

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

<b>ERIKA EBERHARDINGER,</b>	:	<b>CIVIL ACTION NO. 1:16-CV-2481</b>
	:	
<b>Plaintiff</b>	:	<b>(Chief Judge Conner)</b>
	:	
<b>v.</b>	:	
	:	
<b>CITY OF YORK, et al.,</b>	:	
	:	
<b>Defendants</b>	:	

**ORDER**

AND NOW, this 20th day of September, 2017, upon consideration of the motion (Doc. 9) filed by defendants City of York, Benjamin Praster (“Officer Praster”), and Benjamin Smith (“Officer Smith”) (collectively, the “York defendants”), seeking to dismiss the complaint (Doc. 1) of plaintiff Erika Eberhardinger (“Eberhardinger”), and the parties’ respective briefs in support of and opposition to said motion (Docs. 9, 9-3, 24, 27), and for the reasons stated in the accompanying memorandum, it is hereby ORDERED that:

1. The York defendants’ motion (Doc. 9) to dismiss is GRANTED in part and DENIED in part as follows:
  - a. Eberhardinger’s excessive force claim against Officer Praster is DISMISSED without prejudice.
  - b. Eberhardinger’s Monell claims against the City of York are DISMISSED without prejudice.
  - c. Eberhardinger’s state law claim for negligence against Officers Praster and Smith is DISMISSED without prejudice.
  - d. The York defendants’ motion (Doc. 9) is otherwise DENIED.

2. Eberhardinger is granted leave to amend her pleading within twenty (20) days of the date of this order, consistent with paragraph 1 above. In the absence of a timely-filed amended complaint, the above-captioned action shall proceed on the remaining claims.

/S/ CHRISTOPHER C. CONNER  
Christopher C. Conner, Chief Judge  
United States District Court  
Middle District of Pennsylvania