

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF VERMONT

U.S. DISTRICT COURT  
DISTRICT OF VERMONT  
FILED

2019 MAY -2 PM 4: 01

BY RC CLERK  
DEPUTY CLERK

MABIOR JOK;

PLAINTIFF

vs.

CITY OF BURLINGTON, VERMONT;

Civil Action

No. 2:19-cv-70

BRANDON DEL POZO,  
INDIVIDUALLY AND IN HIS OFFICIAL  
CAPACITY AS CHIEF OF POLICE FOR  
THE CITY OF BURLINGTON, VERMONT;

JURY TRIAL DEMANDED

JASON BELLAVANCE,  
INDIVIDUALLY AND IN HIS OFFICIAL  
CAPACITY AS A POLICE OFFICER FOR  
THE CITY OF BURLINGTON, VERMONT;

JOSEPH CORROW,  
INDIVIDUALLY AND IN HIS OFFICIAL  
CAPACITY AS A POLICE OFFICER FOR  
THE CITY OF BURLINGTON, VERMONT;

DEFENDANTS

**COMPLAINT FOR MONETARY AND DECLARATORY RELIEF**

I. JURISDICTION

1. Jurisdiction of this court is attained pursuant to 28 U.S.C. § 1331, 1343(a), (3) and (4), and 2201 and is based on causes of action arising under 42 U.S.C. § 1983 and Bivens v. Six

Unknown Agents, 403 U.S. 388, 91 S. Ct. 1999, 29 L.Ed. 2d 619 (1971). Plaintiff further invokes the pendent jurisdiction of the Court to hear and decide claims arising under Vermont state law.

## II. PARTIES

2. Plaintiff MABIOR JOK (hereinafter “MABIOR”) was at all times mentioned herein, a resident of the State of Vermont.

3. Defendant CITY OF BURLINGTON is a municipality within the State of Vermont and owns, operates, manages, directs and controls the Burlington Police Department which employs Defendants JASON BELLAVANCE (hereinafter BELLAVANCE), and JOSEPH CORROW (hereinafter CORROW).

4. Defendant BELLAVANCE is, and was at all times mentioned herein, an officer of the City of Burlington Police Department and acting under color of state law. He is a shift supervisor with responsibilities for the control, training, supervision and discipline of officers. He participated in the events described below. He is being sued in his individual and official capacities.

5. Defendant CORROW is, and was at all times mentioned herein, an officer of the City of Burlington Police Department and acting under color of state law. He participated in the events described below. He is being sued in his individual and official capacities.

6. Defendant BRANDON DEL POZO (hereinafter (DEL POZO) is, and was at all times mentioned herein, the chief of police of the Burlington Police Department and acting under color of state law. He is ultimately responsible for the control, training, supervision and discipline of

officers of the Burlington Police Department. He is being sued in his individual and official capacities.

### III. NATURE OF ACTION

7. This action is brought by Plaintiff to recover damages which he has suffered, and which he continues to suffer, as a result of, and to declare unconstitutional, certain actions of defendants, who are a municipality, its' police department, local police officers and the chief of police. Defendants acting under color of state law have subjected Plaintiff to an illegal and unwarranted detention and to the unlawful, unreasonable and excessive use of force in effecting that detention.

### IV. PLAINTIFF'S FIRST CAUSE OF ACTION

8. On September 8, 2018 Plaintiff was standing outside with a group of associates on Main Street in Burlington, Vermont. A conversation became heated attracting the attention of CORROW, who proceeded across Main Street.

9. CORROW approached MABIOR from outside Mabior's line of sight, without announcing himself or issuing any instructions, and grabbed and slammed him to the ground rendering MABIOR unconscious. The actions of CORROW drew the attention of bystanders.

10. CORROW's entire interaction with MABIOR is captured on the audio and video of his AXON brand body camera.

11. A bystander, Matthew Vinci captured via video the aftermath of CORROW throwing MABIOR to the ground rendering him unconscious.

12. Another bystander, Jacob Garrett, captured via video when CORROW grabbed and slammed MABIOR to the ground.
13. Witnesses can be heard asking CORROW if MABIOR was “alright” and inquiring if he was breathing.
14. BELLAVANCE arrived and asked CORROW if MABIOR was “out?”
15. CORROW responded in the affirmative.
16. CORROW made statements that he had witnessed MABIOR “punch” somebody.
17. MABIOR was left face down on the ground in a pool of his own blood for nearly a minute before being placed in the recovery position.
18. BELLAVANCE and CORROW rolled MABIOR on to his side.
19. CORROW informed BELLAVANCE in reference to MABIOR that “he’s fine.”
20. CORROW and BELLAVANCE determined that MABIOR could not walk and left him seated on the ground.
21. CORROW informed MABIOR that he was “slammed” because of “what you were doing.”
22. MABIOR was spitting up blood in the recovery position.
23. The actions and discussions of CORROW are sometimes captured on his AXON brand body camera. Throughout the incident and aftermath CORROW continued to switch the audio of his body camera off numerous times, including when he was describing the incident to responders and care providers.



24. The actions and discussions of BELLAVANCE are captured on his AXON brand body camera.

25. Burlington Fire Department arrived and BELLAVANCE left MABIOR.

26. BELLAVANCE canvassed the scene and interviewed a witness who informed BELLAVANCE that MABIOR did not strike anyone. The witness directed BELLAVANCE to the condition of MABIOR. BELLAVANCE then placed a hand on the witness, instructed him to leave a public sidewalk, and then told the witness to “get the fuck out of my way.” BELLAVANCE then pushed the witness and moved to speak with other bystanders.

27. BELLAVANCE spoke to a witness who identified a man in a Boston Red Sox hat as the assailant.

28. BELLAVANCE spoke to another witness, Barnah “Alex” Komeyan, who stated that MABIOR had not struck anyone. Barnah “Alex” Komeyan stated he was a friend of MABIOR and worried about his condition.

29. Barnah “Alex” Komeyan also spoke to Burlington Police Department Officer Kelly Schmidt and informed her that MABIOR was trying to break up an altercation.

30. BELLAVANCE approached a man in a Boston Red Sox hat and placed his hand on that citizen. The man in a Boston Red Sox hat instructed BELLAVANCE to remove his hand, and BELLAVANCE complied. The man in a Boston Red Sox hat informed BELLAVANCE he was leaving and BELLAVANCE continued attempting to converse asking the man in the Boston Red Sox hat if he needed medical attention. Barnah “Alex” Komeyan informed BELLAVANCE that MABIOR needed medical attention and that he and the man in a Boston Red Sox hat would be leaving.

31. BELLAVANCE approached witness Matthew Vinci who observed the altercation and video taped the aftermath. Matthew Vinci informed BELLAVANCE he was filming because CORROW “slammed a guy into the ground that wasn’t involved in a fight.”

32. MABIOR was initially charged on a two count information alleging one count of disorderly conduct fight and one count of Resisting Arrest.

33. On April 11, 2019 The State of Vermont dismissed the count of resisting arrest against MABIOR.

34. The State of Vermont subsequently dismissed the disorderly conduct fight charge against MABIOR.

35. CORROW’s intentional use of excessive force and physical brutality on MABIOR constituted an illegal and unreasonable seizure of Plaintiff.

36. At no time did MABIOR commit any crime in violation of any local, state or federal law for which an arrest could lawfully have been made.

37. At no time did MABIOR harass, threaten or resist a lawful arrest in any way, commit any illegal acts, or engage in any conduct which in any way justified the acts of CORROW.

38. At no time did MABIOR threaten to physically assault CORROW or any other person present.

39. As a direct and proximate result of the actions of Defendants BELLAVANCE, CORROW, DEL POZO, and the CITY OF BURLINGTON, MABIOR has suffered injuries and damages, including, but not limited to:

- a. Physical injury, treatment of which caused MABIOR to incur medical and therapeutic fees and expenses, and associated incidental and consequential costs;

- b. Emotional trauma;
- c. Physical and mental pain and suffering;
- d. Disruption of normal body functioning;
- e. Humiliation and embarrassment;

40. Defendant CORROW's intentional use of excessive force and physical brutality on plaintiff constituted an illegal and unreasonable seizure.

41. Defendant CITY OF BURLINGTON, as a matter of policy and practice, has, with deliberate indifference to well-established constitutional and civil rights of citizens of the United States and State of Vermont failed to adequately discipline, train, or otherwise direct or supervise police officers concerning the rights of citizens and victims, thereby causing police, including Defendant CORROW to engage in the unlawful conduct described above.

42. Defendant CITY OF BURLINGTON, as a matter of policy and practice, has, with deliberate indifference to well-established constitutional and civil rights of citizens of the United States and State of Vermont, failed to properly sanction or discipline police officers, including Defendant CORROW in this case, for violations of the constitutional rights of citizens and persons, thereby causing police, including Defendant CORROW to engage in the unlawful conduct set forth herein.

43. Defendant CITY OF BURLINGTON, as a matter of policy and practice, has, with deliberate indifference to well-established constitutional and civil rights of citizens of the United States and State of Vermont, failed to sanction and discipline police officers, including the Defendant CORROW in this case, who are aware of and subsequently conceal violations of the



constitutional rights of citizens and persons by other police officers, thereby causing police, including the Defendant CORROW, to engage in the unlawful conduct set forth herein.

44. Defendant DEL POZO has with deliberate indifference to well-established constitutional and civil rights of citizens of the United States and State of Vermont, failed to adequately control, train, supervise and discipline police officers under his command, including Defendant CORROW for violations of the constitutional rights of citizens and persons, thereby causing police, including Defendant CORROW to engage in unlawful conduct.

45. Defendant BELLAVANCE has with deliberate indifference to well-established constitutional and civil rights of citizens of the United States and State of Vermont, failed to adequately control, train, supervise and discipline police officers under his command, including Defendant CORROW for violations of the constitutional rights of citizens and persons, thereby causing police, including Defendant CORROW to engage in unlawful conduct.

46. As a direct and proximate result of Defendants CORROW, BELLAVANCE, DEL POZO, and the CITY OF BURLINGTON actions, referenced above, all of which were unreasonable, unnecessary, and excessive, and which were undertaken by Defendant CORROW, BELLAVANCE, DEL POZO, and the CITY OF BURLINGTON with gross recklessness and callous indifference to Plaintiff plaintiff's protected constitutional rights, privileges and immunities secured to him by the Fourth, Fifth and Fourteenth Amendments to the United States Constitution, in violation of 42 U.S.C. § 1983 and the laws of the State of Vermont, in particular the right to be free from unlawful seizure.



V. PLAINTIFF'S SECOND CAUSE OF ACTION

47. Plaintiff hereby realleges and incorporates by reference all prior allegations, as though fully set forth here.

48. The actions of Defendant CORROW in this case constitute an assault against MABIOR when CORROW threw him to the ground, causing him to strike his face and head and be rendered unconscious without cause or justification.

49. This Court has pendent jurisdiction to hear and adjudicate said claims.

VI. PLAINTIFF'S THIRD CAUSE OF ACTION

50. Plaintiff hereby realleges and incorporates by reference all prior allegations, as though fully set forth here.

51. The actions of Defendant CORROW in this case constitute a battery against Plaintiff by causing unwanted physical contact with Plaintiff when he threw Plaintiff to the ground, causing him to strike his face and head and be rendered unconscious without cause or justification.

52. This Court has pendent jurisdiction to hear and adjudicate said claims.

VII. PLAINTIFF'S FOURTH CAUSE OF ACTION

53. Plaintiff hereby realleges and incorporates by reference all prior allegations, as though fully set forth here.

54. The actions of Defendant CORROW in this case, specifically, throwing plaintiff to the ground, causing him to strike his face and head and be rendered unconscious without cause or justification, constitutes intentional infliction of emotional distress. Defendant CORROW's

actions were intentional, extreme and outrageous, and were both the actual and proximate cause of severe emotional distress to Plaintiff.

55. This Court has pendent jurisdiction to hear and adjudicate said claims.

#### VIII PLAINTIFF'S FIFTH CAUSE OF ACTION

56. Plaintiff hereby realleges and incorporates by reference all prior allegations, as though fully set forth here.

57. The actions of Defendant CORROW in this case, specifically, throwing plaintiff to the ground, causing him to strike his face and head and be rendered unconscious without cause or justification, constitutes gross negligence. Defendant CORROW, as a police officer acting under color of state law, owed plaintiff a duty of care as a citizen and as a potential victim of an assault. Defendant CORROW shoving plaintiff without justification, which resulted in physical injury, pain and suffering, as well as mental and emotional trauma, pain and suffering, to plaintiff, is a gross and reckless breach of his duty of care and the actual and proximate cause of damage to plaintiff.

58. This Court has pendent jurisdiction to hear and adjudicate said claims.

#### IX. PLAINTIFF'S SIXTH CAUSE OF ACTION

59. Plaintiff hereby realleges and incorporates by reference all prior allegations, as though fully set forth here.

60. Defendants CITY OF BURLINGTON, DEL POZO, and BELLAVANCE have negligently failed to control, train, supervise and discipline police officers under its and his

command, including defendant CORROW, regarding knowledge, recognition, and respect of, and for violations of, the constitutional rights of citizens and persons, thereby causing police, including CORROW in this case, to engage in the unlawful conduct complained of herein.

61. This Court has pendent jurisdiction to hear and adjudicate said claims.

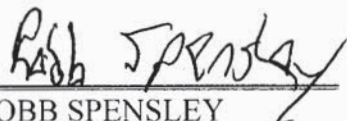
#### XVII. PRAYER FOR RELIEF

WHEREFORE, the Plaintiffs request the following relief:

- a. Compensatory damages;
- b. Punitive damages;
- c. An order of this Court declaring the above actions of Defendants to be illegal and in violation of Plaintiffs' constitutional, statutory and common law rights;
- d. Reasonable attorney's fees and costs, pursuant to 42 U.S.C. § 1988 and other applicable authority;
- e. Such other and further relief as appears reasonable, necessary, just and appropriate.

Dated at Pittsford, Vermont, this 2nd day of May, 2019.

Respectfully Submitted,  
MABIOR JOK

  
ROBB SPENSLEY  
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JS 44 (Rev. 02/19)

**CIVIL COVER SHEET**

The JS 44 civil cover sheet and the information contained herein neither replace nor supplement the filing and service of pleadings or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. (SEE INSTRUCTIONS ON NEXT PAGE OF THIS FORM.)

**I. (a) PLAINTIFFS**

Mabior Jok

(b) County of Residence of First Listed Plaintiff Chittenden

(EXCEPT IN U.S. PLAINTIFF CASES)

(c) Attorneys (Firm Name, Address, and Telephone Number)

Chadwick & Spensley, PLLC 136 High Street Brattleboro, VT 05301  
(802)-257-7161

**DEFENDANTS**

City of Burlington, Vermont; Brandon Del Pozo; Jason Bellavance; Joseph Corrow

County of Residence of First Listed Defendant Chittenden

(IN U.S. PLAINTIFF CASES ONLY)

NOTE: IN LAND CONDEMNATION CASES, USE THE LOCATION OF THE TRACT OF LAND INVOLVED.

Attorneys (If Known)

**II. BASIS OF JURISDICTION** (Place an "X" in One Box Only)

- ☐ 1 U.S. Government Plaintiff
- ☒ 3 Federal Question (U.S. Government Not a Party)
- ☐ 2 U.S. Government Defendant
- ☐ 4 Diversity (Indicate Citizenship of Parties in Item III)

**III. CITIZENSHIP OF PRINCIPAL PARTIES** (Place an "X" in One Box for Plaintiff and One Box for Defendant)

- |   | PTF                        | DEF                        |   | PTF                        | DEF                        |
|---|----------------------------|----------------------------|---|----------------------------|----------------------------|
| Citizen of This State                   | <input type="checkbox"/> 1 | <input type="checkbox"/> 1 | Incorporated or Principal Place of Business In This State     | <input type="checkbox"/> 4 | <input type="checkbox"/> 4 |
| Citizen of Another State                | <input type="checkbox"/> 2 | <input type="checkbox"/> 2 | Incorporated and Principal Place of Business In Another State | <input type="checkbox"/> 5 | <input type="checkbox"/> 5 |
| Citizen or Subject of a Foreign Country | <input type="checkbox"/> 3 | <input type="checkbox"/> 3 | Foreign Nation  | <input type="checkbox"/> 6 | <input type="checkbox"/> 6 |

**IV. NATURE OF SUIT** (Place an "X" in One Box Only)

Click here for: Nature of Suit Code Descriptions

CONTRACT	TORTS	FORFEITURE/PENALTY	BANKRUPTCY	OTHER STATUTES	
<input type="checkbox"/> 110 Insurance <input type="checkbox"/> 120 Marine <input type="checkbox"/> 130 Miller Act <input type="checkbox"/> 140 Negotiable Instrument <input type="checkbox"/> 150 Recovery of Overpayment & Enforcement of Judgment <input type="checkbox"/> 151 Medicare Act <input type="checkbox"/> 152 Recovery of Defaulted Student Loans (Excludes Veterans) <input type="checkbox"/> 153 Recovery of Overpayment of Veteran's Benefits <input type="checkbox"/> 160 Stockholders' Suits <input type="checkbox"/> 190 Other Contract <input type="checkbox"/> 195 Contract Product Liability <input type="checkbox"/> 196 Franchise	<b>PERSONAL INJURY</b> <input type="checkbox"/> 310 Airplane <input type="checkbox"/> 315 Airplane Product Liability <input type="checkbox"/> 320 Assault, Libel & Slander <input type="checkbox"/> 330 Federal Employers' Liability <input type="checkbox"/> 340 Marine <input type="checkbox"/> 345 Marine Product Liability <input type="checkbox"/> 350 Motor Vehicle <input type="checkbox"/> 355 Motor Vehicle Product Liability <input type="checkbox"/> 360 Other Personal Injury <input type="checkbox"/> 362 Personal Injury - Medical Malpractice	<b>PERSONAL INJURY</b> <input type="checkbox"/> 365 Personal Injury - Product Liability <input type="checkbox"/> 367 Health Care/Pharmaceutical Personal Injury Product Liability <input type="checkbox"/> 368 Asbestos Personal Injury Product Liability <b>PERSONAL PROPERTY</b> <input type="checkbox"/> 370 Other Fraud <input type="checkbox"/> 371 Truth in Lending <input type="checkbox"/> 380 Other Personal Property Damage <input type="checkbox"/> 385 Property Damage Product Liability	<input type="checkbox"/> 625 Drug Related Seizure of Property 21 USC 881 <input type="checkbox"/> 690 Other <b>LABOR</b> <input type="checkbox"/> 710 Fair Labor Standards Act <input type="checkbox"/> 720 Labor/Management Relations <input type="checkbox"/> 740 Railway Labor Act <input type="checkbox"/> 751 Family and Medical Leave Act <input type="checkbox"/> 790 Other Labor Litigation <input type="checkbox"/> 791 Employee Retirement Income Security Act <b>IMMIGRATION</b> <input type="checkbox"/> 462 Naturalization Application <input type="checkbox"/> 465 Other Immigration Actions	<input type="checkbox"/> 422 Appeal 28 USC 158 <input type="checkbox"/> 423 Withdrawal 28 USC 157 <b>PROPERTY RIGHTS</b> <input type="checkbox"/> 820 Copyrights <input type="checkbox"/> 830 Patent <input type="checkbox"/> 835 Patent - Abbreviated New Drug Application <input type="checkbox"/> 840 Trademark <b>SOCIAL SECURITY</b> <input type="checkbox"/> 861 HIA (1395ff) <input type="checkbox"/> 862 Black Lung (923) <input type="checkbox"/> 863 DIWC/DIWW (405(g)) <input type="checkbox"/> 864 SSID Title XVI <input type="checkbox"/> 865 RSI (405(g)) <b>FEDERAL TAX SUITS</b> <input type="checkbox"/> 870 Taxes (U.S. Plaintiff or Defendant) <input type="checkbox"/> 871 IRS—Third Party 26 USC 7609	<input type="checkbox"/> 375 False Claims Act <input type="checkbox"/> 376 Qui Tam (31 USC 3729(a)) <input type="checkbox"/> 400 State Reapportionment <input type="checkbox"/> 410 Antitrust <input type="checkbox"/> 430 Banks and Banking <input type="checkbox"/> 450 Commerce <input type="checkbox"/> 460 Deportation <input type="checkbox"/> 470 Racketeer Influenced and Corrupt Organizations <input type="checkbox"/> 480 Consumer Credit <input type="checkbox"/> 485 Telephone Consumer Protection Act <input type="checkbox"/> 490 Cable/Sat TV <input type="checkbox"/> 850 Securities/Commodities/Exchange <input type="checkbox"/> 890 Other Statutory Actions <input type="checkbox"/> 891 Agricultural Acts <input type="checkbox"/> 893 Environmental Matters <input type="checkbox"/> 895 Freedom of Information Act <input type="checkbox"/> 896 Arbitration <input type="checkbox"/> 899 Administrative Procedure Act/Review or Appeal of Agency Decision <input type="checkbox"/> 950 Constitutionality of State Statutes
<b>REAL PROPERTY</b> <input type="checkbox"/> 210 Land Condemnation <input type="checkbox"/> 220 Foreclosure <input type="checkbox"/> 230 Rent Lease & Ejectment <input type="checkbox"/> 240 Torts to Land <input type="checkbox"/> 245 Tort Product Liability <input type="checkbox"/> 290 All Other Real Property	<b>CIVIL RIGHTS</b> <input checked="" type="checkbox"/> 440 Other Civil Rights <input type="checkbox"/> 441 Voting <input type="checkbox"/> 442 Employment <input type="checkbox"/> 443 Housing/Accommodations <input type="checkbox"/> 445 Amer. w/Disabilities - Employment <input type="checkbox"/> 446 Amer. w/Disabilities - Other <input type="checkbox"/> 448 Education	<b>PRISONER PETITIONS</b> <b>Habeas Corpus:</b> <input type="checkbox"/> 463 Alien Detainee <input type="checkbox"/> 510 Motions to Vacate Sentence <input type="checkbox"/> 530 General <input type="checkbox"/> 535 Death Penalty <b>Other:</b> <input type="checkbox"/> 540 Mandamus & Other <input type="checkbox"/> 550 Civil Rights <input type="checkbox"/> 555 Prison Condition <input type="checkbox"/> 560 Civil Detainee - Conditions of Confinement			

**V. ORIGIN** (Place an "X" in One Box Only)

- ☒ 1 Original Proceeding
- ☐ 2 Removed from State Court
- ☐ 3 Remanded from Appellate Court
- ☐ 4 Reinstated or Reopened
- ☐ 5 Transferred from Another District (specify)
- ☐ 6 Multidistrict Litigation - Transfer
- ☐ 8 Multidistrict Litigation - Direct File

**VI. CAUSE OF ACTION**

Cite the U.S. Civil Statute under which you are filing (Do not cite jurisdictional statutes unless diversity):

42 U.S.C. 1983

Brief description of cause:

Excessive force by police incident to an unlawful arrest

**VII. REQUESTED IN COMPLAINT:**
☐ CHECK IF THIS IS A CLASS ACTION UNDER RULE 23, F.R.Cv.P.
**DEMAND \$**

CHECK YES only if demanded in complaint:

**JURY DEMAND:** ☒ Yes ☐ No**VIII. RELATED CASE(S) IF ANY**

(See instructions):

JUDGE

DOCKET NUMBER

DATE

5/2/19

SIGNATURE OF ATTORNEY OF RECORD

Robb Spensley

FOR OFFICE USE ONLY

RECLIP #

4335

AMOUNT

APPLYING IFP

JUDGE

Reiss

MAG. JUDGE

2:19-cv-70-cr