

CIRCUIT COURT OF OREGON
COUNTY OF MULTNOMAH

MARGARET ZEBROSKI, an individual,)	Case No.
)	
Plaintiff,)	COMPLAINT
)	
v.)	CLAIM NOT SUBJECT TO
)	MANDATORY ARBITRATION
CITY OF PORTLAND, a municipal)	
corporation,)	PRAYER AMOUNT: \$200,000
)	
Defendant.)	FEE AUTHORITY: ORS 21.160(1)(c)

For her Complaint against Defendant City of Portland, Plaintiff Margaret Zebroski ("Zebroski") alleges as follows:

INTRODUCTION

1.

Zebroski is a five-foot, one-inch grandmother and retired physician's assistant. On February 20, 2017, she joined other protestors in downtown Portland for a peaceful demonstration against police shootings of young black men. Portland Police Bureau Officers ("PPB Officers") in full riot gear descended on the protesters and arrested Zebroski and others. PPB Officers intentionally used excessive force when arresting Zebroski, knocking her to the ground, placing a knee on the back of her head, and fracturing her nose.

Under the Oregon Tort Claims Act, the City of Portland is liable for the PPB Officers' battery.

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Zebroski is a citizen and resident of Portland, Oregon. At the time of the incident, Zebroski was 66 years old.

Defendant City of Portland is a municipal corporation and public body within the State of Oregon, located in Multnomah County.

The Portland Police Bureau (the “PPB”) is an agency of the City of Portland. The acts that give rise to Zebroski’s claims were committed by PPB Officers in the course and scope of their duties on the public body’s behalf. Under ORS 30.285(1), the City of Portland must indemnify its officers and is therefore liable for the PPB Officers’ torts against Zebroski.

Notice of this claim was properly given to the City of Portland within 180 days of the incident.

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The City of Portland, Oregon, has a long history of an engaged citizenry and is a hub for First Amendment activity, with numerous public marches and large public gatherings each year. Public assemblies enrich the fabric of Portland by providing a means of expression when people feel unheard through other methods, a beacon of solidarity and connection for people impacted by the issues subject to protest, a vehicle to spark conversations and debate about important issues, and an opportunity to form community and connections, leading to constructive engagement, organizing, and action.

PAGE 2 - COMPLAINT

1 7.

2 Portland also has a history of its law enforcement agency—the PPB—
3 clashing, often violently, with protesters. The PPB has become increasingly militarized in its
4 tactics, deploying droves of officers wearing tactical dress, including helmets, carrying
5 batons, and full-body riot shields (“riot gear”), and using chemical agents as crowd-control
6 weapons. These crowd-control weapons include tear gas, pepper-spray bullets, and flash-
7 bangs (which create a loud explosion and a very bright flash of light). On multiple
8 occasions, PPB Officers have, without warning, deployed chemical agents against protesters,
9 as well as non-protesting bystanders, members of the press, and patrons of nearby businesses.

10 8.

11 On February 9, 2017, PPB Officers shot and killed Quanice Hayes, a 17-year-
12 old, unarmed black man. A local organization called Don’t Shoot Portland organized a
13 protest on February 20, 2017, in front of the Edith Green-Wendell Wyatt Federal Building
14 (“Federal Building”) in downtown Portland to bring awareness to the PPB’s actions and
15 Hayes’s death.

16 9.

17 Zebroski attended the protest to voice her concerns regarding the Portland
18 Police’s treatment and killing of young black men.

19 10.

20 The Don’t Shoot Portland protest was scheduled to start at 11:00 a.m. on
21 February 20, 2017, which was President’s Day. Another protest, called Not My President’s
22 Day, was scheduled to start later that afternoon. Zebroski planned to participate in the Don’t
23 Shoot Portland protest, and then make her way to the Not My President’s Day protest at
24 Pioneer Courthouse Square. But PPB Officers intervened before Zebroski could effectuate
25 her plan.

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11.

Zebroski arrived at the Federal Building around 11:30 a.m. She attended the protest with her friend, Beverly Swan. At the time of the protest, Swan was 75 years old, and had knee problems. Due to Swan’s age and condition, Zebroski felt responsible for her while at the protest.

12.

When Zebroski and Swan arrived, the Don’t Shoot Portland activists and protesters were on the sidewalk outside of the Federal Building. About 15 to 20 minutes later, the protesters took to the street, walking out onto Southwest Third Avenue and blocking traffic. Some protesters, including Zebroski, held a large banner that read “Don’t Shoot Portland” across the street. At all times, the protesters remained calm and peaceful.

13.

PPB Officers arrived on bicycles (“Bicycle Officers”) and began pushing protesters out of the street. The protesters, including Zebroski, passively resisted the Bicycle Officers’ attempts to move them and remained in the street. The protesters did not fight or push back, but simply stood their ground peacefully and passively, and remained in the street.

14.

Suddenly scores of PPB Officers arrived in full riot gear (“Riot Officers”) and ordered the protesters to move. When the Riot Officers descended on the protesters, Zebroski moved to the sidewalk.

15.

Concerned for her friend, Zebroski scanned the crowd and saw Swan get knocked off her feet. Fearing for her friend’s safety, Zebroski ran to her and pulled Swan onto the sidewalk, with the assistance of other protesters.

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16.

As Zebroski helped Swan to her feet, without warning or any announcement, a group of Riot Officers grabbed Zebroski and slammed her to the ground, striking her face. Stunned, she did not attempt to move. After an interval, a Riot Officer knelt on the back of her head, forcing it into the pavement with his knee and shin, breaking her nose. Zebroski asked the officer to stop hurting her. The officer ignored her request.

17.

Eventually, Riot Officers pulled Zebroski to her feet and arrested her. She was later charged with second-degree disorderly conduct, interfering with a peace officer, and resisting arrest. After prosecutors watched the videos of the protest, provided by Zebroski’s defense attorney, all criminal charges against Zebroski were dropped.

CLAIM FOR RELIEF
BATTERY

18.

Zebroski incorporates by reference the allegations above.

19.

When PPB Officers arrested Zebroski, they intentionally used excessive force. As such, the City is liable for battery. Because the PPB Officers’ force was excessive, their actions were not privileged under ORS 161.235.

20.

The PPB Officers not only broke Zebroski's nose by using excessive force, they caused her to experience pain and suffering as well as injuries to the muscles, tendons, bones, and soft tissue of her head, neck, face, shoulders, and back. As a result of these injuries, Zebroski has suffered damages in an amount to be determined by a jury not to exceed \$200,000.

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1 **PRAYER**

2 WHEREFORE, Plaintiff Zebroski prays for judgment from this Court as
3 follows:

- 4 1. For a judgment against the City in a sum not more than \$200,000;
5 2. For Plaintiff's costs and disbursements; and
6 3. For such other and further relief as the Court deems just and equitable.

7 DATED this 8th day of March, 2018.

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