

IN THE UNITED STATES DISTRICT COURT  
FOR THE CENTRAL DISTRICT OF ILLINOIS  
URBANA DIVISION

BENJAMIN MANN,	)	
	)	
Plaintiff,	)	
	)	
v.	)	No. 14-2200
	)	
CITY OF CHAMPAIGN, ILLINOIS,	)	
et al.,	)	
	)	
Defendants.	)	

**ANSWER**

NOW COMES the Defendant, POLICE OFFICER NATHANAEL M. EPLING, in his individual capacity only, by his attorney, David E. Krchak of Thomas, Mamer & Haughey, LLP and in answer to the complaint in this matter, states as follows:

**JURISDICTION AND VENUE**

1. Defendant Epling admits the allegations contained in paragraph 1 of Plaintiff's complaint.
2. Defendant Epling admits the allegations contained in paragraph 2 of the complaint.

**PARTIES**

3. Defendant Epling admits the allegations contained in paragraph 3.
4. Defendant Nathanael M. Epling admits the allegations contained in paragraph 4 as they relate to him.
5. Defendant Epling admits the allegations contained in paragraph 5.

**FACTS COMMON TO ALL COUNTS**

6. Defendant Epling neither admits nor denies the allegations contained in paragraph 6 of the complaint as he lacks knowledge or information sufficient to form a belief about the truth of the allegation.

7. Defendant Epling neither admits nor denies the allegations contained in paragraph 7 of the complaint as he lacks knowledge or information sufficient to form a belief about the truth of the allegation.

8. Defendant Epling neither admits nor denies the allegations contained in paragraph 8 of the complaint as he lacks knowledge or information sufficient to form a belief about the truth of the allegation.

9. Defendant Epling neither admits nor denies the allegations contained in paragraph 9 of the complaint as he lacks knowledge or information sufficient to form a belief about the truth of the allegation.

10. Defendant Epling neither admits nor denies the allegations contained in paragraph 10 of the complaint as he lacks knowledge or information sufficient to form a belief about the truth of the allegation.

11. Defendant Epling neither admits nor denies the allegations contained in paragraph 11 of the complaint as he lacks knowledge or information sufficient to form a belief about the truth of the allegation.

12. Defendant Epling admits that Officer Henry and Officer Rush were first to arrive at the scene, and neither admits nor denies the remainder of the allegations contained in paragraph 12 as he lacks sufficient knowledge or information sufficient to form a belief about the truth of the allegations.

13. Defendant Epling denies the allegations of paragraph 13.

14. Defendant Epling neither admits nor denies the allegations contained in paragraph 14 of the complaint as he lacks knowledge or information sufficient to form a belief about the truth of the allegations.

15. Defendant Epling neither admits nor denies the allegations contained in paragraph 15 of the complaint as he lacks knowledge or information sufficient to form a belief about the truth of the allegations.

16. Defendant Epling neither admits nor denies the allegations contained in paragraph 16 of the complaint as he lacks knowledge or information sufficient to form a belief about the truth of the allegations.

17. Defendant Epling neither admits nor denies the allegations contained in paragraph 17 of the complaint as he lacks knowledge or information sufficient to form a belief about the truth of the allegations.

18. Defendant Epling neither admits nor denies the allegations contained in paragraph 18 of the complaint as he lacks knowledge or information sufficient to form a belief about the truth of the allegations.

19. Defendant Epling denies that Plaintiff was never resisting, and denies that there is now or ever has been a conspiracy to cover up misconduct and further denies that the City of Champaign had any policy regarding failure to provide meaningful discipline or credible oversight of its officers. Defendant Epling neither admits nor denies any remaining allegations contained in paragraph 19 of the complaint as he lacks knowledge or information sufficient to form a belief about the truth of the allegations.

20. Defendant Epling neither admits nor denies the allegations contained in paragraph 20 of the complaint as he lacks knowledge or information sufficient to form a belief about the truth of the allegations.

21. Defendant Epling admits that OC spray was administered to assist in subduing the aggressive Plaintiff. Defendant Epling neither admits nor denies the remainder of the allegations contained in paragraph 21 of the complaint as he lacks knowledge or information sufficient to form a belief about the truth of the allegations.

22. Defendant Epling denies that there is or ever has been an attempt to cover-up any alleged misconduct as a result of this incident and neither admits nor denies the remainder of the allegations contained in paragraph 22 of the complaint as he lacks knowledge or information sufficient to form a belief about the truth of the allegations.

23. Defendant Epling neither admits nor denies the allegations contained in paragraph 23 of the complaint as he lacks knowledge or information sufficient to form a belief about the truth of the allegations.

24. Defendant Epling admits he arrived at the incident location at approximately 2:21 AM on March 16, 2014 and denies the remainder of the allegations of paragraph 24.

25. Defendant Epling neither admits nor denies the allegations contained in paragraph 25 of the complaint as he lacks knowledge or information sufficient to form a belief about the truth of the allegations.

26. Defendant Epling denies the allegations of paragraph 26.

27. Defendant Epling denies the allegations of paragraph 27.

28. Defendant Epling denies the allegations of paragraph 28.

29. Defendant Epling denies the allegations of paragraph 29.

30. Defendant Epling denies that any officers intentionally omitted any pertinent information from any reports and neither admits nor denies any remaining allegations contained in paragraph 30 of the complaint as he lacks knowledge or information sufficient to form a belief about the truth of the allegations.

31. Defendant Epling denies the allegations of paragraph 31.

32. Defendant Epling neither admits nor denies the allegations contained in paragraph 32 of the complaint as he lacks knowledge or information sufficient to form a belief about the truth of the allegations.

33. Defendant Epling denies the allegations of paragraph 33.

34. Defendant Epling denies the allegations of paragraph 34.

35. Defendant Epling denies each and every allegation contained in paragraph 35.

36. Defendant Epling admits that he transported Plaintiff to Carle Hospital due to swelling and bruising to Plaintiff's face and a cut on his lip, but denies that the transport to the emergency room on the way to the jail was unusual or due to any severe injuries.

37. Defendant Epling denies that the video from his squad car reveals that Plaintiff was either barely conscious or physically unable to sit up independently.

38. Defendant Epling denies that a wheelchair was required for Plaintiff due to a vicious beating. Defendant Epling admits that Plaintiff was screaming in the emergency room.

39. Defendant Epling admits that he loosened the handcuffs on Plaintiff in the emergency room but denies the remaining allegations in paragraph 39.

40. Defendant Epling denies the allegations of paragraph 40.

41. Defendant Epling neither admits nor denies the allegations about Plaintiff's stay in jail, his arraignment or bail as he lacks knowledge or information sufficient to form a belief about the truth of the allegations. Defendant Epling denies all remaining allegation of paragraph 41.

42. Defendant Epling denies the allegations of paragraph 42.

43. Defendant Epling admits the case was dismissed by the state's attorney's office, and neither admits nor denies the remainder of the allegations contained in paragraph 43 of the complaint as he lacks knowledge or information sufficient to form a belief about the truth of the allegations.

**COUNT I – 42 U.S.C. §1983: EXCESSIVE FORCE**

44. Defendant Epling provides the same responses to the above paragraphs re-alleged in Paragraph 44.

45. Defendant Epling admits Plaintiff was seized during the early morning hours of March 16, 2014.

46. Defendant Epling denies the allegations of paragraph 46.

47. WHEREFORE, Defendant NATHANAEL M. EPLING prays that Count I of Plaintiff's complaint be dismissed with costs awarded.

**COUNT II – FALSE ARREST**

48. Defendant Epling provides the same responses to the above paragraphs now realleged in paragraph 48.

49. Defendant Epling denies each and every allegation contained in paragraph 49.

50. Defendant Epling denies the allegations of paragraph 50.

51. Defendant Epling denies the allegations of paragraph 51.

52. WHEREFORE, Defendant NATHANAEL M. EPLING prays that Count II of the complaint be dismissed with costs.

**COUNT III – FAILURE TO INTERVENE**

Count III is subject to Defendants' Motion to Dismiss.

**COUNT IV – 42 U.S.C. §1983: MUNICIPAL POLICY CLAIM**

Count IV of Plaintiff's complaint does not make any allegations against Defendant Epling and, hence, no response is provided.

**COUNT V – MALICIOUS PROSECUTION**  
**State Law Claim**

Count V is subject to Defendants' Motion to Dismiss.

**COUNT VI – INTENTIONAL INFLICTION OF EMOTIONAL DISTRESS**  
**State Law Claim**

Count VI is subject to Defendants' Motion to Dismiss.

**COUNT VII – CONSPIRACY**  
**State Law Claim**

Count VII is subject to Defendants' Motion to Dismiss.

**COUNT VIII – RESPONDEAT SUPERIOR**

Count VIII of Plaintiff's complaint does not make any allegations against Defendant Epling and, hence, no response is provided.

**COUNT IX – STATUTORY INDEMNIFICATION**

Count IX of Plaintiff's complaint does not make any allegations against Defendant Epling and, hence, no response is provided.

Respectfully submitted,

POLICE OFFICER NATHANAEL M. EPLING

BY: THOMAS, MAMER & HAUGHEY, LLP

BY:

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**AFFIRMATIVE DEFENSES**

Defendant, POLICE OFFICER NATHANAEL M. EPLING, hereby asserts the following Affirmative Defenses to the allegations contained in the complaint:

1. This Defendant is entitled to qualified immunity and any action taken by him during the process of arresting Plaintiff as alleged in the complaint was objectively reasonable in light of the facts in front of him and, therefore, this Defendant is not liable.

2. In the exercise of his duties, the Defendant has immunity from prosecution under Section 2-202 of the Tort Immunity Act. 45 ILCS 10/2-202. These immunities protect him from the common law actions alleged in Plaintiff's complaint.

Respectfully submitted,

POLICE OFFICER NATHANAEL M. EPLING

BY: THOMAS, MAMER & HAUGHEY, LLP  
s/ David E. Krchak

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**CERTIFICATE OF SERVICE**

I hereby certify that on November 7, 2014, I electronically filed the foregoing with the Clerk of the Court using the CM/ECF system which will send notification of such filing to Shneur Nathan.

s/ David E. Krchak

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