

UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS

Antonia DeToledo, and]
Liana Williams,]
Plaintiffs,]
v.]
]
County of Suffolk, Lt. Angelo Rao,]
Sgt. Janet Sinclair, Sgt. Owen Julius]
Dpty. Sylvia Thomas,]
Defendants.]

Civil Action No. 03-CV-10834-RGS

**DEFENDANTS COUNTY OF SUFFOLK AND ANGELO RAO'S
ANSWER TO PLAINTIFF'S SECOND AMENDED COMPLAINT**

The Defendants, Suffolk County and Angelo Rao by and through their attorney, Kathleen M. Cawley, hereby submit their answer to the Plaintiff's Second Amended Complaint. The numbered paragraphs of this Answer correspond to the numbered paragraphs of the Plaintiff's Second Amended Complaint.

GENERAL ALLEGATIONS

1. The Defendants are without knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 1 of Plaintiffs' Second Amended Complaint (hereinafter Complaint) which allegations are thereby denied.
2. The Defendants are without knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph two of Plaintiff's Complaint, which allegations are thereby denied.
3. The Defendants admit Suffolk County is the public employer for correction officers working at the South Bay House of Correction.
4. The Defendants deny that Defendant Lieutenant Rao is a citizen of the Commonwealth. Defendants admit that at all time relevant hereto he was employed by the Suffolk County Sheriff's Department and was a Captain¹ at the South Bay House of Correction.

¹ At the time of the incident, Rao held the rank of Captain. At the time the complaint was filed, Rao held the rank of Lieutenant.

5. Defendants state no response is required for paragraph five, as Sgt. Janet Sinclair is no longer a defendant in the instant action.
6. Defendants state no response is required for paragraph six, as Sgt. Owen Julius is no longer a defendant in the instant action.
7. Defendants state no response is required for paragraph seven, as Deputy Sylvia Thomas is no longer a defendant in the instant action.
8. Admitted.
9. Denied.
10. Denied.
11. Admitted.
12. Admitted.

COUNT I

**CLAIM OF THE PLAINTIFF, ANTONIA DETOLEDO, AGAINST THE
DEFENDANT, COUNTY OF SUFFOLK, FOR PERSONAL INJURIES
PREDICATED UPON NEGLIGENCE.**

13. The Defendants repeat and incorporate the responses to the Plaintiff's allegations contained in paragraphs 1 through 12 of the Complaint.
14. Defendants admit that Antonia DeToledo was a visitor at the House of Correction on July 26, 1998. Defendants admit that DeToledo was briefly detained. Defendants deny all other statements contained in paragraph 14.
15. Denied.
16. The Defendants state that paragraph number 16 contains a conclusion of law to which no response is required. To the extent that a response is required, Defendants deny the allegations of this paragraph.
17. The Defendants state that paragraph number 17 contains a conclusion of law to which no response is required. To the extent that a response is required, Defendants denies the allegations of this paragraph.

COUNT II

**CLAIM OF THE PLAINTIFF, LIANA WILLIAMS, AGAINST THE
DEFENDANT, COUNTY OF SUFFOLK, FOR PERSONAL INJURIES**

PREDICATED UPON NEGLIGENCE.

18. The Defendants repeat and incorporate the responses to the Plaintiff's allegations contained in paragraphs 1 through 17 of the Complaint.
19. The Defendants admit plaintiff Liana Williams was a lawful visitor at the South Bay House of Correction on or about July 26, 1998 and that she was identified as having an outstanding warrant and detained. Defendants deny the remainder of the averment contained in paragraph 19 of Plaintiff's Complaint.
20. The Defendants admit plaintiff Williams was strip-searched. The Defendants deny the remainder of the averment contained in paragraph 20 of Plaintiff's Complaint.
21. Denied.
22. The Defendants state that paragraph number 22 contains a conclusion of law to which no response is required. To the extent that a response is required, Defendants deny the allegations of this paragraph.
23. The Defendants state that paragraph number 23 contains a conclusion of law to which no response is required. To the extent that a response is required, Defendants denies the allegations of this paragraph.

COUNT III

CLAIM OF THE PLAINTIFF, ANTONIA DETOLEDO, AGAINST THE
DEFENDANT, COUNTY OF SUFFOLK, FOR PERSONAL INJURIES
PREDICATED UPON NEGLIGENT SUPERVISION AND TRAINING.

24. The Defendants repeat and incorporate the response to the Plaintiff's allegations contained in paragraphs 1 through 24 of the Complaint.
25. Denied.
26. Denied.
27. The Defendants state that paragraph number 27 contains a conclusion of law to which no response is required. To the extent that a response is required, Defendants deny the allegations of this paragraph.
28. The Defendants state that paragraph number 28 contains a conclusion of law to which no response is required. To the extent that a response is required, Defendants deny the allegations of this paragraph.

COUNT IV

**CLAIM OF THE PLAINTIFF, LIANA WILLIAMS, AGAINST THE
DEFENDANT, COUNTY OF SUFFOLK, FOR PERSONAL INJURIES
PREDICATED UPON NEGLIGENT SUPERVISION AND TRAINING.**

29. The Defendants repeat and incorporate the responses to the Plaintiff's allegations contained in paragraphs 1 through 28 of the Complaint.
30. Denied.
31. Denied.
32. Defendants admit Williams was strip-searched. Defendants deny the remainder of the allegations contained in paragraph 32.
33. The Defendants state that paragraph number 33 contains a conclusion of law to which no response is required. To the extent that a response is required, Defendants deny the allegations of this paragraph.
34. The Defendants state that paragraph number 34 contains a conclusion of law to which no response is required. To the extent that a response is required, Defendants deny the allegations of this paragraph.

COUNT V

**CLAIM OF THE PLAINTIFF, ANTONIA DETOLEDO, AGAINST
THE DEFENDANT, ANGELO RAO, FOR PERSONAL INJURIES
AND EMOTIONAL DISTRESS PREDICATED UPON VIOLATIONS
OF THE MASSACHUSETTS CIVIL RIGHTS ACT.**

Defendants state that no response is required for paragraphs 35 – 38, as the count has been disposed of by the Court.

COUNT VI

**CLAIM OF THE PLAINTIFF, LIANA WILLIAMS, AGAINST
THE DEFENDANT, ANGELO RAO, FOR PERSONAL INJURIES
AND EMOTIONAL DISTRESS PREDICATED UPON VIOLATIONS
OF THE MASSACHUSETTS CIVIL RIGHTS ACT.**

39. The Defendants repeat and incorporate the responses to the Plaintiff's allegations contained in paragraphs 1 through 38 of the Complaint.
40. Denied.

41. Denied.
42. The Defendants state that paragraph number 42 contains one or more conclusions of law to which no response is required. To the extent that a response is required, Defendants deny the allegations of this paragraph except to the extent that the Defendants admit Plaintiff was strip-searched.
43. The Defendants state that paragraph number 43 contains a conclusion of law to which no response is required. To the extent that a response is required, Defendants deny the allegations of this paragraph.

COUNT VII

CLAIM OF THE PLAINTIFF, ANTONIA DETOLEDO, AGAINST
THE DEFENDANT, ANGELO RAO, FOR PERSONAL INJURIES
AND EMOTIONAL DISTRESS PREDICATED UPON VIOLATIONS
OF 42 U.S.C. §1983.

The Defendants state that no response is required for paragraphs 44 – 47, as the count has been disposed of by the Court.

COUNT VIII

CLAIM OF THE PLAINTIFF, LIANA WILLIAMS, AGAINST
THE DEFENDANT, ANGELO RAO, FOR PERSONAL INJURIES
AND EMOTIONAL DISTRESS PREDICATED UPON VIOLATIONS
OF 42 U.S.C. §1983.

48. The Defendants repeat and incorporate the responses to the Plaintiff's allegations contained in paragraphs 1 through 48 of the Complaint.
49. Denied.
50. Denied.
51. The Defendants state that paragraph number 51 contains a conclusion of law to which no response is required. To the extent that a response is required, Defendants deny the allegations of this paragraph.

COUNTS IX THROUGH XX

Defendants state that Counts IX through and including Count XX have been disposed of by the Court or voluntarily dismissed by the parties. Therefore paragraphs 52 through paragraph 102 require no response.

AFFIRMATIVE DEFENSES

1. Pursuant to Fed. R. Civ. P. 12 (b)(6), the Defendants state that the Complaint fails to state a claim upon which relief can be granted.
2. Defendant Suffolk County is immune from suit pursuant to Mass. Gen. L. ch. 258 §10 (a).
3. Defendant Suffolk County states that it is not liable in this matter for the reason that its agents and employees were engaged in discretionary functions under Mass. Gen. L. ch. 258 §10 (b) at all times.
4. Defendant Suffolk County is immune from suit based on the intentional conduct of its employees pursuant to G.L. c. 258 §10 (c).
5. Defendant Suffolk County is immune from suit pursuant to G.L. c. 258 §10 (h).
6. Defendant Suffolk County is immune from suit pursuant to G.L. c. 258 §10 (j).
7. If the Plaintiffs are entitled to recover against the defendants any such recovery must be reduced in accordance with the comparative negligence statute, G.L. c.231 §85 since the plaintiffs' own negligence was the proximate cause of the injury allegedly sustained.
8. The Plaintiffs were more than 50% at fault in causing the alleged injury and, therefore, are barred from recovery by the comparative negligence statute, G.L. 231 §85.
9. The Plaintiffs have not been deprived of any rights secured by either the Massachusetts or United States Constitution or by the laws of the Commonwealth of Massachusetts or the United States.
10. Defendant Rao is entitled to qualified immunity.
11. Defendant Rao's conduct was objectively reasonable and does not rise to the level of deliberate indifference.

12. Defendant Rao was at all times relevant to the Plaintiffs' complaint acting with official discretion with an objectively reasonable belief that his actions were lawful and not in violation of any clearly established statutory or constitutional right of which a reasonable person would have known.
13. At all times Defendant Rao acted in accordance with the laws of the Commonwealth of Massachusetts and the Constitution of the United States and therefore is immune because of good faith.
14. Plaintiff Williams has failed to assert facts sufficient to state claim against Defendant Rao under the Massachusetts Civil Rights Act.
15. Plaintiffs' claims are barred by their own unclean hands.
16. The Defendants hereby give notice that they intend to rely upon such other and further defenses as may become available or apparent during discovery proceedings in this action and hereby reserves the right to amend its answer and to assert any such defense by appropriate motion.

JURY DEMAND

Defendants demand trial by jury as to all issues of this case.

Respectfully Submitted for
County of Suffolk, Angelo Rao
By,

/s/ Kathleen M. Cawley
Kathleen M. Cawley
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Date: August 12, 2005