

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF ILLINOIS
WESTERN DIVISION

FIRST SUPPLY, LLC,

Plaintiff,

v.

GARY CARUANA, in his official
capacity as Sheriff of the
Winnebago County Sheriff's
Office, and **J. HANLEY**, in his
official capacity as Winnebago
County State's Attorney,

Defendants.

Case No. _____

**VERIFIED COMPLAINT FOR
DECLARATORY
RELIEF, REPLEVIN, AND MONETARY
DAMAGES**

INTRODUCTION

1. In January 2024, the Winnebago County Sheriff's Office seized Plaintiff First Supply LLC's truck following a car crash caused by a reckless driver, as part of the criminal investigation of the allegedly reckless driver. First Supply's driver was in no way responsible for the crash, yet the Sheriff's Office seized the company's truck for evidentiary purposes.

2. More than a year later, the Sheriff's Office is still holding First Supply's truck. The State's Attorney's office has filed, then dropped, then refiled charges against the reckless driver. And First Supply has been kept almost entirely in the dark about the proceedings and its truck.

3. In seizing and holding the truck without a warrant or warrant exception, the Winnebago County Sheriff's Office and Winnebago County State's

Attorney's Office violated First Supply's Fourth Amendment right against unreasonable searches and seizures.

4. In not giving First Supply adequate notice, a hearing, or other procedural safeguards, the Winnebago County Sheriff's Office and Winnebago County State's Attorney's Office also violated First Supply's right to due process under the Fourteenth Amendment.

5. Without adequate protection of Fourth and Fourteenth Amendment rights, the Winnebago County Sheriff's Office and the State's Attorney's Office have free license to seize property only tangentially related to a crime and keep it in perpetuity even when the purpose of the initial seizure has long since passed. Defendants will continue this practice unless and until a court declares these actions unconstitutional.

JURISDICTION AND VENUE

6. Plaintiff seeks declaratory relief, injunctive relief, and damages for violation of its federal constitutional rights under 28 U.S.C. §§ 2201 and 2202 and 42 U.S.C. § 1983, as well as replevin for return of its truck under 735 ILCS 5/19-104.

7. This Court has jurisdiction over the federal claims under 28 U.S.C. §§ 1331 and 1343(a)(3), and supplemental jurisdiction over the replevin claim under 28 U.S.C. § 1367(a).

8. Venue is proper in this Court under 28 U.S.C. § 1391(b)(1) because all Defendants have their offices located in the Northern District of Illinois, and the

events and omissions giving rise to the claims occurred in Winnebago County, Illinois.

PARTIES

9. Plaintiff First Supply is Limited Liability Company organized under the laws of Wisconsin, with its principal place of business in Wisconsin.

10. Defendant Gary Caruana is sued in his official capacity as the Sheriff of Winnebago County, Illinois. The Sheriff's Office of Winnebago County retains physical possession of First Supply's truck.

11. Defendant J. Hanley is sued in his official capacity as the State's Attorney for Winnebago County, Illinois. The Winnebago County State's Attorney's Office has the legal authority to release the truck from possession of the Winnebago County Sheriff's Office.

12. Both Defendants have offices in Winnebago County, Illinois.

FACTUAL ALLEGATIONS

The Accident and Seizure of Truck

13. First Supply uses several trucks to deliver its products around the Midwest.

14. First Supply leases these trucks from Ryder Truck Rental, Inc., d/b/a Ryder Transportation Services, under a Ryder Choice Lease Full Service Truck Lease and Service Agreement and the Amendment to Truck Lease and Service Agreement, true and correct copies of which are attached as Exhibits 1 and 2, respectfully. Each individual truck is then identified under its own Schedule A.

15. On or about July 12, 2023, First Supply entered into Schedule A No. 2906007, for Ryder Unit No. 255621, with Serial Number 3HAEUMML5LL847590 (the “truck”) for a term of 36 months (“Schedule A”). A true and correct copy of the Schedule A is attached hereto as Exhibit “3”.

16. On the morning of January 17, 2024, the truck rented by First Supply, driven by First Supply employee Matthew Fruin, was stopped lawfully at a red light at an intersection between South Main Street and Pelley Road in Rockford, Illinois.

17. At approximately 9:45 a.m., an allegedly intoxicated driver, Austin D. Harris, ran the red light, crossed the median, and collided with the stopped truck, killing Harris’s passenger.

18. There is no dispute that Harris, not Fruin, was responsible for the accident.

19. A sheriff’s deputy, Rosalina Vazques, employed by the Rockford Police Department, which is under the purview of the Winnebago County Sheriff’s Office, responded to the scene.

20. Deputy Vazques photographed First Supply’s truck and impounded it on the theory that it might be used as evidence of the allegedly reckless driver’s crimes.

21. Deputy Vazques told Fruin that the truck is part of a criminal investigation and may be held for years.

22. The sheriff's deputy did not present a warrant to seize the truck, did not ask permission to take the truck, and did not provide Fruin with any information, a phone number, or a receipt for First Supply to pick up its truck.

23. Following the accident, First Supply's Rockford branch manager, Michael Coogan, went to the Rockford police station, where he was made to sit for hours with Fruin and Sergeant Warmoff, an employee of the Winnebago County Sheriff's Office.

24. Sergeant Warmoff informed Coogan that the Sheriff's Office would hold the truck for as long as needed, which could be years.

25. Coogan asked Sergeant Warmoff what he was supposed to do without his truck.

26. Sergeant Warmoff responded "I don't know what to tell you. Anything to do with a death takes a long time."

27. Coogan was not presented with a warrant, was not asked for permission to take the truck, and did not give anyone permission to take the truck. Instead, Coogan felt that he did not have a right to refuse the truck's impoundment and could only acquiesce to what was presented as a concluded issue.

28. Coogan was not provided any documentation showing that the truck was in the Sheriff's possession, nor was Coogan provided any information as to when and where First Supply could pick up its truck.

First Supply's Attempts to Reclaim the Truck

29. On January 19, 2024, the Winnebago County State's Attorney's Office filed charges against Harris for improper traffic lane usage and failure to reduce speed, in Winnebago County 17th Judicial Circuit Court, traffic case number 2024-TR-0000772.¹

30. In mid-March 2024, First Supply's Michael Coogan spoke with Sergeant Jeffrey Maville, a sheriff's deputy at the Rockford police station.

31. Sergeant Maville stated, "they are done with the truck" and that he would "call into the State's Attorney's Office to see if they are able to release the truck."

32. Over the next several months, First Supply's corporate counsel, Brittney Cornillaud, and outside counsel at Michael Best & Friedrich LLP, made numerous attempts to work with the Winnebago County State's Attorney's Office to secure the release of the truck.

33. During that time, they were unable to speak with the prosecutor assigned to the case against Harris, Tom Kougias of the Winnebago County State's Attorney's Office.

34. At one point, a Victim's Advocate informed First Supply that the Winnebago County State's Attorney's Office would "retain the evidence for the duration of any litigation" and that such retention of evidence was "standard practice."

¹ Case information available at <https://fce.wincoil.gov/fullcourtweb/courtCase.do?CourtCaseId=181886191&PartyId=1562007>, last visited April 8, 2025.

35. The traffic case against Harris was dismissed by motion made by the Winnebago County State's Attorney's Office on July 29, 2024.

36. First Supply was not informed by the Winnebago County State's Attorney's Office that the case was dismissed; rather, First Supply discovered the dismissal on its own.

37. The Winnebago County State's Attorney's Office did not enter into a deferred prosecution agreement with Harris.

38. After discovering the dismissal, First Supply contacted the Winnebago County State's Attorney's Office to attempt to recover its truck.

39. On August 1, 2024, First Supply's corporate counsel, Brittney Cornillaud, called the Winnebago County State's Attorney's Office to recover the truck.

40. Cornillaud spoke with a receptionist who declined to give Cornillaud an email address or phone number for a Victim's Advocate.

41. The receptionist further stated that "someone" needed to file a "motion" and that "within two months" First Supply would receive instruction on how and where to pick up the truck.

42. At the time of the phone call, the case against Harris was closed—meaning that, for a motion to be filed in the case, the case would have to be reopened.

43. But although there is a method to obtain the return of a vehicle seized under the state's civil asset forfeiture statute (720 ILC 5/36-2.7), First Supply could

not file a motion to seek the return of the truck under that statute, even if the traffic case were still open, because the vehicle was not seized under the civil asset forfeiture statute (720 ILCS 5/36-1.1).

44. Nor have Defendants treated this vehicle seizure as though it were under Illinois 720 ILCS 5/36-1 – 5/36-10 because they have not followed any of the requirements or procedures under the forfeiture statute.

45. On August 2, 2024, a Victim’s Advocate emailed Cornillaud stating, “The case [against Harris] has been dismissed I do not have an exact time frame of when the evidence in the case will be released. When I am notified that it is being released, I will contact you.”

46. On October 10, 2024, the case against Harris was refiled as a criminal felony reckless driving case, in Winnebago County 17th Judicial Circuit Court, criminal case 2024-CF-0002517.²

47. For over two months, from the dismissal of the traffic case to the filing of the criminal case, when there were *no* charges pending against Harris, the Defendants continued to hold the truck.

48. First Supply again was not informed by the Winnebago County State’s Attorney’s Office that the case was refiled; rather, First Supply discovered the refiling on its own.

² Case information available at <https://fce.wincoil.gov/fullcourtweb/courtCase.do?CourtCaseId=181922188&PartyId=1562007>, last visited April 8, 2025.

49. From first case's dismissal in July of 2024 until First Supply discovered the new case around late November 2024, neither Defendant contacted Plaintiff despite Plaintiffs' repeated efforts to contact them.

50. After discovering the new case against Harris, Cornillaud contacted his counsel around early December 2024 to seek information on when the truck would be released.

51. Harris's Counsel was unable to provide Cornillaud with information on an estimated date for the truck's release.

52. Since Cornillaud's last communication with Harris's counsel in December 2024, neither Defendants nor the Harris's counsel have contacted Plaintiff to arrange for the return of the truck.

53. Harris's criminal case is still in the beginning stages, as a trial date has not been scheduled yet.

First Supply's Injury

54. The January 17, 2024 seizure of First Supply's truck injured First Supply by depriving it of the use of the truck—for which it still has to make payments under its lease.

55. First Supply's truck under Schedule A is still under lease until July 2026. *See* Exhibit "3". Plaintiff has been obligated to make monthly payments for the truck under its rental agreement, without having access to or use of the truck.

56. Without use of the truck, First Supply had to lease a replacement truck at its own expense. First Supply has been making monthly lease payments on

the replacement truck since the truck seizure over a year ago. These payments are still occurring, constituting an ongoing injury.

57. Under its lease, First Supply is responsible for repairing any damage caused by an accident. *See* Exhibit “1”.

58. Worse, the truck has been left uncovered in Defendants open-air impound lot, exposed to the natural elements for over a year. The truck has not been turned on, driven, or given any regular maintenance since it was taken by Defendants. Thus, every day that the truck remains in Defendants possession the truck continues to deteriorate due to its exposure to the weather, flora, and fauna.

59. This additional damage is significant, still occurring, and constitutes an ongoing injury.

60. Further, First Supply has been injured by its inability to obtain a proper notice and hearing or to have adequate means by which it could regain possession of its truck.

CLAIMS FOR RELIEF

COUNT ONE

42 U.S.C. § 1983 – Illegal Seizure of the Truck in Violation of Plaintiff’s Fourth Amendment Rights

61. Plaintiff incorporates the preceding paragraphs by reference.

62. The Fourth Amendment protects “[t]he right of the people to be secure in their persons, houses, papers, and effects, against unreasonable searches and seizures.” U.S. Const. amend. IV.

63. The Fourth Amendment applies to state and local governments through the Fourteenth Amendment's Due Process Clause. U.S. Const. amend. IVX. § 1.

64. The Fourth Amendment's protection against unreasonable searches and seizures hinges on the question of reasonability.

65. Seizures of personal property are unreasonable within the meaning of the Fourth Amendment unless accomplished pursuant to a judicial warrant issued by a neutral magistrate after finding probable cause.

66. A warrantless seizure of personal property is presumed unreasonable unless exigent circumstances exist.

67. Exigent circumstances exist when there is an immediate danger, a fleeing suspect, or the potential destruction of evidence related to crimes.

68. Here, First Supply's truck was taken by Winnebago County's Sheriff's Office and remains in the possession of the police at the behest of the Winnebago County State's Attorney's Office, which constitutes a seizure.

69. No warrant was provided to First Supply or any of its employees upon the seizure of the truck or at any time afterward.

70. The seizure of First Supply's truck without a warrant is therefore presumptively unreasonable, absent an exception to the Fourth Amendment.

71. First Supply's truck did not pose an immediate danger, nor was there a fleeing suspect in the truck.

72. The only possible exigency would be the prevention of the destruction of evidence. That exigency does not apply, however, because the Sheriff's Deputy

Vazquez, who responded to the accident took photos of the truck, thereby preserving the evidence.

73. Even if the Deputy's photos were insufficient to preserve the evidence, there was not a danger of destruction of the evidence that warranted immediate seizure.

74. If First Supply had been allowed to leave the accident with its truck, it would not have made immediate repairs. First Supply would have removed the truck from use, immediately stored the truck in a covered facility until its insurance company could inspect and assess the damage, and left the truck untouched until a proper course of action was established, which would have taken days if not weeks.

75. This would have been sufficient time for the Winnebago County Sheriff's office to seek and obtain a warrant to seize the truck, or to otherwise re-examine the truck and obtain any information necessary for evidentiary purposes.

76. Instead, the Winnebago County State's Attorney's Office has had unfettered access to, and possession of, the truck for nearly fifteen months.

77. Defendants have had far more than enough time to obtain any necessary evidence from the damage to First Supply's truck. If anything, the evidentiary value of First Supply's truck has declined because the truck has been kept in an open-air lot exposed to the elements.

78. Therefore, no exigent circumstances exist which justify the initial seizure of the truck, let alone its ongoing retention.

79. The lack of both a warrant and exigent circumstances means that the initial seizure of the truck was a blatant violation of First Supply's Fourth Amendment protection against unreasonable seizures.

80. Therefore, Defendants violated First Supply's Fourth Amendment right to unreasonable seizure, and First Supply is therefore entitled to the return of its truck and damages resulting from the unlawful seizure.

COUNT TWO

42 U.S.C. § 1983 – First Supply was not provided adequate notice and a hearing in violation of the Fourteenth Amendment

81. Plaintiff incorporates the preceding paragraphs by reference.

82. The Fourteenth Amendment guarantees that no State shall "deprive any person of life, liberty, or property, without due process of law." U.S. Const. amend. XIV, § 1.

83. The Fourteenth Amendment requires that individuals whose property interests are at stake receive notice and an opportunity to be heard.

84. Both notice and a hearing must take place before a seizure of property, except in extraordinary situations where some valid governmental interest justifies postponing the hearing until after the event.

85. The hearing must be at a meaningful time and in a meaningful manner.

86. Notice must be reasonably calculated under all the circumstances to apprise interested parties of the pendency of the action and afford them an opportunity to present their objections.

87. No extraordinary situation existed in this case because the government's interest in seizing the truck for evidentiary purposes was unnecessary. First Supply had a strong incentive to temporarily store the vehicle so that an insurance inspector could examine the vehicle, thereby ensuring that any relevant evidence related to the truck would be catalogued by the insurance inspector.

88. During that time, local police could have secured a warrant, thereby allowing a legal seizure under the Fourth Amendment.

89. Alternatively, if a warrant could not be secured, the Winnebago State's Attorney's Office could have secured information on the truck's condition from the insurance inspector.

90. Because the government must give notice *before* a deprivation of property, and First Supply's notice of the seizure took place contemporaneously with the seizure itself at the scene of the accident, First Supply lacked adequate notice under the Fourteenth Amendment.

91. Further, First Supply has been unable to obtain a hearing at a meaningful time and in a meaningful manner.

92. First Supply has tried for months, to no avail, to contact the Winnebago County State's Attorney office to obtain possession of the truck. At no time has either Defendant given First Supply an opportunity for a hearing or information on how to obtain a hearing.

93. First Supply has also worked with numerous Victim's Advocates, none of whom have been able to assist First Supply in obtaining a hearing.

94. At one point First Supply was told by a Victim's Advocate that the company could only recover the truck by filing a motion in the case against Harris, but that was procedurally incorrect, and the case at the time was already closed.

95. For these reasons, First Supply was deprived of its right to obtain a hearing at a meaningful time and in a meaningful manner.

96. Therefore, Defendants violated First Supply's Fourteenth Amendment right to due process before deprivation of its property, and as such are entitled to the return of their truck and damages associated with the deprivation of this right.

COUNT THREE

735CS 5/19-104 – Action for Replevin

97. Plaintiff incorporates the preceding paragraphs by reference.

98. Under Illinois law, “[a]n action of replevin shall be commenced by the filing of a verified complaint which describes the property to be replevied and states that the plaintiff in such action is the owner of the property so described, or that he or she is then lawfully entitled to the possession thereof, and that the property is wrongfully detained by the defendant, and that the same has not been taken for any tax, assessment, or fine levied by virtue of any law of this State, against the property of such plaintiff, or against him or her individually, nor seized under any lawful process against the goods and chattels of such plaintiff subject to such lawful process, nor held by virtue of any order for replevin against such plaintiff.” 735 ILCS 5/19-104.

99. In an action for replevin, the Plaintiff must also demonstrate that it has made demand upon defendants for the return of the property.

100. Here, Plaintiff is legally entitled to possession of the truck identified as for Ryder Unit No. 255621, with Serial Number 3HAEUMML5LL847590 Schedule A. *See* Exhibit 3.

101. Defendants unlawfully seized and continue to possess the truck in violation of First Supply's Fourth and Fourteenth Amendment rights.

102. Defendants refuse to voluntarily surrender the truck.

103. First Supply has made numerous demands upon Defendants for the return of the truck.

104. The truck was not taken for any tax, assessment, or fine levied by virtue of any law of the State of Illinois against property of First Supply, nor seized under any lawful process against the goods and chattels of First Supply subject to such lawful process, nor held by virtue of any order for replevin, execution, or attachment against First Supply.

105. Upon information and belief, the truck is being held at the Winnebago County Sheriff's impound lot.

106. First Supply estimates that at the time of impound, excluding accident damage, the fair market value of the truck was around \$76,000 depending on its condition.

107. First Supply is entitled to replevin of its truck.

PRAYER FOR RELIEF

Plaintiff respectfully requests that this Court:

- A. Declare that Defendants unlawfully seized First Supply's Truck in violation of the Fourth Amendment;
- B. Declare that Defendants unlawfully retained possession of First Supply's without any process or procedure to return the truck in violation of First Supply's Fourteenth Amendment rights;
- C. Order Defendants to return possession of the truck to First Supply;
- D. Enter a judgment for monetary award against Defendants for damages caused by Defendants violation of First Supply's Fourth and Fourteenth Amendment rights;
- E. An award of reasonable attorney's fees and costs as a prevailing party under 42 U.S.C. § 1988; and
- F. All further relief that this Court deems just and proper.

Respectfully submitted this 14th day of April 2025.

Respectfully submitted,

/s/ Duncan Crim
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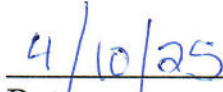
Attorneys for Plaintiff
* *Petition for Admission forthcoming*
***Admitted to U.S. District Court,*
Northern District of Illinois

VERIFICATION

Under penalties as provided by law, the undersigned certifies that the statements set forth in the Complaint are true and correct, except as to matters therein stated to be on information and belief, and as to such matters, the undersigned certifies as aforesaid that she verily believes the same to be true.



Brittney Cornillaud
Corporate Counsel
First Supply, LLC



Date