

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

<b>MICHAEL GRAVES and</b>	:	
<b>SUSAN CICCANTELLI,</b>		
<b>Plaintiffs</b>	:	
<b>v.</b>		<b>Civil Action No. 01-</b>
<b>CITY OF PHILADELPHIA,</b>	:	<b>JURY TRIAL DEMANDED</b>
<b>MAYOR JOHN STREET,</b>		
<b>COMMISSIONER JOHN TIMONEY, and :</b>		
<b>DEP. COMM. ROBERT MITCHELL,</b>		
<b>Defendants</b>	:	

**COMPLAINT**

**Introduction**

Plaintiff Michael Graves was subjected to false arrest, lengthy pre-arraignment detention and malicious prosecution by virtue of a decision by the policy-makers of the City of Philadelphia to chill the exercise of protected First Amendment activity and to detain suspected protesters for the duration of the Republican National Convention in Philadelphia. Mr. Graves was not involved in criminal activity and there was no probable cause to arrest. Mr. Graves and Ms. Ciccantelli, his spouse, seek compensation for the unlawful arrest, detention and prosecution and for the seizure and destruction of property in violation of rights guaranteed by the First, Fourth and Fourteenth Amendments to the United States Constitution and 42 U.S.C. §1983, and for supplemental state claims, including loss of consortium.

**Jurisdiction**

1. This action is brought pursuant to 42 U.S.C. §1983. Jurisdiction is founded upon 28 U.S.C. §§1331 and 1343(1), (3), (4) and the aforementioned statutory provision. Plaintiffs further invoke the supplemental jurisdiction of this Court under 28 U.S.C. §1367(a) to hear and adjudicate state law claims.

## **Parties**

2. Plaintiffs Michael Graves and Susan Ciccantelli are citizens of the United States and residents of Philadelphia, Pennsylvania.

3. Defendant City of Philadelphia is a municipality of the Commonwealth of Pennsylvania and owns, operates, manages, directs and controls the Philadelphia Police Department and is the public employer of the individual defendants.

4. Defendant John Street is Mayor of the City of Philadelphia and, in that capacity, was at all times relevant to this action, the principal policy-maker for the City of Philadelphia and was responsible for the hiring, retention and supervision of Defendant Timoney. He is being sued in both his individual and official capacities.

5. Defendant John Timoney is the Commissioner of the Philadelphia Police Department and, in that capacity, was at all times relevant to this action, the principal policy maker for the Philadelphia Police Department and was responsible for the hiring, retention and supervision of the Defendant Mitchell. He is being sued in both his individual and official capacities.

6. Defendant Robert Mitchell is a Deputy Commissioner of the Philadelphia Police Department and, in that capacity, was at all times relevant to this action, in charge of Philadelphia Police Department operations relating to the Republican National Convention 2000 in Philadelphia. He is being sued in both his individual and official capacities.

7. At all relevant times, Defendants were acting in concert and conspiracy and under color of state law and their actions deprived Plaintiffs of their constitutional and statutory rights.

### **Factual Allegations**

8. The Republican National Convention met in Philadelphia From July 31 to August 4, 2000.

9. At all times relevant to this action, Michael Graves owned the property located at 4100 Haverford Avenue in Philadelphia, Pennsylvania where he operated a business known as the Oak Heart Wood Floor Company.

10. Prior to July 31, 2000, Mr. Graves rented part of 4100 Haverford Avenue to persons who told him that they intended to use the area to construct puppets and floats in connection with activities during the Republican National Convention in Philadelphia.

11. At all times relevant to this action, Susan Ciccantelli resided with and was the spouse of Michael Graves.

12. On August 1, 2000, at about 2:00 P.M., Mr. Graves was inside his place of business at 4100 Haverford Avenue.

13. At the time of Mr. Graves' arrest on August 1, 2000, the Defendants knew or should have known that he had not participated in any alleged unlawful activity at 4100 Haverford Avenue.

14. On August 1, 2000, Mr. Graves was lawfully inside 4100 Haverford Avenue when Philadelphia officers and other law enforcement agents entered. The officers were acting at the direction of the Defendants and asserted their authority to act under color of state law.

15. The officers, without cause or justification and at the direction of the Defendants, arrested and searched Mr. Graves and charged him with the commission of criminal offenses related to alleged activities inside 4100 Haverford Avenue. Mr. Graves provided his correct name and address to the police.

16. After his arrest, Defendants failed to undertake reasonable measures to confirm that Mr. Graves was not involved in any alleged criminal activity inside 4100 Haverford Avenue prior to his continued and lengthy detention and criminal prosecution.

17. The officers, without cause or justification and at the direction of the Defendants, seized, damaged and/or destroyed property belonging to Mr. Graves.

18. As a direct and proximate result of the actions and directions of the Defendants, and without cause or justification, Mr. Graves was arrested and charged with the crimes of possessing instruments of crime, recklessly endangering another person, obstructing justice, conspiracy to obstruct justice, disorderly conduct and related offenses.

19. As a direct and proximate result of the actions and directions of the Defendants, and without cause or justification, Mr. Graves was subjected to unconstitutional conditions of post-arrest confinement including inadequate sanitation, water, nourishment and medical care.

20. In the days following the arrest of Mr. Graves, Susan Ciccantelli made numerous efforts through the Philadelphia Police Department to determine the whereabouts, condition and status of Mr. Graves. As a direct and proximate result of the actions and directions of the Defendants, and without cause or justification,

Ms. Ciccantelli's requests for information were refused, causing her to sustain severe emotional distress.

21. As a direct and proximate result of the actions and directions of Defendants, and without cause or justification, Mr. Graves was held in custody for approximately four days before he was brought before a judicial officer for a preliminary arraignment. The unnecessarily lengthy pre-arraignment detention was the result of a policy by the Defendants to confine and preventatively detain Mr. Graves and others for the duration of the Republican National Convention to prevent him and others from exercising protected First Amendment activities.

22. Michael Graves thereafter appeared for trial in the Municipal Court of Philadelphia. Upon motion of the District Attorney's Office, all pending criminal charges were withdrawn.

23. At no time did Plaintiffs commit any offense against the laws of the Commonwealth of Pennsylvania, the United States or the City of Philadelphia for which an arrest or detention may be lawfully made. At no time did Plaintiffs pose a threat to the police or to the safety of any other persons. At no time did Plaintiffs commit any illegal acts or engage in any conduct which justified the actions of the Defendants. There was no lawful justification for the seizure and destruction of Plaintiffs' property.

24. As a direct and proximate result of the actions of all Defendants, Plaintiffs suffered and continue to suffer pain and suffering, emotional distress and psychological harm, some or all of which may be permanent, as well as financial and business losses, including lost income. Ms.

Ciccantelli also suffered the loss of companionship and consortium of Michael Graves and, as a result, sustained emotional and other harms.

25. The Defendants knew that they were without authority to detain, arrest, search, confine and prosecute Mr. Graves and to seize, damage and destroy his property.

26. The Defendants engaged in the aforesaid conduct for the purpose of violating Plaintiffs' constitutional rights by subjecting Mr. Graves to an unlawful arrest, lengthy pre-arraignment detentions and malicious prosecution and by seizing, damaging and destroying the property of Plaintiffs. The actions of the Defendants were undertaken in retaliation for the exercise of First Amendment rights and to prevent the free exercise of those rights by Plaintiffs and others.

**FIRST CAUSE OF ACTION  
FEDERAL CIVIL RIGHTS VIOLATIONS**

27. The allegations set forth in paragraph 1-26, inclusive, are incorporated herein.

28. As a direct and proximate result of Defendants' conduct, committed under color of state law, Defendants deprived Plaintiffs of their rights to freedom of speech and association, to be secure in their person and property, to due process of law, to be free from unlawful arrest, detention, search, unnecessarily lengthy pre-arraignment detention and malicious prosecution. As a result, Plaintiffs suffered and continue to suffer harm, in violation of the First, Fourth and Fourteenth Amendments of the United States Constitution and 42 U.S.C. §1983.

29. As a direct and proximate result of the acts and omissions of all Defendants, Plaintiffs

sustained pain and suffering, emotional distress, psychological harm and financial losses.

30. The actions and conduct of the Defendants were taken pursuant to a policy and practice of the City of Philadelphia, acting by and through its final policy makers, to deny persons engaged in or associated with those who were engaged in protest activity related to the Republican National Convention their First and Fourth Amendment rights, to disrupt protest activity, and to deprive persons, including the Plaintiffs, of their rights under the First, Fourth and Fourteenth Amendments to the United States Constitution.

31. The actions and conduct of the police officers who arrested, charged, confined and prosecuted Mr. Graves were caused and implemented by the failure of the City of Philadelphia to properly train and supervise these police officers and other officers with respect to the constitutional limitations on their police powers during the Republican National Convention.

32. In adopting the policies and practices which led police officers to arrest, confine, prosecute and seize and destroy the property of Plaintiffs and others, and to otherwise cause harm to all Plaintiffs, Defendant City of Philadelphia violated rights secured to Plaintiffs by the First, Fourth and Fourteenth Amendments to the United States Constitution and guaranteed by 42 U.S.C. §1983.

## **SECOND CAUSE OF ACTION STATE LAW CLAIMS**

33. The allegations set forth in paragraph 1-32, inclusive, are incorporated herein.

34. The acts and conduct of all Defendants alleged in the above stated cause of action constitute negligence, gross negligence, and negligent hiring, training, retention and supervision, false arrest/ imprisonment, malicious prosecution and loss of consortium under the laws of the

Commonwealth of Pennsylvania, and this Court has supplemental jurisdiction to hear and adjudicate these claims.

### **JURY DEMAND**

35. Plaintiffs demand a jury trial as to each Defendant and as to each count.

WHEREFORE, Plaintiffs request the following relief:

- a. Compensatory damages;
- b. Punitive damages;
- c. Reasonable attorney's fees and costs; and
- d. Such other and further relief as appears reasonable and just.

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