

UNITED STATES DISTRICT COURT  
DISTRICT OF MINNESOTA

File No. \_\_\_\_\_

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Julius Chad Zimmerman,	)
	)
Plaintiff,	)
	)
v.	)
	)
Dave Bellows, in his individual and	)
official capacities, and John Doe 1-5	)
and Jane Roe 1-5 in their individual and	)
official capacities,	)
	)
Defendants	)

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**COMPLAINT**

Plaintiff, Julius Chad Zimmerman, by and through his attorney, Nathan M. Hansen, Attorney at Law, for his claim or cause of action against the above-named Defendant states and alleges as follows:

**JURISDICTION AND VENUE**

1. This action arises under the Constitution of the United States, particularly the Fourth, Eighth and Fourteenth Amendments to the Constitution of the United States, and under the laws of the United States, particularly the Civil Rights Act, Title 42 U.S.C. §§ 1983 and 1988.
2. The jurisdiction of this Court is invoked under the provisions of Title 28, U.S.C. §§ 1331 and 1988 and 11 U.S.C. § 362.
3. Venue is placed in this district because it is where the parties reside and where the events complained of occurred.

**PARTIES**

4. Plaintiff is now, and at all times mentioned was a citizen of the United States of America, and a resident of the City of Rosemount, Dakota County, State of Minnesota.
5. Defendant Dave Bellows is the Sheriff of Dakota County, Minnesota and is party to this lawsuit in his individual and official capacities.
6. John Doe 1-5 and Jane Roe 1-5 are individuals whose names are unknown who acted to keep the Plaintiff in Jail unlawfully. They are parties to this case in their individual and official capacities.

**FACTUAL BACKGROUND**

7. On October 27, 2011, Mr. Zimmerman filed a Chapter 7 bankruptcy in the District of Minnesota, invoking the automatic stay pursuant to 11 USC § 362 *et seq.*
8. The Plaintiff was arrested and booked in the Dakota County Jail on November 10, 2011 pursuant to a civil warrant obtained by a debt collector for failure to appear at an Order to Show Cause hearing related to collection of the debt. The automatic stay was in place at this time and at all times relevant hereto in this Complaint.
9. Mr. Zimmerman was not released from the Dakota County Jail until November 16, 2011. Mr. Zimmerman had no criminal charges or convictions whatsoever for which he was required to serve jail time. He was only released after he was finally able to obtain access to his bankruptcy attorney's phone number and access to a telephone after several days in custody. Counsel for the Plaintiff was able to get opposing counsel to contact court administration to get the warrant quashed. It appears that Mr. Zimmerman would have sat in jail indefinitely but for these efforts.

10. All that is required for a debtor to have his warrant quashed is to be brought before a Judge and told to fill out a financial disclosure form. People jailed on contempt hold the keys to their jail cell. In Mr. Zimmerman's case, he was never brought before a Judge and was held in solitary confinement on 23 hour a day lockdown for six days in the Dakota County Jail.
11. During his incarceration in the Dakota County Jail, the Plaintiff repeatedly and continuously told his captors that he had filed bankruptcy and the automatic stay was in place and that any collection efforts against him needed to cease and that he had been specifically advised as such by his bankruptcy counsel.
12. Upon information and belief, Defendants failed to adequately train or supervise their correctional officers at the Dakota County jail concerning the rights of debtors incarcerated at the jail, specifically that debtors need to be brought before a judge as soon as possible so that their status can be evaluated and they be given an opportunity to purge their contempt.
13. Upon information and belief Defendants failed to adequately train or supervise their correctional officers at the Dakota County Jail concerning the rights of debtors incarcerated at the jail, specifically to verify if judgment debtors have filed bankruptcy if they assert that they have and to determine if, in fact, the automatic stay is in place in favor of the judgment debtor.
14. PACER is publicly available via the Internet 24 hours a day, and just as the Defendant and his agents may check to see if an inmate has a hold or detainer on them, he could also check to see if the automatic stay is in place with regard to a particular debtor if the debtor asserts that it is in fact in place. This is routinely done by creditors and agents of

creditors every day around this country and is not in any way excessively burdensome or exotic.

15. Based upon information and belief, Defendant has a custom or policy at his Jail in which debtors detained on civil debt warrants are not timely brought before a Judge so as to be given an opportunity to purge their contempt.
16. Based upon information and belief, Defendants have a custom or policy at his Jail in which debtors held on civil warrants are treated cruelly and unusually and held indefinitely on 23 hour a day lockdown.
17. Based upon information and belief, Defendants failed to adequately train and supervise their correctional officers on the appropriate treatment of debtors held on civil debt warrants.
18. Holding the Plaintiff, a civil judgment debtor, on 23 hour a day lockdown for six days served no correctional purpose whatsoever and was totally inappropriate.
19. The actions for the Defendants show deliberate disregard for the rights or safety of others, including specifically the rights of judgment debtors and judgment debtors who have filed bankruptcy.
20. Based upon information and belief, the Defendants failed to adequately train their correctional officers concerning the rights of debtors under federal and state law and procedures for bringing them before a Judge in a timely manner and/or to verify if the automatic stay is in place if the debtor asserts that it is in fact in place.
21. As a result of Defendants' actions or failure to act, the Plaintiff suffered emotional injuries, including but not limited to fear, anxiety, humiliation, and embarrassment.

22. Each of the defendants, individually and in concert with the others, acted under pretense and color of law and their official capacity, but such acts were beyond the scope of their jurisdiction and without authorization of law.
23. Pursuant to 42 U.S.C. § 1988, Plaintiff is entitled to a reasonable allowance of attorney fees as part of his costs.

**COUNT I: VIOLATIONS OF § 42 U.S.C § 1983**

24. Plaintiff re-states and re-alleges the previous averments as if fully set forth herein.
25. The conduct of the Defendants, and each of them, acted willfully, knowingly, and with specific intent to deprive Plaintiff of the following rights, privileges, and immunities secured to him by the Constitution of the United States and 42 U.S.C. §§1983 and 1988:
  26. The right of the Plaintiff to be secure in his person and effects against unreasonable search and seizure under the Fourth and Fourteenth Amendments to the Constitution of the United States.
  27. The right of the Plaintiff not to be deprived of life, liberty or property without due process of law, and the right to the equal protection of the laws, secured by the Fourteenth Amendment to the Constitution of the United States.
  28. The right of the Plaintiff not to be subject to cruel and unusual punishments pursuant to the Eighth Amendment to the Constitution of the United States

**COUNT II: FALSE IMPRISONMENT**

29. Plaintiff re-states and re-alleges the previous averments as if fully set forth herein.
30. Defendants, by their above-described actions, wrongfully, illegally, and unjustifiably confined and restrained Plaintiff without his consent, and therefore falsely imprisoned him.

31. As a result of Defendants' conduct, Plaintiff suffered the damages set forth in this Complaint.

**COUNT III: NEGLIGENCE, FAILURE TO BRING PLAINTIFF BEFORE A JUDGE IN A TIMELY MANNER**

32. Plaintiff re-states and re-alleges the previous averments as if fully set forth herein.
33. Defendants had a duty to bring the Plaintiff before a Judge as soon as possible.
34. Defendants never brought the Plaintiff before a Judge; instead Plaintiff sat in Defendants' Jail on 23 hour a day lockdown for six days.
35. Defendants' failure to bring the Plaintiff before a Judge caused him damage.

**COUNT IV: NEGLIGENCE, KEEPING A CIVIL DEBTOR ON 23 HOUR A DAY LOCKDOWN FOR SIX DAYS**

36. Plaintiff re-states and re-alleges the previous averments as if fully set forth herein.
37. Defendants had a duty to care for inmates held on civil debt warrants in a manner that is appropriate for this type of inmate.
38. Defendants breached this duty by holding the Plaintiff on 23 hour a day lockdown for six days.
39. There was no valid correctional reason to keep the Plaintiff under these conditions for this amount of time.
40. Defendants' actions caused damage to the Plaintiff.

**COUNT V: VIOLATION OF AUTOMATIC STAY: 11 U.S.C. § 362(a)(2) and 362(k)(1)**

41. Plaintiff re-states and re-alleges the previous averments as if fully set forth herein.
42. When Plaintiff was arrested and incarcerated in the Defendants' Jail, the automatic stay was in effect.

43. All collection activity on the claim for which the Plaintiff was incarcerated was to stop pursuant to 11 U.S.C. § 362 *et seq.*
44. The Plaintiff repeatedly told his captors that he had filed bankruptcy and that the automatic stay was in place such that this collection activity had to stop. His assertions were completely ignored by his captors and met with the response of the Plaintiff being placed on 23 hour a day lockdown.
45. Defendants' conduct over the course of six days of ignoring the Plaintiff's assertions about the automatic stay shows that Defendants' violation of the automatic stay was willful.
46. Over the course of six days, the Defendants never checked to verify the Plaintiff's claims about the automatic stay.
47. Plaintiff is entitled to actual damages, costs, attorneys' fees and punitive damages for this egregious six-day violation of the automatic stay.

**COUNT VI: VIOLATION OF THE MINNESOTA STATE CONSTITUTION: ARTICLE 1, SECTION 5 (NO CRUEL AND UNUSUAL PUNISHMENTS INFLICTED)**

48. Plaintiff re-states and re-alleges the previous averments as if fully set forth herein.
49. Plaintiff's six-day incarceration in Defendants' Jail on 23 hour a day lockdown constituted cruel and unusual punishment.

**COUNT VII: VIOLATION OF THE MINNESOTA STATE CONSTITUTION: ARTICLE 1, SECTION 12 (NO PERSON SHALL BE IMPRISONED FOR DEBT IN THIS STATE)**

50. Plaintiff re-states and re-alleges the previous averments as if fully set forth herein.
51. Plaintiff's six-day incarceration in the Defendants' Jail violated his rights under the Minnesota State Constitution in that it constituted imprisonment for a debt.

WHEREFORE, Plaintiff requests judgment against defendants, and each of them, for:

1. Compensatory damages to be established at trial;
2. Punitive damages to be established at trial;
3. Reasonable attorney fees;
4. Costs of suit; and
5. An Order for prospective injunctive relief against the Defendants:
  - a. Requiring Defendants to develop appropriate policies and procedures to ensure that civil judgment debtors are timely brought before a Judge so that they may be heard.
  - b. Requiring Defendants to develop appropriate policies and procedures to ensure that debtors arrested on civil judgment warrants are not held indefinitely on 23 hour a day lockdown in their facility and otherwise not treated cruelly and treated appropriately as debtors and not as persons accused of or convicted of crimes.
  - c. Requiring Defendants to develop appropriate policies and procedures to verify if judgment debtors held on civil debt warrants have invoked the automatic stay pursuant to 11 U.S.C. § 362 *et seq* if the debtors assert verbally or in writing that they have invoked the automatic stay.
6. Such other and further relief as the court deems just and proper.

JURY TRIAL DEMANDED

Dated: November 2, 2012

/s Nathan M. Hansen  
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