

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

**ORIGINAL**

FILED  
U.S. DISTRICT COURT  
2006  
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S. DISTRICT OF N.Y. W.P.

SANDRA TABONE,

Plaintiff,

06 Civ. ( )

-against-

JOSEPH BRAUN, individually, and the  
CITY OF BEACON, New York,

COMPLAINT

**06 CIV. 1666**

Defendants.

**Jury Trial Demanded**

-----X  
Plaintiff SANDRA TABONE, by her attorneys Lovett & Gould, LLP, for her  
complaint respectfully alleges:

**NATURE OF THE ACTION**

1. This is an action for compensatory and punitive damages, proximately resulting from Defendants' conduct engaged in under color of New York State law, for violations of Plaintiff's rights as guaranteed her by reason of the First and Fourteenth Amendments to the United States Constitution, 42 U.S.C. §1983.

**JURISDICTION**

2. The Court's jurisdiction is invoked pursuant to 28 U.S.C. §§1331, 1343.

### THE PARTIES

3. Plaintiff SANDRA TABONE is a citizen of the United States, a domiciliary of the State of New York, and a resident of the City of Beacon. Plaintiff lives with her eighty-seven year old mother, her fifty-nine year old husband, and her thirteen-year-old son.

4. Defendant JOSEPH BRAUN (hereinafter "Braun"), who is sued in his individual and personal capacities only, at all times relevant to this complaint was the duly appointed City Administrator for the City of Beacon. As such he has direct supervisory control over the City's Chief of Police and Police Department and as a result had unbridled final discretionary decision-making authority with respect to the conduct engaged in by him as set forth *infra*.

5. Defendant CITY OF BEACON, New York (hereinafter "City"), is a municipal corporate subdivision of the State of New York duly existing by reason of and pursuant to the laws of said State.

### THE FACTS

6. At or about 10:00 A.M. on November 4, 2004, one of Plaintiff's neighbors (Shannon Finch) entered Plaintiff's home screaming for "Help" with respect to her infant child who she was holding upside down because the infant was apparently in respiratory distress.

7. Plaintiff immediately telephoned the City Police Department and requested emergency medical assistance as a result.

8. Immediately prior to the arrival of Emergency Medical Technicians (hereinafter "EMTS"), City Police Officer Anthony Rios (another one of Plaintiff's neighbors, a relative of one of the members of the City Council, and an individual who was as a result politically "connected") entered Plaintiff's home, picked up and then briefly held the Shannon child. Rios did nothing else whatsoever with and/or with respect to the infant.

9. As Rios did so EMTS entered the premises, determined that the infant was breathing and not in any distress, and then departed.

10. Subsequently Rios intentionally and deceitfully reported the incident to the City of Beacon Police Department, claiming:

- a. Falsely that he (Rios) observed Ms. Finch holding her infant upside down, yelling that the child was not breathing,
- b. Falsely that he (Rios) directed a neighbor other than Plaintiff to call "911" for medical assistance,
- c. Falsely that he (Rios) began to render first aid to the infant,
- d. Falsely that as a result of the first aid administered by him (Rios) the infant began to breath on its own,
- e. Falsely that he continued to render first aid until rescue personnel arrived, and,
- f. Falsely that by reason of his self-proclaimed heroic conduct he helped to save the infant's life.

11. As a proximate result of Rios' materially false report regarding the incident, he was nominated for a "Hero's Award", bestowed upon him in the form of a "Policeman

of the Year” certificate by the Exchange Club of Southern Dutchess County, and a “Certificate of Exceptional Valor” as issued by Governor George Pataki.

12. Based upon Rios’ materially false report regarding the incident a representative of the New York State Division of Criminal Justice publicly announced, albeit erroneously, that “because of his [Rios] quick response, the infant lived”.

13. When the media publicized Rios’ supposed heroic acts, and the materially false account he had provide to become a self-made “hero”, Plaintiff confronted Rios who admitted to her that he had not administered any first aid at all. The husband of Ms. Finch then approached Plaintiff and Rios and asked if they were talking about his child. In response Rios ordered Mr. Finch to leave the scene or he would place him under arrest.

14. Subsequently and on or about January 26, 2006, Plaintiff and Ms. Finch both truthfully reported to Lieutenant Matthew Dondero of the City’s Police Department the fact that Rios had made a false report since he:

- a. Had not performed any first aid,
- b. Had not resuscitated the infant,
- c. Had done nothing by way of any life-saving measures,
- d. Had nothing whatsoever to do with the infant’s breathing or resumption of breathing, and, *inter alia*,
- e. Had threatened Mr. Finch with arrest under circumstances evidencing a willingness to unlawfully abuse his authority as a Police Officer.

15. Under the circumstances Dondero began an internal affairs investigation of Rios with respect to the Finch/Tabone allegations.

16. On or about February 7, 2006, Braun learned of the internal affairs investigation and interceded with the calculatedly unlawful objectives of: a) aborting the police departmental investigation; and b) retaliating against Plaintiff and Ms. Finch for their having truthfully reported Rios' corrupt behavior and threatened abuse of power.

17. Under these circumstances and on February 10, 2006, Braun summarily ordered the Chief of Police (Richard Sassi) to report for a disciplinary investigatory interrogation regarding the Rios' investigation.

18. During that interrogation Braun ordered Chief Sassi to turn over to him (Braun) the entire original internal affairs file regarding Rios; Sassi complied.

19. That same day Braun then issued a written directive to the Chief of Police providing in pertinent respect:

- “1. The investigation of Detective Rios is to cease immediately. . .
2. Until further notice, no employee of the police department, including your self [*sic.*] or anyone acting at your behest or on your behalf, is to have any contact of any kind, either directly or indirectly, with Sandy Tabone and/or any member of her family or household.
3. Until further notice, no employee of the police department, including your self [*sic.*] or anyone acting at your behest or on your behalf, is to have any contact of any kind, either directly or indirectly with Shannon Finch and/or any member of her family or household.

4. Until further notice, no employee of the police department may interview, speak to or converse with Detective Rios regarding any matter related directly or indirectly to the material set forth in the [internal affairs] file which you provided to me earlier this day, i.e., the investigation or [sic.] Detective Rios.
5. You are to issue written directives to the entire police department such as may be necessary to comply with the directives set forth herein. Given the urgency of the situation, I would suggest that you issue any such directives immediately. You will be held responsible for any delay on your part in issuing such written directives which allows actions contrary to the prohibitions set forth herein to occur.”

20. Chief Sassi [who has repeatedly been subjected to First Amendment retaliatory disciplinary charges preferred by Braun with the objective of terminating his employment (Sassi v. Kyriacou, 06 Civ. 1008 (CLB))] complied with Braun’s directives under duress, publishing to each member of the Police Department Braun’s February 10, 2006, memorandum and advising them by separate memorandum that “strict compliance with Mr. Braun’s directive is required”.

21. As a result of Braun’s directives, no member of the City’s Police Department will communicate directly and/or indirectly with Plaintiff and/or Ms. Finch, their family members, and/or members of the households. In that connection a number of members of the Police Department have expressly advised Plaintiff that they cannot communicate with her.

22. Under these circumstances Braun's directives have purposefully and effectively deprived Plaintiff, her family and members of her household of all police emergency services, leaving them at personal risk as potential victims of crime, as potential subjects of medical emergencies, and/or *inter alia* as resident/citizens who potentially will require other police and/or emergency services.

23. Upon information and belief Plaintiff, Shannon Finch, their respective families and members of their respective households are the only residents of the City of Beacon who have been singled out by Braun and subjected to the deprivation referenced in the preceding paragraph "22".

24. Under the premises Defendants' retaliatory conduct has caused Plaintiff to be subjected to: extreme emotional upset; extreme anxiety; public embarrassment; public humiliation; a complete loss of police protection by the City of Beacon; retaliation for having non-disruptively expressed her opinion on a matter of public concern; disparate treatment intended to retaliate against her for have engaged in First Amendment protected speech; outrageously abusive conduct by City government official; and otherwise been rendered sick and sore.

#### **AS AND FOR A FIRST CLAIM**

25. Repeats and realleges as if fully set forth the allegations of fact contained in paragraphs "1" to "24", inclusive.

26. Defendants' retaliatory conduct violates Plaintiff's right to free speech as guaranteed by reason of the First Amendment to the United States Constitution, 42 U.S.C. §1983.

**AS AND FOR A SECOND CLAIM**

27. Repeats and realleges as if fully set forth the allegations of fact contained in paragraphs "1" to "24", inclusive.

28. Since with the exceptions identified in paragraph "23" every other identically situated resident/citizen of the City is afforded emergency services by the City's Police Department, Defendants' conduct violates Plaintiff's right to Equal Protection as guaranteed her by reason of the Fourteenth Amendment to the United States Constitution, 42 U.S.C. §1983.

**AS AND FOR A THIRD CLAIM**

29. Repeats and realleges as if fully set forth the allegations of fact contained in paragraphs "1" to "24", inclusive.

30. Defendants' conduct is so outrageous and vicious that it violated Plaintiff's right to substantive due process as guaranteed her by reason of the Fourteenth Amendment to the United States Constitution, 42 U.S.C. §1983.

WHEREFORE a judgment is respectfully demanded:

- a. Awarding as against Braun such punitive damages as the jury may impose,
- b. Awarding against both Defendants such compensatory damages as the jury may determine,
- c. Permanently enjoining Defendants from enforcing the directives issued by Braun on February 10, 2006,
- d. Ordering Defendants to in writing rescind the directives issued by



Braun on February 10, 2006, and in that connection to provide a copy of that written rescission to each member of the City Police Department personally,

e. Awarding costs and reasonable attorney's fees, and,

d. Granting such other and further relief as to the Court seems just and proper.

Dated: White Plains, N.Y.  
March 2, 2006

LOVETT & GOULD, LLP

By: 

Jonathan Lovett (4854)

Attorneys for Plaintiff  
222 Bloomingdale Road  
White Plains, N.Y. 10605  
914-428-8401