

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

ANTONIO MUSSARI,)
)
 Plaintiff,)
)
 v.) No. 09 C 2745
)
 P.O. JOE DORTHA PARKER #17669,)
 individually, et al.,)
)
 Defendants.)

MEMORANDUM ORDER

City of Chicago ("City") has filed its Answer to the First Amended Complaint ("FAC") brought against it and one of its police officers by Antonio Mussari. This memorandum order is issued sua sponte because of a couple of problematic aspects of that responsive pleading.

Those problems relate to the affirmative defenses ("ADs") that follow the answers to the FAC's allegations. This Court's App'x ¶5 to State Farm Mut. Auto. Ins. Co. v. Riley, 199 F.R.D. 276, 278 (N.D. Ill. 2001) explains some basic principles in that respect, under which (for example) AD 2 is impermissible because it directly contradicts FAC ¶14.¹

Various of the other ADs are at odds with the notice pleading principles that are incumbent on defendants as well as plaintiffs in the federal courts. It will not do for City's

¹ This Court has not sought to be exhaustive in that respect, because City's counsel must return to the drawing board in any event and will be expected to engage in careful self-monitoring in doing so.

counsel simply to recite items from the Fed. R. Civ. P. ("Rule") 8(c) laundry list without fleshing out the claimed defenses to inform Mussari's counsel and this Court of the predicate for those defenses (for example, ADs 4 and 5 must be and are stricken, albeit with leave granted to restate those ADs in appropriately fleshed-out form. City's counsel would also do well to reexamine the ADs to make certain that each is advanced in the objective good faith required by Rule 11(b).



Milton I. Shadur
Senior United States District Judge

Date: August 12, 2009