

IN THE CIRCUIT COURT OF COOK COUNTY  
COUNTY DEPARTMENT, LAW DIVISION

JOE FONG,	)	
	)	Case No. 2019L012569
Plaintiff,	)	
	)	COMPLAINT
v.	)	
	)	JURY DEMANDED
MERLE CHRISTINE WARD,	)	
	)	
Defendant	)	

**COMPLAINT**

NOW COMES plaintiff JOSEPH FONG (“Plaintiff” or “Fong”), by and through his undersigned attorney, and for his Complaint against defendant MERLE CHRISTINE WARD (“Defendant” or “Ward”), states as follows:

**PARTIES, VENUE AND JURISDICTION**

1. Plaintiff JOSEPH FONG is the owner and resident of 1260 West Westgate Terrace, Chicago, Illinois 60607.
2. Plaintiff was born on December 23, 1935. He is 83 years old.
3. Upon information and belief, defendant MERLE CHRISTINE WARD a/k/a MERLE CHRISTINE GINNEGAR is a tenant and resident of 1256 West Westgate Terrace, Chicago, Illinois 60607.
4. This Court has general subject-matter jurisdiction over this dispute pursuant to Article VI, Section 9 of the Illinois State Constitution of 1970.
5. Venue is appropriate in this Court pursuant to 735 ILCS 5/2-101 because this action

arises out of events occurring in Cook County, Illinois and regards property located in the City of Chicago.

### **BACKGROUND FACTS**

6. Upon information and belief, Defendant Ward is a renter who has lived at 1256 West Westgate Terrace for less than a year.

7. Plaintiff and Defendant are not acquaintances, and have never spoken before other than saying “hello” and making similar small talk in the parking lot.

8. Plaintiff, a long-time owner and resident at the Westgate Terrace Community Association (the “Association”), is currently the plaintiff in a separate lawsuit against the Association and its Board President, Erik Madsen (“Madsen”), docketed as 2018 CH 16075.

9. As a result of this lawsuit, Madsen and other board members have publicly and privately disparaged Plaintiff’s reputation amongst other homeowners, renters and residents at Westgate Terrace.

10. Madsen is an owner and resident at 1254 West Westgate Terrace, Chicago, Illinois 60607.

11. Defendant Ward is Madsen’s next-door neighbor.

12. Madsen is a Sergeant with the Chicago Police Department -12<sup>th</sup> District.

13. Madsen holds Association Board Meetings at the Chicago Police Department, 12<sup>th</sup> District, in a Community Room located at the police station at 1412 S. Blue Island Avenue.

14. On August 14, 2019, Plaintiff attended a Westgate Terrace Community Association Board Meeting at the Chicago Police Department – 12<sup>th</sup> District Police Station Community Room.

15. Following this meeting, Plaintiff was arrested, booked and charged with “Criminal Damage to City Property”, interrogated and held overnight.

16. A true and correct copy of the Chicago Police Report regarding this arrest is attached hereto

as *Exhibit "A"*.

17. According to the Police Report, Defendant was charged with relocating a Chicago Transit Authority bus stop sign for the "7" route, eastbound, located on the south side of West Harrison Street at Throop Street, a distance of approximately 10 feet to the west, without permission or consent.

18. On May 14, 2019, Defendant conveyed to or at the instruction of Madsen a statement that, at around 9:36 pm, she "heard noises outside of her home ... and saw Mr. Fong relocating the bus stop sign away from 1260 W Harrison to 1264 W Harrison."

19. No other witnesses claimed that they saw Plaintiff "relocating" any city property other than Defendant.

20. Upon information and belief, and according to the Police Report, the Chicago Transit Authority did not file a complaint or otherwise provide any statement to the Chicago Police.

21. After being arrested, searched, interrogated and held overnight, Plaintiff was released on his own recognizance.

22. On September 18, 2019, Plaintiff appeared in criminal court for his arraignment. Plaintiff pled not guilty. The sole charge pled against him for "Criminal Damage to City Property" was dismissed.

23. Plaintiff denies relocating or otherwise damaging the CTA "7" route eastbound bus stop sign.

24. Upon information and belief, Defendant agreed to help Madsen in his efforts to retaliate against Plaintiff for filing his other lawsuit against him by providing a false report against Plaintiff, alleging that she saw him move a bus stop sign that he could not have moved and that she did not see him move.

**COUNT I – FALSE ARREST**

25. Plaintiff restates and incorporates by reference paragraphs 1 through 24 of this Complaint as if fully set forth herein.

26. An unlawful arrest by a police officer caused or procured by a private person is the same as an arrest by the private person.

27. Based on the Police Report, the only possible information that the police had to charge Plaintiff with a crime was the testimony by Defendant that she personally witnessed Plaintiff “relocating” the CTA “7” route eastbound bus stop sign from 1260 W Harrison Street to 1264 W Harrison Street.

28. Defendant knew that the statement she provided the police about Plaintiff “relocating” the bus stop sign at or around 9:36 p.m. on May 14, 2019 was false.

29. Defendant knew that by providing this false statement to the police about Plaintiff, Plaintiff could be arrested and charged with a crime.

30. Defendant did not have reasonable grounds for believing that Plaintiff committed the crime of criminal damage to City property.

31. Defendant’s malice against Plaintiff can be inferred from her making a false report to the Chicago police about Plaintiff “relocating” the bus stop sign.

32. As the direct and proximate result of Defendant’s false arrest of Plaintiff, Plaintiff has suffered severe emotional and mental distress and injury, and has incurred special damages in the form of lost income, attorneys’ fees and costs, and other compensable injuries.

WHEREFORE, plaintiff JOE FONG respectfully prays for the following relief against defendant MERLE CHRISTINE WARD:

(A) Compensatory damages to be proven at trial;

(B) Punitive damages;

(C) Special damages, including an award of his attorneys' fees and costs in defending against the criminal charge and an award of attorneys' fees and costs in this case; and/or

(D) Such other relief as is just and equitable.

## **COUNT II – MALICIOUS PROSECUTION**

33. Plaintiff restates and incorporates by reference paragraphs 1 through 27 of this Complaint as if fully set forth herein.

34. A claim for the tort of “malicious prosecution” is stated where a defendant commences an original criminal proceeding against a plaintiff, where such criminal proceeding is terminated in such plaintiff's favor, where there was an absence of probable cause for such proceeding, where there is the presence of malice, and where there are resulting damages.

35. A private citizen can “commence” an original criminal proceeding where such private citizen provides a false statement to police that another has committed a crime, and where there is no other independent corroborating evidence to support such accusation.

36. Defendant proximately caused the investigation and Plaintiff's arrest by the Chicago Police Department by providing a false statement to the police that she saw Plaintiff “relocating” the “7” route eastbound bus stop sign from 1260 W Harrison to 1264 W Harrison at around 9:36 p.m. on May 14, 2019.

37. Upon information and belief, Defendant acted maliciously knowing that she was assisting Plaintiff's litigation opponent, Madsen, in retaliating against Plaintiff by providing such false statement to the police.

38. Upon information and belief, Defendant concealed exculpatory information about Plaintiff to the police, including the facts that she did not personally witness Plaintiff “unbolt” or remove

the “7” route eastbound CTA bus stop sign, that she did not personally see Plaintiff carry the “7” route eastbound CTA bus stop sign, and/or that her statement was based in part or in whole upon information provided to her by Madsen.

39. As the direct and proximate result of Defendant’s malicious prosecution of Plaintiff, Plaintiff has suffered severe emotional and mental distress and injury, and has incurred special damages in the form of lost income, attorneys’ fees and costs, and other compensable injuries.

WHEREFORE, plaintiff JOE FONG respectfully prays for the following relief against defendant MERLE CHRISTINE WARD:

(A) Compensatory damages to be proven at trial;

(B) Punitive damages;

(C) Special damages, including an award of his attorneys’ fees and costs in defending against the criminal charge and an award of attorneys’ fees and costs in this case; and/or such other relief as is just and equitable.

### **COUNT III – DEFAMATION *PER SE***

40. Plaintiff restates and incorporates by reference paragraphs 1 through 27 of this Complaint as if fully set forth herein.

41. Defendant conveyed to Madsen, who was off-duty at the time, a false statement of fact about Plaintiff.

42. Defendant’s false statement of fact formed the sole basis and justification for the Chicago Police Department’s arrest of Joe Fong.

43. Upon information and belief, Defendant knew or had reason to know that her false statement of fact would cause Defendant to be charged with a crime.

44. False statements of fact that accuse another of committing a crime constitute defamation

*per se.*

45. Defendant had no justification for conveying this false statement of fact about Plaintiff to Madsen.

46. Defendant's false statement of fact caused Plaintiff direct injury to his civil liberties, caused physical, mental and emotional distress and damaged his reputation by causing him to be publicly arrested and humiliated in front of other members of the HOA.

47. Defendant's false statement of fact further caused direct injury to Plaintiff by subjecting him to the threat of civil fines, imprisonment and attorneys' fees and costs.

WHEREFORE, plaintiff JOE FONG respectfully prays for the following relief against defendant MERLE CHRISTINE WARD:

(A) Compensatory damages to be proven at trial;


(B) Punitive damages; and/or

(C) Special damages, including an award of his attorneys' fees and costs in defending against the criminal charge and an award of attorneys' fees and costs in this case; and/or such other relief as is just and equitable

.

Respectfully submitted,

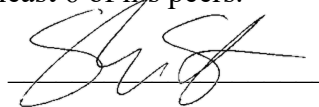
JOSEPH FONG

A handwritten signature in dark ink, appearing to read 'J. Fong', is written over a horizontal line.

Shorge Sato  
SHOKEN LEGAL, LTD.  
420 West Huron St. Ste. 230  
Chicago, IL 60654  
(312)818-4146  
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legal.com](mailto:ssato@shoken-legal.com)  
Firm No. 60529

**JURY DEMAND**

Plaintiff hereby demands a civil trial by a jury of at least 6 of his peers.

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