

**UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF MINNESOTA**

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Rickey Jones, Tammy Henderson,

Civil No. 04-4856DWF/JSM

Plaintiff,

**COMPLAINT FOR INJUNCTION  
AND DAMAGES**

v.

**JURY TRIAL DEMANDED**

City of Minneapolis, Minnesota  
(including but not limited to its  
Police Department), Richard  
Zimmerman (in his official and  
individual capacities), Steve Wuorinen  
(in his official and individual  
capacities), Kevin Lazarchic (in his  
official and individual capacities),  
Scott Downing (in his official and  
individual capacities), Fine Associates  
and John Does 1-10,

Defendants.

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**SUMMARY OF CLAIMS**

**PARTIES**

1. Plaintiff Rickey Jones is a Black man, who resides in Hennepin County, Minnesota. He has operated as a free-lance photographer, and has relied on that money to support himself. He has consulted the City of Minneapolis department in charge of issuing licenses for photographers, and has been told that the city does not issue licenses to photographers, and was given a letter notifying anyone concerned that he is entitled to take pictures in Minneapolis without a license. He was asked to take video pictures of the party described herein, and was subjected to intentionally-unconstitutional conduct, mistreatment and damage as described herein.

2. Tammy Henderson is a Black woman, and resident of Ramsey County, Minnesota. She was present at the party described herein, and subjected to intentionally-unconstitutional conduct, mistreatment and damage as described herein.
3. Defendant City of Minneapolis is a Charter city, and a municipality in the State of Minnesota, which can sue and be sued. The Minneapolis Police is a Department within the City (“MPD”).
4. Defendant Richard Zimmerman (“Zimmerman”) is a resident of Hennepin County, Minnesota. At the time of the incident he was employed by the City of Minneapolis as a Sergeant in the Homicide Unit of the MPD. He was also employed by, or an independent contractor for, Fine Associates, a real estate management company, which managed, *inter alia*, Marquette Place, the location of the majority of the events described herein.  
  
Zimmerman is being sued in his individual capacity, and in his capacity as a public official for the MPD. At times he acted on behalf of the City of Minneapolis and/or in his capacity as a police officer. Zimmerman also acted as an agent of Fine Associates, and accordingly Fine Associates is responsible for his conduct under the principle of *respondeat superior*.
5. Fine Associates is a Minnesota entity, registered with the Minnesota Secretary of State as both a limited liability company and as a limited partnership, both with the same business address, in Minneapolis, Minnesota. Fine Associates manages Marquette Place.
6. Defendant Steve Wuorinen (“Wuorinen”) is a resident of Hennepin County, Minnesota. On November 22-23/2002, he was on duty as a Minneapolis Police Officer. He is being sued in his individual and official capacities.

7. Defendant Kevin Lazarchic (“Lazarchic”) is a resident of Hennepin County, Minnesota. On November 22-23/2002, he was on duty as a Minneapolis Police Officer. He is being sued in his individual and official capacities.
8. Defendant Scott Downing (“Downing”) is a resident of Hennepin County, Minnesota. On November 22-23/2002, he was on duty as a Minneapolis Police Officer. He is being used in his individual and official capacities.
9. John Does 1-10 are reserved for future-identified defendants.
10. As it relates to the individual defendants, they acted with intent, malice, and/or in knowing violation of plaintiff/s constitutional rights.

### **JURISDICTION**

11. Pursuant to 28 U.S.C. §1331, this Court has original jurisdiction over this matter, which arises in part under the laws of the United States including 42 U.S.C. §1983. This Court has the authority to take jurisdiction over all other claims, as supplemental jurisdiction.

### **FACTUAL STATEMENT**

12. A young Black woman (along with some other Black individuals) decided to have a birthday party in the party room at the top of the apartment building Marquette Place, Minneapolis. The party started on November 22, 2002. She asked Rickey Jones if he would come to the party and make a videotaped record of the event, so that she would have a keepsake.
13. Rickey Jones had been taking still and moving pictures in the City of Minneapolis for some time, including pictures of police engaged in misconduct toward civilians (and particularly people of color), and by November 22, 2002, he was well-known to police as someone who videotapes police misconduct.

14. The party drew mostly Black party-goers. A videotaped record of the party shows that it was a normal party, and that no violence occurred prior to the arrival of police. Sometime after 11 p.m. on November 22, those who had thrown the party decided that the room had reached capacity, and asked the Security Officer at the front desk to assist with keeping additional people from going upstairs to the party room.
15. The Security guard stationed at the front desk was a student, and felt insecure about the situation, and decided that she could not, alone, keep people from entering the building, or get those who had already arrived (but had not yet gone upstairs) to leave. She decided that police should be called to assist with asking those individuals in the lobby or entryway to leave.
16. Pursuant to an internal policy of Marquette Place, rather than calling the Minneapolis Police directly, in order to assist, called Richard Zimmerman, who was then either employed or an independent contractor for the management company for the building – Fine Associates.
17. The security guard reached Zimmerman by telephone. Before he even understood the situation, he was angry at being disturbed, and irately informed her that he had just finished a stint with the Homicide Unit and he was tired, and if he had to come over there, someone was going to get arrested.
18. Shortly after that Zimmerman arrived, alone. He was dressed in civilian clothing and wearing a trench coat. He told the security guard that he would have a squad car come to assist. Zimmerman appeared to be off-duty from the Minneapolis Police, but also acted like he could summon the police at his whim, in order to please his corporate client. This also gave the appearance that Zimmerman had either sprung into on-duty status, or was somehow acting simultaneously as agent for Fine Associates, and for the Minneapolis Police.

19. Zimmerman called Minneapolis 911 from a cell phone that had been issued to him by the City of Minneapolis, and upon information and belief, the calls were paid for by the City. He indicated that he was working off-duty, and that he needed a squad car to come to Marquette Place. Zimmerman urged 911 to send a squad car in order to benefit his corporate client. He did not do this at the behest of the party-throwers. Rather, he made the decision on his own.
20. Zimmerman then went upstairs to the party room on the top floor. Wearing his trenchcoat, he mingled with party-goers, eating their food, and toting a champagne bottle in each hand. After a while, Zimmerman called Minneapolis 911 again, wanting to know where the squad was. He falsely alleged that there was a problem on the party floor that required police assistance. Zimmerman knew that this was false (no one in the building, either the party-goers or the security guard at the front desk, had asked Zimmerman to attend to any issues on the party floor, to clear that party, or anything of the sort), but made the allegation in order to get police quickly to service his corporate client.
21. At one point shortly after midnight (now November 23, 2002), Minneapolis 911 asked Zimmerman whether it was a “help” call. A “help” call is code for police officer in distress. Zimmerman knew that there was no factual basis for alleging that he needed “help.” And, knowing that it would send numerous police officers speeding to his location, Zimmerman falsely alleged that it was a “help” call. The audiotape of Zimmerman’s call to 911 shows that he was not in distress. However, he falsely alleged that it was a “help” call in order to quickly obtain the services that he desired (but which were not in the public interest) for his corporate client.
22. Upon information and belief Minneapolis Police officers risked their lives, and the lives of civilians in their path, by speeding across town to answer the “help” call that Zimmerman

had falsely alleged. The alleged “help” call cost the taxpayers a large amount of unnecessary cost.

23. Fifty-two police officers answered the false “help” call instigated by Zimmerman. Their arrival and conduct at Marquette Place is what caused the problems – not the conduct of the party-goers.
24. Police decided to eject all partygoers. This was never necessary, because the partygoers were not doing anything wrong, and many were already leaving. No one asked police to clear the party. No police ever gave any verbal command to clear the party. The partygoers were never given any opportunity voluntarily comply with any such police directive (whether a police directive, or Zimmerman acting in for Marquette Place). Although a P.A. system was available, police did not make any announcements over the P.A.
25. Instead, because of false information from Zimmerman, police came off the elevators already in “riot” mode – macing, using nightsticks, pushing, shoving, and generally on the “attack.” Nothing about what had actually occurred warranted any force by police. According to a number of officers, they were concerned about the welfare of the off-duty officer, because they had been told that this was an officer-in-distress call. To the extent that any damage was done by any well-intentioned officers, then that liability should be borne by Zimmerman – because he made false allegations that he reasonably could anticipate would result in that police conduct.
26. However, Zimmerman was fairly quickly located, unharmed, and yet police misconduct continued after that point.
27. Numerous partygoers were forced by police to exit the building by walking down over 30 flights of stairs. At least one individual (also affected by the mace) collapsed mid-way down

the stairs, and rather than attending to her medical needs, police verbally harassed her and forced her to get up off the floor and keep walking down the stairs. The noise created by numerous individuals being forced to walk down the stairs caused residents in the building to become concerned, and some complained to the management.

28. Many individuals who had headed toward the elevators (in an effort to comply with the police directive to leave the party) were trapped in the small hallway/elevator lobby outside the party room. Due to the large numbers of people at the party, the hallway/elevator lobby became jammed with people, including Rickey Jones, who had arrived just prior to police, and had started to videotape the party.
29. Police, knew, after arriving, that the situation was not dangerous. Or, if they believed it was dangerous, the only fact they considered was that there were a lot of Blacks in the same place, which is not a proper indicia of violence, but instead is a racially-biased motivation (in other words, police would not have jumped to the conclusion that people were being violent if they had come upon a party of 200+ white people). Police knew that no force was warranted.
30. Yet police officers continued to strike, hit, beat, trip, trample, mace, and otherwise assault partygoers, while racist epithets were used, including “get out of here, niggers before we take your black ass to jail.” Police closed and guarded the doors to one of the party room, and refused to let the partygoers leave, and then assaulted them. Mace was used in contravention of Minneapolis Police Policy, being sprayed into partygoers faces, eyes, noses, and mouths. Mace was heavy in the air.
31. Tammy Henderson had been videotaping the party with her own video camera, until just before police arrived, when her battery wore out. (One of the final sounds on the tape is

someone saying the police are at the door.) When police saw her with the video camera, several came at her, trying to physical overcome her and take the video camera with force. But knowing that this was illegal intent, Henderson ducked between the legs of those in the crowd, and got away. She secured the videotape to make sure that police would not destroy it. The videotape proves that the party was just that – a party, without any inappropriate conduct that would warrant police intervention.

32. Later Henderson, overcome by the mace hanging heavy in the air, succumbed, and collapsed on the floor. Relatives who ran to her rescue were subjected to police misconduct, and kept away from Henderson. Emergency medical workers were eventually called to her aid, but they took the side of police and refused to document that Henderson had collapsed due to the mace. Knowing that they did not have her best interest at heart, Henderson refused their care.

33. Rickey Jones, who was out in the hallway/elevator lobby, but unable to leave due to the large crowd (and now non-working elevator/s), saw through a window into the party room that someone had fallen on the ground, and started to videotape as much police misconduct as he could capture with his video camera. At one point one of the partygoers yelled that Jones was videotaping (presumably hoping that police would stop the misconduct if they knew they were being videotaped – but he was wrong). The police in the vicinity, which included Wuorinen, Lazarchic, and Downing, were alerted to the fact that someone was videotaping. They came at Jones, intent on capturing him, and illegally seizing his videotape. These officers (and others as yet unidentified) had no justifiable basis for using force Jones, or for seizing his videotape. On the contrary, they were intent upon assaulting Jones in order illegally to gain physical possession of the videotape. This was an illegal motivation,

designed to protect themselves from criminal and/or civil liability for their misconduct – which they presumed was caught on the tape.

34. One officers (Lazarchic) first hit the videocamera, which smashed against Jones' face. Once the camera was hit, this jostled the videocamera so that although it continued to take in sound, the picture was blurred beyond recognition. Then simultaneously several others tackled him, taking him to the ground. Police intentionally assaulted Jones, and without any justification.
35. After the take-down, the videocamera continued to film, and eventually it came to rest on the floor and started filming, although now from a position lying on its side. The videocamera took in pictures of several black-leathered armed smashing down on something lying on the floor. Downing admitted in his police report that he struck Jones in the face several times. This is not a recognized use of force technique, and this admission confirms that police were assaulting Jones.
36. During the assault by police, Jones' necklace was torn off. Jones asked for it once the beating had stopped. Police refused to look for it, although a female police officers saw it on the floor and gave it to Jones. She let Jones know that she had seen the unprovoked assault on him, but later confirmed that she is afraid to come forward and testify against police due to the code of silence within the MPD.
37. Jones was taken into one of the party rooms and sat in a chair. Zimmerman then came up to him and in a threatening tone said, "I'm going to remember you!" Zimmerman told the officers to criminally charge Jones (Jones was charged with obstructing legal process and disorderly conduct, the 2 most common "cover" charges, used to cover up police misconduct). This was done to cover up the misconduct by police, including but not limited

to attacking him to get the videotape, and assaulting him without justification or provocation (or perhaps it was also the “arrest” that Zimmerman had threatened the security guard that he would make if he had to come over there, also an improper motive).

38. Jones was walked down 35 flights of stairs while handcuffed from behind. Wuorinen held his shirt and was shoving him down the stairs faster than he could walk. During the trip down, Wuorinen told Jones that he wanted him to leave town. Wuorinen also told Jones, “why don’t you run so I can shoot your black ass,” and “I’m tired of you taking videos of us.”
39. Jones was taken first to City Hall, where one of the officers got out with the video camera and other cameras that Jones had had with him that night. All of Jones’ cameras and all of his film was seized, because police wanted control of it in order to effectuate the cover up – and not for any legitimate police investigatory purposes.
40. The other officer took Jones to the downtown jail for booking, but the jail nurse refused him admittance due to his physical injuries, and insisted that police first take Jones to Hennepin County Medical Center. After stopping there for treatment of Jones and the taking of some contemporaneous pictures (which were demanded by Jones), police took Jones back to jail.
41. Jones was the only partygoer charged with a crime (which confirms that Zimmerman had falsely alleged that there was criminal conduct at the party warranting police intervention, and which confirms that the criminal justice system was misused as against Jones).
42. Numerous officers then knowingly falsified their police reports in order to continue their own agenda – or blaming Jones in an effort to cover up their misconduct. They did this based on improper and unconstitutional training by the MPD (officers are trained that every time they take someone to the ground in a custodial arrest, they are to charge them with a crime), their

knowledge of a longstanding policy or custom of the MPD to misuse the criminal justice system by illegally charging someone with a crime in order to cover up police misconduct and/or protect the City from liability, and their knowledge of the code of silence that is well-entrenched at the MPD. This illegal cover-up system is also encouraged by the MPD because it rewards police in personnel evaluations for the *number* of arrests that they make, without regard to whether those arrests are illegal, unconstitutional, racially-motivated, motivated by vengeance or spite, etc. In other words, those who falsely, illegally, and unconstitutionally arrested Jones were down the line rewarded for that arrest. This not only does not discourage this unconstitutional practice, but encourages it.

43. Shortly after being released, Jones filed a complaint with the Civilian Review Authority.

Upon information and belief, Zimmerman was told about that complaint. After hearing about the complaint, and after reviewing all of the other officers' police supplements, Zimmerman filed his police supplement. The supplement contained numerous intentional falsities, designed to impair Jones' constitutional rights, and generally to misuse the criminal booking and charging process in order to cover up for his illegal conduct and otherwise bad decisions.

44. Around that time, Jones made a verbal complaint to Sgt. Lavine of the Homicide Unit. He told Lavine how the police had caused the problem, and that it was police who had misbehaved, not the partygoers. Lavine said that he didn't care, and the complaint was never pursued by the MPD.

45. Lavine returned most of Jones' camera equipment to him, but the video camera had been ruined by the police assault. And the police refused to give him or let him see the video tape that he had shot that night at the party.

46. Zimmerman continued to work for Fine Associates. After hearing about the party, the owner fired the Black workers at Marquette Place that had been at the party. But there was no discipline of Zimmerman, or even any investigation into his conduct.
47. One of the fired workers sought unemployment benefits. Zimmerman falsely alleged that he was checking out the evidence in furtherance of some police investigation. But instead, he used the evidence to benefit his corporate client at the unemployment compensation hearing.
48. A criminal prosecution commenced against Rickey Jones. The City of Minneapolis Attorney's Office prosecuted the case. A visiting attorney was prosecuting the case and agreed to obtain the videotape from the property room so that police could not tamper with it prior to criminal defense counsel viewing it. When defense counsel did view it, in the Offices of the City Attorney, she witnessed Officer Lazarchic hitting toward Jones and then the picture became distorted. She also observed at the end of the videotape that several black arms were hitting toward something on the floor, which she presumed was her client. That day, she wrote and signed an affidavit, and filed it with the Hennepin County District Court, describing what she had seen on the videotape. Although she was told by the paralegal that the tape could be quickly copied for her, and although she prepaid for the tape, the City Attorney then on the file took the position that it would take weeks to copy it. Upon information and belief during these weeks, the tape was tampered with, using a method whereby the original tape was completely re-copied to another cassette tape, in a slightly-edited format (with visual only being deleted from a middle portion shortly after Wuorinen slams the door and the end). That was done for one or more unconstitutional and illegal motives, including but not limited to maliciously prosecuting Rickey Jones in the criminal case, either because police hate Rickey Jones for repeatedly taking pictures of their

misconduct or for the purpose of gaining an advantage in a civil case (under Heck v. Humphrey), or to keep themselves from being criminally prosecuted. One or more members of the Minneapolis City Attorney's Office knew that this tampering with the tape had occurred, but the criminal prosecution continued, in bad faith.

49. Jones' criminal defense attorney brought a motion to dismiss for destruction of evidence. At that point she became a witness and hired another defense attorney to defend Jones. An evidentiary hearing transpired (during which Officers Lazarchic and Wuorinen gave false testimony under oath), after which the Hennepin County District Judge dismissed the action with prejudice, because the police reports were inherently unreliable. The state court judge commented that it appeared that Jones was arrested only because he was videotaping (not verbatim but transcript incorporated by reference).
50. Once Jones began defending himself against the false criminal charges, a number of police officers harassed him (Jones was literally afraid for his life, justifiably concerned that police would misuse their authority in the criminal justice system and falsify information to justify harming him), prevented him from making money as a free-lance photographer, and filed several additional false (or selective enforcement) criminal cases against him. Those have all been dismissed. There are no current pending criminal charges against Rickey Jones.
51. The Civilian Review Authority investigated Jones' complaint, and upon information and belief Wuorinen, Lazarchic and Downing gave false testimony to that agency. Jones eventually voluntarily dismissed his complaint with the Civilian Review Authority, because he intended to commence this federal lawsuit. Lazarchic learned of the dismissal, and approached Jones on the street, telling him that now that Jones had seen fit to drop the charges against him, he would "call off his dogs." This confirmed what Jones had suspected

all along, that Lazarchic was inviting or ordering (since the party Lazarchic had been promoted by the MPD) other officers to harass Jones.

## COUNT I

### **Violation of 42 U.S.C. §1983 (All plaintiffs against all Defendants)**

48. Plaintiff realleges the above allegations as if hereinafter set forth in full and further states and alleges as follows:

49. This claim arises under Title 42 of the United States Code (Civil Rights Act of 1964, as amended), including but not limited to §1983.

50. Defendants acted alone and/or together (2 or more in concert), and one or more of them committed some act in furtherance of the conspiracy to violate Plaintiff's rights (and Plaintiff was damaged).

51. Defendants deprived Plaintiffs of their rights, privileges, and immunities secured by the United States Constitution, and specifically the Fourteenth Amendment to the United States Constitution, in conjunction with other rights, including but not limited to the following clearly established rights:

- a. **Substantive and/or procedural due process.** Defendants' actions, including but not limited to: misusing public-supported police services for unlawful reasons or to benefit a corporate entity; unprovoked and unjustified attacks on African Americans who were merely attending a birthday party; attacking Jones merely for videotaping;<sup>1</sup> falsifying police reports in order to misuse the criminal justice system; harassing Jones for complaining of police misconduct - shock the conscience of the community.
- b. **Equal protection of the laws.** Treating Black partygoers with disdain, unwarranted force, and ejecting them from a harmless party without justification; attempting to

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<sup>1</sup> Jones alleges that there was never any basis for *any* force, so he has not articulated it as one for *excessive* force. However, to the extent that the Court reads this to be an excessive force claim, then Jones reserves that claim.

seize Henderson's video camera merely because it would show police misconduct; and selectively enforcing the criminal laws against Jones simply because he was videotaping, denies equal protection of the law (Jones was also a "class of one" under the Olech standard).

- c. **Access to courts/retaliation (right to petition, or other articulations found in the First Amendment):** The conduct of Defendants denied Jones access to Court in pursuit of a civil lawsuit, by misusing the criminal system against him, and Jones was retaliated against for petitioning government (filing a complaint with the Civilian Review Authority) and for defending himself in the state criminal action.
- d. **Failure to Protect:** Several Minneapolis Police Officers and Supervisors knew that Black partygoers had not done anything to warrant force, yet they failed to protect them from officers who were harming them. The MPD had a policy or custom of allowing police officers to use or misuse its public services in furtherance of private ends, vendettas, and agendas (without monitoring and without preventing the misuse of those systems).

52. Defendants (and each of them) knew they were violating the federal law and constitutional rights of Plaintiff and/or acted with deliberate indifference to the rights of Plaintiff as noted above. The Defendants acted under color of law (public officials acting alone and/or conspiring with private officials) of a statute, ordinance, regulation, resolution, policy, custom or usage when they deprived Plaintiff of his Constitutional rights, privileges, and immunities. MPD Officers and supervisors acted with deliberate indifference to the rights of Plaintiff.

53. As a direct and proximate result of the Defendants' conduct, inaction, policy or customs as set forth in more detail above, Plaintiffs suffered the deprivation of their constitutional and/or federal statutory rights and suffered personal injuries, including injury to her career/loss of income, humiliation, mental anguish and suffering, and emotional distress.

54. By reason of the foregoing, Plaintiffs are entitled to an negative injunction against Defendants, prohibiting them from further unconstitutional policies or customs (including unconstitutional training).

**COUNT II**  
**Violation of 42 U.S.C. §1981**  
**(All defendants against City)**

30. Plaintiffs reallege the above allegations as if hereinafter set forth in full and further states and alleges as follows:

31. Defendant City violated §1981 because it intentionally engaged in racially-motivated abuse of government power.

32. By reason of the foregoing, Plaintiff is entitled to the Relief set forth in the Prayer.

**COUNT III**  
**Assault**  
**(Jones against Wuorinen, Downing and Lazarchic, and Henderson against John Does)**

41. Plaintiff realleges the above allegations as if hereinafter set forth in full and further states and alleges as follows:

42. Conduct by Defendants as set forth above created imminent and reasonable fear or apprehension by Plaintiffs Jones and Henderson for their own personal safety.

43. By reason of the foregoing, Plaintiffs were damaged thereby, and are entitled to the relief in the Prayer.

**COUNT IV**  
**Battery**  
**(Jones against Wuorinen, Downing and Lazarchic, and Henderson against John Does)**

41. Plaintiff realleges the above allegations as if hereinafter set forth in full and further states and alleges as follows:

42. Conduct by Defendants as set forth above constitutes physical contact of Plaintiffs to which they did not consent, and which was the proximate cause of damage to them.

43. By reason of the foregoing, Plaintiffs were damaged thereby, and are entitled to the relief in the Prayer.

**COUNT V**  
**Malicious Prosecution**  
**(Jones against all Defendants)**

58. Plaintiff realleges the above allegations as if hereinafter set forth in full and further states and alleges as follows:

59. Defendants instituted a criminal action against Jones with no reasonable ground on which to base a belief that the plaintiff would prevail on the merits (and/or lacked probable cause), and Defendants acted with malicious intent. All criminal matters terminated in favor of Jones.

60. By reason of the foregoing, Plaintiff Jones has suffered damages and other harm in a reasonable amount in excess of \$50,000.

**PRAYER FOR RELIEF**

**WHEREFORE**, Plaintiff prays for relief in the form of an injunction against Defendants, and each of them, and/or as follows:

1. Awarding Plaintiffs damages in excess of \$50,000, their reasonable attorney fees, and costs and disbursements.
2. Issuing a temporary and/or permanent injunctions to prevent such conduct.
3. Such other relief as the Court deems necessary and appropriate.

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Dated: November 22, 2004

**ATTORNEYS FOR PLAINTIFFS**  
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