

STATE OF WISCONSIN

CIRCUIT COURT

CALUMET COUNTY

DANIEL L. GUETHS
7255 MANITOWOC ROAD
MENASHA, WI 54952,

Plaintiff,

-VS-

CITY OF MENASHA
A MUNICIPAL CORPORATION
140 MAIN STREET
MENASHA, WI 54952,

Defendant.

AUTHENTICATED COPY

Case # 11-CV-107

Date 4-1-11

SUMMONS Calumet County Clerk of Courts
Barbara VanAlstede

Case No.

Case Code No. 30107

SEVED BY
DAVID B.
SQUIRES

APR 6 2011

APR 06 2011

THE STATE OF WISCONSIN TO SAID DEFENDANTS:

YOU ARE HEREBY NOTIFIED that the plaintiff named above has filed a lawsuit or other legal action against you. The Complaint, which is attached, states the nature and basis of the legal action.

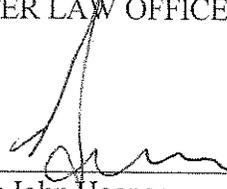
Within forty-five (45) days of receiving this Summons, you must respond with a written answer, as that term is used in Chapter 802 of the Wisconsin Statutes, to the Complaint. The Court may reject or disregard an answer that does not follow the requirements of the Statutes. The answer must be sent or delivered to the Court, whose address is Calumet County Courthouse, 206 Court Street, Chilton, Wisconsin 53014, and to Peter John Hoeper, plaintiff's attorney, whose address is 512 East Main Street, Waupun, WI 53963. You may have an attorney help or represent you.

If you did not provide a proper answer within forty-five (45) days, the Court may grant judgment against you for the award of money or other legal action requested in the Complaint, and you may lose your right to object to anything that is or may be incorrect in the Complaint. A judgment may be enforced as provided by law. A judgment awarding money may become a lien against any real estate you own now or in the future, and may also be enforced by garnishment or seizure of property.

dg

Dated this 12th day of April 2011.

HOEPER LAW OFFICES

By: 

Peter John Hoyer
Attorney for Plaintiff
State Bar No. 01014644

POST OFFICE ADDRESS:

Hoyer Law Offices
512 East Main Street
Waupun, WI 53963
Phone: 920-324-5050
Fax: 920-324-8866
Email: contact@hoerlaw.com

COPY

STATE OF WISCONSIN

CIRCUIT COURT

CALUMET COUNTY

DANIEL L. GUETHS
7255 MANITOWOC ROAD
MENASHA, WI 54952,

Plaintiffs,

-VS-

CITY OF MENASHA
A MUNICIPAL CORPORATION
140 MAIN STREET
MENASHA, WI 54952,

Defendant.

COMPLAINT

Case No.

Case Code No. 30107

COMES NOW the Plaintiff above named and as and for a cause of action against the Defendant herein, respectfully alleges and shows to the Court as follows:

1. That the Plaintiff is an adult who owns commercial property in Calumet County, located at 7255 Manitowoc Road, Menasha, Wisconsin 54952.
2. That the Defendant is a municipal entity within the meaning of Wisconsin Statute 893.80.
3. That on the evening of May 30, 2010 between 10:49 p.m. and 11:27 p.m. members of the City of Menasha Police Department entered said property without warrant, probable cause, consent or any other legal justification.
4. That on the 20th day of September 2010, the Plaintiff caused a statutory Notice of Claim against the City of Menasha and its employees to be served upon the city clerk, Deborah A. Galeazzi, all as indicated on the document hereto attached as Exhibit 1 and hereby made a part hereof.
5. That per Exhibit 2, hereby made a part hereof, on the 7th day of October 2010, City Attorney Pamela A. Captain notified the Plaintiff that his claim against the City of Menasha had been considered and denied, all of which is shown in Exhibit 2 and hereby made a part hereof.

FIRST CAUSE OF ACTION

6. The Plaintiff re-alleges the foregoing allegations.
7. The Plaintiff alleges that the actions of the agents of the Defendant caused a violation of his civil rights under the United States of America Constitution and Statutes.
8. Alleges that the violation of Plaintiff's civil rights by the agents of the Defendant caused emotional distress, pain and suffering and were done with negligent malice, putting his life in imminent danger with reckless behavior and making false statements on the police report and other non-economic damages, justifying the imposition of punitive damages.

SECOND CAUSE OF ACTION

9. The Plaintiff re-alleges the allegations in Paragraphs 1 – 6 above.
10. The Plaintiff alleges that the agents of the Defendant engaged in actions that were negligent and unnecessary and improperly performed their duties.
11. The Plaintiff alleges that said negligence was a cause of damages to the Plaintiff.

THIRD CAUSE OF ACTION

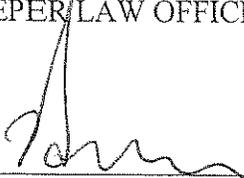
12. The Plaintiff re-alleges the allegations in Paragraphs 1 – 6 above.
13. The Plaintiff alleges that he was owed a duty by the Defendant to properly train and supervise its agents so as to prevent damages to the property and person of the Plaintiff, and that as a breach of the duty, the Plaintiff suffered consequential damages.

WHEREFORE, the Plaintiff requests that a trier-of-fact assess appropriate damages and award a judgment to the Plaintiff and against the Defendant for the full amount of said damages, together with costs and disbursements as properly taxable and for judgment for punitive damages and such further relief as may be just and proper.

Dated this 1st day of April 2011.

HOEPER LAW OFFICES

By: _____


Peter John Hooper
Attorney for Plaintiff
State Bar No. 01014644

POST OFFICE ADDRESS:

Hoeper Law Offices
512 East Main Street
Waupun, WI 53963
Phone: 920-324-5050
Fax: 920-324-8866
Email: contact@hoeperlaw.com

**NOTICE OF CLAIM AGAINST CITY OF MENASHA AND ITS
EMPLOYEES**

To: Deborah A. Galeazzi, City Clerk, 140 Main Street, 3rd floor, Menasha, WI 54952

Pursuant to Sec. 893.80, Wis. Stats., I, Daniel L. Gueths, 7255 Manitowoc Road, Menasha, WI 54952, hereby submit the following claim against the City of Menasha and its employees for property damage, personal injury and violation of civil rights that occurred as a result of the actions of the City of Menasha Police Department (MPD) in entering my property at the address above in the City of Menasha, Calumet County, Wisconsin without a warrant, probable cause, consent or any other legal justification between 10:49 p.m. and 11:27 p.m. on May 30, 2010. Incident No. 10-001843. (10 - 005614)

In particular, the MPD entered my property without adequate evidence that a crime had been committed or that there was any reasonable suspicion that a crime had been committed at the Winnegamie Dog Club at 7245 Manitowoc Road. Further, members of the MPD refused to leave when I asked them to do so on multiple occasions and after they had reliable information verifying my identification as the owner of the property. MPD officers were armed and drew their weapons. They threatened me with a Taser which based upon my medical history would have likely triggered a heart attack if used. Officers further attempted to break through a locked wooden fence which separated me from them. As a result of the officers' actions, the fence was damaged.

As a result of the above, I claim to be entitled to the following relief:

1. Cost of repair to the fence: \$100.00 (estimate).
2. Violation of my civil rights under the United States and Wisconsin Constitutions and statutes to be free from unreasonable searches and seizures in the amount of \$5,000,000.00 *Five Million Dollars*
3. Intentional infliction of emotional distress, pain and suffering and intentional malice by putting my life in imminent danger with reckless behavior and making false statements on a police report and other non-economic damages in the amount of \$5,000,000.00 *Five Million Dollars*

In addition to the above, I am filing a separate complaint to the Police Commission for the City of Menasha to consider administrative action against the officers involved.

Dated this 20th day of September, 2010.

Daniel L. Gueths

*Received by: City Clerk Deborah A. Galeazzi
9/20/10*



NOTICE OF DISALLOWANCE OF CLAIM

Certified Mail No. 7008 2810 0001 9848 7441
Return Receipt Requested

October 7, 2010

Daniel L. Gueths
7255 Manitowoc Rd.
Menasha, WI 54952

RE: Claim Against City of Menasha
Incident Date: 05/30/2010
Claim Dated: 09/20/2010

Dear Mr. Gueths,

Your claim against the City of Menasha has been considered. I regret to inform you that your claim is denied. Upon a review of the circumstances of which you describe, it is my opinion that the City of Menasha is not at fault for the damages you allege you incurred.

Section 893.80 Wisconsin Statutes provides that no action may be brought against the City of Menasha, its officials, officers, agents or employees after six (6) months from the date of service of this notice upon you.

Sincerely,

Pamela A. Captain
City Attorney

PAC/kc

cc Tom Mann, CVMIC – City's Insurance Co.
Chief Stanke – Police Dept.
File

EXHIBIT 2 PAGE 1 of 1

