

**UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF ILLINOIS  
WESTERN DIVISION**

WILLIAM PATRICK GETTINGS,	)	
	)	
Plaintiff,	)	No.
	)	
vs.	)	Judge
	)	Magistrate Judge
CITY OF ROCKFORD,	)	
Rockford Police Officer	)	
FRANK FABIANI,	)	Jury Demand
	)	
Defendants.	)	

**COMPLAINT**

1. This is an action for money damages brought pursuant to 42 U.S.C. § 1983 and the common law and statutes of the State of Illinois.

2. Jurisdiction for Plaintiff’s federal claims is based on 28 U.S.C. §§ 1331 and 1343(a). Jurisdiction for Plaintiff’s state claims is based on supplemental jurisdiction pursuant to 28 U.S.C. § 1367(a).

3. Venue is proper in this Court pursuant to 28 U.S.C. § 1391(b), in that the claims arose in this district as alleged below.

**Parties**

4. Plaintiff is a resident of Winnebago County, Illinois.

5. Defendant-Officer FRANK FABIANI (“Defendant FABIANI”) is a duly appointed and sworn Rockford police officer. At all times relevant to this Complaint, Defendant FABIANI was acting in the course and scope of his employment, and under color of state law, ordinance and/or regulation.

6. Defendant FABIANI is sued in his individual capacity.

7. Defendant CITY OF ROCKFORD is a municipal corporation, duly incorporated under the laws of the State of Illinois, and is the employer and principal of Defendant FABIANI.

### **Facts**

8. On June 27, 2020, shortly after 11:00 p.m., Plaintiff was driving a car eastbound on East State Street in Rockford, Illinois.

9. On the date of the incident, Plaintiff was 22 years old.

10. Defendant FABIANI was on patrol for the Rockford Police Department. He had been a Rockford police officer for about 18 months.

11. Defendant FABIANI initiated a traffic stop of Plaintiff, allegedly for failure to use a turn signal.

12. Plaintiff was seized and not free to leave.

13. Plaintiff produced a valid driver's license and proof of insurance.

14. Defendant FABIANI returned to his car to run a LEADS check on Plaintiff.

15. Rockford Police Officers Fuller and Nachampassack arrived on the scene.

16. Plaintiff exited the car.

17. Defendant FABIANI approached Plaintiff and threw him to the ground.

18. Plaintiff did not threaten or attempt to attack Defendant FABIANI, and did not attempt to flee.

19. Defendant FABIANI grabbed Plaintiff by the hair and banged Plaintiff's head against the ground.

20. Defendant's use of force against Plaintiff was unreasonable and unjustified.

21. Plaintiff's injuries required medical attention at St. Anthony's Hospital in Rockford.

22. In the early hours of June 28, 2020, Plaintiff was booked into the Winnebago County Jail. In the booking photo, Plaintiff's forehead is bruised and his left eye is partially closed.

23. Based on Defendant FABIANI's police reports, Plaintiff was charged with two counts of aggravated battery, one count of attempt to disarm a police officer, and two counts of resisting a

police officer.

24. Rockford police officers have yet to be equipped with body cameras, but daschcam video from one or more of the police vehicles on the scene recorded the incident.

25. According to a report from Channel 13 WREX news, Winnebago County State's Attorney Marilyn Hite Ross reviewed the dashcam footage. She dismissed the charges against Plaintiff on June 29, 2020, less than 48 hours after Plaintiff's arrest.

<https://wrex.com/2020/06/29/rockford-police-officer-charged-following-traffic-stop-involving-protester/>

26. In a press conference on June 29, 2020, State's Attorney Hite Ross explained her decision. "State's Attorney is charged with prosecuting criminal violations. The State's Attorney also has an ethical obligation to review evidence and if the State's Attorney believes those criminal violations should not be filed, the State's Attorney has an ethical duty to not proceed with those charges."

27. That same day, her office charged Defendant FABIANI with misdemeanor battery for his beating of Plaintiff. The case is pending in the Circuit Court of Winnebago County as People v. Frank Fabiani, Case No. 2020 CM 1622.

28. Defendant FABIANI acted willfully and wantonly, maliciously, and with a conscious disregard and deliberate indifference to Plaintiff's rights.

29. As a direct and proximate result of the acts of Defendant FABIANI described above, Plaintiff suffered damages including loss of physical liberty, physical pain and suffering, and pecuniary damages including medical expenses and attorneys' fees.

**COUNT I**  
**(42 U.S.C. §1983 – False Arrest)**

30. Plaintiff realleges paragraphs 1 through 29 as if fully set forth herein.

31. Defendant-Officers placed Plaintiff under arrest.

32. After stopping Plaintiff for allegedly failing to use a turn signal, Plaintiff was under arrest and not free to leave.

33. Defendant-Officers did not have an arrest warrant, probable cause, or any other legal justification to arrest Plaintiff.

34. The arrest of Plaintiff without any legal justification or probable cause violated his Fourth Amendment right, as guaranteed by the Fourteenth Amendment, to be free from unreasonable seizures.

WHEREFORE, Plaintiff asks that this Honorable Court:

- a) Enter judgment against Defendant-Officers,
- b) Award Plaintiff\* compensatory and punitive damages,
- c) Award attorneys' fees and costs, and
- d) Award any further relief that this Honorable Court deems just and equitable.

**COUNT II**  
**(42 U.S.C. § 1983 – Excessive Force)**

35. Plaintiff realleges paragraphs 1 through 30 as if fully set forth herein.

36. Defendant FABIANI violated Plaintiff's Fourth Amendment right, as guaranteed by the Fourteenth Amendment, to be free from the use of excessive and unreasonable force.

WHEREFORE, Plaintiff asks that this Honorable Court:

- a) Enter judgment against Defendant FABIANI,
- b) Award Plaintiff compensatory and punitive damages,
- c) Award attorneys' fees and costs, and
- d) Award any further relief that this Honorable Court deems just and equitable.

**COUNT III**  
**(Indemnification Claim pursuant to 745 ILCS 10/9-102)**

37. The acts of Defendant FABIANI described in the above claims were willful and wanton, and committed in the scope of employment.

38. Pursuant to the Illinois Tort Immunity Act, 745 ILCS 10/9-102, Defendant CITY OF ROCKFORD is liable for any judgments for compensatory damages in this case arising from Defendant FABIANI's actions.

WHEREFORE, Plaintiff asks that this Honorable Court order Defendant CITY OF ROCKFORD to indemnify Defendant FABIANI for any judgment for compensatory damages in this

case arising from his actions.

**Jury Trial Demanded**

Respectfully submitted,

/s/ Daniel P. Kiss  
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