

**UNITED STATES DISTRICT COURT  
MIDDLE DISTRICT OF PENNSYLVANIA**

<b>RICHARD BANKS, et al</b>	<b>: NO 3:08-1110</b>
	<b>: (CAPUTO, D.J.)</b>
	<b>:</b>
<b>Vs.</b>	<b>: (MANNION, M.J.)</b>
	<b>:</b>
<b>KAREN GALLAGER, et al</b>	<b>:</b>
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<b>EDWARD J. KRAFT, JR.,</b>	<b>: NO: 3:08-1177</b>
<b>Plaintiff,</b>	<b>:</b>
	<b>: (CAPUTO, D.J.)</b>
<b>Vs.</b>	<b>: (MANNION, M.J.)</b>
	<b>:</b>
<b>KAREN GALLAGER, et al</b>	<b>:</b>
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**PLAINTIFF, RICHARD BANKS' MOTION FOR  
PARTIAL SUMMARY JUDGMENT UNDER F.R.C.P 56(a)**

AND NOW comes the Plaintiff Richard Banks, by and through his counsel, and moves for Summary Judgment on the liability issues in this case, and in support thereof, states the following:

1. The within a matter involves an encounter between the Plaintiff, Richard Banks, and two members of the Dickson city Police Department, on May 9, 2008, at the Old Country Buffet in Dickson City, Pennsylvania;

2. While inside the premises, Richard Banks, as permitted by Pennsylvania law, was carrying two firearms, one visibly displayed and one concealed, and at all times was properly licensed to carry concealed;

3. Despite the fact that the Plaintiff had done nothing illegal or suspicious, and despite the fact that the Defendants, Gallagher and Mariano had no reasonable suspicion that criminal activity was afoot, they nonetheless detained, handcuffed and arrested the Plaintiff, Richard Banks, required him to sit in the back of a police car for an extended period of time and had his legally owned and possessed firearms confiscated.

4. The Defendants' justification for such, as set forth in the contemporaneously filed statement of facts was that Richard Banks refused to produce identification upon demand;

5. Furthermore, although the Plaintiff was eventually released from custody of the police, the Defendants failed and refused to return to the Plaintiff one of the firearms which they had earlier confiscated the basis that the firearm was not "registered" to the Plaintiff, even though there is no firearm ownership registry in the Commonwealth of Pennsylvania, a fact that would have been known by any reasonably trained, reasonably competent police officer;

6. Discovery has now been completed and this matter is now ripe for summary judgment, at least as to the liability aspects of the case regarding the claims of the Plaintiff, Richard Banks

7. There are no issues of material fact relating to the encounter between Mariano and Gallagher and the Plaintiff that would preclude the entry of Summary Judgment;

8. Based on all the evidence of record, the Plaintiff is entitled to judgment on his claim against the individual defendants as a matter of law.

**Wherefore**, the Plaintiff, requests this Honorable Court to enter judgment in his favor and against the Defendants and to thereafter schedule this matter for a hearing on damages.

Respectfully submitted:

WORTH, MAGEE & FISHER, P.C.

/s/ Robert J. Magee, Esquire  
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## Certificate of Service

I, Robert J. Magee, Esquire, hereby certify that the within Motion, Proposed Order and State of Facts has been filed electronically and is available for viewing and downloading from the ECF system. I further certify that service of the within documents upon the individuals identified below was effected by electronic service by virtue of such filing pursuant to LR 5.7.

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