

**IN THE CIRCUIT COURT OF DUPAGE COUNTY
ARBITRATION DIVISION**

CHRISTOPHER STOLLER,
LEO STOLLER, MICHAEL STOLLER)
)
Plaintiff,)
)
v.)
DANIEL GILLESPIE)
UBER TECHNOLOGIES, INC., BRET)
D. FRANCO, LORAN S. COHEN,)
DAVID HOMES, DAVID MCHON,)
WILSON)
ELSER MOSKOWITZ, EDELMAN)
& DICKER, LLP, STEVEN R. BONANNO)
HINSHAW & CULBERTSON, LLP,)
JOHN DOES 1-10, agents, assigns, et al,)
)
Defendants.)

Case No: 2020AR000151

JURY DEMAND

AMENDED COMPLAINT AT LAW

NOW COMES, Plaintiffs, Christopher Stoller, 71, a disabled person, a protected person under the Americans for Disability Act (ADA), Leo Stoller and Michael Stoller and for their complaint for damages against above-named Defendants for battery¹, assault, common-law

¹ Civil battery is defined by Illinois case law as the willful touching of another person. *Pechan v. Dynapro, Inc.*, 251 Ill. App. 3d 1072, 1084 (2d. Dist. 1993). The defendant does not have to be the one to come into contact with the plaintiff; a defendant still commits a civil battery if the defendant set in motion some substance or force that touched the plaintiff. *Id.* An action for battery does not depend on the hostile intent of the defendant. *Id.* Defendant Bret Franco’s civil assault was an intentional act, directed toward the plaintiff, that causes the plaintiff reasonable apprehension of an imminent, offensive contact with the plaintiff’s person, on May 21, 2019 (**Exhibit 1**). *McNeil v. Carter*, 318 Ill. App. 3d 939, 944 (3rd Dist. 2001). In order for there to be a “reasonable apprehension,” the defendant Bret Franco had the apparent ability to engage in harmful or offensive contact with the plaintiff on May 21, 2019 (**Exhibit 1**). *Parrish v. Donahue*, 110 Ill. App. 3d 1081, 1083 (3d Dist. 1982). The assault in this case consisted of the plaintiff’s fear of an imminent harmful contact on May 21, 2019 (**Exhibit 1**). Plaintiff’s battery claim consisted of the actual offensive or harmful contact itself that was caused by Bret Franco on May 21, 2019 See a copy of the Plaintiff’s Attorney Registration and Disciplinary Complaint (**Exhibit 5**). *Parrish v. Donahue*, 110 Ill. App. 3d 1081, 1083 (3d Dist. 1982). Although, an assault can take place without a battery, it is clear from the evidence provided in this case **Exhibit 1**, that the battery was accompanied by an assault. The element of intent in an assault or battery action does not necessarily have to be hostile or meant to cause harm. Rather, there need only be intent to do the act Constituting the assault or battery. *Gragg v. Calandra*, 297 Ill. App. 3d 639 (2nd Dist. 1998). For example, a physician who intentionally performed bypass surgery on a Patient without consent could be liable for battery. *Id.* The essence of Plaintiff’s battery claim is that the defendant Bret Franco intentionally caused a harmful or offensive touching of the plaintiff without the plaintiff’s consent (**Exhibit 1**), even if the touching did

negligence and willful and wanton conduct and emotional infliction now states as follows:

PARTIES, JURISDICTION AND VENUE

1. Plaintiffs, Christopher Stoller, Leo Stoller and Michael Stoller² are Illinois residents doing business in DuPage County.

Defendants

Daniel Gillespie, an Illinois Resident, a Cook County Judge acting in an administrative capacity when he failed to provide court room security for Christopher Stoller which has lead to an injury *Forrester v. White*, 484 US 219 - Supreme Court 1988



2. Defendant Uber Technologies, Inc., commonly known as “Uber”, with corporate headquarters located at 1455 Market St, San Francisco, CA 94103. UBER is an

not result in any physical harm, which in this case it did (**Exhibit 1**). See *Cohen v. Smith*, 269 Ill. App. 3d 1087, 1090-91 (1995). In this case Defendant Franco’s “touching” did result in physical harm (**Exhibit 1**). Plaintiff’s well plead tort of assault is simply based upon “a reasonable apprehension of an imminent battery,” by Defendant Bret Franco on May 21, 2019 (**Exhibit 1**) *Rosenberg v. Packerland Packing Co.*, 55 Ill. App. 3d 959, 963 (1977). From *Cooper v. Fichter*, 2014 IL App (1st) 130210-

² Leo Stoller and Michael Stoller provide Services to Injured Person, Christopher Stoller; when services to the injured person are provided by a family member or a hired individual, both the injured person Christopher Stoller and his brother Leo Stoller and his nephew Michael Stoller may recover damages for such costs.

American multinational ride-hailing company³ offering services that include peer-to-peer ride-sharing, ride service hailing, food delivery, and a micromobility system with electric bikes and scooters which does business in DuPage County, Illinois. Uber is a Defendant in a personal injury case, where the Plaintiff, Christopher Stoller, was riding in an Uber vehicle when it collided with another automobile causing debilitating injuries to Christopher Stoller. Uber retained the Chicago Law firm of WILSON ELSER MOSKOWITZ EDELMAN & DICKER, LLP, to represent them in the personal injury case.

3. Uber's defense attorney, Defendant Bret Franco attacked Christopher Stoller, committing assault and battery (**Exhibit 1**) in Cook County Court Room 2209 on May 21, 2019, at 50 West Washington, Chicago, Illinois. This attack caused injuries to Christopher Stoller for which Defendant Uber and WILSON ELSER MOSKOWITZ EDELMAN & DICKER, LLP, are liable.

³ "Uber approach to safety

"We recognize that every time you open your Uber app, you're putting your trust in our technology—to not only connect you with a driver, but to also give you tools in case of emergency. That trust is what drives us to continuously raise the bar, building new safety features, setting guidelines for respectful and positive experiences, and more. Whether you're a rider, driver, or anyone who uses Uber, your safety drives us." <https://www.uber.com/us/en/safety/>

4. Defendants Wilson Elser Moskowitz Eldman & Dicker, LLP⁴, is a law firm who regularly represents UBER against parties who are injured while riding in UBER vehicles.



5. WILSON ELSE runs an “Uber Accident Defense Mill”. WILSON ELSE acted with malice, fraud, gross negligence, oppressiveness, unlawful retaliation which was not a result of mistake of fact or law, honest error or judgment, overzealousness, mere negligence or other human failing but that WILSON ELSE conceived a plan, through its partners, Defendants, David Holmes, David McHon, Loren S. Cohen to instruct their associate Defendant Bret Franco cover up an attack (**Exhibit 1**).

6. Defendant WILSON ELSE and their partners David Holmes, David McHon, Loren S. Cohen along with their associates acted with willful and wanton misconduct, fraud, conspiring with Defendant Bret Franco, before and after the attack on Christopher Stoller, to cover it up and by making false misrepresentations of material fact to the Chicago Police and to the Illinois Attorney Registration and Disciplinary Commission. Bret D. Franco is also charged with

⁴ Wilson Elser is a full-service law firm, providing its clients with a full range of experienced and innovative legal services. More than 800 attorneys strong, Wilson Elser serves clients of all sizes, across multiple industries and around the world. Wilson Elser has 38 strategically located offices in the United States and one in London. It is also a founding member of Legalign Global, a close alliance of four of the world’s leading insurance law firms, created to assist companies doing business internationally. This depth and scale has made it one of the nation’s most influential law firms, ranked in the Am Law 200 and 56th in The National Law Journal’s NLJ 500. https://www.wilsonelser.com/news_and_insights/news_briefs/3632-devries_obtains_complete_defense_verdict_for_gun

violating ARDC Rules 8.4 c & d



7. Defendant Bret D. Franco, is a resident of Illinois, and an attorney with the law firm of WILSON ELSER MOSKOWITZ EDELMAN & DICKER, LLP, who regularly does business in DuPage County, Illinois. Bret D. Franco represents Uber Technologies Inc., in a personal injury case *Christopher Stoller v. Uber Technologies Inc.*, Cook County Case Law Division Case No. 2018 L 4578.

8. Defendant Franco under the direction of his senior partners, David Holmes, David McHon, Loren S. Cohen, engaged in the conduct complained of in the course and scope of his employment with WILSON ELSER MOSKOWITZ EDELMAN & DICKER, LLP, and is sued in his individual and in his official capacity and at all times mentioned herein, advises/consults and is charged with committing an assault and battery on Christopher Stoller, obstructing justice, being a co-conspirator, conspiring with the Defendants, David Holmes, David McHon, Loren S. Cohen aiding and abetting defendants David Holmes, David McHon, Loren S. Cohen in clear violation of ARDC Rule 5.1, 3.3(a) and 8.4(c) and (d).

9. Defendant Bret Franco acted with malice, fraud, gross negligence, oppressiveness, abuse of process, when he attacked Christopher Stoller (**Exhibit 1**), committing an assault and battery on Christopher Stoller, under the direction and supervision of Defendants David Holmes,

David McHon, Loren S. Cohen, obstructed justice, which was not the result of mistake of fact, law, or honest error or judgment, overzealousness, mere negligence or other human failing.

10. Defendants David Holmes, David McHon, Loren S. Cohen, directed Bret Franco to obstruct justice, to cover up Franco's assault and battery, which was willful and wanton misconduct, attacking Plaintiff Christopher Stoller in Judge Erlich's court room, committing an assault and battery on Christopher Stoller, causing him a physical and mental injury.

11. Defendants David Holmes, David McHon, Loren S. Cohen, aided and abetted their client Defendant Uber in a cover-up, by Defendants David Holmes, David McHon, Loren S. Cohen, by directing Bret Franco to obstruct justice⁵, to lie and to mislead to the Chicago Police and the Illinois Attorney Registration and Disciplinary Commission, in the course and scope of their employment with WILSON ELSER.

12. Franco is an attorney who represents Uber Technologies Inc, in Cook County Law Division Case 2018 L 4578. Franco's partners at the law firm WILSON ELSER MOSKOWITZ EDELMAN & DICKER, LLP, Defendants David Holmes, David McHon, Loren S. Cohen, are senior partners of Wilson Elser Moskowitz. They are liable under the Illinois Rules of Professional Conduct 5.1, for the Professional Misconduct charged against their associate Bret D. Franco. Defendants David Holmes, David McHon, Loren S. Cohen, supervisors are liable for constitutional violations of their subordinates (i.e. Bret Franco) because the supervisors, David Holmes, David McHon, Loren S. Cohen, participated in or directed the violations, *or knew of the violations and with deliberate indifference* participated in and encouraged, sanctioned, condoned and ratified the unlawful conduct of their subordinate.

13. Bret Franco, in the course and scope of their employment at WILSON ELSER

⁵ (720 ILCS 5/31-1) (from Ch. 38, par. 31-1) Sec. 31-1. Resisting or obstructing a peace officer, firefighter, or correctional institution employee. (a) A person who knowingly resists or obstructs the performance by one known to the person to be a peace officer, firefighter, or correctional institution employee of any authorized act within his or her official capacity commits a Class A misdemeanor.

MOSKOWITZ EDELMAN & DICKER LLP than after aided and abetted Uber and Bret Franco, in the “cover-up” of the assault and battery.



14. Defendant David Holmes, a senior partner of Wilson Elser Moskowitz, has managerial authority, supervisory authority⁶ in the law firm, is a resident of Illinois, and a senior partner/attorney with the law firm of WILSON ELSER MOSKOWITZ EDELMAN & DICKER, LLP, and who regularly does business in DuPage County, Illinois.

15. A lawyer/senior partner having direct supervisory authority over Mr. Bret Franco, directed Bret Franco to harass, provoke and to antagonize Christopher Stoller’s in order to get his personal injury Case No.2018 L 4578 dismissed.

16. On May 21, 2019, Bret Franco, under the supervision of David Holmes attacked Christopher Stoller, a disabled person, in a Cook County Court Room 2209 on May 21, 2019, at

⁶ A supervisor is liable for constitutional violations of his subordinates because if the supervisor, David Holmes participated in or directed the violations, *or knew of the violations and with deliberate indifference failed to act to prevent them.* *Wilson v. Seiter*, 501 U.S. 294, 303, 111 S. Ct. 2321, 115 L. Ed. 2d 271 (1991); *Taylor*, 880 F.2d at 1045; *see also Haynesworth v. Miller*, 820 F.2d 1245, 1261 (D.C.Cir.1987) (A supervisor who remains passive in the face of past constitutional violations about which he knew or should have known may be liable have thus recognized a cause of action under when a plaintiff alleged that a supervisor’s failure to train or to supervise personnel led to the deprivation of constitutional rights, or when a policy existed that led to the deprivation of such rights. *Ybarra v. Reno Thunderbird Mobile Home Village*, 723 F.2d 675, 680 (9th Cir.1984).

50 West Washington, Chicago, Illinois causing the Plaintiff a physical injury. After the physical attack on Christopher Stoller, under the supervision of David Holmes, then directed Bret Franco to deceive and to obstruct justice, to lie and to mislead the Chicago Police and the Illinois Attorney Registration and Disciplinary Commission.

17. Defendant Franco's Response (**Exhibit 3**) to Christopher Stoller's Illinois Attorney Disciplinary Commission ("ARDC") Complaint (**Exhibit 2**) regarding the true facts about the battery, making false statements to the ARDC and to the Chicago Police about the May 21, 2019 battery and obstructed justice. Defendant Homes, with knowledge of the specific conduct, ratifies the Franco's battery against Christopher Stoller after the fact.

18. Defendant Homes instructed Defendant Franco to lie, to cover it up the battery, to obstruct justice, in the course and scope of his employment with WILSON ELSER MOSKOWITZ EDELMAN & DICKER, LLP, and to continue to intimidate Christopher Stoller in case No 2018 L 4578. See attached true and correct copy of a June 6, 2019 photo(s) of Bret Franco below intimating Christopher Stoller in Judge Daniel Gillespie's court room on October 8, 2019.

19. A crew of lawyers from the WILSON ELSER MOSKOWITZ EDELMAN & DICKER, LLP, firm including Defendant Loren S. Cohen, who were sent into Judge Daniel Gillespie's court room for no other purpose on June 6, 2019, other than to intimidate and harass Christopher Stoller (**Exhibit 5**), by defendants David Holmes, David McMahon, Loren S. Cohen..

20. Plaintiff alleges that the supervisors in this case, David Holmes, David McMahon, Loren S. Cohen's failure to train or to supervise Bret Franco led to the deprivation of Plaintiff's constitutional rights and/or policy existed that led to the deprivation of his rights.

21. After Bret Franco committed assault and batter on the Plaintiff in Judge Gillespie

court room, Defendants David Holmes, David McMahon, Loren S. Cohen continue to allow Bret Franco represent Uber and permit Bret Franco to continue to appear in court to intimidate and harass the Plaintiff Christopher Stoller, causing him emotional stress. See a true and correct copy of a photo of Bret Franco holding a piece of paper up, in court looking at the Plaintiff and harassing him on Oct 8, 2019⁷. The trial court judge Gillespie did not order a County Sheriff to be present in his court room to provide security for the Plaintiff, as Judge Erlich had previously done after the Franco attack on Christopher Stoller. See a true and correct photo Exhibit 5 below of Brad Franco intimidating the Plaintiff.

⁷ Christopher Stoller suffered a relaps on Oct 8, 2019 due to Brad Franco's intimation which Judge Gillespie, failure to provide court room security lead to an additional injury to the Plaintiff.





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22. Defendant David McMahon, senior partner of Wilson Elser Moskowitz, has managerial authority, supervisory authority⁸ in the law firm, is a resident of Illinois, and who regularly does business in DuPage County, Illinois. A lawyer/senior partner having direct supervisory authority over Mr. Bret Franco, directed Bret Franco to harass, provoke and to antagonize Christopher Stoller's in order to get his personal injury Case No.2018 L 4578 dismissed.

⁸ A supervisor is liable for constitutional violations of his subordinates because the supervisor(s) in this case, David Holmes, David McMahon, Loren S. Cohen and Harold Moskowitz. Participated in or directed the violations, or knew of the violations and with deliberate indifference failed to act to prevent them then attempted to "cover them up" the assault and battery. *Wilson v. Seiter*, 501 U.S. 294, 303, 111 S. Ct. 2321, 115 L. Ed. 2d 271 (1991); *Taylor*, 880 F.2d at 1045; see also *Haynesworth v. Miller*, 820 F.2d 1245, 1261 (D.C.Cir.1987) (A supervisor who remains passive in the face of past constitutional violations about which he knew or should have known may be liable under § 1983.). Federal courts have thus recognized a cause of action under § 1983 when a plaintiff alleged that a supervisor's failure to train or to supervise personnel led to the deprivation of constitutional rights, or when a policy existed that led to the deprivation of such rights. *Ybarra v. Reno Thunderbird Mobile Home Village*, 723 F.2d 675, 680 (9th Cir.1984). Accordingly, we reject the State's argument that Tripathi must allege that Stewart had personal involvement with Tripathi's lost property in order to maintain a § 1983 action.

23. On May 21, 2019, Bret Franco, under the supervision of David McMahon attacked Christopher Stoller, causing the Plaintiff a physical injury. After the physical attack on Christopher Stoller, under the supervision of David McMahon then directed Bret Franco to lie, to deceive and to obstruct justice, to mislead the Chicago Police and the Illinois Attorney Registration and Disciplinary Commission.

24. Defendant Franco's Response to Christopher Stoller's Illinois Attorney Disciplinary Commission ("ARDC") Complaint regarding the true facts about the battery, by making false statements to the ARDC and to the Chicago Police about the May 21, 2019 battery.

25. Defendant Homes, with knowledge of the specific conduct, ratifies the Franco's battery against Christopher Stoller after the fact. Defendant McMahon then instructed Defendant Franco to cover it up the battery, in the course and scope of his employment with WILSON ELSER MOSKOWITZ EDELMAN & DICKER, LLP, and to continue to intimidate Christopher Stoller in case No 2018 L 4578.





26. Defendant Loren S. Cohen, a senior partner of Wilson Elser Moskowitz, has managerial authority, supervisory authority⁹ in the law firm, is a resident of Illinois, and who regularly does business in DuPage County, Illinois. A lawyer/senior partner having direct supervisory authority over Mr. Bret Franco, directed Bret Franco to harass, provoke and to antagonize Christopher Stoller's in order to get his personal injury Case No.2018 L 4578 dismissed.

27. On May 21, 2019 Bret Franco, under the supervision of Loren S. Cohen attacked Christopher Stoller, causing the Plaintiff a physical injury. After the physical attack on

⁹ A supervisor is liable for constitutional violations of his subordinates because the supervisor, Loren S. Cohen participated in or directed the violations, *or knew of the violations and with deliberate indifference failed to act to prevent them and attempted to cover up the Bret Franco assault and battery on Christopher Stoller. Wilson v. Seiter*, 501 U.S. 294, 303, 111 S. Ct. 2321, 115 L. Ed. 2d 271 (1991); *Taylor*, 880 F.2d at 1045; *see also Haynesworth v. Miller*, 820 F.2d 1245, 1261 (D.C.Cir.1987) (A supervisor who remains passive in the face of past constitutional violations about which he knew or should have known may be liable under § 1983.). Federal courts have thus recognized a cause of action under § 1983 when a plaintiff alleged that a supervisor's failure to train or to supervise personnel led to the deprivation of constitutional rights, or when a policy existed that led to the deprivation of such rights. *Ybarra v. Reno Thunderbird Mobile Home Village*, 723 F.2d 675, 680 (9th Cir.1984). Accordingly, we reject the State's argument that Tripathi must allege that Stewart had personal involvement with Tripathi's lost property in order to maintain a § 1983 action

Christopher Stoller, under the supervision of Loren S. Cohen then directed Bret Franco to obstruct justice, to deceive and to lie, to mislead the Chicago Police and the Illinois Attorney Registration and Disciplinary Commission.

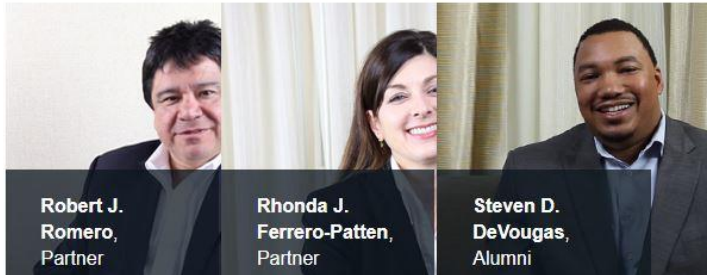
28. Defendant Franco's Response to Christopher Stoller's Illinois Attorney Disciplinary Commission ("ARDC") Complaint regarding the true facts about the battery, by making false statements to the ARDC and to the Chicago Police about the May 21, 2019 battery.

29. Defendant Homes, with knowledge of the specific conduct, ratifies the Franco's battery against Christopher Stoller after the fact. Defendant Cohen then instructed Defendant Franco to cover it up the battery, in the course and scope of his employment with WILSON ELSER MOSKOWITZ EDELMAN & DICKER, LLP, and to continue to intimidate Christopher Stoller in case No 2018 L 4578.

30. A crew of lawyers from the WILSON ELSER MOSKOWITZ EDELMAN & DICKER LLP firm including Defendant Loren S. Cohen, who were sent into Judge Daniel Gillespie's court room for on June 6, 2019, to intimidate and harass Christopher Stoller (**Exhibit 5**), by Defendants David Holmes, David McMahon, Loren S. Cohen. .

31-34 Reserved

35. A crew of lawyers from the WILSON ELSER MOSKOWITZ EDELMAN & DICKER, LLP, were sent into Judge Daniel Gillespie's court room for on June 6, 2019, to intimidate and harass Christopher Stoller (**Exhibit 5**), under the direction of Defendants David Holmes, David McMahon, Loren S. Cohen.



Associates
Partners
Summer Associates
Professional Staff

36. Defendant Hinshaw & Culbertson¹⁰, LLP, who regularly does business in DuPage County with headquarters located at 151 North Franklin Street, Suite 2500, Chicago, Illinois.

37. Hinshaw acted with malice, fraud, gross negligence, and oppressiveness, unlawful retaliation which was not a result of mistake of fact or law, honest error or judgment, overzealousness, mere negligence or other human failing. Hinshaw acted with willful and wanton misconduct, fraud, conspiring with Defendant Steven R. Bonanno, a senior partner and defendant Bret Franco in an attempt to cover up the battery to obstruct justice.¹¹

¹⁰ Hinshaw & Culbertson LLP is a national law firm with approximately 425 lawyers. Headquarters is in Chicago, Illinois.. We offer a sophisticated legal practice, with an emphasis in litigation, consumer financial services, corporate and business law, environmental, health care law, labor and employment law, professional liability defense, and wealth preservation and taxation matters. Our attorneys provide services to a range of for-profit and nonprofit clients in industries that include construction, financial services, health care, insurance, legal, manufacturing, real estate, retail, and transportation. Our clients also include government agencies, municipalities, and schools. <https://www.hinshawlaw.com/about.html>

¹¹ (720 ILCS 5/31-1) (from Ch. 38, par. 31-1)
 Sec. 31-1. Resisting or obstructing a peace officer, firefighter, or correctional institution employee.
 (a) A person who knowingly resists or obstructs the performance by one known to the person to be a peace officer, firefighter, or correctional institution employee of any authorized act within his or her official capacity commits a Class A misdemeanor.



38. Defendant Steven R. Bonanno, of the law firm of Defendant Hinshaw & Culbertson LLP, and who regularly does business in DuPage County. Steven R. Bonanno is a resident of Illinois. Steven R. Bonanno represents Raymond Dotson Sr. Bonanno is being sued in his individually capacity and in his official capacity and at all times mentioned herein, advises/consults and is charged with being a co-conspirator, conspiring with the Defendants, aiding and abetting the Defendant Bret Franco cover up his assault and battery in clear violation of ARDC Rule 5.1, 3.3(a) and 8.4(c) and (d).

39. Bonanno acted with malice, fraud, gross negligence, oppressiveness, abuse of process, which was not the result of mistake of fact, law, or honest error or judgment, overzealousness, mere negligence or other human failing.

40. Defendant Bonnano acted with willful and wanton misconduct when he attempted to cover up Bret Franco's assault and battery. Defendant Bonnano was in the court room when Bret Franco attacked Christopher Stoller. Defendant Bonanno lied to the Chicago Police said "he did not see anything". Defendant Bonanno also lied to the Illinois Registration and Disciplinary Commission. Bonnano knowingly and willfully obstructed justice.

41. Judge Daniel Gillespie¹², a non-party who caused or contributed to cause the alleged injury that Christopher Stoller has endured after the May 21, 2019 battery, “post-traumatic stress” as a result of allowing the Defendant, the law firm of WILSON ELSER MOSKOWITZ EDELMAN & DICKER, LLP, to continue to place Defendant, Bret Franco in the same court room with Plaintiff Christopher Stoller without any Cook County Sheriff present in the court room.

NATURE OF THE CASE

VIOLATION OF PLAINTIFF’S CIVIL RIGHTS, BATTERY, ASSAULT, INTERFERENCE WITH EXERCISE OF CIVIL RIGHTS, INTENTIONAL INFLICTION OF EMOTIONAL DISTRESS NEGLIGENCE, COMPLAINT FOR DAMAGES

GENERAL ALLEGATIONS (As to all Counts)

Plaintiff hereby alleges as follows:

42. Plaintiff Christopher Stoller, at all relevant times mentioned herein and currently, resides in, State of Illinois and does business in DuPage County.

43. Plaintiff is informed and believes, and based thereon, alleges that Defendant Bret Franco, is an individual who at all relevant times mentioned herein and currently, resides in State of Illinois and does business in DuPage County, and/or who caused injuries and damages to the Plaintiff in State of Illinois.

44. Plaintiff is informed and believes, and based thereon alleges that Defendant Steven Bonanno is an individual who at all relevant times mentioned herein and currently, resides in the State of Illinois, and/or who caused injuries and damages to the Plaintiff in the State of Illinois.

¹² Judge Gillespie will be called as a witness in the case of *Christopher Stoller v. UBER*.

VENUE AND JURISDICTION

45. This Court has jurisdiction pursuant to 735 ILCS 5/2-209 in that the Defendants do business in DuPage County, Illinois, in a manner sufficient to support personal jurisdiction.

46. Venue is proper in DuPage County, Illinois, because the Defendants all reside in the State of Illinois and do business in DuPage County, the property is located in DuPage County.

47. The true names and capacities, whether individual, corporate, partnership, associate or otherwise, of Defendants sued herein as DOES 1 through 10, inclusive, are currently unknown to Plaintiff, who therefore sues said Defendants by such fictitious names.

COMPLAINT FOR DAMAGES

(Claims common to all causes of action)

48. Plaintiff informed and believes, and based thereon alleges, that each of the Defendants designated herein as a DOE is legally responsible in some manner for the events and happenings referred to herein, and caused injury and damage proximately thereby to Plaintiff as hereinafter alleged. Plaintiff will seek Leave of Court to amend this Complaint to show the true names and capacities of the Defendants designated herein as DOES when the same have been ascertained. Whenever in this complaint reference is made to "Defendants," such allegation shall be deemed to mean the acts of Defendants acting individually, jointly, and/or severally.

49. Except as hereinafter specifically described, Defendants and each of them, are and were the co-conspirators, aiders, abettors, agents, and/or employees of the other Defendants, and in acting as described herein were acting within the conspiracy or the scope of their authority or employment as agents and/or employees thereof, and with the permission and consent of the

other Defendants.

50. This case arises out of injuries suffered (Exhibit 1) by Plaintiff after he was attacked and injured by opposing attorney Bret Franco in a Cook County Court Room 2209 on May 21, 2019, on 50 West Washington, Chicago, Illinois.

51. At the time of the attack, Christopher Stoller, 71, a disabled senior citizen, was sitting in his wheel chair in Court Room 2209, reading a court order that had just been issued by Circuit Court Judge J. Ehlich at 11:20 am in the case of *Christopher Stoller v. UBER*.

52. Christopher Stoller was sitting in his wheel chair, a victim of a car accident in which Bret Franco who represented the defendant, who Christopher Stoller had sued, for inflicting an injury upon in an auto accident case. Christopher Stoller was looking at a court order that Judge Ehlich had just issued in his case. When suddenly the Defendant Bret Franco approached Christopher Stoller in a very aggressive manner, immediately attacking Stoller in a violent manner. Defendant Franco pushed Stoller about the body ripping the court order out of Christopher Stoller hands. Stoller suffered bruising about the left arm his medical report and true and correct photos of his injuries (**Exhibit 1**).

53. Defendant Steven R. Bonanno, an attorney, who is employed by Defendant Hinshaw & Culbertson LLP, witness the attack by Defendant Franco and then tried to cover it up by lying to the Chicago Police and the Illinois Attorney Registration and Disciplinary Commission. Steven R. Bonanno obstructed justice.

54. This case arises out of injuries suffered by Plaintiff after he was assaulted and battery in a court room by Defendant Bret Franco.

55. Defendants UBER TECHNOLOGIES INC., BRET D. FRANCO, LORAN S. COHEN David Holmes, David McHon, HAROLD MMOSKOWITZ ,WILSON ELSEER MOSKOWITZ, EDELMAN & DICKER LLP, STEVEN R. BONANNO, HINSHAW &

CULBERTSON LLP, David Holmes, David McHon, HAROLD MOSKOWITZ, WILSON ELSER MOSKOWITZ, EDELMAN & DICKER LLP, STEVEN R. BONANNO, HINSHAW & CULBERTSON LLP conspired and/or aided and abetted the other to cover up Defendant Bret Franco's assault and battery on Christopher Stoller and to obstruct justice.

56. As a direct and proximate result of Defendants' unlawful conduct, obstruction of justice as alleged hereinabove, Plaintiff has suffered physical injury (**Exhibit 1**), severe emotional distress, humiliation, embarrassment, mental and emotional distress and anxiety, and economic harm, all in an amount exceeding the jurisdictional minimum of the Court according to proof at trial. The aforementioned conduct by Defendants was willful, wanton, and malicious.

57. At all relevant times, each of the Defendants acted with conscious disregard of the Plaintiffs rights and feelings. Each Defendant also acted with the knowledge of or with reckless disregard for the fact that his or her conduct was certain to cause injury and/or humiliation to the Plaintiff.

58. Plaintiff is further informed and believes that Defendants intended to cause fear, physical injury and/or pain and suffering to the Plaintiff. By virtue of the foregoing, the Plaintiff is entitled to recover punitive and exemplary damages from Defendants according to proof.

COUNT I
Assault and Battery¹³ Against all Defendants

59. Plaintiff repeats and re-alleges by reference each and every allegation contained hereinabove and incorporates the same herein as though fully set forth herein.

60. Defendant Bret Franco, while under the supervision of Defendants

¹³ Civil battery is defined by Illinois case law as the willful touching of another person. *Pechan v. Dynapro, Inc.*, 251 Ill. App. 3d 1072, 1084 (2d. Dist. 1993). The defendant does not have to be the one to come into contact with the plaintiff; a defendant still commits a civil battery if the defendant set in motion some substance or force that touched the plaintiff. *Id.* An action for battery does not depend on the hostile intent of the defendant. *Id.*

David Holmes, David McMahon, Loren S. Cohen and Harold Moskowitz, in the course and scope of his employment with WILSON ELSER MOSKOWITZ EDELMAN & DICKER, LLP, attacked Christopher Stoller, a disabled person, in a Cook County Court Room 2209 on May 21, 2019, at 50 West Washington, Chicago, Illinois, ripping a court order out of Christopher Stoller's hand, causing the Plaintiff a physical injury and mental injury. The physical contact was made in an insulting or provoking manner.

61. During the course of the altercation defendant Bret Franco struck, pushed Christopher Stoller back in his wheel chair, causing him an injury.

62. Defendant Bret Franco intended to cause and did cause a harmful contact and physical and emotional injury to Christopher Stoller.

63. Plaintiff did not consent to Defendant Bret Franco's act.

64. As a direct and proximate result of Defendant Bret Franco conduct Plaintiff suffered injuries to his shoulder. Plaintiff has also suffered extreme mental anguish and physical pain. See attached affidavits of Christopher Stoller attached hereto and made a part hereof.

65. Plaintiff is informed and believes, and on that basis alleges, that Plaintiff has suffered a permanent disability.

66. These injuries have caused Plaintiff to suffer general damages in an amount to be determined at trial.

67. As a direct and proximate result of defendant Bret Franco conduct, plaintiff was required to obtain medical services and treatment in, an amount to be determined by proof at trial.

68. Plaintiff will, in the future, be compelled to incur additional obligations for medical treatment in an amount to be determined by proof at trial.

69. Defendant Bret Franco malicious unlawful assault and battery on Christopher Stoller act was done knowingly, willfully, and with malicious intent, and plaintiff is entitled to seek leave of court for punitive damages in an amount to be determined at trial.

70. As a further direct and proximate result of Defendant's conduct, Plaintiff has been, and continues to be, unable to work since the events described in this complaint and has suffered a loss of earnings in an amount which has not yet been determined, but which will be added by amendment when it is ascertained.

71. Defendant Bret Franco's malicious assault and battery on Christopher Stoller was done knowingly, willfully, and with malicious intent, and plaintiff is entitled to seek Leave of Court for punitive damages in an amount to be determined at trial.

72. Plaintiff has been physically and mentally damaged by Defendants' assault and battery.

WHEREFORE, Plaintiff prays that the court grant it judgment and award the Plaintiff compensatory and Plaintiff seek leave to request punitive damages in an amount to be determined at trial. Plaintiff request attorney fees and cost.

COUNT II

Assault as to all Defendants

73. Plaintiff repeats and re-alleges by reference each and every allegation contained hereinabove and incorporates the same herein as though fully set forth herein.

74. Defendant Bret Franco intended to cause and did cause Plaintiff to suffer apprehension of an immediate harmful contact.

WHEREFORE, plaintiff demands judgment against all of the Defendants, as follows, general damages in an amount to be determined at trial, medical and related expenses in the

amount to be determined at trial, past and future lost earnings in the amount of be determined at trial, impairment of earning capacity an amount to be determined at trial. Plaintiff seeks leave of this court for Punitive damages, costs of this action, and any other and further relief that the court considers and deems proper and just.

COUNT III

Conspiracy, Willful and Wanton Conduct against all Defendants

75. Plaintiff repeats and re-alleges by reference each and every allegation contained hereinabove and incorporates the same herein as though fully set forth herein.

76. Defendants UBER TECHNOLOGIES INC., BRET D. FRANCO, LORAN S. COHEN, David Holmes, David McHon, HAROLD MOSKOWITZ, WILSON ELSER MOSKOWITZ, EDELMAN & DICKER, LLP, STEVEN R. BONANNO, HINSHAW & CULBERTSON, LLP, all colluded and conspired together acting with malice, fraud, gross negligence, oppressiveness, which was not a result of mistake of fact or law, honest error or judgment, overzealousness, mere negligence or other human failing.

77. Defendants acted with willful and wanton misconduct in the course and scope of their employment and in furtherance of their respective business, individually and collectively agreed with a meeting of the minds, based upon the advice and counsel of the law firms of Hinshaw & Culbertson LLP and WILSON ELSER MOSKOWITZ EDELMAN & DICKER, LLP, to cover up the Defendant Bret Franco's assault and battery against Christopher Stoller and by directing their employees Steven R. Bonanno and Bret Franco to lie to the Chicago Police and the Illinois Attorney Registration and Disciplinary Commission regarding complaints that were lodged against in order to engage in a cover up and obstruction of justice.

78. Plaintiff suffered damages by the Defendants UBER TECHNOLOGIES INC., BRET D. FRANCO, LORAN S. COHEN, David Holmes, David McHon, HAROLD MMOSKOWITZ, WILSON ELSER MOSKOWITZ, EDELMAN & DICKER, LLP, STEVEN R. BONANNO, HINSHAW & CULBERTSON, unlawful “cover up” of Bret Franco’s assault and battery.

79. As a result of Defendants' extreme and outrageous conduct, Stoller has suffered and will continue to suffer mental pain and anguish, severe emotional trauma, embarrassment, and humiliation. Stoller was harmed by Defendants Proximate cause of injury to the Plaintiffs was foreseeable.

WHEREFORE, Plaintiff, Christopher Stoller, respectfully requests that this Honorable Court enter judgment in her favor as follows, declaring that the practices complained of herein are unlawful and violate the aforementioned statutes and regulations, awarding Plaintiff statutory and actual damages, in an amount to be determined at trial, for the underlying assault and battery, awarding Plaintiff costs and reasonable attorney fees as provided, and awarding any other relief as this Honorable Court deems just and appropriate and refer this case to the Illinois State’s Attorney for DuPage County to conduct a assault and battery investigation.

COUNT IV

AIDING AND ABETTING¹⁴

80. Plaintiff repeats and re-alleges by reference each and every allegation contained hereinabove and incorporates the same herein as though fully set forth herein.

¹⁴ The elements necessary to convict under aiding and abetting theory are (1) that the accused had specific intent to facilitate the commission of a crime by another; (2) the accused had the requisite intent of the underlying substantive offense; (3) the accused assisted or participated in the commission of the underlying substantive offense and (4) that someone committed the underlying offense.

81. WILSON ELSER MOSKOWITZ, EDELMAN & DICKER, LLP, STEVEN

R. BONANNO aided and abetted¹⁵ their client UBER into committing “covering up” Defendant Bret Franco’s assault and battery against Christopher Stoller, a tort against the Plaintiff.

82. Hinshaw & Culbertson, aided and abetted their client into committing obstruction of justice, “covering up” Defendant Bret Franco’s assault and battery against Christopher Stoller, a tort against the Plaintiff.

83. Defendants WILSON ELSER MOSKOWITZ, EDELMAN & DICKER, LLP and HINSHAW & CULBERTSON, owed a duty to the Plaintiff to not engage in a “cover up” of the Defendant Bret Franco’s assault and battery against Christopher Stoller.

84. Defendants WILSON ELSER MOSKOWITZ, EDELMAN & DICKER, LLP, and HINSHAW & CULBERTSON, were aware of the duty of care that their clients owed the Plaintiffs.

85. Defendants WILSON ELSER MOSKOWITZ, EDELMAN & DICKER, LLP, and HINSHAW & CULBERTSON breached that duty and committed numerous torts to the Plaintiff as described throughout this Complaint.

86. Defendants WILSON ELSER MOSKOWITZ, EDELMAN & DICKER, LLP, and HINSHAW & CULBERTSON, all of which are attorneys, are aware of the breach and torts that their clients committed and for which the Plaintiffs have suffered damages.

¹⁵Aiding and abetting and conspiracy claims find their roots in criminal law. In the civil context, they lead to liability. For those who help others actors or a main actor (usually for lawyers, it is the client) to commit some tort against a third party. In practice, this often involves a claim that the lawyer helped the client either to commit a fraud on a third party or breach some duty (usually a fiduciary duty). To a third party, when brought against lawyers, these in-concert liability claims, in most jurisdictions, involve the following elements: (1) a duty owed by the client to a third party; (2) that the lawyer is aware of the duty owed by the client to the third party; (3) that the client breaches that duty and/or commits a tort against that third party; (4) that the lawyer is aware of the breach and/or tort committed by the client; (5) that the lawyer assists the client in committing the tort and/or breach; and (6) that the third-party suffers some damage. *Thornwood v. Jenner & Block*, 344 N.E. 2d. 15 (ILL. App. 2003).

87. Proximate cause of injury to the Plaintiffs was foreseeable.

88. Proximate cause of injury to the Plaintiffs was foreseeable and the Plaintiff has suffered and is still suffering damages resulting from the “cover up” of Bret Franco’s assault and battery on Plaintiff.

WHEREFORE, Plaintiffs pray for judgment against each of the Defendants as follows, for compensatory damages for the maximum amount allowed by law. Plaintiffs also request leave of court for punitive damages for the maximum amount allowed by law, for any and all costs associated with the lawsuit herein, for reasonable attorney’s fees and for such other remedies as this Court may deem proper and just.

COUNT V¹⁶

Willful and Wanton Misconduct/Negligence against all Defendants

89. Plaintiff repeats and re-alleges by reference each and every allegation contained hereinabove and incorporates the same herein as though fully set forth herein.

90. Defendants had a specific duty to the Plaintiffs to act with integrity and honesty.

91. Defendants breached that duty when they engaged in a “cover-up” of Bret Franco’s assault and battery against Christopher Causing Plaintiff to endure mental and physical harm.

92. There is a direct and actual connection between the Defendants’ conduct and the resulting harm that the Plaintiff has endured when plaintiff was assaulted and battered by Defendant Bret Franco and by the Defendants’ on going “cover up of Bret Franco’s assault and battery against Christopher.

¹⁶Course of action which shows actual or deliberate intention to harm or which if not intentional show an utter indifference to or conscious disregard for a person’s safety and the safety of others.

93. Proximate cause of injury to the Plaintiff was foreseeable and the Plaintiff has suffered and is still suffering damages resulting from the assault and battery of Bret Franco and the Defendants' cover up of the incident

WHEREFORE, Plaintiffs pray for judgment against each of the Defendants as follows, for compensatory damages for the maximum amount allowed by law. Plaintiffs also request leave of court for punitive damages for the maximum amount allowed by law, for any and all costs associated with the lawsuit herein, for reasonable attorney's fees and for such other remedies as this Court may deem proper and just.

COUNT VI

Intentional Infliction of Emotional Distress against all Defendants

94. Plaintiff repeats and re-alleges by reference each and every allegation contained herein above and incorporates the same herein as though fully set forth herein.

95. This cause of action for intentional infliction of distress is premised on the outrageous conduct of the Defendants engaging in the assault and battery of Christopher Stoller 71, a disabled person, a protected person as defined by the Americans for Disability Act (ADA).

96. The Defendants' conduct is so extreme and outrageous when considering that both Plaintiff is a 71 year old disabled person, a protected person under the Americans for Disability Act (ADA) nearly blind.

97. Said conduct of the Defendants goes beyond all possible pound of decency; *Public Finance Corporation v. Davis*, 66 Ill. 2d 85, 90.

98. Said conduct has caused the Plaintiffs to endure physical and emotional illness and as a result of Defendants' misconduct, the Defendants caused direct injury to the Plaintiff.

99. Defendants recklessly or consciously disregarded the probability of causing emotional distress to Plaintiff which is disabled, and a direct injury and should not have to endure such conduct.

100. Plaintiff suffered severe and extreme emotional distress and continues to suffer and endure it. Plaintiff has suffered grief, worry, humiliation and shame which he should never have to endure.

101. Defendants' extreme and cruel behaviors go way beyond all possible bounds of decency. Proximate cause of injury to the Plaintiff was foreseeable and the Plaintiff has suffered and is still suffering damages.

WHEREFORE, Plaintiff prays for judgment against each of the Defendants as follows, for compensatory damages for the maximum amount allowed by law. Plaintiffs also request punitive damages for the maximum amount allowed by law, for any and all costs associated with the lawsuit herein, for reasonable attorney's fees and for such other remedies as this Court may deem proper and just.

COUNT VII

Negligent Hiring and Supervision as to Defendants Wilson Elser Moskowitz Edelman &

Dicker David Holmes, David McHon, Loren S. Cohen and Harold Moskowitz

102. Plaintiff repeats and re-alleges by reference each and every allegation contained herein above and incorporates the same herein as though fully set forth herein.

103. Defendant WILSON ELSER MOSKOWITZ EDELMAN & DICKER, LLP lacked control over its employee's *i.e* Bret Franco David Holmes, David

McHon, Loren S. Cohen and Harold Moskowitz.

104. Defendants WILSON ELSER MOSKOWITZ EDELMAN & DICKER, LLP, knew or should have known that the employees Bret Franco David Holmes, David McHon, Loren S. Cohen and Harold Moskowitz had a particular unfitness for their positions so as to create a danger of harm to third persons; (2) that such particular unfitness was known or should have been known at the time of the employee's Bret Franco David Holmes, David McHon, Loren S. Cohen hiring or retention; and (3) that this particular unfitness proximately caused the plaintiff's injury¹⁷.

105. Defendant WILSON ELSER MOSKOWITZ EDELMAN & DICKER, LLP, had a duty to supervise its employees; Bret Franco David Holmes, David McHon, Loren S. Cohen; (2) the employer, WILSON ELSER MOSKOWITZ EDELMAN & DICKER LLP negligently supervised its employees Bret Franco David Holmes, David McHon, Loren S. Cohen and Harold Moskowitz ; and (3) such negligence proximately caused the Plaintiff's injuries. ¹⁸.

106. Proximate cause of injury to the Plaintiff was foreseeable and the Plaintiff has suffered and is still suffering damages.

WHEREFORE, Plaintiff pray for judgment against each of the Defendants as follows, for compensatory damages for the maximum amount allowed by law. Plaintiffs also request punitive damages for the maximum amount allowed by law, for any and all costs associated with the lawsuit herein, for reasonable attorney's fees and for such other remedies as this Court may deem proper and just.

¹⁷ *Van Horne v. Muller*, 185 Ill. 2d 299, 311 (1998)

¹⁸ *Van Horne v. Muller*, 294 Ill. App. 3d 649, 657, (1st Dist.1998), modified on other grounds, 185 Ill. 2d 299; see also *Roppo*, 100 F. Supp. 3d at 647 (quoting *Vancura v. Katris*, 238 Ill. 2d 352 (2010)). This claim concerns the employer's own negligence rather than the negligence of its employee, meaning that the employer's liability is direct, not vicarious. *Garrelts v. Symons Corp.*, No. 07 C 5512, 2010 WL 1172525 (March 23, 2010).

COUNT VIII¹⁹

Negligent Hiring and Supervision as to Defendant Hinshaw & Culbertson, LLP

107. Plaintiff repeats and re-alleges by reference each and every allegation contained herein above and incorporates the same herein as though fully set forth herein.

108. Defendant Hinshaw & Culbertson, LLP, lacked control over its employee's *i.e* , Steven R. Bonanno, knew or should have known that their employee Steven Bonanno was a very sick, deeply disturbed, troubled personality, that Bonanno had a particular unfitness for his position as an attorney, so as to create a danger of harm to third persons; (2) that such particular unfitness was known or should have been known at the time of Steven Bonanno hiring or retention; and (3) that this particular unfitness proximately caused the plaintiff's injury²⁰.

109. Hinshaw & Culbertson, LLP, had a duty to supervise its employee Steven Bonanno.

110. Hinshaw & Culbertson negligently supervised its employee Steven Bonanno, who is known as a "loose cannon" and such negligence proximately caused the Plaintiff's injuries.²¹

¹⁹The tort claims of negligent hiring and negligent retention are rooted in common law and are generally permitted where an employee's tortious conduct cannot result in any violation under the theory of respondent superior. A claim for negligent hiring "is based on the principle that an employer is liable for the harm resulting from its employee's negligent acts 'in the employment of improper persons or instrumentalities in work involving risk of harm to other. Labor and Employment Law, Ch. 270, § 270.03. Accordingly, in analyzing such claims, courts generally assess whether the employer exercised reasonable care in choosing or retaining an employee for the particular duties to be performed. *Id.* Similarly, claims for negligent retention on are based upon the premise that an employer should be liable when it places an employee, who it knows or should have known is predisposed to committing a wrong, in a position in which the employee can commit a wrong against a third party. *Id.*

²⁰ *Van Horne v. Muller*, 185 Ill. 2d 299, 311 (1998)

²¹ *Van Horne v. Muller*, 294 Ill. App. 3d 649, 657, (1st Dist.1998), modified on other grounds, 185 Ill. 2d 299; see also *Roppo*, 100 F. Supp. 3d at 647 (quoting *Vancura v. Katris*, 238 Ill. 2d 352 (2010)). This claim concerns the employer's own negligence rather than the negligence of its employee, meaning that the employer's liability is direct, not vicarious. *Garrelts v. Symons Corp.*, No. 07 C 5512, 2010 WL 1172525 (March 23, 2010).

111. Proximate cause of injury to the Plaintiff was foreseeable and the Plaintiff has suffered and is still suffering damages resulting from the Defendants' lies and cover up of the Defendant Bret Franco's assault and battery.

112. Plaintiff has suffered physical injury, severe emotional distress, humiliation, embarrassment, mental and emotional distress and anxiety, all in an amount exceeding the jurisdictional minimum of the Superior Court.

113. As a direct and proximate result of Defendants' unlawful conduct as alleged hereinabove, Plaintiff has suffered economic harm and other consequential damages.

114. The aforementioned conduct by Defendants were willful, wanton, and malicious. At all relevant times, each Defendant acted with conscious disregard of Plaintiffs rights and feelings.

115. Each Defendant also acted with the knowledge of or with reckless disregard for the fact that his or her conduct was certain to cause injury and/or humiliation to the Plaintiff.

116. Plaintiff is further informed and believes that each Defendant intended to cause fear, physical injury and/or pain and suffering to the Plaintiff. By virtue of the foregoing, the Plaintiff is entitled to recover punitive and exemplary damages from Defendants.

117. Plaintiff has incurred, and will continue to incur, attorneys' fees in the prosecution of this action and therefore demands such reasonable attorneys' fees and costs as set by the Court.

COUNT VIX

Obstruction of Justice²²

720 ILCS 5/31-1) (from Ch. 38, par. 31-1)

Plaintiff repeats and re-alleges by reference each and every allegation contained herein above and incorporates the same herein as though fully set forth herein.

118. Defendants' Brad Franco under the supervision and direction of WILSON ELSER MOSKOWITZ EDELMAN & DICKER, LLP, David Holmes, David McHon, Loren S. Cohen, obstructed justice by filing a false police report regarding the assault and battery of the Plaintiff Christopher Stoller. Brad Franco lied to the investigating Officer and lied to the investigating ARDC Attorney.

119. Defendant Steven Bonanno under the direction and supervision of Hinshaw & Culbertson, LLP obstructed justice by filing a false police report regarding the assault and battery of the Plaintiff Christopher Stoller. Steven Bonanno lied to the investigating Police Officer.

120. Hinshaw & Culbertson negligently supervised its employee Steven Bonanno, who is known as a "loose cannon" and such negligence proximately caused the Plaintiff's injuries.²³

121. Proximate cause of injury to the Plaintiff was foreseeable and the Plaintiff has

²² ²² (720 ILCS 5/31-1) (from Ch. 38, par. 31-1)

Sec. 31-1. Resisting or obstructing a peace officer, firefighter, or correctional institution employee.

(a) A person who knowingly resists or obstructs the performance by one known to the person to be a peace officer, firefighter, or correctional institution employee of any authorized act within his or her official capacity commits a Class A misdemeanor.

²³ *Van Horne v. Muller*, 294 Ill. App. 3d 649, 657, (1st Dist.1998), modified on other grounds, 185 Ill. 2d 299; see also *Roppo*, 100 F. Supp. 3d at 647 (quoting *Vancura v. Katris*, 238 Ill. 2d 352 (2010)). This claim concerns the employer's own negligence rather than the negligence of its employee, meaning that the employer's liability is direct, not vicarious. *Garrelts v. Symons Corp.*, No. 07 C 5512, 2010 WL 1172525 (March 23, 2010).

suffered and is still suffering damages resulting from the Defendants' lies, obstruction of justice and cover up of the Defendant Bret Franco's assault and battery.

122. Plaintiff has suffered physical injury, severe emotional distress, humiliation, embarrassment, mental and emotional distress and anxiety, all in an amount exceeding the jurisdictional minimum of the Superior Court.

123. As a direct and proximate result of Defendants' unlawful conduct as alleged hereinabove, Plaintiff has suffered economic harm and other consequential damages.

124. The aforementioned conduct by Defendants were willful, wanton, and malicious. At all relevant times, each Defendant acted with conscious disregard of Plaintiffs rights and feelings.

125. Each Defendant also acted with the knowledge of or with reckless disregard for the fact that his or her conduct was certain to cause injury and/or humiliation to the Plaintiff.

126. Plaintiff is further informed and believes that each Defendant intended to cause fear, physical injury and/or pain and suffering to the Plaintiff. By virtue of the foregoing, the Plaintiff is entitled to recover punitive and exemplary damages from Defendants.

127. Plaintiff has incurred, and will continue to incur, attorneys' fees in the prosecution of this action and therefore demands such reasonable attorneys' fees and costs as set by the Court.

COUNT V

NEGLIGENCE

Plaintiff repeats and re-alleges by reference each and every allegation contained herein above and incorporates the same herein as though fully set forth herein.

(As to Defendant Daniel Gillespie only who is sued in his

Administrative capacity only)

128. Defendants' Daniel Gillespie, a Cook County Judge, under the supervision and direction of Chief Judge Evens, failed to provide property security in his court room by having a sheriff present when Defendant Brad Franco and Plaintiff Christopher Stoller, which has led to a injury to Christopher Stoller.
129. Chief Judge Evans, the chief judge of Cook County, has no policy for his judges to follow, to provide court room security , when there is conflict between a Defendant counsel and a Plaintiff.
130. The plaintiff was injured in Judge Gillespie's court room, as a result of there being no Cook County Policy to provide Security for a Plaintiff when there is a obvious conflict between litigating parties in a court Room.

WHEREFORE, Plaintiff pray for judgment against Daniel Gillespie in order for there to be an established court policy in his court room, to provide security for parties, where there is a known conflict as between the parties in his court room. Plaintiffs are not seeking any monetary damages against Daniel Gillespie.

Respectfully submitted,

/s/Christopher Stoller
Christopher Stoller, Plaintiff
415 Wesley, Apt. 1
Oak Park, IL 60303
(773) 746-3163
Cns40@hotmail.com

VERIFICATION

I, Christopher Stoller, Plaintiff in the above-entitled action has read the foregoing and know the contents thereof. The same is true of my own knowledge, except as to those matters which are therein alleged on information and belief, and as to those matters, I believe it to be true.

I declare under penalty of perjury that the foregoing is true and correct and that this declaration was executed at Chicago, Illinois.

/s/Christopher Stoller
Christopher Stoller, Plaintiff
415 Wesley, Apt. 1
Oak Park, IL 60303
(773) 746-3163
Cns40@hotmail.com