

IN THE CIRCUIT COURT OF COOK COUNTY, ILLINOIS  
MUNICIPAL DEPARTMENT, CRIMINAL DIVISION

CITY OF CHICAGO,

Plaintiff,

vs.

TIEG ALEXANDER, et. al,

Defendants.

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No. 11 MC1 237718

**CERTAIN DEFENDANTS' REPLY**  
**IN SUPPORT OF MOTION TO DISMISS**

The prosecution of the OCCUPY CHICAGO Defendants by the City of Chicago is unconstitutional, contrary to public policy and therefore the pending ordinance violation charges against the Defendants should be dismissed. The City of Chicago's response does not identify a significant governmental interest in the prosecution and in the context of this unique and historic moment and movement, the OCCUPY CHICAGO Defendants did not have ample alternatives available to them for their specific expressive conduct.

I. LAW APPLICABLE TO MOTION

The freedom of speech and assembly guarantees of the U.S. Constitution are the supreme law of the land. Illinois law specifically reinforces these ideals. See, Illinois Const., Art. I, §§ 4, 5. Defendants do not contend in this motion that the Chicago Park District Ordinance is unconstitutional on its face, but rather as applied to these OCCUPY CHICAGO Defendants. The City admits that its actions must serve a "significant governmental interest" and must leave "open ample alternative channels for communication of the information." City Response, p. 7.

Contrary to the City's procedural objections (See City Response, pp. 4-5), this court has the discretion to grant this motion without strictly applying all provisions of the Civil Practice Act to this quasi-criminal case. *City of Danville v. Hartshorn*, 53 Ill. 2d 399, 404 (Ill. 1973) ("We believe that whether the discovery provision of the Civil Practice Act may be invoked should be within the discretion of the Court."). Further, Defendants now submit affidavits and the criminal nature of this prosecution is clear: Defendants were arrested by Chicago police, taken into custody, processed as other criminal arrestees, released only on conditions of bond and required to initially appear in the branch courts of the misdemeanor division of the Circuit Court of Cook County. (See Affidavit of Samuel Brody ¶ 19, attached as Exhibit A. This affidavit was originally included in the Defendants' Reply to the Motion to Dismiss in *People v. Brody, et. al.*).

## II. PROSECUTING THE OCCUPY CHICAGO DEFENDANTS FOR VIOLATION OF A PARK DISTRICT ORDINANCE DOES NOT SERVE A SIGNIFICANT GOVERNMENTAL INTEREST

The City is attempting to criminally prosecute the OCCUPY CHICAGO Defendants for violating a municipal ordinance that was promulgated by the Chicago Park District. The particular ordinance charged is part of a regulatory scheme created to protect the parks and to ensure the public's enjoyment of these lands. In attempting to justify the arrests of the OCCUPY CHICAGO Defendants, the City claims an interest in "providing safe, inviting and beautifully maintained parks" in "Chicago's front yard." City Response, p. 8. The City further claims that closure ensures that the parks do not become "over-fatigued" and that park district employees collect trash, make repairs and maintain landscaping during these hours. *Id.*

The front yard of our city is a particularly appropriate and visible place for the First Amendment protected expressive conduct engaged in by the OCCUPY CHICAGO Defendants.

In fact, on September 30, 2011, Chicago Police Officers identified Grant Park as a space where Occupy Chicago could assemble. See Affidavit of Michael Herbert ¶ 15, attached as Exhibit F. Further, the relatively small area of Grant Park where the Occupiers were arrested consisted of a concrete space unlikely to become fatigued and no evidence was presented that during the specific closure hours in question any park district employee was to have engaged in any of the identified maintenance activities. See Affidavit of Samuel Brody, ¶¶ 9-10, attached as Exhibit A.

Moreover, the Occupiers themselves specifically intended and planned to maintain the area in a clean and undisturbed condition, as they are committed to keeping all of their spaces clean, safe and orderly. Affidavits of Micah Philbrook and Michael Herbert, attached as Exhibit B and F and Rules of Occupy attached as Exhibit C. There is no evidence that the OCCUPY CHICAGO Defendants would infringe upon the rights of others or interfere with any governmental interest. In fact, the OCCUPY CHICAGO Defendants' intentions were the opposite as they painstakingly prepared to maintain themselves in a way that protected the rights of all. Since its inception, OCCUPY CHICAGO has been committed to comporting itself and organizing its spaces in a way that allows others to use the occupied spaces freely. See Affidavits of Micah Philbrook, Daniel P. Hensley, Evelyn DeHais, Michael Herbert and Sarah Whitford, attached as exhibits B, D-G. There is no evidence to suggest the Occupiers would have acted any differently on the nights of these arrests. Thus, OCCUPY CHICAGO's undisputed commitment to cleanliness and safely-maintained shared spaces renders the City's concerns insubstantial and moot.

The Chicago Park District was created in 1934 while the citizenry of Chicago were in the throes of the Great Depression. See Julia Sniderman Bachrach, *The City in a Garden: A*

*Photographic History of Chicago's Parks: Chicago Park District: 1934-1940s* (2001), available at <http://www.chicagoparkdistrict.com/history/city-in-a-garden/chicago-park-district/> (hereinafter Bachrach). By referendum, the people of the City of Chicago created the Chicago Park District to be an oasis of opportunity and beauty. *Id.* By consolidating disparate park districts into the present day Chicago Park District, the City hoped to gain access to funds through the Work Progress Administration (WPA) and with that money hoped to keep the Park open and to provide desperately needed jobs. See *id.*

At the moment of the Park District's founding, Chicago was experiencing massive unemployment and widespread social turmoil. See Chicago Historical Society, Encyclopedia of Chicago, *Great Depression*, <http://www.encyclopedia.chicagohistory.org/pages/542.html>. Throughout the early 1930s, these conditions led Chicago citizens to engage in frequent mass protests against the deleterious economic and social conditions of the working class. *Id.*; see also photographs attached as Exhibit H. It was within this unique historical moment that the Chicago Park District was founded. See Bachrach. Implicit in and essential to its creation was maintaining an open space for public protest and of advocacy for better social and economic conditions.

The particular ordinance charged is part of a regulatory scheme created to protect the parks and to ensure the public's enjoyment of these lands. In its reply, the City makes much of the beauty of Grant Park, a fact of which there is no dispute. The physical maintenance of public spaces, however, cannot subsume the vital purpose of our parks—to create a public space for Chicago citizens. Given the Chicago Park District's history, the closure of our public park spaces to protest because of the government's asserted interest in maintaining the Park's beauty would be

inconceivable to the Depression era masses who voted for its very creation. Regulatory structure, and the application of the regulatory structure must flow from its founding and purpose.

Arresting over 300 people attempting to assert their First Amendment rights so as to effectively protest the economic conditions of our country during a time of unemployment and uncertainty because of concern for the flowers in a concrete garden is tantamount to fiddling while Rome burns. The lone significant government interest here is that of the free voices of its citizens. Certainly, there is no governmental interest served by applying this ordinance to the OCCUPY CHICAGO Defendants.

### III. THE OCCUPY CHICAGO DEFENDANTS DID NOT HAVE AMPLE ALTERNATIVE CHANNELS FOR COMMUNICATION OF THEIR MESSAGE

The particular expressive conduct of occupying the limited area of Grant Park at these particular dates and times could not be accomplished by any alternative means. This singular conduct was incapable of being expressed in any other manner. This moment in history as well as their message itself required the presence of the Occupiers during the hours when the parks are typically closed. Occupation is a specific, unique and timely form of First Amendment expressive conduct.

The reality of the moment includes that 1% of our country's people monopolize the available channels of communication. Recently, big business interests have persuaded the Supreme Court that corporate entities have the same entitlement to political speech as human beings. *Citizens United v. F.E.C.*, 130 S. Ct. 879 (2010). Particularly in the area of downtown Chicago, corporate speech predominates and businesses erect vast symbols and continually bombard the public with their message at all hours of the day and night. The essence of the very

message sought to be expressed by the Occupiers requires visibility throughout the evening hours as a counterpoint to this reality of our lives. The Occupiers represent the 99% who are specifically excluded from engaging in many channels of communication that require massive expenditures of money. They do not have the means to engage in other ample channels of communication and must resort to sacrificing their time and comfort to utilize their bodies in the occupation of public space to communicate their message.

Contrary to the City's assertions, the Occupiers did **not** have adequate access to "sidewalks or other public venues" within which to freely assemble and speak "for up to twenty-four hours per day." City Response, p. 9. In fact, Occupiers were continually harassed by Chicago Police officers and their assembly and speech rights curtailed at the original location of the street intersection at LaSalle and Jackson. See, Defendants' Motion, ¶¶10-13; Affidavits of Micah Philbrook, Daniel P. Hensley, Evelyn DeHais, Michael Herbert and Sarah Whitford, attached as exhibits B, D-G. Furthermore, the great numbers of demonstrators present in Grant Park on the nights of the arrests made it impossible for them to assemble only on any sidewalk. Any attempt to do so would have greatly impeded both pedestrian and vehicular traffic in the area. See Affidavits of Samuel Brody and Michael Herbert, attached as exhibit A and F.

The singular expressive conduct required by the moment and the lack of appropriate alternative channels of communication propelled the OCCUPY CHICAGO Defendants to occupy a limited area of public space on these dates and times and the City's suppression and prior restraint of this conduct is unconstitutional and against the public policy of this state.

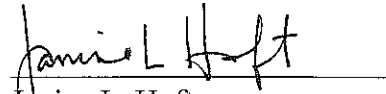
#### IV. CONCLUSION

For all of the foregoing reasons, the OCCUPY CHICAGO Defendants' motion to dismiss

should be granted and all charges against them dismissed.

Dated: February 10, 2012

Respectfully Submitted,



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\*Paralegal Brad Thomson from People's Law Office participated in the formulation of this motion.

# Exhibit A





such as public speaking, protesting, assembling together, and asserting viewpoints amongst each other and also to other members of the public regarding our areas of concern.

5. Occupy Chicago started its most visible protest in downtown Chicago on or around September 22, 2011. The primary focus of this protest was the area around Jackson and LaSalle streets in downtown Chicago, as a symbolic protest to the financial interests that are at the root of our country's economic collapse and numerous economic and social inequalities.

6. However, Chicago Police officers did not allow Occupy Chicago to maintain a continual presence outside the Federal Reserve, despite its desire to do so. Police prevented protesters from sleeping at the site and prevented them from bringing to the location any materials that were not deemed by police to be mobile. A permanent police patrol was set up at the Jackson and LaSalle intersection to monitor the protestors.

7. On October 15, 2011, Occupy Chicago marched from the Jackson and LaSalle intersection to Grant Park. There was a continuous police presence during the entire march from Jackson and LaSalle to Grant Park. There was also a large police presence in Grant Park when demonstrators arrived around 8:00 pm. After the group left Jackson and LaSalle, I understand that there were several thousand people who had joined the protest march.

8. Due to the large number of people involved in the October 15, 2011, march and ensuing gathering in Grant Park, it would have been impossible for such a large number of people to have congregated on sidewalks without affecting pedestrian traffic. I believe that Grant Park was the only suitable public space downtown that was suitable for the large number of demonstrators and the message we intended to convey.

9. When the group arrived in Grant Park at around 8:00 p.m., I did not see any other individuals who were in the park and using its facilities who were not affiliated with the Occupy

Chicago movement. I did not see anyone who was forced to leave the park because of our entrance into it. I did not hear any complaints from anyone who could not use the park because of the demonstrators who had arrived at the park.

10. When the group chose a location in Grant Park to gather and assemble, we selected an area on concrete. There was no landscaping that would have been damaged by our presence.

11. After the group arrived at Grant Park, the number of police officers also grew. However, I and other co-defendants cooperated with and even supported police officers as part of the "99%," as compared to the "1%" of the population which holds the vast majority of wealth and power in our country. Many police officers expressed their empathy with our positions.

12. I do not recall that any member of the Chicago Police department or representative from the City of Chicago ever asked, encouraged, or advised me or anyone else that I am aware of regarding a permit.

13. Once we were in Grant Park and interacted with the police, there was uncertainty as to whether the City and Police department would enforce the park's curfew ordinance. Friends recall hearing police officers tell us that we would be allowed to remain in the park as long as we kept the noise down so as to not disturb guests in hotels across the street.

14. Even though we were eventually told that Grant Park was closed between 11:00 pm and 4:00 am, no Police officers attempted to arrest me or anyone I saw at or immediately after 11:00 pm, which led me to believe that I would not be arrested. It seemed to me that police had discretion whether to enforce the closing hours for the park. Friends informed me that they believed that police were on the phone with City Hall, actively deliberating about what to do. We therefore had good reason to believe that our status was undecided. Further, at no time did any

police officer or representative from the City approach me or any other Occupy Chicago demonstrator that I saw and discuss any alternative locations to relocate if necessary.

15. Moreover, at no time did I or other Occupy protestors whom I know ever intend to live indefinitely in Grant Park, or establish a permanent, unconditional campground in Grant Park.

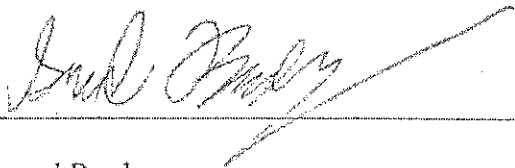
16. Occupy Chicago emphasized the need to keep Grant Park clean and to respect it as property of the public. After every meeting and gathering that Occupy Chicago held in Grant Park prior to the events of October 15 and 16, 2011, there was a group clean-up of the park areas in which the meetings took place, and also other areas that patrons used. On the evening of our arrests, we attempted to clean up the park before being taken into custody but were prevented from doing so by the police.

17. Meeting at night was necessary and important for many members of Occupy Chicago, because many individuals had jobs during the day, and it was important that as many people as possible attended meetings so as to help ensure that those meetings were conducted in as democratic a way as possible. There was simply no alternative space downtown for holding open meetings accessible to the general public and the large number of people who gathered on October 15 and 16, 2011. Nor did any Chicago police officer or City representative offer to us any such alternative spaces. Nor was it clear that it would be necessary to relocate to such an alternative space, if one exists.

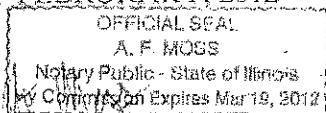
18. Prior to my arrest, no police officer or any other member of the City asked me personally for how long members of the Occupy movement intended to stay in Grant Park. Nor did any of my friends or fellow protesters report to me that they had been asked any such question.

19. After I was arrested, I was taken to a police station where I was fingerprinted;  
booked; and given a court date in a criminal courthouse.

FURTHER AFFIANT SAYETH NOT.

  
\_\_\_\_\_  
Samuel Brody

SIGNED AND SWORN TO  
BEFORE THIS 4<sup>th</sup> DAY  
OF FEBRUARY, 2012



NOTARY PUBLIC

# Exhibit B

IN THE CIRCUIT COURT OF COOK COUNTY, ILLINOIS  
MUNICIPAL DEPARTMENT, FIRST DISTRICT

CITY OF CHICAGO,	)	
a municipal corporation,	)	
	)	
Plaintiff,	)	Case No: 11 MC1 2337718
v.	)	
	)	Hon. Kenneth E. Wright
TIEG ALEXANDER, <i>et al.</i> ,	)	
	)	
Defendants.	)	

**AFFIDAVIT OF MICAH PHILBROOK**

I, MICAH PHILBROOK, being duly sworn, do hereby attest and state, based upon personal knowledge and the information I have gathered, the following:

1. I am over 18 years old and competent to testify on this matter.
2. I am a member of the Occupy Chicago movement.
3. During the first days of the Occupy Chicago movement, in September 2011, participants gathered outside the Federal Reserve Bank on LaSalle.
4. Almost immediately, Occupy Chicago began receiving supplies and material donations at its encampment at Jackson and LaSalle. When supplies began arriving, we were told by the Federal Reserve Police that we could not store our supplies against the Federal Reserve Bank. So, we arrived at an agreement with officers from the Chicago Police Department that we could store our supplies and donations on the edge of the sidewalk against a row of planters.
5. In response to this agreement, Occupy Chicago members began organizing the supplies and donations we received in containers along the edge of the sidewalk, near the planters, as they arrived at the encampment. We kept our supplies very well contained and covered with clearly labeled tarps to minimize safety risks and provide ample space for pedestrians to pass through our encampment on the sidewalk.
6. Over the next few days, Chicago police officers brought dogs to the encampment to sniff

our supplies. We were told these dogs were sniffing for bombs, but I believe they were sniffing for drugs or other contraband that could be used to shut down the Occupy Chicago encampment.

7. Additionally, in late September 29<sup>th</sup> 2011, Occupy Chicago was issued a "move it or we throw it away" ultimatum in regard to our donations and supplies by officers with the Chicago Police Department. My understanding of the reason for the ultimatum was that the officer was concerned about the amount of space supplies were taking up on the sidewalk. Thus, in response to the police officer's threat, we procured an off-site storage space and moved most of our supplies to that space shortly thereafter. We reorganized our remaining supplies in a way that created a smaller footprint on the sidewalk.

8. Over the course of the day, we received additional donations. Later in the day, a Lieutenant from the Chicago Police Department came to Jackson and LaSalle and told members of Occupy Chicago that their efforts to remove items from the site were not good enough and that all of the supplies had to be moved by 9am or the supplies would be thrown away. In response to this threat, the movement made a concerted effort to move its supplies to another off-site storage space.

9. While we were evacuating our belongings to off-site storage spaces during the following days, we were approached by a police officer who told us that we had to move all of our supplies from the space near the planters because the Federal Reserve Bank had placed barricades in the sidewalk to demarcate their private property, and due to the size of our containers, there was no longer enough space for pedestrian egress.

10. On the same day, a Chicago Police Officer approached members of Occupy Chicago and informed them that our supplies had to be moved away from the planters because they represented a security threat.

11. After these events and police orders, we moved the Occupy encampment across the street to the sidewalk in front of the Bank of America building.

12. In the days following our move across the street to the sidewalk in front of the Bank of America building, we were visited by Chicago Police Officers almost every morning and during the evening rush hour period and during random times of the day. When the police visited the



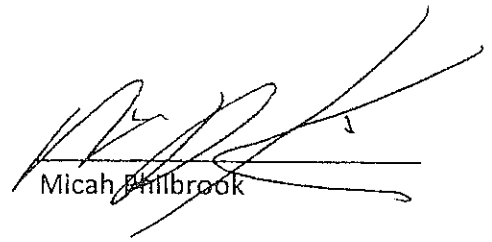
encampment, they insisted that our donations and supplies had to be mobile or moved to a different location. It often did not seem to matter how well organized our supplies were or how much sidewalk space was available for other pedestrians. Regardless of the size of our footprint, they would order us to move our stuff. This was particularly a problem with the officers who came to visit the encampment in the mornings.

13. Additionally, over the following days and weeks Chicago Police escalated their tactics. Initially, when the police asked for supplies to be moved they meant that supplies should be put in a cart or taken to an off-site storage facility. However, this understanding quickly changed to a requirement that all items on site must be in carts and must move at least a few inches regularly. From there, the understanding changed to a requirement that all items on the street must move more than a few inches at a regular interval, and finally that all items on the street must be in constant motion. The requirement had escalated to constant motion by the end of October 2011.

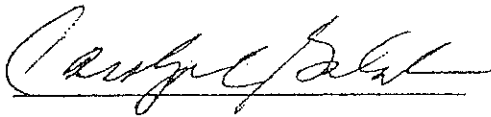
14. In mid to late October 2011, after the beginning of the requirement that items on the street had to be in constant motion, the Chicago Police began confiscating donations and supplies. Sometimes items would be confiscated while members of Occupy Chicago were attempting to comply with the police order to move items by pushing two carts at once, but could not handle all of the carts at the site. Some of the items that were confiscated were drums and carts carrying signs, food, water, and medical supplies.

15. Additionally, throughout the course of Occupy's presence at Jackson and LaSalle we tried to keep our encampment clean and orderly. We did this as a statement about our concern for the environment, to ensure our supplies were easily accessible, and to combat the negative press that the movement was made up of "dirty hippies" and "homeless junkies". We also felt that keeping the space neat and clean would keep the Chicago Police from harassing us on the street. To this end we established a series of HQ guidelines that contained things like: "keep the space clean and orderly...pick up after yourself...smile and talk to people...don't antagonize the police...no sleeping...no drugs or alcohol."

FURTHER THE AFFIANT SAYETH NOT

  
Micah Philbrook

SIGNED AND SWORN TO  
BEFORE ME THIS 9<sup>th</sup> DAY  
OF FEBRUARY, 2012.



NOTARY PUBLIC

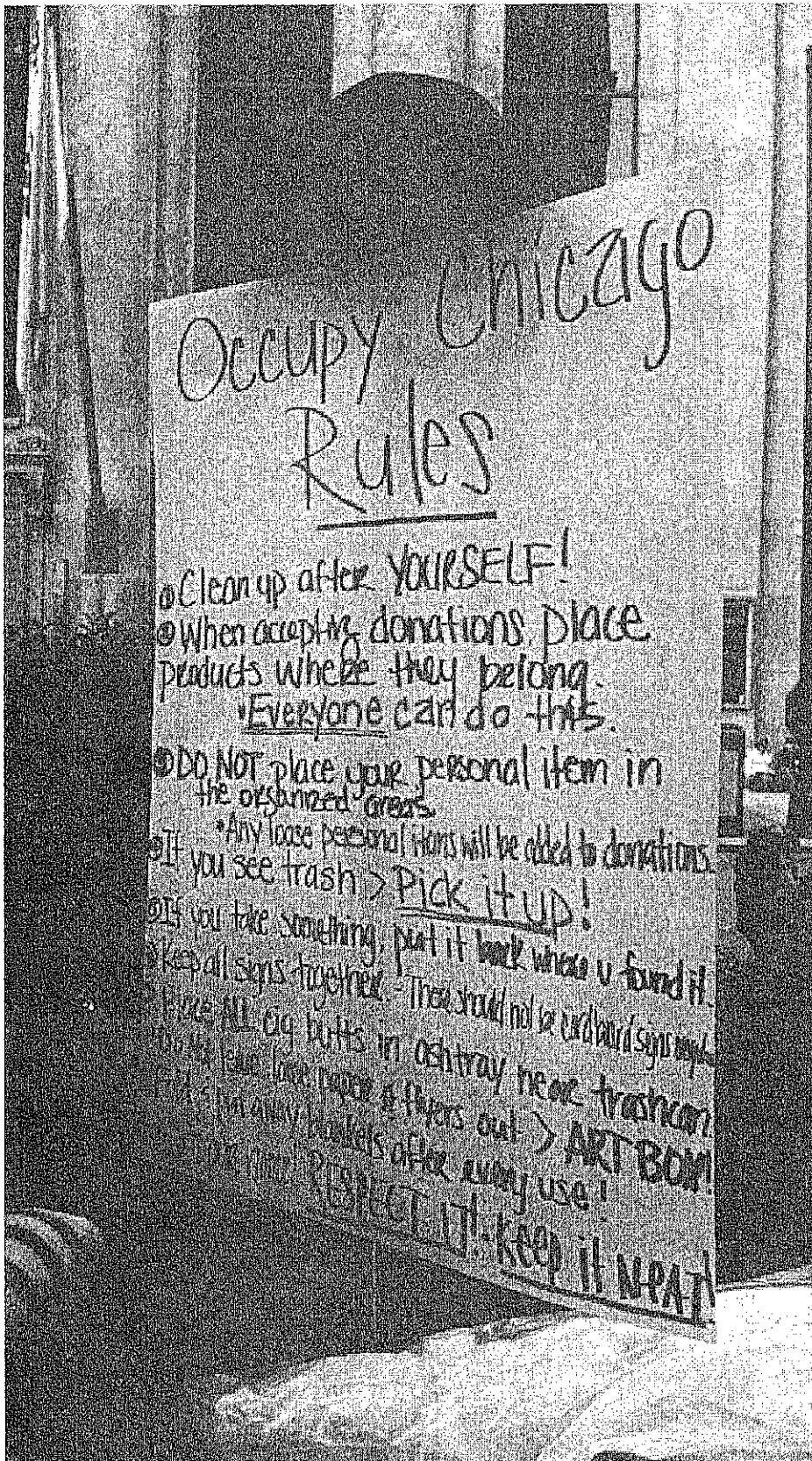


# Exhibit C

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## Photo: The Occupy Chicago Rules

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# Exhibit D

IN THE CIRCUIT COURT OF COOK COUNTY, ILLINOIS  
MUNICIPAL DEPARTMENT, FIRST DISTRICT

CITY OF CHICAGO,	)	
a municipal corporation,	)	
	)	
Plaintiff,	)	Case No: 11 MC1 2337718
v.	)	
	)	Hon. Kenneth E. Wright
TIEG ALEXANDER, <i>et al.</i> ,	)	
	)	
Defendants.	)	

Affidavit of Daniel P. Hensley

I, Daniel P. Hensley, being duly sworn, do hereby attest and state, based upon personal knowledge and the information I have gathered, the following:

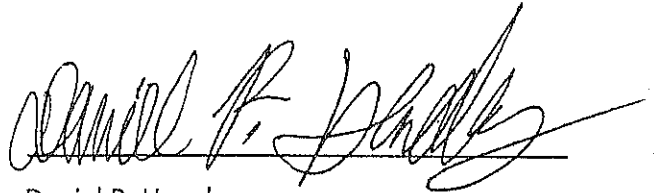
1. I am over 18 years old and competent to testify on this matter.
2. I am a member of the Occupy Chicago movement.
3. I joined the Occupy Chicago movement on its fourth day. I joined in order to exercise my First Amendment rights and protest the Wall Street and banking bail outs, as well as other actions undertaken by our national leadership which served to crash the United States economy.
4. From September 2011 to December 2011, I served as a "Police Liaison" and "Legal Liaison" for the Occupy Chicago movement.
5. My duties as a Police Liaison and Legal Liaison included building and keeping a peaceful relationship with the Chicago Police Department; ensuring there was smooth communication between Occupy Chicago and all law enforcement agencies in contact with the movement; ensuring there was a transparent relationship and open communication with the attorneys of the National Lawyers Guild; reporting my activities to the Occupy Chicago General Assembly, the Security and Safety Committee, the Legal Committee, the Police Committee, and the Outreach and Secretariat Committees.
6. As a member of the Occupy Chicago movement, and in the course of my duties as a Police and Legal Liaison, I was regularly present at the Occupy Chicago encampment at Jackson and LaSalle during the months of September 2011 and October 2011. I also

attended several Occupy Chicago marches and General Assemblies during this time period.

7. On several occasions in September and October 2011, Chicago Police would show up in the early morning at the corners of Jackson and LaSalle Streets to insist that occupiers keep moving. The police also stated occupiers were not allowed to stop to talk to one another because the police asserted that people talking to each other on the street was a violation of a city ordinance.
8. I did not observe any significant interruption of the flow of pedestrian traffic or any indication that there was an imminent risk that the demonstration would create a safety hazard or significantly interrupt the flow of traffic before, after, or during the repeated visits of Chicago Police Officers to Jackson and LaSalle. On the contrary, when members of the Occupy Chicago movement gathered, even if not constantly moving, we were very careful so as not to impede pedestrian sidewalk traffic and we are careful so as to not leave any belongings of any sort in a place where a person or persons could trip or where such belongings could cause a fire hazard.
9. In a separate incident during October 2011, I was present with a member of the Occupy Chicago Security and Safety Committee when we were approached in the early evening hours by a group of 4 men who surrounded us and started questioning us and asking for ID, they asked for the reason we were there and what we were doing, if we intended harm to the public or members of government, etc. These men refused to identify themselves. We refused statements or any further conversation. The men then started to question other occupiers on scene at Jackson and LaSalle and go through personal belongings, Occupy Chicago property, etc. They examined Occupy Chicago flyers, and then walked away.
10. During September and October, Chicago Police worked with Federal Reserve Police to set up wooden barricades in front of the Federal Reserve Bank. I felt this was an attempt to make the sidewalk smaller and force Occupy Chicago members into violation of city ordinance or state statute.

11. On several occasions, I had conversations with Officer Mirabelli, who was a Chicago Police Officer assigned to District 001. During one conversation, Mirabelli stated that the current Chicago Police Department Superintendent received orders from Mayor Rahm Emmanuel to "get rid of Occupy Chicago by any means possible because they are embarrassing the city administration and causing great strain to the Rahm's White House connections in the Obama administration."
12. I stayed overnight at Jackson and LaSalle on several occasions during the aforementioned time period. On each occasion I witnessed Chicago Police Officer Lt. Serafini engaging in surveillance and intelligence gathering activities in and around the area of the Occupy Chicago encampment.
13. If called upon to testify as a witness, I would and could competently testify to the matters herein.

FURTHER THE AFFIANT SAYETH NOT

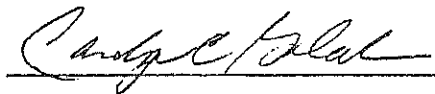


Daniel P. Hensley

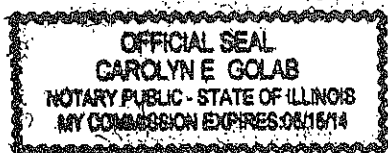
SIGNED AND SWORN

BEFORE ME THIS 9<sup>th</sup>

DAY OF FEBRUARY, 2012.



NOTARY PUBLIC





# Exhibit E

CITY OF CHICAGO,  
a municipal corporation,

V.

Defendants.

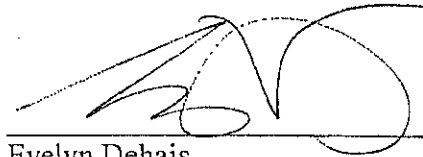
Hon. Kenneth E. Wright

I, Evelyn DeHais, do hereby attest and state, based upon personal knowledge and the information I have gathered, the following:

1. I am over the age of 18 and competent to testify in this matter.
2. I have been an active participant in the Occupy Chicago movement.
3. I joined the Occupy Chicago movement in its first week. I joined in order to exercise my First Amendment rights and protest the Wall Street and banking bail outs, as well as other actions undertaken by our national leadership which served to crash the United States economy.
4. As a member of the Occupy Chicago movement, I was regularly present at the Occupy Chicago encampment at Jackson and LaSalle during the months of September 2011 and October 2011. I also attended several Occupy Chicago marches and General Assemblies during this time period.

5. At some point during the first week of my involvement in Occupy Chicago, it became known that the Chicago Police were requiring Occupy Chicago to keep any and all items that were present in the area of Jackson and LaSalle continuously moving, or they would be confiscated by the Chicago Police.
6. Occupy Chicago responded to this requirement by developing a pattern of moving all items present at Jackson and LaSalle regularly so as to comply with the orders of the Chicago Police.
7. During this time, Occupy Chicago had also created a "First Aid/Tech Tent" to function as a support system for communication and computing technology. Occupy Chicago had to take down this "First Aid/Tech Tent" in order to comply with Chicago Police requirements.
8. When I was actively participating in Occupy Chicago, I personally felt as if the City of Chicago and the Chicago Police Department were purposely pushing Occupy Chicago and slowly taking away more of Occupy Chicago's First Amendment rights as time progressed.
9. If called upon to testify as a witness, I would and could competently testify to the matters herein.

FURTHER AFFIANT SAYETH NOT

  
Evelyn Dehais

SIGNED AND SWORN TO  
BEFORE ME THIS 7th DAY  
OF FEBRUARY, 2012.

  
NOTARY PUBLIC



# Exhibit F

IN THE CIRCUIT COURT OF COOK COUNTY, ILLINOIS  
MUNICIPAL DEPARTMENT, CRIMINAL DIVISION

CITY OF CHICAGO,	)	
	)	
Plaintiff,	)	
	)	No. 11 MC1 237718
vs.	)	
	)	
TIEG ALEXANDER, et. al,	)	
	)	
Defendants.	)	

AFFIDAVIT OF MICHAEL HERBERT

I, MICHAEL HERBERT, being duly sworn, depose and state, based upon my personal knowledge, as follows:

1. I am a resident of Chicago, Illinois, over 18 years of age and competent to testify.
2. On September 26, 2011, at approximately 5:30 PM, I met up with about 30 other people at corner of Jackson Street and LaSalle Avenue.
3. Prior to 7:00 PM, those of us assembled at Jackson Street and LaSalle Avenue marched to Congress Street and Michigan Avenue in Grant Park to attend the evening General Assembly of Occupy Chicago.
4. Between 9:30 and 10:00 PM, at the conclusion of the General Assembly, approximately 30 of us returned to the corner of Jackson and LaSalle. Upon our return, I observed barricades in front of the Federal Reserve Building at Jackson and LaSalle. The police were standing in front of the barricades.
5. We had a brief meeting on Jackson Street, before turning the corner. We designated a spokesperson to be our liaison with the police. We lined up shoulder-to-shoulder on the sidewalk in front of the police line and, if the police moved toward us, we agreed that we would all sit down.
6. We were told by the officers on scene that "higher-ups" were on their way, and there was a period of time while everyone waited for the police supervisors to arrive.
7. Lieutenant Serafini was the command officer that arrived at Jackson and LaSalle at approximately 11:00 PM. We told the Lieutenant that we had a constitutional right to

assemble and that we had no intention of leaving. His demands were that we cease sleeping on the corner and that we clear a broader path for pedestrian traffic. He suggested we park cars on the street and sleep in them, and offered to wave parking tickets until morning on the west side of LaSalle just North of Adams Street, which I later learned is open street parking after 6:00 PM anyway.

8. After some discussion we decided to comply with the police request. We packed our supplies and placed them in a line up against the planters along LaSalle Street. Another person and I took trains across town to get our two cars where everyone slept in shifts. We did this for 4 or 5 days.

9. On the afternoon of September 29, 2011, the police informed us that our supplies on the sidewalk were in violation of city ordinances which we were told provided that no object can sit on the sidewalk longer than it takes to load it into a vehicle. We decided to put immediate necessities, like water, food, blankets and first aid, into rolling carts, and had people move the carts every few minutes, in rotating shifts.

10. In the following weeks, there were continued visits by the police. The police would continually tell us what the rules were and, when we conformed to these rules, change them. For example, in order to not violate the rule on storing items on the sidewalk; we used carts to keep moving the supplies around. At one point, the police told us the carts violated some ordinance, but did not tell us what we should do instead. After a while, we were told the carts were ok again.

11. I was part of a working group that planned the October 15<sup>th</sup> protest at the "The Horse" in Grant Park at the intersection of Congress and Michigan. One reason the planning group wanted to hold a prolonged assembly in Grant Park was because we felt that Occupy was being "phased out" at Jackson and LaSalle due to ongoing police harassment.

12. We also knew that the numbers of people that came to Jackson and LaSalle were growing each day and would likely continue to grow in the foreseeable future. We also knew that Occupy was already beginning to have problems with managing the numbers of people on the sidewalk at Jackson and LaSalle. The large numbers of people made it difficult to have General Assemblies on site. The growing numbers of people also made it difficult to provide enough space for other pedestrians to use the sidewalk.

13. Additionally, the ongoing police requirement that supplies be in motion meant that some of the individuals at Jackson and LaSalle could not participate in General Assemblies because they had to push carts to ensure that supplies remained mobile.

14. In light of all of these considerations, and because the Occupy movement hoped to provide a public forum for all individuals who wished to express their views about wealth inequality and the failing economy, the working group recommended that Occupy Chicago carry out a prolonged assembly at a more suitable environment, which it identified as "The Horse" in Grant Park.

15. One of the reasons the working group identified "The Horse" as an appropriate location for a prolonged assembly was that on September 30<sup>th</sup>, Occupy Chicago held a march to Pritzker Pavilion in Millennium Park and when we arrived at the Pavilion, we began to hold General Assembly. After the assembly began, Chicago Police asked the movement to leave the Pavilion and identified the park at Michigan and Congress as an alternate location where Occupy Chicago could assemble.

16. Finally, throughout the course of September and October 2011, maintaining the cleanliness and orderliness of the space occupied by the movement was very important to Occupy Chicago. In the early days of the movement Occupy Chicago started an organizational committee that was responsible for maintaining the cleanliness of the sidewalks at Jackson and LaSalle and ensuring that our supplies were organized in a neat and orderly fashion. James Cox, another member of the Occupy movement, took primarily responsibility for the work of this committee. She helped draft the "Occupy Chicago Housekeeping Rules" and ensured that other members of the movement understood that, "This is our home, we need to keep it clean."

17. If called upon to testify as a witness, I would and could competently testify to the matters herein.

FURTHER AFFIANT SAYETH NOT



MICHAEL HERBERT



Date: 2-10-12

SIGNED AND SWORN  
BEFORE ME THIS 10th  
DAY OF FEBRUARY, 2012.

Carol E Golab  
NOTARY PUBLIC



# Exhibit G

IN THE CIRCUIT COURT OF COOK COUNTY, ILLINOIS  
MUNICIPAL DEPARTMENT, FIRST DISTRICT

CITY OF CHICAGO,  
a municipal corporation,

Plaintiff,

v.

TIEG ALEXANDER, *et al.*,

Defendants.

Case No. 11 MC1 237718

Hon. Kenneth E. Wright

AFFIDAVIT OF SARAH A. WHITFORD

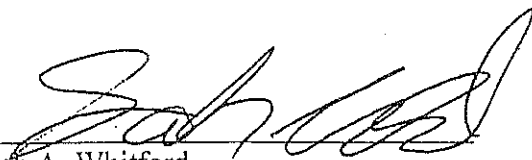
I, Sarah A. Whitford, do hereby attest and state, based upon personal knowledge and the information I have gathered, the following:

1. I am over the age of 18 and competent to testify in this matter.
2. I have been an active participant in the Occupy Chicago movement.
3. I joined the Occupy Chicago movement on its first day. I joined in order to exercise my First Amendment rights and protest the Wall Street and banking bail-outs, as well as other actions undertaken by our national leadership which crashed the US economy.
4. I contacted several attorneys on behalf of Occupy Chicago in late September 2011.
5. As a member of the Occupy Chicago movement, I was regularly present at the Occupy Chicago encampment at Jackson and LaSalle during the

months of September 2011 and October 2011. I also attended several Occupy Chicago marches and General Assemblies during this time period.

6. I, along with other participants of Occupy Chicago contacted legal counsel on September 29, 2011, to help ensure Occupy Chicago was able to maintain its First Amendment rights of free speech, public assembly, and to petition the Government for a redress of grievances.
7. Legal counsel, along with the Federal Reserve Police and the Chicago Police Department came to an agreement that Occupy Chicago was within its First Amendment rights as long as Occupy Chicago did not obstruct the public way.
8. Several days later I was informed by fellow protesters that Occupy Chicago had to keep equipment constantly moving or else Occupy Chicago would be in violation of City of Chicago statutes and our equipment would be taken by Chicago Police.
9. When I was actively participating in Occupy Chicago, I personally felt as if the City of Chicago and the Chicago Police Department were purposely pushing Occupy Chicago and slowly taking away more of Occupy Chicago's First Amendment rights as time progressed.
10. If called upon to testify as a witness, I would and could competently testify to the matters herein.

FURTHER AFFIANT SAYETH NOT

  
Sarah A. Whitford

SIGNED AND SWORN TO  
BEFORE ME THIS 9th DAY  
OF FEBRUARY, 2012.

  
NOTARY PUBLIC



# Exhibit H



## The unemployed rally

( Tribune archive photo )

Thousands of unemployed people paraded through the Loop and gathered at Grant Park to hear speakers in October of 1932. Chicago was one of the hardest-hit cities in American by the Great Depression because of the city's dependence on manufacturing and a local fiscal crisis that predated the stock market crash. Four years after the crash, unemployment in the city was near 50 percent.

<http://www.chicagotribune.com/business/081024-great-depression-photogallery,0,5754970.photogallery>



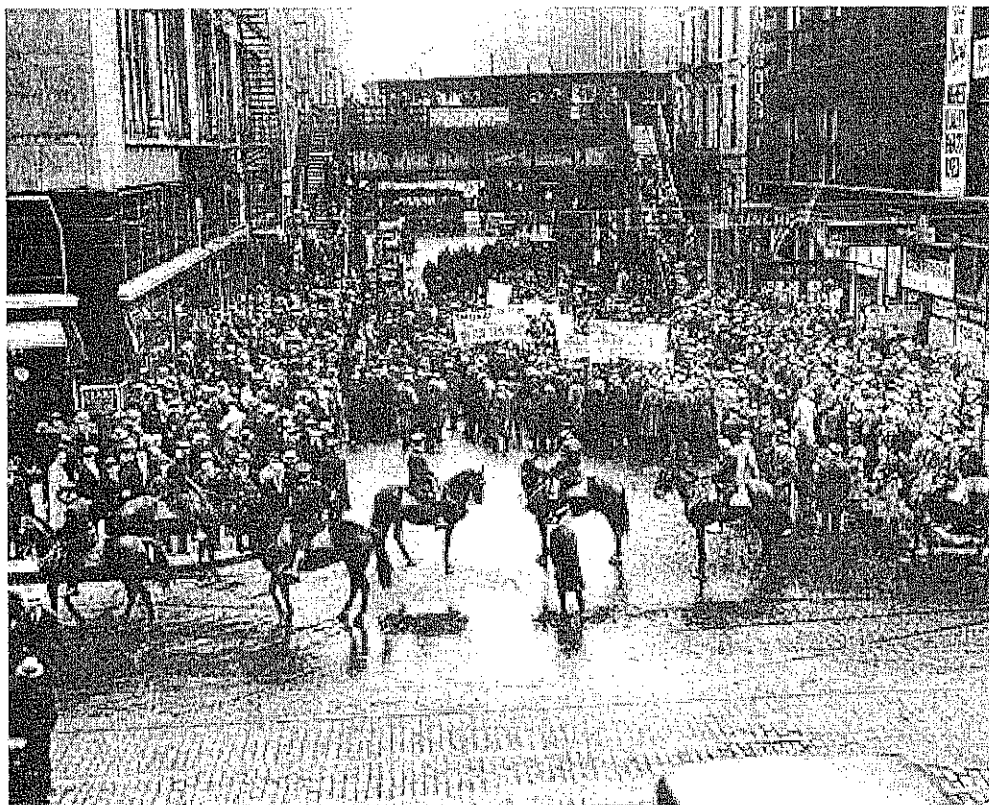
## March in the Loop

( Tribune archive photo )

A group of more than 10,000 marched through the Loop in March 1934 seeking work relief. A delegation was later sent to City Hall with a petition. Protests and rallies grew in Chicago during the Great Depression and historians credit the mass demonstrations with bringing relief, jobs, a shift towards Democratic politics and increased power to organized labor.

<http://www.chicagotribune.com/business/081024-great-depression-photogallery,0,5754970.photogallery>





### **Asking the superintendent to act**

( Tribune archive photo )

A crowd of children and the unemployed marched to the office of Chicago Public Schools Superintendent William Bogan demanding free food in March 1932. During the Great Depression, teachers worked at reduced wages or went without pay in part because people were unable to pay their taxes.

<http://www.chicagotribune.com/business/081024-great-depression-photogallery,0,5754970.photogallery>