

**IN THE UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF MISSOURI  
EASTERN DIVISION**

Mustafa Hussein,	)	
	)	
Plaintiff,	)	
	)	
v.	)	No. 4:14-cv-1410
	)	
County of Saint Louis, Missouri,	)	
	)	
City of Ferguson, Missouri, and	)	
	)	
Ronald K. Replogle, in his official capacity	)	
as Superintendent of the Missouri Highway	)	
Patrol,	)	
	)	
Defendants.	)	

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**COMPLAINT**

**INTRODUCTION**

1. This is civil rights action filed by Mustafa Hussein, an individual who has recorded the interactions of the police and demonstrators on public streets and sidewalks within the City of Ferguson and who would like to do so in the future. He brings suit pursuant to 42 U.S.C. § 1983 to challenge intimidating demands and direct orders (made by Defendants, their officers or agents, or those working in concert with them) that members of the public and media stop recording interactions between the police and the public in Ferguson, Missouri.

2. There are a large number of demonstrators who have taken to the public streets and sidewalks of Ferguson, Missouri, to express their opinions about how local law enforcement officials conduct themselves. Defendants have responded by enforcing policies that result in the confrontation of peaceful protestors with a highly militarized police force. There is great public interest in Defendants' response, and Plaintiff went to Ferguson on Wednesday, August 13,

2014, to observe and record what was happening so that it could be shared with the world.

Plaintiff's recording is available for viewing at:

[http://www.slate.com/blogs/the\\_slatest/2014/08/13/scenes\\_from\\_ferguson\\_missouri\\_on\\_wednesday\\_night.html](http://www.slate.com/blogs/the_slatest/2014/08/13/scenes_from_ferguson_missouri_on_wednesday_night.html).

3. Plaintiff asks this court to enjoin the police policy of demanding and ordering members of the media and public to stop recording the police acting in their official duty on public streets and sidewalks, declare that the police policy on its face and as-applied violates Plaintiff's constitutional rights, and award nominal damages.

JURISDICTION AND VENUE

4. This Court has original jurisdiction pursuant to 28 U.S.C. § 1331 over Plaintiff's civil action arising under the Constitution of the United States.

5. In addition, this Court has original jurisdiction pursuant to 28 U.S.C. § 1343(a)(3) to redress the deprivation, under color of state law, of any right, privilege, or immunity secured by the Constitution of the United States.

6. Venue lies in the United States District Court for the Eastern District of Missouri because a substantial part of the events or omissions giving rise to Plaintiff's claims occurred in the County of Saint Louis, Missouri. 28 U.S.C. § 1391(b)(2).

7. Divisional venue is in the Eastern Division because the events leading to the claim for relief arose in the County of Saint Louis and Defendants County of St. Louis and City of Ferguson are located in the County of Saint Louis, Missouri. E.D. Mo. L.R. 2.07(A)(3), (B)(1).

PARTIES

8. Plaintiff, Mustafa Hussein, resides in Missouri.

9. Defendant County of Saint Louis, Missouri, is a political subdivision of the State of Missouri and is participating in and directing law enforcement officers' confrontation of demonstrators and protestors in Ferguson.

10. Defendant City of Ferguson, Missouri, is a political subdivision of the State of Missouri and is participating in and directing law enforcement officers' confrontation of demonstrators and protestors in Ferguson.

11. Defendant Ronald K. Replogle is sued in his official capacity as Superintendent of the Missouri State Highway Patrol. The Missouri State Highway Patrol is an agency of the State of Missouri and is participating in and directing law enforcement officers' confrontation of demonstrators and protestors in Ferguson.

12. All actions by Defendants, their officers, employees, or agents, described herein are taken under color of state law.

FACTS

13. On August 9, 2014, a police officer of the City of Ferguson's police department shot and killed Michael Brown, who was unarmed.

14. Many members of the community have responded with anger at the police.

15. As a result, there have been frequent demonstrations on the public streets and sidewalks of Ferguson.

16. At these demonstrations, protestors are voicing their opinions about such issues of public concern as the relationship between police and the community; the frequency with which police officers shoot unarmed black men; and the militarization of local police forces.

17. Defendants' response to the demonstrations has been controversial, including using force, ordering peaceful protestors to disband and evacuate the streets and sidewalks, and ordering protestors and observers to stop documenting and videotaping the demonstrations.

18. There is widespread interest in Defendants' tactics, which raise questions about whether a military response to the protest is consistent with the values of the United States.

19. In order to document what is occurring on the streets and sidewalks of Ferguson, Plaintiff went to Ferguson on Wednesday, August 13, 2014, to document and record what he could see and hear and to share it with the world.

20. Over a speaker, police officials implementing Defendants' policy ordered everyone on the street to stop recording.

21. Upon hearing the order, Plaintiff was required to choose between surrendering his First Amendment right to record the action unfolding on the street before him or risking arrest or serious bodily injury inflicted by law enforcement officials if he continued recording and exercising his First Amendment rights.

22. Plaintiff chose to continue recording, putting his liberty and physical safety at serious risk.

23. Plaintiff is aware that, in recent days, other journalists have been arrested while engaging in no unlawful activity, have been fired upon by police with teargas, and their recording equipment has been taken by police.

24. Plaintiff is aware that, in recent days in Ferguson, other members of the public and media have been ordered by law enforcement officials to stop recording.

25. Plaintiff would like to peacefully observe and record the interactions between the community and law enforcement officials in the future; however, to do so he must risk the infliction of serious physical harm and the loss of his property by law enforcement or arrest.

***COUNT I***  
***Violation of First and Fourteenth Amendments***  
***to the United States Constitution***

21. Plaintiff repeats, re-alleges, and incorporates by reference the allegations in the foregoing paragraphs of this Complaint as if set forth here verbatim.

22. Defendants' policies and actions described herein chill reasonable persons from engaging in activity that is protected by the First Amendment.

23. Defendants have deprived, and continue to deprive, Plaintiff of his rights under the First Amendment to the United States Constitution, which are incorporated through the Fourteenth Amendment. Defendants' policy of ordering members of the media and public not to record on the public streets and sidewalks of Ferguson is the cause-in-fact of the constitutional violations.

24. Upon information and belief, unless restrained by this court, Defendants will continue to enforce their policy of ordering members of the media and public to not document and record their actions.

WHEREFORE, Plaintiff respectfully requests the following relief:

- A. Upon proper motion, issue a temporary restraining order and preliminary injunction prohibiting Defendants, their officers, employees, or agents, and those acting on their behalf or in concert with them from continuing the policy of ordering members of the media or the public to not record on the streets and sidewalks of Ferguson;

- B. Enter declaratory judgment, pursuant to 42 U.S.C. § 1983, that Defendants' policy violates the Constitution;
- C. Enter a permanent injunction prohibiting Defendants, their officers, employees, or agents, and those acting on their behalf or in concert with them from continuing the policy of ordering members of the media or the public to not document or record on the streets and sidewalks of Ferguson;
- D. Award Plaintiff nominal damages;
- E. Award Plaintiff costs, including reasonable attorneys' fees, pursuant to 42 U.S.C. § 1988 or any other applicable law; and
- F. Allow to Plaintiff such other and further relief as is just and proper under the circumstances.

Respectfully submitted,

/s/ Anthony E. Rothert  
ANTHONY E. ROTHERT, #44827MO  
GRANT R. DOTY, #60788MO  
AMERICAN CIVIL LIBERTIES UNION  
OF MISSOURI FOUNDATION  
454 Whittier Street  
St. Louis, Missouri 63108  
Telephone: (314) 652-3114  
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GILLIAN R. WILCOX, #61278MO  
AMERICAN CIVIL LIBERTIES UNION  
OF MISSOURI FOUNDATION  
3601 Main Street  
Kansas City, Missouri 64111  
Telephone: (816) 470-9938  
Facsimile: (314) 652-3112

**ATTORNEYS FOR PLAINTIFF**

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

Hussein, Mustafa

(b) County of Residence of First Listed Plaintiff Saint Louis County (EXCEPT IN U.S. PLAINTIFF CASES)

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

Anthony E. Rothert; ACLU of Missouri 454 Whittier St., St. Louis, MO 63108 (314) 652-3114

DEFENDANTS

County of Saint Louis; City of Ferguson; Ronald K. Replogle, in his official capacity as Superintendent of the Missouri Highway Patrol

County of Residence of First Listed Defendant (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, 2 U.S. Government Defendant, 3 Federal Question (U.S. Government Not a Party), 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)

- Citizen of This State, Citizen of Another State, Citizen or Subject of a Foreign Country, PTF DEF, Incorporated or Principal Place of Business In This State, Incorporated and Principal Place of Business In Another State, Foreign Nation

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

Table with 5 columns: CONTRACT, REAL PROPERTY, TORTS, CIVIL RIGHTS, PRISONER PETITIONS, FORFEITURE/PENALTY, LABOR, IMMIGRATION, BANKRUPTCY, SOCIAL SECURITY, FEDERAL TAX SUITS, OTHER STATUTES. Includes various legal categories like Insurance, Personal Injury, Real Estate, etc.

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, 6 Multidistrict Litigation

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. s 1983. Brief description of cause: First Amendment

VII. REQUESTED IN COMPLAINT:

CHECK IF THIS IS A CLASS ACTION UNDER RULE 23, F.R.Cv.P. DEMAND \$ 1.00 CHECK YES only if demanded in complaint: JURY DEMAND: Yes No

VIII. RELATED CASE(S) IF ANY

(See instructions): JUDGE DOCKET NUMBER

DATE 08/14/2014 SIGNATURE OF ATTORNEY OF RECORD /s/ Anthony E. Rothert

FOR OFFICE USE ONLY

RECEIPT # AMOUNT APPLYING IFP JUDGE MAG. JUDGE

## INSTRUCTIONS FOR ATTORNEYS COMPLETING CIVIL COVER SHEET FORM JS 44

### Authority For Civil Cover Sheet

The JS 44 civil cover sheet and the information contained herein neither replaces nor supplements the filings and service of pleading 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. Consequently, a civil cover sheet is submitted to the Clerk of Court for each civil complaint filed. The attorney filing a case should complete the form as follows:

- I.(a) Plaintiffs-Defendants.** Enter names (last, first, middle initial) of plaintiff and defendant. If the plaintiff or defendant is a government agency, use only the full name or standard abbreviations. If the plaintiff or defendant is an official within a government agency, identify first the agency and then the official, giving both name and title.
- (b) County of Residence.** For each civil case filed, except U.S. plaintiff cases, enter the name of the county where the first listed plaintiff resides at the time of filing. In U.S. plaintiff cases, enter the name of the county in which the first listed defendant resides at the time of filing. (NOTE: In land condemnation cases, the county of residence of the "defendant" is the location of the tract of land involved.)
- (c) Attorneys.** Enter the firm name, address, telephone number, and attorney of record. If there are several attorneys, list them on an attachment, noting in this section "(see attachment)".
- II. Jurisdiction.** The basis of jurisdiction is set forth under Rule 8(a), F.R.Cv.P., which requires that jurisdictions be shown in pleadings. Place an "X" in one of the boxes. If there is more than one basis of jurisdiction, precedence is given in the order shown below.
- United States plaintiff. (1) Jurisdiction based on 28 U.S.C. 1345 and 1348. Suits by agencies and officers of the United States are included here.
- United States defendant. (2) When the plaintiff is suing the United States, its officers or agencies, place an "X" in this box.
- Federal question. (3) This refers to suits under 28 U.S.C. 1331, where jurisdiction arises under the Constitution of the United States, an amendment to the Constitution, an act of Congress or a treaty of the United States. In cases where the U.S. is a party, the U.S. plaintiff or defendant code takes precedence, and box 1 or 2 should be marked.
- Diversity of citizenship. (4) This refers to suits under 28 U.S.C. 1332, where parties are citizens of different states. When Box 4 is checked, the citizenship of the different parties must be checked. (See Section III below; **NOTE: federal question actions take precedence over diversity cases.**)
- III. Residence (citizenship) of Principal Parties.** This section of the JS 44 is to be completed if diversity of citizenship was indicated above. Mark this section for each principal party.
- IV. Nature of Suit.** Place an "X" in the appropriate box. If the nature of suit cannot be determined, be sure the cause of action, in Section VI below, is sufficient to enable the deputy clerk or the statistical clerk(s) in the Administrative Office to determine the nature of suit. If the cause fits more than one nature of suit, select the most definitive.
- V. Origin.** Place an "X" in one of the six boxes.
- Original Proceedings. (1) Cases which originate in the United States district courts.
- Removed from State Court. (2) Proceedings initiated in state courts may be removed to the district courts under Title 28 U.S.C., Section 1441. When the petition for removal is granted, check this box.
- Remanded from Appellate Court. (3) Check this box for cases remanded to the district court for further action. Use the date of remand as the filing date.
- Reinstated or Reopened. (4) Check this box for cases reinstated or reopened in the district court. Use the reopening date as the filing date.
- Transferred from Another District. (5) For cases transferred under Title 28 U.S.C. Section 1404(a). Do not use this for within district transfers or multidistrict litigation transfers.
- Multidistrict Litigation. (6) Check this box when a multidistrict case is transferred into the district under authority of Title 28 U.S.C. Section 1407. When this box is checked, do not check (5) above.
- VI. Cause of Action.** Report the civil statute directly related to the cause of action and give a brief description of the cause. **Do not cite jurisdictional statutes unless diversity.** Example: U.S. Civil Statute: 47 USC 553 Brief Description: Unauthorized reception of cable service
- VII. Requested in Complaint.** Class Action. Place an "X" in this box if you are filing a class action under Rule 23, F.R.Cv.P.
- Demand. In this space enter the actual dollar amount being demanded or indicate other demand, such as a preliminary injunction.
- Jury Demand. Check the appropriate box to indicate whether or not a jury is being demanded.
- VIII. Related Cases.** This section of the JS 44 is used to reference related pending cases, if any. If there are related pending cases, insert the docket numbers and the corresponding judge names for such cases.
- Date and Attorney Signature.** Date and sign the civil cover sheet.





AO 440 (Rev. 12/09) Summons in a Civil Action

**UNITED STATES DISTRICT COURT**

for the

\_\_\_\_\_ District of \_\_\_\_\_

_____	)	
<i>Plaintiff</i>	)	
	)	
v.	)	Civil Action No.
	)	
_____	)	
<i>Defendant</i>	)	

**SUMMONS IN A CIVIL ACTION**

To: *(Defendant's name and address)*

A lawsuit has been filed against you.

Within 21 days after service of this summons on you (not counting the day you received it) — or 60 days if you are the United States or a United States agency, or an officer or employee of the United States described in Fed. R. Civ. P. 12 (a)(2) or (3) — you must serve on the plaintiff an answer to the attached complaint or a motion under Rule 12 of the Federal Rules of Civil Procedure. The answer or motion must be served on the plaintiff or plaintiff's attorney, whose name and address are:

If you fail to respond, judgment by default will be entered against you for the relief demanded in the complaint. You also must file your answer or motion with the court.

*CLERK OF COURT*

Date: \_\_\_\_\_

\_\_\_\_\_  
*Signature of Clerk or Deputy Clerk*

Civil Action No. \_\_\_\_\_

**PROOF OF SERVICE**

*(This section should not be filed with the court unless required by Fed. R. Civ. P. 4 (l))*

This summons for *(name of individual and title, if any)* \_\_\_\_\_  
was received by me on *(date)* \_\_\_\_\_.

I personally served the summons on the individual at *(place)* \_\_\_\_\_  
\_\_\_\_\_ on *(date)* \_\_\_\_\_; or

I left the summons at the individual's residence or usual place of abode with *(name)* \_\_\_\_\_  
\_\_\_\_\_, a person of suitable age and discretion who resides there,  
on *(date)* \_\_\_\_\_, and mailed a copy to the individual's last known address; or

I served the summons on *(name of individual)* \_\_\_\_\_, who is  
designated by law to accept service of process on behalf of *(name of organization)* \_\_\_\_\_  
\_\_\_\_\_ on *(date)* \_\_\_\_\_; or

I returned the summons unexecuted because \_\_\_\_\_; or

Other *(specify):* \_\_\_\_\_.

My fees are \$ \_\_\_\_\_ for travel and \$ \_\_\_\_\_ for services, for a total of \$ \_\_\_\_\_.

I declare under penalty of perjury that this information is true.

Date: \_\_\_\_\_

\_\_\_\_\_  
*Server's signature*

\_\_\_\_\_  
*Printed name and title*

\_\_\_\_\_  
*Server's address*

Additional information regarding attempted service, etc:

AO 440 (Rev. 12/09) Summons in a Civil Action

**UNITED STATES DISTRICT COURT**

for the

\_\_\_\_\_ District of \_\_\_\_\_

_____	)	
<i>Plaintiff</i>	)	
	)	
v.	)	Civil Action No.
	)	
_____	)	
<i>Defendant</i>	)	

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To: *(Defendant's name and address)*

A lawsuit has been filed against you.

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If you fail to respond, judgment by default will be entered against you for the relief demanded in the complaint. You also must file your answer or motion with the court.

*CLERK OF COURT*

Date: \_\_\_\_\_

\_\_\_\_\_  
*Signature of Clerk or Deputy Clerk*

Civil Action No. \_\_\_\_\_

**PROOF OF SERVICE**

*(This section should not be filed with the court unless required by Fed. R. Civ. P. 4 (l))*

This summons for *(name of individual and title, if any)* \_\_\_\_\_  
was received by me on *(date)* \_\_\_\_\_.

I personally served the summons on the individual at *(place)* \_\_\_\_\_  
\_\_\_\_\_ on *(date)* \_\_\_\_\_ ; or

I left the summons at the individual's residence or usual place of abode with *(name)* \_\_\_\_\_  
\_\_\_\_\_, a person of suitable age and discretion who resides there,  
on *(date)* \_\_\_\_\_, and mailed a copy to the individual's last known address; or

I served the summons on *(name of individual)* \_\_\_\_\_, who is  
designated by law to accept service of process on behalf of *(name of organization)* \_\_\_\_\_  
\_\_\_\_\_ on *(date)* \_\_\_\_\_ ; or

I returned the summons unexecuted because \_\_\_\_\_ ; or

Other *(specify):* \_\_\_\_\_ .

My fees are \$ \_\_\_\_\_ for travel and \$ \_\_\_\_\_ for services, for a total of \$ \_\_\_\_\_ .

I declare under penalty of perjury that this information is true.

Date: \_\_\_\_\_

\_\_\_\_\_  
*Server's signature*

\_\_\_\_\_  
*Printed name and title*

\_\_\_\_\_  
*Server's address*

Additional information regarding attempted service, etc:

AO 440 (Rev. 12/09) Summons in a Civil Action

**UNITED STATES DISTRICT COURT**

for the

\_\_\_\_\_ District of \_\_\_\_\_

_____	)	
<i>Plaintiff</i>	)	
	)	
v.	)	Civil Action No.
	)	
_____	)	
<i>Defendant</i>	)	

**SUMMONS IN A CIVIL ACTION**

To: *(Defendant's name and address)*

A lawsuit has been filed against you.

Within 21 days after service of this summons on you (not counting the day you received it) — or 60 days if you are the United States or a United States agency, or an officer or employee of the United States described in Fed. R. Civ. P. 12 (a)(2) or (3) — you must serve on the plaintiff an answer to the attached complaint or a motion under Rule 12 of the Federal Rules of Civil Procedure. The answer or motion must be served on the plaintiff or plaintiff's attorney, whose name and address are:

If you fail to respond, judgment by default will be entered against you for the relief demanded in the complaint. You also must file your answer or motion with the court.

*CLERK OF COURT*

Date: \_\_\_\_\_

\_\_\_\_\_  
*Signature of Clerk or Deputy Clerk*

Civil Action No. \_\_\_\_\_

**PROOF OF SERVICE**

*(This section should not be filed with the court unless required by Fed. R. Civ. P. 4 (l))*

This summons for *(name of individual and title, if any)* \_\_\_\_\_  
was received by me on *(date)* \_\_\_\_\_.

I personally served the summons on the individual at *(place)* \_\_\_\_\_  
\_\_\_\_\_ on *(date)* \_\_\_\_\_ ; or

I left the summons at the individual's residence or usual place of abode with *(name)* \_\_\_\_\_  
\_\_\_\_\_, a person of suitable age and discretion who resides there,  
on *(date)* \_\_\_\_\_, and mailed a copy to the individual's last known address; or

I served the summons on *(name of individual)* \_\_\_\_\_, who is  
designated by law to accept service of process on behalf of *(name of organization)* \_\_\_\_\_  
\_\_\_\_\_ on *(date)* \_\_\_\_\_ ; or

I returned the summons unexecuted because \_\_\_\_\_ ; or

Other *(specify)*: \_\_\_\_\_ .

My fees are \$ \_\_\_\_\_ for travel and \$ \_\_\_\_\_ for services, for a total of \$ \_\_\_\_\_ .

I declare under penalty of perjury that this information is true.

Date: \_\_\_\_\_

\_\_\_\_\_  
*Server's signature*

\_\_\_\_\_  
*Printed name and title*

\_\_\_\_\_  
*Server's address*

Additional information regarding attempted service, etc: