

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF ILLINOIS
EASTERN DIVISION

JESSICA RIZZO,)
)
 Plaintiff,)
)
 v.) No. 06 C 6476
)
 MATTHEW BOUCH, et al.,)
)
 Defendants.)

MEMORANDUM ORDER

Both defendants in this action brought by Jessica Rizzo ("Rizzo") under 42 U.S.C. §1983 ("Section 1983") and under state law theories--City of Chicago ("City") and its police officer Matthew Bouch ("Bouch")--have filed their respective Answers and defenses to Rizzo's Complaint. This memorandum order is issued sua sponte to correct some flaws in each of those responsive pleadings.

Both defendants proffer across-the-board denials of Rizzo's substantive claims that stem from Bouch's asserted abuse of his office by compelling Rizzo to engage in sexual acts. From those total denials--and particularly from Bouch's disclaimer of ever having had any contact with Rizzo at all (his Answer ¶11), let alone having arrested her and taking advantage of her--it seems possible that the events recounted by Rizzo involve some other officer. But that possibility is for another day.

In the meantime, however, both of Bouch's affirmative defenses ("ADs") must be and are stricken. When Rizzo's

allegations are accepted as true, as they must be for AD purposes (see, e.g., App. ¶5 to State Farm Mut. Auto. Ins. Co. v. Riley, 199 F.R.D. 276, 279 (N.D. Ill. 2001)), Bouch's asserted misconduct was certainly "wilful and wanton," and he is being sued for his misconduct and not that of anyone else. And for the first of those reasons, City's AD 3 is also stricken.



Milton I. Shadur
Senior United States District Judge

Date: January 23, 2007