

DEPUTY CLINT PACE
INDIVIDUALLY AND IN HIS
OFFICIAL CAPACITY
AS DEPUTY SHERIFF AT
RUSSELL COUNTY SHERIFF'S
DEPARTMENT

AND)
)
DEPUTY RONNIE GOLDEN)
INDIVIDUALLY AND IN HIS)
OFFICIAL CAPACITY)
AS DEPUTY SHERIFF AT)
RUSSELL COUNTY SHERIFF'S)
DEPARTMENT)
)
AND)
)
SHERIFF DEREK POLSTON)
INDIVIDUALLY AND IN HIS)
OFFICIAL CAPACITY)
AS SHERIFF AT)
RUSSELL COUNTY SHERIFF'S)
DEPARTMENT)
)
AND)
)
TROOPER BILLY BEGLEY)
INDIVIDUALLY AND IN HIS)
OFFICIAL CAPACITY AS)
TROOPER AT KENTUCKY STATE)
POLICE, POST 15)
)
AND)
)
TROOPER ZACHARY SCOTT))
INDIVIDUALLY AND IN HIS)
OFFICIAL CAPACITY AS)
TROOPER AT KENTUCKY STATE)
POLICE, POST 15)
)
AND)
)
TROOPER JACOB HARPER)
INDIVIDUALLY AND IN HIS)
OFFICIAL CAPACITY AS)
TROOPER AT KENTUCKY STATE)
POLICE, POST 15)

COMPLAINT

Now comes Plaintiff, Rebecca England, by and through counsel, and brings this action against all named defendants, for damages sustained by said Plaintiff due to conduct by the defendants and their agencies and/or departments.

INTRODUCTORY STATEMENT

1. This is a civil action seeking monetary damages against Deputy Kenny Perkins, a deputy for the Russell County Sheriff, Deputy Jerry Melton, a deputy for the Russell County Sheriff, Deputy Clint Pace, a Deputy for the Russell County Sheriff, Deputy Ronnie Golden, a Deputy for the Russell County Sheriff, and Sheriff Derek Polston, the Sheriff of Russell County, Kentucky. Trooper Billy Begley, a Trooper for the Kentucky State Police, Post 15, Trooper Zachary Scott, a Trooper for the Kentucky State Police, Post 15, and Trooper Jacob Harper, a Trooper for the Kentucky State Police, Post 15, for the violation of the Plaintiff's constitutional rights by several actions, caused to the Plaintiff on several occasions by all defendants listed which include harassment, false imprisonment, illegal search and seizure, intimidation, intentional infliction of emotional distress, intentional infliction of physical violence, and injury upon Plaintiff's body, intentionally causing the Plaintiff personal injury, pain, suffering and emotional distress, all in complete violation of Plaintiff's Constitutional Rights pursuant to 42 U.S.C. Sections 1983 and 1988 for violating the Plaintiff's rights under the Fourth, Eighth, and Fourteenth Amendments of the United States Constitution and Laws of the Commonwealth of Kentucky. The Court has jurisdiction of this action under 42 U.S.C. Section 1983, 28 U.S.C. Section 1343, and 28 U.S.C. Section 1331.

PARTIES

2. The Plaintiff is a citizen and resident of the County of Russell, of the Commonwealth of Kentucky, and of the United States of America.

3. At all times referred to herein Defendant, Deputy Kenny Perkins, was a Deputy employed by the Russell County Sheriff. Deputy Perkins further is a citizen of and resident of the county of Adair, of the commonwealth of Kentucky, and of the United States of America.

4. At all times referred to herein Defendant, Deputy Jerry Melton, was a Deputy employed by the Russell County Sheriff. Deputy Melton further is a citizen of and resident of the county of Russell, of the commonwealth of Kentucky, and of the United States of America.

5. At all times referred to herein Defendant, Deputy Clint Pace, was a Deputy employed by the Russell County Sheriff. Deputy Pace further is a citizen of and resident of the county of Russell, of the commonwealth of Kentucky, and of the United States of America.

6. At all times referred to herein Defendant, Deputy Ronnie Golden, was a Deputy employed by the Russell County Sheriff. Deputy Golden further is a citizen of and resident of the county of Russell, of the commonwealth of Kentucky, and of the United States of America.

7. At all times referred to herein Defendant, Sheriff Derek Polston, was Sheriff of Russell County, Kentucky. Sheriff Polston further is a citizen of and resident of the county of Russell, of the commonwealth of Kentucky, and of the United States of America.

8. At all times referred to herein Defendant, Trooper Billy Begley, was a Trooper employed by the Kentucky State Police, Post 15. Trooper Begley further is a citizen of and resident of the county of Casey, of the Commonwealth of Kentucky, and of the United States of America.

9. At all times referred to herein Defendant, Trooper Zachary Scott, was a Trooper employed by the Kentucky State Police, Post 15. Trooper Scott further is a citizen of and

resident of the county of Russell, of the Commonwealth of Kentucky, and of the United States of America.

10. At all times referred to herein Defendant, Trooper Jacob Harper, was a Trooper employed by the Kentucky State Police, Post 15. Trooper Harper further is a citizen of and resident of the county of Adair, of the Commonwealth of Kentucky, and of the United States of America.

11. At all times referred to herein, Defendants acted under color of the laws, statutes, ordinances, regulations, policies, customs, and usages of the State of Kentucky, and the County of Russell. All acts referred herein occurred in the county of Russell, Kentucky.

JURISDICTION

12. This Court has jurisdiction over the claims in this Complaint pursuant to 28 U.S.C. § 1331 (federal question), 28 U.S.C. § 1343 (civil rights), 28 U.S.C. § 2201 (declaratory relief), and 42 U.S.C. §§ 1981, 1983, and 1988.

13. This Court has supplemental jurisdiction over the pendent state law claims pursuant to 28 U.S.C. § 1367.

14. This action arises under the United States Constitution as applied to state and/or local authorities through 42 U.S.C. § 1983.

VENUE

15. Venue is proper in this district based on 28 U.S.C. § 1391(b), as Defendants are residents of this district and the acts or occurrences giving rise to these claims occurred in this district.

CAUSES OF ACTION

Incident I

16. That the acts and/or omissions of these Defendants in this incident were in violation of the policies and procedures adopted by their respective agencies or departments.

17. On June 16, 2019, Plaintiff was a passenger in a vehicle she owned attempting to exit Lake Cumberland State Park in Russell County, Kentucky.

18. Kentucky State Police had established a roadblock near the park entrance.

19. Plaintiff's vehicle was stopped at said roadblock and though Plaintiff was only a passenger in said vehicle, she was arrested for driving under the influence of alcohol and lodged in the Russell County Detention Center.

20. Plaintiff was denied her right to consult Counsel pursuant to KRS 189a.105.

21. Plaintiff's charges were later dismissed on December 9, 2019 due to the illegal nature of the roadblock established by the Kentucky State Police.

Incident II

22. That the acts and/or omissions of these Defendants in this incident were in violation of the policies and procedures adopted by their respective agencies or departments.

23. On December 19, 2019 at approximately 6:00 a.m. Plaintiff, Rebecca England, was awoken by 8 officers in her home located at 739 Parks Ridge Road, Russell Springs, Kentucky.

24. Said officers entered Plaintiff's home with an arrest warrant for Plaintiff issued upon an affidavit sworn by Deputy Kenny Perkins.

25. Plaintiff was handcuffed, removed from her residence, and pushed down her front steps causing injury to her left ankle.

26. Plaintiff's residence was searched by Trooper Billy Begley and unknown others after she was handcuffed and she was placed in a police cruiser without a warrant and without her consent.

27. Upon being presented to Russell County Detention Center Plaintiff, Rebecca England, was informed of the charges against her and denied entry into the Russell County Detention Center by Russell County Jailer, Bobby Dunbar, due to her physical injuries.

28. Plaintiff was forced to remain in the booking area of the Russell County Detention Center for approximately 4 hours before being transported to Russell County Hospital.

29. Plaintiff was then transported back to Russell County Detention Center and confined in an isolation cell on a medical hold for five days and then general population for 10 more days before she was able to post bond.

30. Plaintiff's charges were dismissed without prejudice pursuant to KRCF 5.22 60 days after her preliminary hearing.

31. The Russell County Grand Jury has never returned an indictment against Plaintiff, Rebecca England, on any of the charges and said action has been expunged.

Incident III

32. That the acts and/or omissions of these Defendants in this incident were in violation of the policies and procedures adopted by their respective agencies or departments.

33. On March 17, 2020 at 12:35 p.m., Plaintiff, Rebecca England, was operating motor vehicle on West Wilson Road in Russell County, Kentucky.

34. Deputy Kenny Perkins stopped Plaintiff, approached her window, asked for driver's license, handed them back, then using coarse language, demanded Plaintiff to get out of the vehicle.

35. Plaintiff asked Deputy Perkins to call for another officer. Deputy Perkins refused to do so.

36. As Plaintiff, Rebecca England, unbuckled her seatbelt and picked up her phone to call 911 for assistance, Deputy Perkins forcibly removed her from the vehicle.

37. Deputy Kenny Perkins then forced the Plaintiff's left hand behind her back, began twisting her wrist upward causing significant pain and handcuffed her left hand.

38. Deputy Kenny Perkins then pulled Plaintiff toward him and pressed his genitals against her and continued to do so despite her demanding that he to call another officer and stop pressing his genitals against her.

39. Plaintiff attempted to pull away from Deputy Perkins' genitals and as she did so hit send on her phone which called the last person she had dialed.

40. Plaintiff heard a voice on her phone and screamed "call 911, please get him off me". Deputy Perkins then grabbed her phone and threw it to the pavement.

41. Deputy Perkins then told Plaintiff he would use a tazer on Plaintiff but it would leave a mark and that she was going to eat the pavement with her face.

42. Deputy Perkins then cuffed Plaintiff's other hand and then threw Plaintiff in the ditch. Deputy Perkins left Plaintiff laying in the ditch and walked away to speak to a motorist that pulled up behind his vehicle.

43. After speaking briefly to the motorist, Deputy Perkins returned and retrieved Plaintiff from the ditch, placed her in his vehicle, and informed her she was under arrest for

resisting arrest. Deputy Perkins then radioed dispatch for 2 other officers to the wrong road (McClendon Ridge) to help search the vehicle.

44. Plaintiff, Rebecca England, learned she was also being charged with DUI when she was taken to Russell County Hospital.

45. Plaintiff was lodged in the Russell County Detention Center at which time she immediately informed Deputy Jailer, Sandy Johnson, of the sexual assault.

46. Deputy Jailer, Sandy Johnson, notified her chain of command of the incident which notified the Russell County Sheriff's Department.

47. Upon posting bond and being released the following morning, no one from the Sheriff's office had yet contacted Plaintiff regarding the assault.

48. One hour after being released, Deputy Jerry Melton, arrived at Russell County Detention Center to interview Plaintiff.

49. Deputy Melton informed Plaintiff he was the officer in charge of Internal Affairs within the Russell County Sheriff's Department.

50. Deputy Jerry Melton intentionally attempted intimidate Plaintiff not to report that she had been sexually assaulted by Deputy Perkins by threatening Plaintiff with perjury charges if she made a formal complaint.

51. Deputy Jerry Melton then required Plaintiff, Rebecca England, to sit in the back seat of his police vehicle and hand write her own complaint against Deputy Perkins on one blank sheet of paper. Plaintiff attaches a copy of said complaint hereto as Exhibit "1".

52. To the knowledge of Plaintiff her complaint was never filed, investigated, or acted upon in any way.

Incident IV

53. That the acts and/or omissions of these Defendants in this incident were in violation of the policies and procedures adopted by their respective agencies or departments.

54. On October 25, 2020 at 5:37 p.m. Plaintiff's son, Zachariah Roby, was operating Plaintiff's vehicle on Hwy. 910 in Russell County, Kentucky. The vehicle was also occupied by two juvenile males, ages 12 and 15. Deputy Clint Pace pulled his vehicle behind the vehicle operated by Mr. Roby and activated his lights and sirens.

55. Plaintiff's son made clear his intentions to stop by activating flashers and slowed his vehicle to approximately 25 mph while watching for a safe location to pull over.

56. Plaintiff was a passenger in a vehicle slightly ahead of her son. Mr. Roby's "de facto" grandmother was in another vehicle directly in front of Mr. Roby.

57. Deputy Clint Pace attempted to ram into Mr. Roby's rear bumper twice and cause him to lose control of the vehicle but never made significant contact.

58. Mr. Roby pulled into the vacant parking lot of a Superior Battery factory building. Deputy Clint Pace immediately exited his vehicle and ran to and opened the driver door and physically extracted Zachariah from the vehicle, placing him on the pavement, fingers interlaced, feet crossed, face down and placed the muzzle of his firearm against Plaintiff's son's head as he shouted at the young man.

59. Trooper Zachary Scott arrived behind Deputy Pace and extracted the two juveniles from the vehicle.

60. Upon Plaintiff arriving at the scene, the juveniles were also being held at gunpoint by Trooper Zachary Scott of the Kentucky State Police.

61. Plaintiff later learned that the stop of her vehicle by Deputy Clint Pace was initiated because he believed one headlight was dimmer than the other. On October 25, 2020 at 5:37 p.m., it was still daylight.

62. In addition to the violence and gun play to which her son was subjected, Deputy Pace also threatened to pursue an indictment against the novice driver because the young man had not found a safe place to stop quickly enough.

63. To Plaintiff's best knowledge and in violation of both Russell County Sheriff's Department and Kentucky State Police policy, this incident was never reported to their respective dispatch/communication centers, nor was any use of force report made.

Incident V

64. That the acts and/or omissions of these Defendants in this incident were in violation of the policies and procedures adopted by their respective agencies or departments.

65. On January 31, 2021, Plaintiff, Rebecca England, was fishing at Helm's Landing on Cumberland River in Russell County, Kentucky while waiting to pick up her son from kayaking a short distance away.

66. Deputy Ronnie Golden and Deputy Kenny Perkins entered the parking area, exited their vehicles and approached Plaintiff and Deputy Perkins asked for her fishing license.

67. After a brief interrogation, Plaintiff informed Deputy Kenny Perkins and Deputy Ronnie Golden she had to drive to Rockhouse to pick up her son from kayaking down river. Deputy Perkins and Deputy Golden walked back towards Plaintiff's vehicle.

68. Due to the other incidents set forth above, the Plaintiff called her employer, Hon. Matthew B. DeHart, to pick her up and drive her to Rockhouse to pick up her son.

69. While on the phone with Hon. DeHart, Plaintiff over heard Deputy Kenny Perkins say to Deputy Ronnie Golden “she is not going home today”.

70. Deputy Kenny Perkins then stated to Plaintiff “nice folder in your front seat, and good luck with it,” referring to a file folder containing attorney work product on this action and another action not yet filed against Deputy Kenny Perkins. Upon returning to her car, Plaintiff noticed her file folder had been tampered with.

71. Approximately 30 minutes after Deputy Perkins and Golden left Hon. Matthew B. DeHart arrived to pick up Plaintiff. As Plaintiff and Hon. Matthew B. DeHart drove to Rockhouse to pick up Plaintiff’s son, Plaintiff noticed Deputy Kenny Perkins sitting near Helm’s Landing waiting for her to leave.

72. Plaintiff and Hon. Matthew B. DeHart drove to the Rockhouse parking area. After waiting several minutes, Plaintiff and Hon. Matthew B. DeHart exited parking area and drove to an overlook to try and spot Plaintiff’s son.

73. Plaintiff and Hon. Matthew B. DeHart then drove back to Rockhouse to wait for Plaintiff’s son. After approximately 30 minutes, Plaintiff walked to the river to see if her son was getting close, while walking back Plaintiff noticed a Kentucky State Police vehicle followed by Deputy Kenny Perkins vehicle and Deputy Ronnie Golden’s vehicle pulling in the parking area.

74. Plaintiff returned to vehicle as Trooper Harper was instructing Mr. DeHart to exit his vehicle. Mr. DeHart refused preliminary testing other than PBT referencing a hip injury.

75. Mr. Dehart asked if we were still being detained, Trooper Harper stated yes because of “eluding”.

76. Deputy Golden ran his dog around the vehicle thoroughly without any alerts. Trooper Harper requested consent to search and Mr. DeHart refused to consent to the search. Mr. DeHart was then handcuffed, arrested and placed in Trooper Harper's vehicle. Then the officers searched Mr. DeHart's vehicle for approximately 45 minutes.

77. Trooper Harper physically searched the Plaintiffs person by rubbing his hands over her person on the outside of her clothing without her consent.

78. Plaintiff asked Trooper Harper why Mr. DeHart was being arrested. Trooper Harper stated that Mr. DeHart had "eluded" police. Plaintiff informed Trooper Harper that this had not occurred.

79. On the following day, February 1, 2021, at approximately 5:00 p.m. Plaintiff and Mr. DeHart left his office on the square in Jamestown, Kentucky to make a house call on Stephens Ridge Road in Russell County, Kentucky. Two Russell County Sheriff vehicles followed Plaintiff and Mr. DeHart to his client's home, approximately five miles away before turning around.

COUNT I

42 U.S.C. § 1983 (Fourth Amendment – Excessive Force)

Defendant Perkins

80. That the conduct of each Defendant's conduct described herein was motivated by evil motive or intent, and involved reckless or callous indifference to the federally protected rights of Plaintiff and as such punitive damages should be awarded.

81. All previous paragraphs are incorporated herein by reference as though fully set forth.

82. Plaintiff makes a claim under 42 USC § 1983 for violation of the Fourth Amendment of the U.S. Constitution.

83. The Fourth Amendment does not permit Defendants to use excessive force. “The right to be free from excessive force in the context of an arrest is clearly established under the Fourth Amendment.” *Small v. McCrystal*, 708 F.3d 997, 1005 (8th Cir. 2013) (citation omitted).

84. “We analyze the excessive force claims of pretrial detainees under an objective reasonableness standard.” *Ryan v. Armstrong*, 850 F.3d 419, 427 (8th Cir. 2017). *Kingsley v. Hendrickson*, 135 S.Ct. 2466, 2473 (2015).

85. “Circumstances relevant to the reasonableness of the officer’s conduct include ‘the severity of the crime at issue, whether the suspect poses an immediate threat to the safety of the officers or others, and whether he is actively resisting arrest or attempting to evade arrest by flight.’” *Brown v. City of Golden Valley*, 574 F.3d 491, 496 (8th Cir. 2009) (citation omitted).

86. The Defendant Perkins use of force against Plaintiff was not reasonable under the circumstances, and was excessive as described in detail in those sections identified as Incident II and Incident III above..

87. Wherefore, as a direct and proximate result of the actions of Defendant Perkins, Plaintiff has suffered damages in an amount in excess of one hundred thousand dollars (\$100,000.00).

COUNT II

**Intentional Torts: Assault, Battery, False Arrest, False Imprisonment,
Intentional/Negligent Infliction of Emotional Distress
against above named Defendants**

88. That the conduct of each Defendant's conduct described herein was motivated by evil motive or intent, and involved reckless or callous indifference to the federally protected rights of Plaintiff and as such punitive damages should be awarded.

89. All previous paragraphs are incorporated herein by reference as though fully set forth.

90. All of the individual Defendants named in this Complaint are employees, deputies and/or agents of the Sheriff of Russell County, Kentucky or the Kentucky State Police.

91. All acts of the individual Defendants alleged above were conducted within the scope of the Defendants' employment or duties.

92. The actions of the individual Defendants were willful, malicious and in violation of the known rights of Plaintiff.

93. Defendant Perkins committed assault and battery upon Plaintiff when bodily harm was intentionally inflicted upon Plaintiff by him or as a result of his actions as described in detail in those sections identified as Incident II and Incident III above.

94. Defendant Perkins committed False Arrest and False Imprisonment by the actions taken intentionally by him or at his direction as described in detail in those sections identified as Incident II and Incident III above.

95. Defendant Perkins committed intentional infliction of emotional distress upon Plaintiff by the intentional or wanton acts taken by him or at his direction and described in detail in those sections identified as Incident II, Incident III, Incident IV, and Incident V above.

96. Defendant Melton committed intentional infliction of emotional distress upon Plaintiff by the intentional or wanton acts taken by him or at his direction and described in detail in those sections identified as Incident III.

97. Defendant Pace committed intentional infliction of emotional distress upon Plaintiff by the intentional or wanton acts taken by him or at his direction and described in detail in those sections identified as Incident IV.

98. Defendant Scott committed intentional infliction of emotional distress upon Plaintiff by the intentional or wanton acts taken by him or at his direction and described in detail in those sections identified as Incident IV.

99. Defendant Golden committed intentional infliction of emotional distress upon Plaintiff by the intentional or wanton acts taken by him or at his direction and described in detail in those sections identified as Incident V.

100. Defendant Harper committed intentional infliction of emotional distress upon Plaintiff by the intentional or wanton acts taken by him or at his direction and described in detail in those sections identified as Incident V.

101. Defendant Harper committed assault and battery upon Plaintiff when bodily harm was intentionally inflicted upon Plaintiff by him or as a result of his actions as described in detail in those sections identified as Incident V.

102. That all acts by Defendants as set forth in this count were intentional, extreme and outrageous, and done through the assertion of legal authority over Plaintiff.

103. As a direct and proximate result of these actions by Defendants, Plaintiff has suffered damages in an amount in excess of one hundred thousand dollars (\$100,000.00).

COUNT III

42 U.S.C. § 1983 (Fourth Amendment – Search & Seizure)

Defendants Perkins, Begley, Harper, Golden, Melton

104. That the conduct of each Defendant's conduct described herein was motivated by evil motive or intent, and involved reckless or callous indifference to the federally protected rights of Plaintiff and as such punitive damages should be awarded.

105. All previous paragraphs are incorporated herein by reference as though fully set forth.

106. Plaintiff makes a claim under 42 USC § 1983 for violation of the Fourth Amendment of the U.S. Constitution.

107. The Fourth Amendment does not permit Defendants to violate Plaintiffs right to be secure in her person, houses, papers, and effects without probable cause.

108. Defendant Perkins violated Plaintiffs 4th Amendment rights against unreasonable searches and seizures by those actions of his described in detail within the section identified as Incident II, Incident III, and Incident V above.

109. Defendants Begley and Melton violated Plaintiffs 4th Amendment rights against unreasonable searches and seizures by those actions of his described in detail within the section identified as Incident II.

110. Defendant Harper violated Plaintiffs 4th Amendment rights against unreasonable searches and seizures by those actions of his described in detail within the section identified as Incident V above.

111. Defendant Golden violated Plaintiffs 4th Amendment rights against unreasonable searches and seizures by those actions of his described in detail within the section identified as Incident II, Incident III, and Incident V above.

COUNT IV

42 U.S.C. § 1983 Sheriff Derek Polston

112. That the conduct of each Defendant's conduct described herein was motivated by evil motive or intent, and involved reckless or callous indifference to the federally protected rights of Plaintiff and as such punitive damages should be awarded.

113. All previous paragraphs are incorporated herein by reference as though fully set forth.

114. This party is liable for constitutional violations under 42 U.S.C. § 1983 when execution of its official policy or custom deprives an individual of its rights protected under the Constitution.

115. Such liability exists where the entity or officer fails to properly train, supervise, and discipline its employees amounting in a deliberate indifference to one's constitutional rights. See *City of Canton, Ohio v. Harris*, 489 U.S. 378 (1989); *Patzner v. Burkett*, 779 F.2d 1363, 1367 (8th Cir. 1985); *Wellington v. Daniels*, 717 F.2d 932, 936 (4th Cir. 1983).

116. At all times relevant, Defendants Derek Polston and Kentucky State Police had a duty to properly train, supervise, and discipline their employees and agents.

117. Defendants breached that duty, in part, by:

a. Improperly training, authorizing, encouraging or directing officers on proper use of force, searches and seizures of persons and things.

b. Failing to investigate allegations of excessive force, improper search and seizures.

c. Failing to discipline officers for violations of policy related to excessive force, search and seizure.

118. The policy, pattern of practice, or custom of condoned misconduct is tacitly or overtly sanctioned, as evidenced by the conduct of Defendants herein and the Defendant Sheriff

Polston's failure to train, supervise, investigate, and discipline any of the officers involved in this incident amounting to a deliberate indifference to Plaintiff's constitutional rights.

119. This unconstitutional behavior of officers is carried out pursuant to a policy, pattern of practice, or custom, whether formal or informal, which violates the constitutional rights of persons situated such as the Plaintiff.

120. Defendant Polston failed to take sufficient remedial actions to end this policy, pattern of practice, or custom within the Russell County Sheriff Department.

121. The condoning of misconduct, and the failure to end this policy, pattern of practice, or custom was a proximate cause to the injuries suffered by Plaintiff.

122. Wherefore, as a direct and proximate cause of the actions of this Defendant, Plaintiff has suffered damages in an amount in excess of one hundred thousand dollars (\$100,000.00).

COUNT V

42 U.S.C. § 1983 (Eighth Amendment – Cruel and Unusual Punishment)

All Defendants

123. That the conduct of each Defendant's conduct described herein was motivated by evil motive or intent, and involved reckless or callous indifference to the federally protected rights of Plaintiff and as such punitive damages should be awarded.

124. All previous paragraphs are incorporated herein by reference as though fully set forth.

125. Plaintiff makes a claim under 42 USC § 1983 for violation of the Eighth Amendment of the U.S. Constitution.

126. The Eighth Amendment does not permit Defendants to subject Plaintiff to cruel and unusual punishments.

127. That the acts of the defendants as set forth herein above, whether intentional, wanton, reckless, or negligent have resulted in injury to the Plaintiff that would be considered cruel and unusual punishment.

128. Wherefore, as a direct and proximate result of the actions of these Defendants, Plaintiff has suffered damages in an amount in excess of one hundred thousand dollars (\$100,000.00).

DECLARATORY RELIEF

129. This suit involves an actual controversy within the Court's jurisdiction and the Court may declare the rights of Plaintiff under the Constitution and laws of the United States and the laws of Kentucky and grant such relief as necessary and proper. Plaintiff seeks declaratory relief on her behalf.

130. Plaintiff seeks declaratory judgment that Defendants' policies, pattern of practices, customs, lack of supervision, failure to train, acts, and omissions described herein violate the Fourth and Eighth Amendments to the U.S. Constitution.

PRAYER FOR RELIEF

Wherefore, Plaintiff respectfully requests that this Court enter judgment in favor of Plaintiff and against the Defendants, and grant the following:

1. Enter a declaratory judgment on behalf of Plaintiff that Defendants' policies, pattern of practices, customs, lack of supervision, failure to train, acts, and

omissions, described herein, constituted violations of the Fourth and Eighth Amendments to the Constitution of the United States and in violation of Kentucky state law;

2. Enter judgment on behalf of Plaintiff against Defendants for reasonable actual damages sufficient to compensate him for the violations of his federally proceed rights and rights under Kentucky state laws set forth above in Counts I, II, III, IV, and V;

3. Permanently enjoin and prohibit Defendants from interfering with Plaintiff's constitutional rights. Specifically, to enjoin Defendants from:

a. Retaliating against Plaintiff or her family, their agents, employees, or counsel for bringing this lawsuit; and

b. Subjecting Plaintiff to rights violations in the future.

4. Order Defendants to pay punitive and other exemplary damages based on 42 U.S.C. § 1983 claims;

5. Order Defendants to pay Plaintiff's attorneys' fees and costs as authorized by 42 U.S.C. § 1988; pre-judgment interest and any other relief deemed necessary and proper;

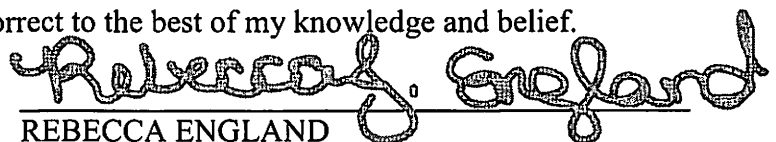
6. For leave to amend Complaint to include a claim for punitive damages under state law; and

7. Grant all other and additional relief to which Plaintiff may be entitled.

Date: March 17, 2021

VERIFICATION

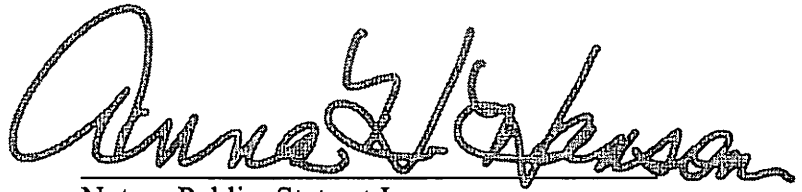
I, Rebecca England, have read the foregoing Complaint and hereby verify that the statements contained therein are true and correct to the best of my knowledge and belief.


REBECCA ENGLAND

STATE OF KENTUCKY

COUNTY OF RUSSELL

I hereby certify that the foregoing Complaint was this day subscribed, acknowledged and sworn to before me, a Notary Public, by REBECCA ENGLAND, who so identified herself to me, on this the 17th day of March, 2021.

A handwritten signature in cursive script, appearing to read "Anna S. Johnson", written in dark ink.

Notary Public; State at Large
My Commission Expires: 12/09/2023
Notary ID: 635528

Respectfully submitted by:

/s/ Matthew B. DeHart
Matthew B. DeHart
DeHart Law Office
33 W. Cumberland Ave.
Jamestown, KY. 42629
Office: (270) 343-6300
Fax: (270) 343-6301
dehartlaw@duo-county.com
COUNSEL FOR PLAINTIFF