

**UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF ILLINOIS
EASTERN DIVISION**

JACLYN PAZERA,)	
)	
Plaintiff,)	
)	Case No. 15 CV 9957
v.)	
)	Judge Jorge L. Alonso
COLLEGE OF DUPAGE, OFFICER)	
VALLARDES and OFFICER TAMURRINO,)	
)	
Defendants.)	

**DEFENDANT BOARD OF TRUSTEES OF COMMUNITY COLLEGE
DISTRICT NO. 502, COLLEGE OF DUPAGE’S ANSWER AND
AFFIRMATIVE DEFENSES TO AMENDED COMPLAINT AT LAW**

NOW COMES Defendant, BOARD OF TRUSTEES OF COMMUNITY COLLEGE DISTRICT NO. 502, COUNTY OF DUPAGE (“College of DuPage”), by and through its attorneys, Daniel V. Kinsella, Clare J. Quish and Margaret M. Fitzsimmons, and for its Answer and Affirmative Defenses to Amended Complaint at Law, states as follows:

JURISDICTION

1. This is an action for money damages brought pursuant to 42 U.S.C. § 1983 and the common law and statutes of the State of Illinois.

Answer: College of DuPage lacks knowledge or information sufficient to form a belief about the truth of the allegations contained in Paragraph 1.

2. This Court has jurisdiction over PLAINTIFF’S federal claims pursuant to 28 U.S.C. §§ 1331 and 1343(a) and over PLAINTIFF’S state claims pursuant to the Court’s supplemental jurisdiction under 28 U.S.C. § 1367(a).

Answer: College of DuPage denies the allegations contained in Paragraph 2.

3. Venue is proper in this court pursuant to 28 U.S.C. § 1391(b), in that the events giving rise to PLAINTIFF’S claims occurred in this district.

Answer: College of DuPage admits the allegations contained in Paragraph 3, but denies that Plaintiff has any valid claims.

PARTIES

4. PLAINTIFF is a resident of the State of Illinois and of the United States.

Answer: College of DuPage lacks knowledge or information sufficient to form a belief about the truth of the allegations contained in Paragraph 4.

5. The DEFENDANT OFFICERS were at all times relevant hereto employed by and acting on behalf of the COLLEGE OF DUPAGE.

Answer: College of DuPage admits that the Defendant Officers were employed by College of DuPage, but lacks knowledge or information sufficient to form a belief about the truth of the remaining allegations contained in Paragraph 5.

6. The DEFENDANT COLLEGE OF DUPAGE is a duly incorporated community college and is the employer and principal of the DEFENDANT OFFICERS who are College of DuPage police officers. At all times material to this Complaint, the DEFENDANT OFFICERS were acting under color of state law, ordinance and/or regulation, statutes, custom and usages of the City of Glen Ellyn.

Answer: College of DuPage admits that it is a community college and is the employer of the Defendant Officers. College of DuPage denies the remaining allegations contained in Paragraph 6.

FACTS

7. On or about December 7, 2014 PLAINTIFF was on the DEFENDANT COLLEGE OF DUPAGE'S campus, where she was a student.

Answer: College of DuPage admits the allegations contained in Paragraph 7.

8. During a break in-between classes, PLAINTIFF and several classmates walked outside to smoke cigarettes.

Answer: College of DuPage lacks knowledge or information sufficient to form a belief about the truth of the allegations contained in Paragraph 8.

9. Subsequently, DEFENDANT OFFICER VALLARDES approached the group.

Answer: The allegations contained in this paragraph are not directed to College of DuPage. Further answering, College of DuPage states that it has insufficient knowledge upon which to base the truth or falsity of those allegations, and therefore denies all such allegations and demands strict proof thereof.

10. DEFENDANT OFFICER VALLARDES stated that he was going to give PLAINTIFF and her classmates a warning for smoking on the DEFENDANT COLLEGE OF DUPAGE campus.

Answer: The allegations contained in this paragraph are not directed to College of DuPage. Further answering, College of DuPage states that it has insufficient knowledge upon which to base the truth or falsity of those allegations, and therefore denies all such allegations and demands strict proof thereof.

11. DEFENDANT OFFICER VALLARDES then asked PLAINTIFF and her classmates for their identification.

Answer: The allegations contained in this paragraph are not directed to College of DuPage. Further answering, College of DuPage states that it has insufficient knowledge upon which to base the truth or falsity of those allegations, and therefore denies all such allegations and demands strict proof thereof.

12. PLAINTIFF informed DEFENDANT OFFICER VALLARDES that she accepts the warning and she proceeded to class.

Answer: The allegations contained in this paragraph are not directed to College of DuPage. Further answering, College of DuPage states that it has insufficient knowledge upon which to base the truth or falsity of those allegations, and therefore denies all such allegations and demands strict proof thereof.

13. DEFENDANT OFFICER VALLARDES called for backup.

Answer: The allegations contained in this paragraph are not directed to College of DuPage. Further answering, College of DuPage states that it has insufficient knowledge upon which to base the truth or falsity of those allegations, and therefore denies all such allegations and demands strict proof thereof.

14. The DEFENDANT OFFICERS followed PLAINTIFF into her classroom.

Answer: The allegations contained in this paragraph are not directed to College of DuPage. Further answering, College of DuPage states that it has insufficient knowledge upon which to base the truth or falsity of those allegations, and therefore denies all such allegations and demands strict proof thereof.

15. DEFENDANT OFFICER VALLARDES yelled, “is that your student?” at PLAINTIFF’S teacher.

Answer: The allegations contained in this paragraph are conclusory and not directed to College of DuPage. Further answering, College of DuPage states that it has insufficient knowledge upon which to base the truth or falsity of those allegations, and therefore denies all such allegations and demands strict proof thereof.

16. PLAINTIFF’S teacher informed DEFENDANT OFFICER VALLARDES that he could not give PLAINTIFF’S name due to FERPA rules.

Answer: The allegations contained in this paragraph are not directed to College of DuPage. Further answering, College of DuPage states that it has insufficient knowledge upon which to base the truth or falsity of those allegations, and therefore denies all such allegations and demands strict proof thereof.

17. DEFENDANT OFFICER TAMURRINO asked PLAINTIFF for her identification.

Answer: The allegations contained in this paragraph are not directed to College of DuPage. Further answering, College of DuPage states that it has insufficient knowledge upon

which to base the truth or falsity of those allegations, and therefore denies all such allegations and demands strict proof thereof.

18. PLAINTIFF showed her identification, with her thumb covering everything on her identification, except for her picture, the expiration date, and the DEFENDANT COLLEGE OF DUPAGE logo.

Answer: The allegations contained in this paragraph are not directed to College of DuPage. Further answering, College of DuPage states that it has insufficient knowledge upon which to base the truth or falsity of those allegations, and therefore denies all such allegations and demands strict proof thereof.

19. DEFENDANT OFFICER TAMURRINO then arrested the PLAINTIFF for trespass.

Answer: College of DuPage denies the allegations contained in Paragraph 19.

20. The DEFENDANT OFFICERS then proceeded to grab PLAINTIFF and bring her to the ground while she was still sitting in a chair, which she was doing in order to participate in her class.

Answer: The allegations contained in this paragraph are conclusory and not directed to College of DuPage. Further answering, College of DuPage states that it has insufficient knowledge upon which to base the truth or falsity of those allegations, and therefore denies all such allegations and demands strict proof thereof.

21. The DEFENDANT OFFICERS then manhandled PLAINTIFF and aggressively handcuffed her, causing her, difficulty breathing and physical and emotional pain, causing injury to her left shoulder and other parts to her body.

Answer: The allegations contained in this paragraph are conclusory and not directed to College of DuPage. Further answering, College of DuPage states that it has insufficient knowledge upon which to base the truth or falsity of those allegations, and therefore denies all such allegations and demands strict proof thereof.

22. After manhandling the PLAINTIFF, DEFENDANT OFFICER VALLARDES realized he was being recorded by one of PLAINTIFF'S classmates.

Answer: The allegations contained in this paragraph are conclusory and not directed to College of DuPage. Further answering, College of DuPage states that it has insufficient knowledge upon which to base the truth or falsity of those allegations, and therefore denies all such allegations and demands strict proof thereof.

23. DEFENDANT OFFICER VALLARDES took the student's cell phone.

Answer: The allegations contained in this paragraph are not directed to College of DuPage. Further answering, College of DuPage states that it has insufficient knowledge upon which to base the truth or falsity of those allegations, and therefore denies all such allegations and demands strict proof thereof.

24. When DEFENDANT OFFICER VALLARDES took the student's phone, he was aware that a video of a physical altercation between a police officer and an arrestee could be used in a criminal trial, both in favor of the case for the prosecution and in favor of the case for the Defendant.

Answer: The allegations contained in this paragraph are conclusory and are not directed to College of DuPage. Further answering, College of DuPage states that it has insufficient knowledge upon which to base the truth or falsity of those allegations, and therefore denies all such allegations and demands strict proof thereof.

25. *Brady v. Maryland*, 373 US 83, 83 S. Ct. 1194, 10 L. Ed. 2d 215 prohibits police officers from destroying exculpatory evidence (evidence that may help an accused).

Answer: College of DuPage denies the allegations contained in Paragraph 25.

26. Prior to causing the deletion of the video on the student's cell phone, OFFICER VALLARDES was trained that he cannot destroy exculpatory evidence prior to a criminal trial.

Answer: The allegations contained in this paragraph are conclusory and are not directed to College of DuPage. Further answering, College of DuPage states that it has insufficient knowledge upon which to base the truth or falsity of those allegations, and therefore denies all such allegations and demands strict proof thereof.

27. OFFICER VALLARDES followed the policy of the DEFENDANT COLLEGE OF DUPAGE in destroying evidence that would incriminate a member of the College of DuPage Police Department, which is run by the DEFENDANT COLLEGE OF DUPAGE.

Answer: College of DuPage denies the allegations directed at the College of DuPage contained in Paragraph 27. The remaining allegations contained in this paragraph are conclusory and are not directed to College of DuPage. Further answering, College of DuPage states that it has insufficient knowledge upon which to base the truth or falsity of those allegations, and therefore denies all such allegations and demands strict proof thereof.

28. OFFICER VALLARDES followed the policy of the DEFENDANT COLLEGE OF DUPAGE in destroying evidence that would incriminate an employee of the DEFENDANT COLLEGE OF DUPAGE.

Answer: College of DuPage denies the allegations directed at the College of DuPage contained in Paragraph 28. The remaining allegations contained in this paragraph are conclusory and are not directed to College of DuPage. Further answering, College of DuPage states that it has insufficient knowledge upon which to base the truth or falsity of those allegations, and therefore denies all such allegations and demands strict proof thereof.

29. When OFFICER VALLARDES took the student's cell phone, he was aware that a video of a physical altercation between a police officer and an arrestee could be used in a criminal trial, both in favor of the case for the prosecution and in favor of the case against the defendant.

Answer: The allegations contained in this paragraph are conclusory and are not directed to College of DuPage. Further answering, College of DuPage states that it has insufficient knowledge upon which to base the truth or falsity of those allegations, and therefore denies all such allegations and demands strict proof thereof.

30. One of the DEFENDANT OFFICERS threatened the witness who possessed the cell phone with a taser, to the effect that if the witness did not tender the video, he would be tasered.

Answer: The allegations contained in this paragraph call are conclusory and are not directed to College of DuPage. Further answering, College of DuPage states that it has insufficient knowledge upon which to base the truth or falsity of those allegations, and therefore denies all such allegations and demands strict proof thereof.

31. PLAINTIFF was not a threat to the DEFENDANT OFFICERS in any way.

Answer: The allegations contained in this paragraph call are conclusory and are not directed to College of DuPage. Further answering, College of DuPage states that it has insufficient knowledge upon which to base the truth or falsity of those allegations, and therefore denies all such allegations and demands strict proof thereof.

32. On or about December 7, 2014, PLAINTIFF did not obstruct the DEFENDANT OFFICERS in the performance of their duties, resist arrest, batter and/or assault any of the DEFENDANT OFFICERS.

Answer: The allegations contained in this paragraph call are conclusory and are not directed to College of DuPage. Further answering, College of DuPage states that it has insufficient knowledge upon which to base the truth or falsity of those allegations, and therefore denies all such allegations and demands strict proof thereof.

33. The use of force initiated by and/or the failure to intervene in the use of said force by the DEFENDANT OFFICERS was unreasonable.

Answer: The allegations contained in this paragraph call are conclusory and are not directed to College of DuPage. Further answering, College of DuPage states that it has insufficient knowledge upon which to base the truth or falsity of those allegations, and therefore denies all such allegations and demands strict proof thereof.

34. In addition, one DEFENDANT OFFICER knew that that the other DEFENDANT OFFICER who used excessive force was going to use excessive force against PLAINTIFF, had the opportunity to prevent the harm to PLAINTIFF from occurring but failed to take steps to prevent the harm from occurring. Moreover, the failure of the DEFENDANT OFFICERS to act caused the PLAINTIFF to suffer harm.

Answer: The allegations contained in this paragraph call are conclusory and are not directed to College of DuPage. Further answering, College of DuPage states that it has insufficient knowledge upon which to base the truth or falsity of those allegations, and therefore denies all such allegations and demands strict proof thereof.

35. On or about December 7, 2014, the DEFENDANT OFFICERS arrested, participated in the arrest or failed to prevent the arrest of the PLAINTIFF and charged or participated in the charging of PLAINTIFF with criminal activity, notwithstanding that neither DEFENDANT OFFICER observed or learned that PLAINTIFF had committed criminal activity of any sort, was committing any criminal activity, or was about to commit criminal activity.

Answer: The allegations contained in this paragraph are conclusory and are not directed to College of DuPage. Further answering, College of DuPage states that it has insufficient knowledge upon which to base the truth or falsity of those allegations, and therefore denies all such allegations and demands strict proof thereof.

36. Neither of the DEFENDANT OFFICERS had probable cause to believe that the PLAINTIFF had committed, was committing or was going to commit any criminal activity on or about December 7, 2014. This conduct violated the Fourth Amendment to the United States Constitution.

Answer: The allegations contained in this paragraph call for legal conclusions and are not directed to College of DuPage. Further answering, College of DuPage states that it has insufficient knowledge upon which to base the truth or falsity of those allegations and legal conclusions, and therefore denies all such allegations and demands strict proof thereof.

37. On or about December 7, 2014, neither of the DEFENDANT OFFICERS had probable cause to arrest the Plaintiff.

Answer: The allegations contained in this paragraph call for legal conclusions and are not directed to College of DuPage. Further answering, College of DuPage states that it has insufficient knowledge upon which to base the truth or falsity of those allegations and legal conclusions, and therefore denies all such allegations and demands strict proof thereof.

38. On or about December 7, 2014, PLAINTIFF had not committed any act contrary to the laws of the State of Illinois.

Answer: The allegations contained in this paragraph call for legal conclusions and are not directed to College of DuPage. Further answering, College of DuPage states that it has insufficient knowledge upon which to base the truth or falsity of those allegations and legal conclusions, and therefore denies all such allegations and demands strict proof thereof.

39. On December 7, 2014, the DEFENDANT OFFICERS did not witness the PLAINTIFF commit the act of trespass.

Answer: The allegations contained in this paragraph call for legal conclusions and are not directed to College of DuPage. Further answering, College of DuPage states that it has insufficient knowledge upon which to base the truth or falsity of those allegations and legal conclusions, and therefore denies all such allegations and demands strict proof thereof.

40. On or about December 7, 2014, the DEFENDANT OFFICERS did not have a reasonable suspicion to believe PLAINTIFF was involved in criminal activity.

Answer: The allegations contained in this paragraph call for legal conclusions and are not directed to College of DuPage. Further answering, College of DuPage states that it has insufficient knowledge upon which to base the truth or falsity of those allegations and legal conclusions, and therefore denies all such allegations and demands strict proof thereof.

41. As a direct and proximate result of one or both of the aforesaid acts or omissions of the DEFENDANT OFFICERS, PLAINTIFF was caused to suffer damages including but not limited to, physical and emotional injury, financial losses, and lost wages.

Answer: The College of DuPage denies that Plaintiff suffered any damages as a result of the College of DuPage or its employees. The remaining allegations contained in this paragraph are not directed to College of DuPage. Further answering, College of DuPage states that it has insufficient knowledge upon which to base the truth or falsity of those allegations and therefore denies all such allegations and demands strict proof thereof.

42. On or about December 7, 2014, the DEFENDANT OFFICERS were on duty at all times relevant to this Complaint and were duly appointed police officers for the College of DuPage Police Department.

Answer: College of DuPage admits the allegations contained in Paragraph 42.

43. The DEFENDANT OFFICERS engaged in the conduct complained of, on said date, in the course and scope of employment and while on duty.

Answer: The College of DuPage admits that it employed the Defendant Officers at all times relevant. The remaining allegations contained in this paragraph are not directed to College of DuPage and are conclusory. Further answering, College of DuPage states that it has insufficient knowledge upon which to base the truth or falsity of those allegations and conclusions and therefore denies all such allegations and demands strict proof thereof. 43.

44. This action is being brought with regard to the legal and individual capacities of the DEFENDANT OFFICERS.

Answer: College of DuPage lacks knowledge or information sufficient to form a belief about the truth of the allegations contained in Paragraph 44, and therefore denies all such allegations and demands strict proof thereof.

45. The DEFENDANT OFFICERS falsified police reports and documentation regarding their interaction with PLAINTIFF on December 7, 2014.

Answer: The allegations contained in this paragraph are conclusory and not directed to College of DuPage. Further answering, College of DuPage states that it has insufficient knowledge upon which to base the truth or falsity of those allegations and conclusions and therefore denies all such allegations and demands strict proof thereof.

46. On October 27, 2015, PLAINTIFF was found innocent of all criminal charges lodged against her by the DEFENDANT OFFICERS arising from her arrest on December 7, 2014.

Answer: College of DuPage denies the allegations contained in Paragraph 46.

COUNT I

**Excessive Force Claim Pursuant to 42 U.S.C. § 1983
and the Fourth Amendment to the U.S. Constitution**

College of DuPage does not respond to the allegations in Count I because the allegations in that Count are not directed at College of DuPage. To the extent that any allegations in Count I are directed at College of DuPage, those allegations are denied.

COUNT II

**False Arrest Claim Pursuant to 42 U.S.C. § 1983
and the Fourth Amendment to the U.S. Constitution**

College of DuPage does not respond to the allegations in Count II because the allegations in that Count are not directed at College of DuPage. To the extent that any allegations in Count II are directed at College of DuPage, those allegations are denied.

COUNT III

False Arrest - State Law Claim

College of DuPage does not respond to the allegations in Count III because the allegations in that Count are not directed at College of DuPage. To the extent that any allegations in Count III are directed at College of DuPage, those allegations are denied.

COUNT IV

Battery - State Law Claim

College of DuPage does not respond to the allegations in Count IV because the allegations in that Count are not directed at College of DuPage. To the extent that any allegations in Count IV are directed at College of DuPage, those allegations are denied.

COUNT V

**Unreasonable Seizure Pursuant to 42 U.S.C. § 1983
and the Fourth Amendment to the U.S. Constitution**

College of DuPage does not respond to the allegations in Count V because the allegations in that Count are not directed at College of DuPage. To the extent that any allegations in Count V are directed at College of DuPage, those allegations are denied.

COUNT VI
745 ILCS 10/10 Claim against the COLLEGE OF DUPAGE

69. PLAINTIFF re-alleges paragraphs 1-46 as though fully set forth herein.

Answer: College of DuPage reincorporates its answers to Paragraphs 1 through 46 as if fully set forth herein.

70. DEFENDANT COLLEGE OF DUPAGE is the employer of the DEFENDANT OFFICERS.

Answer: College of DuPage admits the allegations contained in Paragraph 70.

71. The DEFENDANT OFFICERS, as alleged above, committed the acts under color of law and in the scope of employment of the DEFENDANT COLLEGE OF DUPAGE.

Answer: College of DuPage states that it has insufficient knowledge upon which to base the truth or falsity of those allegations and conclusions and therefore denies all such allegations and demands strict proof thereof.

WHEREFORE, Defendant College of DuPage denies that the Plaintiff is entitled to judgment in her favor in any amount whatsoever, and further moves that judgment be entered in favor of this Defendant and against the said Plaintiff.

COUNT VII
Malicious Prosecution - State Law Claim

72. Plaintiff re-alleges paragraphs 1-46 as though fully set forth herein.

Answer: College of DuPage reincorporates its answers to Paragraphs 1 through 46 as if fully set forth herein.

73. The DEFENDANT OFFICERS alleged that PLAINTIFF violated the laws of the State of Illinois. These allegations commenced or continued a criminal proceeding against PLAINTIFF.

Answer: College of DuPage states that it has insufficient knowledge upon which to base the truth or falsity of those allegations and conclusions, and therefore denies all such allegations and demands strict proof thereof.

74. The DEFENDANT OFFICERS engaged in this effort without probable cause.

Answer College of DuPage denies the allegations contained in Paragraph 74.

75. The underlying criminal charges were ultimately resolved in favor of PLAINTIFF.

Answer: College of DuPage denies the allegations contained in Paragraph 75.

76. The underlying criminal charges were resolved in a manner indicative of innocence.

Answer: College of DuPage denies the allegations contained in Paragraph 76.

77. All criminal charges lodged against the Plaintiff were dismissed.

Answer: College of DuPage admits that the criminal charges stemming from the December 7, 2014 arrest were *nolle prossed*, and therefore, denies the allegations contained in Paragraph 77.

78. Plaintiff secured the services of an attorney in order to defend herself against the criminal charges.

Answer: College of DuPage lacks knowledge or information sufficient to form a belief as to the truth of the allegations contained in Paragraph 78.

79. The aforementioned actions were the direct and proximate cause of the violations of Illinois State Law, as set forth above.

Answer: College of DuPage denies the allegations contained in Paragraph 79.

WHEREFORE, Defendant College of DuPage denies that the Plaintiff is entitled to judgment in her favor in any amount whatsoever, and further moves that judgment be entered in favor of this Defendant and against the said Plaintiff.

COUNT VIII
Respondeat Superior

80. Plaintiff re-alleges paragraphs 1-46 as though fully set forth herein.

Answer: College of DuPage reincorporates its answers to Paragraphs 1 through 46 as if fully set forth herein.

81. The aforesaid acts of the DEFENDANT OFFICERS were executed while acting as agents on behalf of the DEFENDANT COLLEGE OF DUPAGE, as principal, is liable for the actions of its agents under the doctrine of *respondeat superior*.

Answer: College of DuPage states that it has insufficient knowledge upon which to base the truth or falsity of those allegations and conclusions and therefore denies all such allegations and demands strict proof thereof.

WHEREFORE, Defendant College of DuPage denies that the Plaintiff is entitled to judgment in her favor in any amount whatsoever, and further moves that judgment be entered in favor of this Defendant and against the said Plaintiff.

JURY DEMAND

82. PLAINTIFF demand trial by jury.

Answer: College of DuPage lacks knowledge or information sufficient to form a belief as to the truth of the allegations contained in Paragraph 82.

**DEFENDANT BOARD OF TRUSTEES OF COMMUNITY
COLLEGE DISTRICT NO. 502, COUNTY OF DUPAGE'S
AFFIRMATIVE DEFENSES TO PLAINTIFF'S COMPLAINT AT LAW**

NOW COMES Defendant BOARD OF TRUSTEES OF COMMUNITY COLLEGE DISTRICT NO. 502, COUNTY OF DUPAGE ("College of DuPage") by and through its attorneys, Daniel V. Kinsella, Clare J. Quish, and Margaret M. Fitzsimmons and as and for its Affirmative Defenses to Plaintiff's Amended Complaint at Law, and without prejudice to the denials contained in its Answer, states as follows:

FIRST AFFIRMATIVE DEFENSE
(Tort Immunity Act-Section 2-109)

1. Defendant College of DuPage is a community college board organized under the Public Community College Act, 110 ILCS 805/1-1, *et seq.*

2. A community college board is a “local public entity” under Section 1-206 of the Local Governmental and Governmental Employees Tort Immunity Act (“Tort Immunity Act”). 745 ILCS 10/1-206.

3. As such, College of DuPage is entitled to immunity from liability under the Tort Immunity Act.

4. Defendants Officers Vallardes and Tamurrino are employed by College of DuPage as officers with the College of DuPage Police Department.

5. Defendants Officers Vallardes and Tamurrino are “public employees” of a local public entity (College of DuPage) as that term is defined in the Tort Immunity Act and thus, are also entitled to immunity under the Tort Immunity Act. 745 ILCS 10/1-202; 745 ILCS 10/1-207.

6. Pursuant to Section 2-109 of the Tort Immunity Act, College of DuPage is not liable for an injury resulting from an act or omission of its employee where the employee is not liable. 745 ILCS 10/2-109.

7. The provisions of the Tort Immunity Act which define or limit the liability of a public employee in terms of his doing of an act or of his failure to act apply to public employees who function jointly, in conjunction or in collaboration with other public employees as well as to those who function singly. 745 ILCS 10/2-212.

8. To the extent that Officer Valladeres is held not to be liable to plaintiff for any claims alleged in her complaint, College of DuPage is also not liable and is immune under Section 2-109.

9. To the extent that Officer Tamurrino is held not to be liable to plaintiff for any claims alleged in her complaint, College of DuPage is also not liable and is immune under Section 2-109.

WHEREFORE, Defendant BOARD OF TRUSTEES OF COMMUNITY COLLEGE DISTRICT NO. 502, COUNTY OF DUPAGE denies that Plaintiff is entitled to judgment in her favor in any amount whatsoever and further requests that judgment be entered in its favor and against the said Plaintiff.

SECOND AFFIRMATIVE DEFENSE
(Tort Immunity Act-Section 2-202)

1. Defendant College of DuPage is a community college board organized under the Public Community College Act, 110 ILCS 805/1-1, *et seq.*

2. A community college board is a “local public entity” under Section 1-206 of the Local Governmental and Governmental Employees Tort Immunity Act (“Tort Immunity Act”). 745 ILCS 10/1-206.

3. As such, College of DuPage is entitled to immunity from liability under the Tort Immunity Act.

4. Defendants Officers Vallardes and Tamurrino are employed by College of DuPage as officers with the College of DuPage Police Department.

5. Defendants Officers Vallardes and Tamurrino are “public employees” of a local public entity (College of DuPage) as that term is defined in the Tort Immunity Act and thus, are also entitled to immunity under the Tort Immunity Act. 745 ILCS 10/1-202; 745 ILCS 10/1-207.

6. Pursuant to Section 2-202 of the Tort Immunity Act, Officer Vallardes is not liable for any negligent act or omission made in the execution or enforcement of any law. 745 ILCS 10/2-202.

7. Pursuant to Section 2-202 of the Tort Immunity Act, Officer Tamurrino is not liable for any negligent act or omission made in the execution or enforcement of any law. 745 ILCS 10/2-202.

8. Under Sections 2-202 and 2-109 of the Tort Immunity Act, College of DuPage is also immune for any negligent act or omission made by Officer Vallardes or Officer Tamurrino in the execution or enforcement of any law. 745 ILCS 10/2-109; 745 ILCS 10/2-202.

9. At the time of the incident alleged in Plaintiff's Amended Complaint, Officer Vallardes was effecting an arrest and thus, executing or enforcing the law as an officer for College of DuPage Police Department.

10. At the time of the incident alleged in Plaintiff's Amended Complaint, Officer Tamurrino was effecting an arrest and thus, executing or enforcing the law as an officer for College of DuPage Police Department.

11. Accordingly, College of DuPage is entitled to immunity for any alleged negligent actions or omissions of Officers Tamurrino and Vallardes under Sections 2-109 and 2-202 of the Tort Immunity Act.

WHEREFORE, Defendant BOARD OF TRUSTEES OF COMMUNITY COLLEGE DISTRICT NO. 502, COUNTY OF DUPAGE denies that Plaintiff is entitled to judgment in her favor in any amount whatsoever and further requests that judgment be entered in its favor and against the said Plaintiff.

THIRD AFFIRMATIVE DEFENSE
(Tort Immunity Act-Section 2-201)

1. Defendant College of DuPage is a community college board organized under the Public Community College Act, 110 ILCS 805/1-1, *et seq.*

2. A community college board is a “local public entity” under Section 1-206 of the Local Governmental and Governmental Employees Tort Immunity Act (“Tort Immunity Act”). 745 ILCS 10/1-206.

3. As such, College of DuPage is entitled to immunity from liability under the Tort Immunity Act.

4. Defendants Officers Vallardes and Tamurrino are employed by College of DuPage as officers with the College of DuPage Police Department.

5. Defendants Officers Vallardes and Tamurrino are “public employees” of a local public entity (College of DuPage) as that term is defined in the Tort Immunity Act and thus, are also entitled to immunity under the Tort Immunity Act. 745 ILCS 10/1-202; 745 ILCS 10/1-207.

6. Section 2-201 of the Tort Immunity Act immunizes a public employee serving in a position involving the determination of policy or the exercise of discretion for an injury resulting from his act or omission in determining policy when acting in the exercise of such discretion even though abused. 745 ILCS 10/2–201.

7. At the time of the incident alleged in Plaintiff’s Amended Complaint, Officers Vallardes and Tamurrino were serving in positions involving a determination of policy or the exercise of discretion and were determining policy when acting in the exercise of such discretion.

8. Accordingly, College of DuPage is entitled to immunity for the actions of Officers Tamurrino and Vallardes under Sections 2-109 and 2-201 of the Tort Immunity Act.

WHEREFORE, Defendant BOARD OF TRUSTEES OF COMMUNITY COLLEGE DISTRICT NO. 502, COUNTY OF DUPAGE denies that Plaintiff is entitled to judgment in her

favor in any amount whatsoever and further requests that judgment be entered in its favor and against the said Plaintiff.

FOURTH AFFIRMATIVE DEFENSE
(Tort Immunity Act-Section 2-208)

1. Defendant College of DuPage is a community college board organized under the Public Community College Act, 110 ILCS 805/1-1, *et seq.*

2. A community college board is a “local public entity” under Section 1-206 of the Local Governmental and Governmental Employees Tort Immunity Act (“Tort Immunity Act”). 745 ILCS 10/1-206.

3. As such, College of DuPage is entitled to immunity from liability under the Tort Immunity Act.

4. Defendants Officers Vallardes and Tamurrino are employed by College of DuPage as officers with the College of DuPage Police Department.

5. Defendants Officers Vallardes and Tamurrino are “public employees” of a local public entity (College of DuPage) as that term is defined in the Tort Immunity Act and thus, are also entitled to immunity under the Tort Immunity Act. 745 ILCS 10/1-202; 745 ILCS 10/1-207.

6. Pursuant to Section 2-208 of the Tort Immunity Act, a “public employee is not liable for injury caused by his instituting or prosecuting any judicial or administrative proceeding within the scope of his employment, unless he acts maliciously and without probable cause.” 745 ILCS 10/2-208.

7. Officers Vallardes and Tamurrino had probable cause to arrest Plaintiff on December 7, 2014.

8. Officers Vallardes and Tamurrino did not act with any malice in arresting Plaintiff on December 7, 2014.

9. Under Sections 2-208 and 2-109 of the Tort Immunity Act, College of DuPage is also immune for any alleged injury caused by Officer Vallardes or Officer Tamurrino instituting or prosecuting any judicial or administrative proceeding within the scope of their employment. 745 ILCS 10/2-109; 745 ILCS 10/2-208.

WHEREFORE, Defendant BOARD OF TRUSTEES OF COMMUNITY COLLEGE DISTRICT NO. 502, COUNTY OF DUPAGE denies that Plaintiff is entitled to judgment in her favor in any amount whatsoever and further requests that judgment be entered in its favor and against the said Plaintiff.

Respectfully submitted,

**BOARD OF TRUSTEES OF
COMMUNITY COLLEGE DISTRICT
NO. 502, COUNTY OF DUPAGE**

By: /s/ Clare J. Quish
One of Its Attorneys

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CERTIFICATE OF SERVICE

I hereby certify that on January 12, 2016, I caused a copy of **Defendant Board of Trustees of Community College District No. 502, College of DuPage's Answer and Affirmative Defenses to Amended Complaint at Law** to be served on all counsel of record by filing an electronic copy with the Clerk of the Court using the CM/ECF system, which will send notification of such filing to all registered CM/ECF users.

/s/ Clare J. Quish _____