



sues Deputy Daniel for having unconstitutionally assaulted him. This case arises under the Fourth and Fourteenth Amendments of the United States Constitution and 42 U.S.C. §1983. This court has jurisdiction under 28 U.S.C. §1331.

#### Parties

2. Plaintiff Carlos Garcia is an adult resident of Loudoun County, Virginia.
3. Defendant Deputy Daniel was, at all times relevant hereto, a deputy sheriff employed by the sheriff of Loudoun County. He is sued in his individual capacity for damages.

#### Claim for Relief

4. On or about the night of November 14-15, 2009, Mr. Garcia and members of his family were at a restaurant in a Loudoun County shopping plaza celebrating his wife's birthday.
5. Following the festivities, at which they had consumed some alcohol, in the abundance of caution they phoned for a cab rather than driving home.
6. As Mr. Garcia and his family members attempted to enter the taxi which responded to their call, a Loudoun County deputy sheriff who happened to be on site told the cab driver that it was illegal for him to carry that number of passengers. Mr. Garcia and his family members exited the taxi and the taxi drove away.
7. The deputy told the group to wait on the shopping plaza walkway.
8. When Mr. Garcia's brother-in-law attempted to walk away from the shopping plaza to walk home, he was told to stay where he was. This precipitated an incident, which resulted in more deputies being called to the scene. Mr. Garcia and his family members were detained.

9. In due course, Mr. Garcia was charged with felony assault on a police officer and public intoxication. While disputing the contention that he had assaulted anyone, on the advice of counsel he pled guilty to the charge of simple battery (not on a law enforcement officer), a misdemeanor. The events giving rise to this charge and plea wholly antedated, and are entirely distinct from, the assault on Mr. Garcia at issue in this lawsuit.<sup>1</sup>

10. As a deputy sheriff was attempting to handcuff Mr. Garcia's wife, Mr. Garcia stood some distance away with his hands in the air, flanked by another deputy and a K-9 officer with his dog.

11. While standing in this submissive position, Mr. Garcia called attention to the way his wife was being handled by the deputies and insisted to the deputy facing him that his wife be treated with care.

12. Presumably responding to a call for back-up, Defendant Deputy Daniel drove up to the scene in his patrol car.

13. When Deputy Daniel pulled up to the scene, Mr. Garcia's back was towards him. Deputy Daniel exited his car and ran towards Mr. Garcia. Mr. Garcia did not see him coming.

14. As soon as Deputy Daniel reached Mr. Garcia, he struck Mr. Garcia very forcefully on the back of the head. At the time he was struck, Mr. Garcia was standing quietly with his arms in the air, as indicated above. He fell to the ground, unconscious.

15. Deputy Daniel and another officer handcuffed Mr. Garcia.

16. While Mr. Garcia was laying still on the ground, in handcuffs, Deputy Daniel stepped

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<sup>1</sup>The facts alleged in this paragraph are presented for context only, and form no part of Mr. Garcia's claim or evidence in the case.

on Mr. Garcia's face.

17. Deputy Daniel had his car's video recorder on throughout and it recorded all the material events set forth herein. The video recording, which is available to the court and counsel at <http://www.youtube.com/watch?v=XVN7s2pkkkI>, is incorporated herein by reference.<sup>2</sup>

18. The acts of Deputy Daniel towards Mr. Garcia described above were intentional, willful, malicious and wanton.

19. Mr. Garcia suffered mild traumatic brain injury as a result of Deputy Daniel's assault. He has suffered permanent brain damage giving rise to severe headaches, short-term memory loss, forgetfulness and confusion, and inability to function normally as before. This has had a severe negative impact on his personal and social life, his ability to attend to his work as a meat-cutter and packer at a local supermarket, and his personal, social and professional prospects. He has suffered severe physical and emotional distress, pain and suffering. In his early thirties, he now has a lifetime of mental impairment and its abundant adverse consequences to look forward to.

20. Defendant Daniel used outrageous, abusive, unreasonable, and excessive force in striking Mr. Garcia on the head and in stepping on his face, thereby depriving Mr. Garcia of his constitutionally protected rights under the Fourth and Fourteenth Amendments to the United States Constitution.

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<sup>2</sup>The assault is depicted in real time also and in slow motion.

Wherefore, Mr. Garcia seeks:

- \* An award of his actual damages and of punitive damages from Deputy Daniel appropriate to the proof at trial,
- \* An award of his costs, including reasonable attorney's fees, and
- \* Such other relief as is just.

Mr. Garcia requests trial by jury.

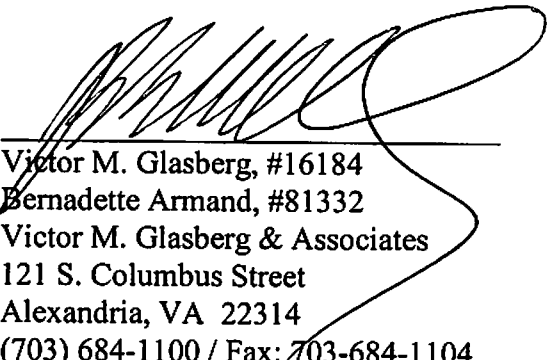
Respectfully submitted,

CARLOS GARCIA,

By counsel

Dated: November 9, 2011

Counsel for plaintiff:



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Victor M. Glasberg, #16184  
Bernadette Armand, #81332  
Victor M. Glasberg & Associates  
121 S. Columbus Street  
Alexandria, VA 22314  
(703) 684-1100 / Fax: 703-684-1104  
[vmg@robinhoodesq.com](mailto:vmg@robinhoodesq.com)  
GarciaCarlos\Pleadings\Complaint