismiss for Failure to State a Claim” (Doc. No. 32), Plaintiff’s Response thereto (Doc. No. 34), and for the reasons set forth in this Court’s accompanying Memorandum Opinion, it is hereby **ORDERED** that the City’s Motion is **GRANTED in part** and **DENIED in part**. The Motion is granted insofar as it seeks dismissal of Count II premised on an unlawful policy. The Motion is denied in all other respects—that is, Plaintiff’s Monell claim may proceed on (1) a theory of municipal liability premised on an alleged unlawful custom of tolerating and/or acquiescing in officers’ use of excessive force, and (2) a theory of municipal liability premised on the PPD’s alleged failure to properly train, supervise, and discipline its officers with respect to appropriate levels of force to use on persons in police custody.

**BY THE COURT:**

**/s/ Mitchell S. Goldberg**

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**MITCHELL S. GOLDBERG, J.**