

IN THE COURT OF COMMON PLEAS
CUYAHOGA COUNTY, OHIO

ERIC HEIM
1036 MAPLEVIEW DRIVE
SEVEN HILLS, OH 44131

Plaintiff

-vs-

THE CITY OF SEVEN HILLS
7325 SUMMITVIEW DRIVE
SEVEN HILLS, OH 44131

-and-

PTLM. MICHAEL GREER
Individually and in his official capacity
SEVEN HILLS POLICE DEPARTMENT
7325 SUMMITVIEW DRIVE
SEVEN HILLS, OH 44131

-and-

CASE NO. _____

JUDGE _____

COMPLAINT
OTHER CIVIL

(JURY DEMAND ENDORSED
HEREON)

PTLM. MONICA SCHULD
Individually and in her official capacity
SEVEN HILLS POLICE DEPARTMENT
7325 SUMMITVIEW DRIVE
SEVEN HILLS, OH 44131

-and-

JOHN AND JANE DOES 1-5
(Names and addresses unknown and
undiscoverable at this time.

Defendants

INTRODUCTION

1. This case is brought to address violations and injuries stemming from the misconduct of City of Seven Hills police and other officials in connection with the arrest and injury of Plaintiff Eric Heim. At the time of his arrest, Mr. Heim was 55 years old and disabled from rheumatoid arthritis. Despite his pleas to stop, the Seven Hills police pulled on Mr. Heim's right arm, threw him to the ground, and twisted his right arm behind his back. These officers used such an excessive and persistent amount of force that they fractured Mr. Heim's right shoulder (right humerus surgical neck fracture) in two places. The City of Seven Hills is also responsible for the officers' excessive use of force based on policies, customs, practices, and a lack of adequate training, all of which proximately led to Mr. Heim's injuries. As a consequence of the Defendants' misdeeds, Mr. Heim has suffered injuries, loss of income, and other economic and non-economic losses.

JURISDICTION

2. This action is brought pursuant to 42 U.S.C. §1983 as well as the Fourth, and Fourteenth Amendments to the U.S. Constitution, as well the Ohio Constitution and the laws of the State of Ohio. Venue is appropriate as this cause of action arose in Cuyahoga County, Ohio, and on information and belief, all Defendants are located within Cuyahoga County. This action is also brought pursuant to 28 U.S.C. §§ 1985 and 1988 as it is also an action for compensatory damages, punitive damages, and attorney fees.

PARTIES AND JURISDICTION

3. Plaintiff Eric Heim is a citizen of the United States and resides in Cuyahoga County, Ohio.
4. Defendant Michael Greer was at all times relevant herein employed as a police officer for the City of Seven Hills. Defendant is a “person” under 42 U.S.C. § 1983 and at all times relevant to this case acted under color of law. He is being sued in his individual as well as his official capacity.
5. Defendant Monica Schuld was at all times relevant herein employed as a police officer for the City of Seven Hills. Defendant is a “person” under 42 U.S.C. § 1983 and at all times relevant to this case acted under color of law. She is being sued in her individual as well as her official capacity.
6. Defendant City of Seven Hills is a unit of local government organized under the laws of the State of Ohio. Defendant is a “person” under 42 U.S.C. § 1983 and at all times relevant to this case acted under color of law.

7. John and Jane Does 1-5 ("Does") are those individuals and entities whom, at all relevant times, were either employees, agents, or acting on behalf of the City of Seven Hills or were acting under the supervision, agency and/or authority of the City of Seven Hills. Some or all of these "Does" are "persons" under 42 U.S.C. § 1983 and at all times relevant to this case acted under color of law. Some or all of these "Does" are being sued in their individual as well as their official capacity.

FACTS

8. On the date of this incident, Plaintiff Eric Heim was a 55 year old married father with two children. Mr. Heim has been married to his wife, Karen, for over 30 years. Mr. Heim grew up in the community of Seven Hills and has spent approximately 50 years of his life there. He has never had a felony.
9. Mr. Heim has been receiving Social Security disability benefits since he was 53 based, in part, on rheumatoid arthritis. Mr. Heim also suffers from hypertension, high blood pressure, and has peripheral neuropathy in both feet. He is right handed.
10. Mr. Heim's son, Christopher, was born with hydro encephalitis. Christopher is entirely deaf in one ear and also suffers from cerebral palsy. Christopher was 19 years old and living with his parents at the time of the incident.
11. For several years, Mr. Heim has lived at 1036 Mapleview Drive in Seven Hills, Ohio. The speed limit in front of Mr. Heim's home is 25 mph.
12. On June 7, 2014, Mr. Heim was outside cooking with his family. Mr. Heim heard people down street yelling, and he heard cars speeding. Thereafter, Mr.

Heim observed two vehicles racing down his street. The vehicles were traveling well in excess of the speed limit. Mr. Heim lives on a usually quiet residential street and there are several children who live on his street and in the area.

13. Shortly thereafter, Mr. Heim saw a Seven Hills police vehicle and he waived for the police vehicle to stop so that he could report the racing vehicles. Mr. Heim described the racing vehicles as a black Chevy Blazer and a black sedan.
14. Seven Hills Officer Monica Schuld (hereinafter "Officer Schuld") told Mr. Heim that several people had called the police to complain about cars racing in the area and that the police would look into it.
15. Thereafter, Mr. Heim began to walk away from the police vehicle when he again observed the black Chevy Blazer. Again, the Blazer appeared to be driving in excess of the speed limit. Mr. Heim called Officer Schuld's attention to the black Chevy Blazer, but Officer Schuld responded that she did not have rear facing radar and could not get a reading of the Blazer's speed.
16. Mr. Heim then yelled at the Chevy Blazer to slow down, and he used a profanity when doing so. The Chevy Blazer, rather than slowing down and continuing on its way, stopped in front of Mr. Heim's home.
17. Mr. Heim walked over to the Chevy Blazer. He has mobility issues and steadied himself with a hand on the passenger side of the Chevy Blazer. He was also near a culvert and did not want to fall.

18. Mr. Heim again yelled at the driver of the Blazer, not only to discourage the driver from speeding and racing down a residential street, but also out of concern for his son's safety and well-being. As indicated, Mr. Heim's son Christopher suffers from cerebral palsy and has no hearing in his left ear. Born with hydro encephalitis, Christopher has had approximately twenty (20) surgeries stemming from this condition. Christopher's conditions put him at a greater risk of harm based on his compromised ability to appreciate and avoid the dangers associated with vehicles speeding and racing on the street in front of his home.
19. At no time did Mr. Heim threaten to physically harm the driver of the Chevy Blazer.
20. At no time did Mr. Heim make any attempt to grab, strike or punch the driver of the Chevy Blazer.
21. Mr. Heim was standing at the passenger side of the Chevy Blazer and was not in a position to strike the driver even if Mr. Heim wanted to – which he did not.
22. Mr. Heim observed Officers Schuld and Officer Michael Greer (hereinafter "Officer Greer") approach him. Mr. Heim was done engaging with the driver of the Chevy Blazer and was attempting to walk away.
23. Without legal justification, Officer Schuld grabbed Mr. Heim's right arm and violently pulled on it. Mr. Heim immediately stated that he has severe arthritis and to not pull on his arm. Mr. Heim also repeatedly exclaimed "Please stop!" and words to that effect, and indicated that he was being

compliant. However, Officers Schuld and Greer did not listen or alter their approach. Officer Schuld and Greer insisted on throwing Mr. Heim on the ground while twisting his right arm.

24. Once on the ground, Mr. Heim continued to plead for the Officers to stop, but they insisted wrenching Mr. Heim's right arm behind his back.
25. Mr. Heim felt severe pain in his right shoulder and he knew he had been seriously injured. Indeed, the Officers had used so much force to arrest Mr. Heim that they fractured his right shoulder/arm (right humerus surgical neck fracture) in two places.
26. Mr. Heim was initially treated at University Hospital Parma where he was eventually released.
27. The City of Seven Hills has policies which inadequately protect the citizens of Seven Hills from excessive force. The City of Seven Hills also has customs and practices which affirmatively act to ensure that excessive force will be employed and individuals will suffer Constitutional violations. The City of Seven Hills inadequately trains and supervises their police in such a manner that excessive force is likely to occur, and does occur as a direct and proximate result of such inadequate training and supervision.
28. As a direct and proximate result of the Seven Hills' police misconduct, Mr. Heim suffered serious physical injuries. He continues to suffer physical pain and disability stemming from his right shoulder/arm injury. He has also incurred bills, expenses and other damages as a result of this incident.

FIRST CAUSE OF ACTION

Excessive Force

29. Paragraphs 1 through 28 are incorporated by reference herein as if fully rewritten.
30. The actions of Defendants Schuld and Greer constitute an unjustifiable and excessive use of force without legal justification. The actions were deliberately indifferent, reckless, wanton and shocking to the conscience, all of which deprived Plaintiff Heim of his civil rights, as secured by the Fourth and Fourteenth Amendments to the United States Constitution and through 42 U.S. C. §1983.
31. The actions of Defendants Schuld and Greer were committed maliciously and/or in an unreasonable, wanton and/or reckless manner.
32. The actions of Defendants Schuld and Greer were performed under color of law and deprived Mr. Heim of federally protected rights, in violation of 42 U.S.C. § 1983.
33. As a direct and proximate result of the wrongful conduct of Defendants Schuld and Greer, Plaintiff Heim suffered serious physical injuries and damages.

SECOND CAUSE OF ACTION

Assault and Battery

34. Paragraphs 1 through 33 are incorporated by reference herein as if fully rewritten.

35. The acts and omissions of the Defendants Schuld and Greer constitute assault and battery, as well as willful, wanton, intentional, and reckless conduct under the law of the State of Ohio.
36. As a direct and proximate result of the assault and battery, Mr. Heim sustained serious physical injuries and damages.

THIRD CAUSE OF ACTION
42 U.S.C. § 1983

37. Paragraphs 1 through 36 are incorporated by reference herein as if fully rewritten.
38. The Defendants have, under color of state law, deprived Eric Heim of rights, privileges and immunities secured by the Fourth and Fourteenth Amendments to the U.S. Constitution including but not limited to the right to be free from cruel and unusual punishment/the right to be free from excessive use of force.
39. The City of Seven Hills and John and Jane Doe Policymakers failed to adequately train and supervise the Seven Hills Police and other employees, officials and staff relative to the proper use of force during the course of an arrest.
40. The rules, regulations, customs, policies and procedures of the Defendant City of Seven Hills were inadequate, unreasonable and were the moving force behind the Constitutional deprivations suffered by Eric Heim.
41. Although the policymakers were on notice of the obvious need to train and supervise the police in the area of use of force, the Defendant City of Seven Hills failed to adequately train and supervise their employees, agents and

officers in that regard. As a direct and proximate result of these failures, Eric Heim suffered serious physical injury and damages.

FOURTH CAUSE OF ACTION

Negligence

42. Paragraphs 1 through 41 are incorporated by reference herein as if fully rewritten.
43. The Defendants Schuld, Greer, and John/Jane Does acted in a negligent manner such that Mr. Heim sustained injury, damages and economic and non-economic losses. Schuld and Greer's conduct is not subject to the defense of immunity, set forth in Ohio Revised Code §2744.01 *et seq.*, based on the fact that these Defendants acted in a willful, wanton, and reckless manner.

DAMAGES

44. Paragraphs 1 through 43 are incorporated by reference herein as if fully rewritten.
45. As a direct and proximate result of the Defendants' conduct, Plaintiff Mr. Heim has suffered and continues to suffer physical pain, emotional distress, and other economic and non-economic losses.
46. As a direct and proximate result of the Defendants' conduct, Plaintiff Mr. Heim has incurred substantial costs and expenses, including, but not limited to, legal fees.

PRAYER FOR RELIEF

WHEREFORE, Plaintiff prays for judgment against the Defendants, jointly and severally, for:

- (A) Compensatory and consequential damages for all the injuries identified in the amount in excess of twenty-five thousand dollars (\$25,000.00);
- (B) Punitive damages in an amount to be determined at trial for the willful and malicious conduct of Defendants Schuld and Greer;
- (C) Attorneys' fees and the costs of this action and other costs that may be associated with this action; and
- (D) Any and all other relief that this Court deems equitable, necessary, and just.

Respectfully submitted,

/s/ Paul Cristallo
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COUNSEL FOR PLAINTIFF

JURY DEMAND

Plaintiff hereby demands a trial by jury on all issues so triable.

/s/ Paul Cristallo
PAUL J. CRISTALLO
Attorney for Plaintiff