

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEBRASKA

FILED
U. S. DISTRICT COURT
DISTRICT OF NEBRASKA

91 MAR -4 PM 12:13-24

CIVIL NO: 91-3037
NORBERT H. EBEL
CLERK *hu*

PAUL A. BONACCI,)
)
 Plaintiff,)

-vs-

THE CATHOLIC ARCHBISHOP OF OMAHA)
 a non-profit corporation,)
 LAWRENCE KING, PETER CITRON,)
 ALAN BAER, HAROLD ANDERSON,)
 ROBERT WADMAN, MICHAEL HOCH,)
 KENNETH BOVASSO, NEBRASKA)
 PSYCHOLOGICAL ASSOCIATES, f/k/a)
 Nebraska Psychiatric Institute,)
 a non-profit corporation; THE)
 CITY OF OMAHA, a municipal cor-)
 poration; THE OMAHA PUBLIC)
 SCHOOL DISTRICT, OMAHA WORLD)
 HERALD COMPANY, a corporation;)
 J. L. BRANDEIS, INC. AND SONS,)
 INC., a corporation; THE)
 DOUGLAS COUNTY GRAND JURY,)
 MICHAEL FLANNAGAN, an individual)
 and SAMUEL VAN PELT, an)
 individual,)
)
 Defendants.)

ORDER

THIS MATTER came on before the Court on the Motion of defendant Omaha Public School District for leave until March 29, 1991 to plead to plaintiff's Amended Complaint. The Court being fully advised in the premises finds that said Motion should be granted.

IT IS THEREFORE ORDERED that the defendant Omaha Public School District shall have until March 29, 1991 to plead to plaintiff's Amended Complaint.

DATED this 4th day of ~~February~~ ^{March}, 1991.

BY THE COURT:

Norbert H. Ebel, Clerk

By: Kathleen Nelson
~~U. S. District Judge~~ *Deputy Clerk*

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEBRASKA

91 FEB 28 PM 4:51 2 3

PAUL A. BONACCI,)

CV 91-3037 NORBERT H. EBEL
CLERK *h*

Plaintiff,)

v.)

RETURN OF SERVICE

THE CATHOLIC ARCHBISHOP OF)
OMAHA, a non-profit corporation,)
LAWRENCE KING, PETER CITRON,)
ALAN BAER, HAROLD ANDERSON,)
ROBERT WADMAN, MICHAEL HOCH,)
KENNETH BOVASSO, NEBRASKA)
PSYCHOLOGICAL ASSOCIATION,)
INC., f/k/a NEBRASKA PSYCHIATRIC)
INSTITUTE, a non-profit corporation,)
THE CITY OF OMAHA, NEBRASKA, a)
municipal corporation, THE OMAHA)
PUBLIC SCHOOL DISTRICT, OMAHA)
WORLD HERALD COMPANY, a)
corporation, J.L. BRANDEIS AND)
SONS, INC., a corporation, THE)
DOUGLAS COUNTY GRAND JURY,)
MICHAEL FLANAGAN, an individual,)
and SAMUEL VAN PELT, an individual,)

Defendants.)

STATE OF NEBRASKA)
) ss
COUNTY OF LANCASTER)

Susan M. Ugai, being first duly sworn, states that the following is true to the best of her knowledge and belief;

- 1. She is an Assistant Attorney General for the State of Nebraska.
- 2. On February 22, 1991, Michael P. Flanagan received one letter addressed to "The Douglas County Grand Jury, ATTN: Foreman Michael Flanagan", from John W. DeCamp of DeCamp Legal Services, P.C.
- 3. Michael P. Flanagan did accept receipt of the letter.

4. The letter contained a Notice and Acknowledgement of Receipt of Alias Summons and Complaint directed to "The Douglas County Grand Jury, ATTN: Michael Flanagan, Foreman" and a copy of the petition filed in the above-referenced case which appears to be a civil rights action brought pursuant to 42 U.S.C. § 1983 and a suit for damages.

5. In her position with the Attorney General's Office, affiant is responsible for reviewing assigned litigation that involves the employees of the State of Nebraska.

6. In the complaint, the plaintiff alleges a deprivation of civil rights, slander, and violations of due process associated with the operation of the grand jury.

7. Plaintiff alleges that Michael Flanagan was the Foreman of the Douglas County Grand Jury and sues him as an individual.

8. Plaintiff further makes general allegations against the Douglas County Grand Jury, presumably in their official capacity, since none of the jurors with the exception of defendant Flanagan were named as individuals.

9. For these reasons, it is clear that the plaintiff is attempting to serve the defendant Douglas County Grand Jury by mailing the summons to Michael Flanagan.

10. In the State of Nebraska grand juries may be called by the district courts or by petition of registered voters pursuant to Neb.Rev.Stat. § 29-1401 (Reissue 1989).

11. The Douglas County Grand Jury convened for the purpose of investigating the allegations included within the petition in this case has completed its duties and is no longer in session.

12. Defendant Flanagan is not currently the Foreman of the Douglas Grand Jury, if any such body presently exists, and has no statutory or legal authority to accept service for the legal entity entitled as the Douglas County Grand Jury.

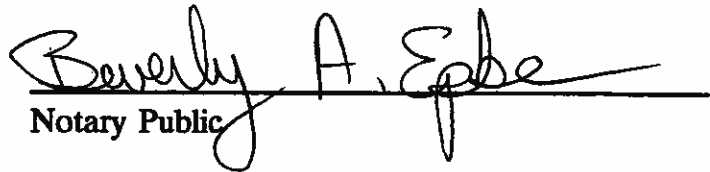
13. For the foregoing reasons, affiant is returning the summons, the original of which is attached to this return of service, to this court unexecuted.

FURTHER, AFFIANT SAYETH NOT.



Susan M. Ugai, #16670
Assistant Attorney General
2115 State Capitol
Lincoln, NE 68509
Tel: (402) 471-2682

Subscribed and sworn to before me on this 28th day of February, 1991.



Notary Public

CERTIFICATE OF SERVICE

I hereby certify that I have served a copy of the foregoing Return of Service upon the plaintiff herein by placing a copy of the same in the United States Mail, first class postage prepaid, addressed to plaintiff's attorney of record, John W. DeCamp, DeCamp Legal Services, P.C., 300 Executive Building, 521 South 14th Street, Lincoln, Nebraska 68508, and upon defendants herein by placing a copy of the same in the United States Mail, first class postage prepaid addressed to defendant Catholic Archbishop of Omaha's attorneys of record, Edward D. Hotz, Attorney at Law, 10250 Regency Circle, Suite 100, Omaha, Nebraska 68114, and C.E. Heaney, Jr., Attorney at Law, 10306 Regency Parkway Drive, Omaha, Nebraska 68114; Peter Citron's attorney of record, Lyle Koenig, Attorney at Law, 147 N. 4th Street, P.O. Box 48, Hebron, Nebraska 68370; defendants Alan Baer and J.L. Brandeis and Sons, Inc.'s attorneys of record Edward G. Warin, Attorney at Law, 800 Commercial Federal Tower, 2120 South 72nd Street, Omaha, Nebraska 68124-2342, and Steven W. Seline and Tory M. Bishop, Attorneys at Law, 1650 Farnam St., Omaha, Nebraska 68102; defendant Harold Anderson's attorney of record Tyler B. Gaines, Attorney at Law, 10050 Regency Circle, Suite 200, Omaha, Nebraska 68114; defendant Robert Wadman's attorney of record Michael M. O'Brien, Attorney at Law, 318 S. 19th Street, Omaha, Nebraska 68102; defendants Michael Hoch, Kenneth Bovasso, and the City

of Omaha, Nebraska's attorneys of record, James E. Fellows, Deputy City Attorney, and Wendy E. Hahn, Assistant City Attorney, 1819 Farnam Street, Suite 804, Omaha, Nebraska 68102; defendant Omaha Public School District's attorney of record, David M. Pedersen, Attorney at Law, 1500 Woodmen Tower, Omaha, Nebraska 68102-2069; and defendant Omaha World Herald Company's attorney of record, Allen E. Daubman, Attorney at Law, One Pacific Place, Suite 800, 1125 S. 103rd Street, Omaha, Nebraska 68124, on this 28th day of February, 1991.



Susan M. Ugai
Assistant Attorney General

27-375

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEBRASKA

PAUL A. BONACCI,
Plaintiff,

vs.

The Catholic Archbishop of Omaha, a
non-profit corporation, Lawrence King,)
Peter Citron, Alan Baer, Harold)
Anderson, Robert Wadman, Michael Hoch,)
Kenneth Bovasso, Nebraska Psycho-)
logical Association, Inc., a non-profit)
corporation, The City of Omaha,)
Nebraska, a municipal corporation,)
The Omaha Public School District,)
Omaha World Herald Company, a corpor-)
ation, J.L. Brandeis and Sons, Inc.,)
a corporation, The Douglas County Grand)
Jury, Michael Flanagan, Samuel Van Pelt)

CIVIL 91-3037

NOTICE AND ACKNOWLEDGMENT
OF RECEIPT OF SUMMONS
AND COMPLAINT

NOTICE

TO: THE DOUGLAS COUNTY GRAND JURY
ATTN: Foreman Michael Flanagan
c/o Union Pacific Railroad Company
1416 Dodge, Omaha NE. 68102

The enclosed summons and complaint are served pursuant to Rule 4(c)(2)(C)(ii) of the Federal Rules of Civil Procedure.

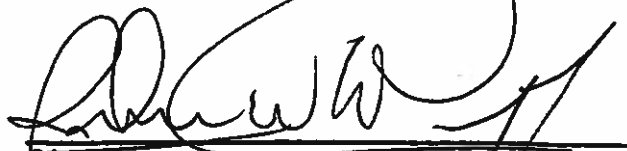
You must complete the acknowledgment part of this form and return one copy of the completed form to the sender within 20 days.

You must sign and date the acknowledgment. If you are served on behalf of a corporation, unincorporated association (including partnership), or other entity, you must indicate under your signature your relationship of that entity. If you are served on behalf of another person and you are authorized to receive process, you must indicate under your signature your authority.

If you do not complete and return the form to the sender within 20 days, you (or the party on whose behalf you are being served) may be required to pay any expenses incurred in serving a summons and complaint in any other manner permitted by law.

If you do complete and return this form, you (or the party on whose behalf you are being served) must answer the complaint within 20 days. If you fail to do so, judgment by default will be taken against you for the relief demanded in the complaint.

I declare, under penalty of perjury, that this Notice and Acknowledgment of Receipt of Summons and Complaint was mailed on



Signature

2-19-91

Date of Signature

ACKNOWLEDGMENT OF RECEIPT OF SUMMONS AND COMPLAINT

I declare, under penalty of perjury, that I received a copy of the summons and of the complaint in the above-captioned matter at

Signature

Relationship to Entity/
Authority to Receive Service
of Process

Date of Signature

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEBRASKA

FILED
U. S. DISTRICT COURT
DISTRICT OF NEBRASKA

91 FEB 28 AM 11:42-21

PAUL BONACCI,)
)
 Plaintiff,)
)
 vs.)
)
 THE CATHOLIC ARCHBISHOP)
 OF OMAHA, et al.,)
)
 Defendants.)

CV. 91-3037

NORBERT H. EBEL
CLERK *h*

ANSWER OF DEFENDANTS
CITY OF OMAHA, MICHAEL HOCH
AND KENNETH BOVASSO

COME NOW the respective defendants City of Omaha, Michael Hoch and Kenneth Bovasso, and for their individual answers to the Amended Complaint of Paul Bonacci filed herein, state, allege and aver as follows:

1. Defendants admit so much of paragraph 7 of plaintiff's Amended Complaint as alleges that Michael Hoch is employed by the City of Omaha as a police officer.

2. Defendants admit so much of paragraph 8 of plaintiff's Amended Complaint as alleges that Kenneth Bovasso is employed by the City of Omaha as a police officer.

3. Defendants admit so much of paragraph 10 as alleges that the City of Omaha is a municipal corporation duly organized and existing under the laws of the State of Nebraska.

4. Defendants deny each and every other allegation of plaintiff's Amended Complaint except those constituting admissions against plaintiff's interest.

AFFIRMATIVE DEFENSES

5. Plaintiff has failed to state a claim upon which relief can be granted.

6. Plaintiff's claims which are premised upon acts which allegedly occurred on or prior to February 1, 1987 are barred in time by the statute of limitations.

7. The individually named defendants Hoch and Bovasso are entitled to qualified immunity from liability and from suit.

8. Plaintiff lacks capacity to sue. In support of this allegation defendants show the Court that: (a) plaintiff suffers from Multiple Personality Disorder; (b) many of the incidents alleged in the Amended Complaint were perpetrated upon personalities other than the plaintiff; (c) the plaintiff, in the personality of Paul Bonacci does not have personal knowledge or understanding of many events alleged in the Amended Complaint. See attachments to plaintiff's Amended Complaint.

9. Plaintiff has failed to allege, with the requisite degree of particularity, any overt act committed by the defendants City, Bovasso, or Hoch, in furtherance of a conspiracy.

10. Plaintiff has failed to clearly establish, as required by Fed. R. Civ. Pro. 8a, that defendants Bovasso and Hoch are connected to the alleged wrongful acts; and he has failed to establish the basis upon which relief is sought against these defendants.

WHEREFORE, the answering defendants pray that the Amended Complaint of Paul Bonacci be dismissed as to each of them and

that they each have and recover their costs expended herein.

CITY OF OMAHA, MICHAEL HOCH
and KENNETH BOVASSO, Defendants

By Wendy Hahn
JAMES E. BELLOWS, #11261
Deputy City Attorney
WENDY E. HAHN, #17695
Assistant City Attorney
804 Omaha/Douglas Civic Center
1819 Farnam Street
Omaha, Nebraska 68183
Telephone: 402/444-5115

CERTIFICATE OF SERVICE

The undersigned hereby certifies that a true and correct copy of the foregoing ANSWER was sent by regular United States mail, postage prepaid, on this 26th day of February, 1991, to:

Mr. Allen Daubman
Attorney at Law
One Pacific Place
Suite 800
1125 South 103rd Street
Omaha, Nebraska 68124

Mr. Lyle Koenig
147 No. 4th
P.O. Box 48
Hebron (Mayer), NE 68370

John DeCamp
DeCamp Legal Services P.C.
521 S. 14th St.
Suite 300
Lincoln, NE 68508

Mr. Michael O'Brien
Attorney at Law
318 South 19th St.
Omaha, Nebraska 68102

Mr. Tyler Gaines
Attorney at Law
10050 Regency Circle
Suite 200
Omaha, NE 68114

Mr. David Peterson
Attorney at Law
1500 Woodmen Tower
Omaha, Nebraska 68102

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Omaha, Nebraska 68102

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Attorney at Law
10250 Regency Circle
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Don Stenberg, Attorney General
ATTN: Susan Ugai, Asst. Atty. Gen.
2115 State Capitol
Lincoln, NE 68509

Mr. Ed Warin
800 Commercial Federal Tower
2120 South 72nd Street
Omaha, Nebraska 68124

Wendy Hart

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