

CIRCUIT COURT FOR HAMILTON COUNTY
State of Tennessee

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LARRY L. HENRY, CLERK

DALE EDMONDS, and
ALINDA EDMONDS,

Plaintiffs,

No. 19C 199 PY _____ *JW* CC

~v~

JURY DEMAND

CITY OF CHATTANOOGA,
OFFICER CODY THOMAS,
OFFICER JASON CLEMONS,
OFFICER JAMES ELLIOTT,
OFFICER RICK VAN NESS,
OFFICER STEPHEN BULKLEY, and
CAPT. JERRI SUTTON,
In their individual and
official capacities as agents
and employees of the City
of Chattanooga,

Defendants.

COMPLAINT

PLAINTIFFS, through counsel, for their causes of action will show the Court:

Introduction:

1. This is an action for money damages brought pursuant to 42 U.S.C. §§ 1983 and 1988 to redress the deprivation of rights secured to the Plaintiffs by the Fourth Amendment and Fourteenth Amendment to the United States Constitution, and for violations of the laws of the State of Tennessee by the Defendants.

2. Plaintiffs aver that the individually named Defendants Officer Cody Thomas (“Thomas”), Officer Jason Clemons (“Clemons”), Officer James Elliott (“Elliott”), Officer Rick Van Ness (“Van Ness”), and Officer Stephen Bulkley (“Bulkley”) worked in unison to conduct

an unreasonable search and entry into Plaintiffs' home and to conduct an unreasonable seizure of the Plaintiffs' persons.

3. Plaintiffs aver that the Defendants Thomas, Clemons, Elliott, Van Ness, and Bulkley, failed to intervene and prevent their fellow defendants from their conduct that resulted in an unreasonable search of the Plaintiff's home and an unreasonable seizure of the Plaintiffs' persons.

4. Plaintiffs further aver that Defendant Capt. Jerri Sutton ("Sutton") with the assistance of members of the Chattanooga Internal Affairs Unit ("IAU") made deliberate and/or intentional steps to stall and delay their duties to conduct an investigation of a complaint Plaintiffs made subsequent to the constitutional violations set forth in this Complaint. Plaintiffs further aver that IAU's stall and delay tactics were calculated to deprive Plaintiffs of their ability to petition the State of Tennessee for redress or seek redress in this and any other court of law and thus deprived Plaintiffs of their rights to the Equal Protection of Law.

5. Plaintiffs also maintain that the individually named defendants committed these violations and torts as a result of policies, customs, and/or procedures of the City of Chattanooga ("City").

6. In addition, Plaintiffs aver that the individual defendants subjected Plaintiffs to mental anguish and emotional distress.

Jurisdiction and Venue:

7. This is an action to redress the deprivation of rights secured to the Plaintiffs by the Fourth, and Fourteenth Amendments to the United States Constitution and for violations of Tennessee law. Thus, as to the § 1983 claims, this Court is vested with original jurisdiction pursuant to the authority stated in Haywood v. Drown, 556 U.S. 729 (2009) and Poling v. Goins,

713 S.W.2d 305 (Tenn. 1986). This Court is vested with original jurisdiction over the state claims pursuant to TENN. CODE ANN. § 16-10-101, et seq.

8. Venue is proper in this Court pursuant to TENN. CODE ANN. § 20-4-102. All acts complained of occurred within Hamilton County.

- a. Plaintiffs are residents of Hamilton County, Tennessee.
- b. To the best of Plaintiffs' knowledge and belief, the individual defendants are residents of or conduct their duties as agents of the City within Hamilton County, Tennessee.
- c. City is a political sub-division of the State of Tennessee.

The Parties:

9. At all times relevant to this cause of action, Plaintiffs were African-Americans, citizens of the United States, and residents of the State of Tennessee.

10. At all times relevant to this cause of action, the City was a political sub-division of the State of Tennessee organized and existing under the laws of the State of Tennessee.

- a. The City finances its police department and provides rules and regulations for the operation of the police department.
- b. The City provides oversight of the hiring, training, supervision, discipline, and retention of all personnel in its police department.

11. Specifically, and at all times relevant to this cause of action, the City is responsible for the creation and maintenance of its police department (hereinafter and alternatively identified as "CPD" or the "department"), which is a law enforcement agency created under Tennessee state law and regulated by the laws of the State of Tennessee as to:

- a. The training and certification of its law enforcement employees.

- b. The safe treatment of persons seized and held within the custody of its individual officers and agents.
- c. Creation of rules and regulations to properly identify officers who have a recurring pattern of misconduct or conduct that would place its supervisory personnel on notice and the City on notice of officers who are a threat to citizens within its jurisdiction.
- d. Creation of rules and regulations to properly investigate officers who have a recurring pattern of misconduct or conduct that would place its supervisory personnel on notice and the City on notice of officers who are a threat to citizens within its jurisdiction.
- e. And to not hire, retain, re-hire, or promote police officers who have a recurring pattern of misconduct or conduct that would place its supervisory personnel on notice and the City on notice of officers who are a threat to citizens within its jurisdiction.

12. At all times relevant to this cause of action, the individual defendants were employed by the City and acted under the color of law. In addition, the individual defendants acted in their official capacities as agents, servants, and employees of the City as defined under TENN. CODE ANN. § 29-20-102.

13. Plaintiffs sue the individual defendants in their individual and official capacities.

14. Plaintiffs sue the City in its governmental capacity.

Factual Basis -Individual Defendants:

15. On February 11, 2018, Alexander Benn (“Benn”) shot Dale Edmonds (“Dale”) at Dale’s home, located at 1719 South Seminole Drive, Chattanooga, TN (“house” or “home”).

16. Dale was treated at a local hospital for gunshot wounds to his right shoulder, which caused significant injury and an inability to raise his right arm upward or move it much at all without intense pain.

17. On February 14, 2018, Dale was released from the said local hospital wearing a sling, and he was heavily bandaged. Dale and Plaintiff Alinda Edmonds (“Alinda”), returned home where they were set to meet with Edward LaGuardia (“LaGuardia”), a representative of the Tennessee Department of Human Services (“DHS”) and another member of DHS, whose name is currently unknown to Plaintiffs but identified as a black female (“unidentified DHS employee”). This was a prearranged meeting. LaGuardia and unidentified DHS employee sat in their motor vehicle on the Plaintiffs’ driveway waiting for Plaintiffs.

18. Upon their arrival home at about 8 pm, Plaintiffs invited LaGuardia inside.

19. The unidentified DHS employee remained outside the house and remained seated in the motor vehicle on the driveway of the house.

20. At all times relevant, LaGuardia and unidentified DHS employee wore on their outer clothing identification badges reflecting their offices and employment with DHS.

21. On the same date, at about 8:20 pm, Thomas, Clemons, Elliott, Van Ness, and Bulkley, arrived at the house in response to a false claim by neighbor Frank Humphries (“Humphries”) to Hamilton County 911 that the Plaintiffs’ home was a “drug house.” Further, Humphries told the 911 operator that someone was seated in a black car in the Plaintiffs’ driveway.

a. Thomas would later falsely identify Humphries as an “anonymous” complainant in an official police department incident report Thomas authored.

22. At no time did Humphries ever state to the 911 operator that there was a burglary in progress of the home nor did Humphries ever state any crime was in progress at the home.

23. Based upon claims set forth further in this Complaint, or until discovery or evidence is obtained by Plaintiffs, Plaintiffs can only state that Defendants Thomas, Clemons, Elliott, Van Ness, and Bulkley were at Plaintiffs' home, and only because an Incident Detail Report identified these Defendants as having arrived at the home. As shall be seen further in this Complaint, Defendant Sutton denied or prevented Plaintiffs the ability to learn of the identities of the Defendants who actually entered the Plaintiffs' house.

24. Defendants Thomas, Clemons, Elliott, Van Ness, and Bulkley approached the unidentified DHS employee who identified herself as a DHS employee and stated her purpose at the house. Furthermore, based upon Plaintiffs' belief, the unidentified DHS employee notified Defendants Thomas, Clemons, Elliott, Van Ness, and Bulkley of whom was inside the house.

25. While Plaintiffs and LaGuardia were inside the house seated in the living room and discussing the purpose of the visit, Plaintiffs heard the back kitchen door slam open with a bang with a loud boom.

26. Dale went to the kitchen to investigate whereupon Dale found three of the five individual defendants (Thomas, Clemons, Elliott, Van Ness, and Bulkley) inside the kitchen with their guns drawn on Dale. Having been shot on February 11, 2018, the unnecessary use of firearms against Dale sent Dale into a panic that caused him to nearly faint.

27. These three individual defendants barked and yelled at Dale, and Dale, while terrified, stated he lived in the house, asked repeatedly who they were, why they were in the house, and why they were pointing their guns at him in a menacing manner.

28. In response, the same three individual defendants continued to point their guns at Dale, and one individual defendant whom Dale believes was Defendant Thomas, told Dale to “shut up” and put his hands up.

29. Dale again notified Thomas, or whom Dale believes was Thomas, and the other two individual defendants in the kitchen that Dale and Alinda lived in the house, that Dale had just been released from the hospital after being shot and could not raise both his hands.

30. Dale, while wearing the sling and bandages, showed Thomas and the other two individual defendants in the kitchen the hospital wrist band he still wore.

31. These three individual defendants ignored Dale’s plea and merely repeated their rude and abusive comments to Dale and repeated for Dale to “shut up.” Thomas forced Dale to raise his severely injured right arm up and manhandled Dale into the living room by unnecessarily grabbing Dale, jerking Dale and pushing Dale.

32. These three individual defendants demanded to know of Dale and Alinda who else was inside, and Dale and Alinda told these individual defendants that LaGuardia was gathering DHS medical equipment from another room.

33. These three individual defendants grabbed, shoved and pushed Dale and Alinda outside at gunpoint and forced them to have their hands up while standing in the cold rain.

34. These three individual defendants ordered LaGuardia outside as well with his hand up, but not with the same level of physical force. LaGuardia is a white male.

35. At no time did anyone do anything to justify the physical force used by the same three individual defendants.

36. At no time did Thomas, Clemons, Elliott, Van Ness, and Bulkley have a valid search warrant to enter Plaintiffs’ home, nor did they have any valid basis to enter the Plaintiffs’

home without a warrant, nor were there any exigent or emergency circumstances that allowed the three defendant officers to enter Plaintiffs' home, nor were there any valid exceptions to the warrant requirement that that allowed the three defendant officers to enter Plaintiffs' home.

37. Thomas, Clemons, Elliott, Van Ness, and Bulkley forced Plaintiffs to remain outside in the cold rain with their hands up.

38. After several minutes, Thomas, Clemons, Elliott, Van Ness, and Bulkley notified Plaintiffs they made a mistake and departed.

39. Sometime in early March 2018, Dale arrived at the IAU office and met with "Regina" and filled out a Chattanooga Police Department Initial Report of Complaint ("complaint").

40. After about 3 months of not hearing anything from IAU or anyone with the CPD in regard to his complaint, Dale, now accompanied by Alinda, returned to IAU and asked Regina the status of his complaint.

41. Regina notified Plaintiffs that the first complaint was "lost," and required Plaintiffs to fill out a second complaint, which they did.

42. After further delays, Plaintiffs returned to IAU and spoke with Regina and again inquired about the complaint.

43. Regina told Dale the second complaint was also "lost," but after some searching said she found the complaint on Sutton's desk, "up under other cases."

44. Shortly afterward, Sutton called Dale and apologized for misplacing the first complaint.

45. At some point about 30 days after the second complaint Plaintiffs filed with IAU, Dale arrived at IAU and spoke with Sgt. Willoughby who stated IAU had identified the officers

involved, and would pull their body-cams, and then after he reviewed the body-cams “will get back with you.”

46. Plaintiffs heard nothing further from anyone in IAU or the City until on or about January 21, 2019 when Dale went back to IAU and again inquired of the status of Plaintiffs’ complaint.

47. Plaintiffs again arrived at IAU on or about January 23, 2019 and again inquired of the status of Plaintiffs’ complaint, and Dale specifically asked of Sutton the names of the three officers who entered Plaintiffs’ home.

48. Sutton assured Dale she would type a letter and notify Plaintiffs of the finding and also call Dale with the information.

49. After not hearing from Sutton, on January 28, 2019, Dale again contacted Sutton about the names of the said three officers who entered the house, and Sutton notified Dale that her findings would go to the “chief.” Sutton told Dale that she would give Dale the names of the said three officers on **February 16, 2019**.

50. Plaintiffs’ statute of limitation to bring this suit expires on **February 14, 2019**.

Factual Basis-City Liability Part 1:

Janet Crumley:

51. The allegations averred in ¶¶ 39-50 are not the first time a commander of IAU has delayed investigations of complaints filed by citizens with IAU in regard to officer misconduct. The other commander was now retired Captain Janet Crumley (“Crumley”). Crumley retired from the Chattanooga Police Department in March 2004.

52. In 2003, former Chief of Police Jimmy Dotson removed Crumley from her post as the supervisor of IAU for allowing investigations to linger for months without conclusion. Chief

Dotson was quoted in a Times/Free Press article at the time that delaying investigations of complaints against officers was “unacceptable,” and “If it can’t be corrected with the current staff, then we will find others to do it.”

53. Also, while in command of IAU, Crumley allowed an excessive force complaint filed in 2001 by Bobby Petty and his son Jonathan Petty against then officer Bobby Moses to linger for nearly two years.

54. The Pettys contacted Crumley multiple times about the status of their complaint, but was met with various claims by Crumley that ranged from that someone in IAU “misplaced” the complaint to any underlying criminal charges against the Pettys would have to be resolved before IAU would release the results of the investigation.

Factual Basis-City Liability Part 2:

55. The City has established additional patterns of overlooking or providing excuses and reasons to justify the misconduct of its officers and civilian employees in order to retain, promote, and/or re-hire officers. Such a pattern created the environment that allowed the individual defendants to act in the manner they did against Plaintiffs. Plaintiffs aver the following past incidents of police officer misconduct and the seemingly lax responses of the City to these examples contributed to Plaintiffs’ damages:

Jeanie Snyder:

a. The City, through its police command officers, refused to relieve former assistant police chief Jeanie Snyder of all duties after three much publicized events wherein [1] she appeared under the influence while armed and in a Gwinnett County, Georgia mall whereupon City police officers drove to said county and took Snyder back to Tennessee; [2] was wandering about in a Marion County wood which required a large law

enforcement response to find her at much costs to the Tennessee taxpayers; [3] found unconscious at her home due to prescription drug use after she failed to report for a staff meeting.

Edwin McPherson:

b. The City refused to follow the recommendations of its own Internal Affairs unit to discipline now retired Captain Edwin McPherson for untruthfulness after the investigators found McPherson took actions to interfere with a murder investigation that involved his niece as a suspect. The City's command "cleared" McPherson without review by an entity outside of the police department.

Karl Fields:

c. The City refused to fire Detective Karl Fields after he made false claims that he was a victim of a carjacking in order to cover up that he wrecked his car while drunk and shooting his gun. The City allowed Fields to remain as a homicide investigator, despite his obvious deceit that could have caused an innocent person to be charged with carjacking. Fields was later fired by the City for misconduct with a victim of a sexual assault.

Steven Campbell:

d. The City fired, then, rehired officer Steven Campbell for his part in the infamous beating of two handcuffed suspects in the parking lot of Kanku's gas station, which resulted in a settled federal lawsuit federal Court in McCallum and Jones v. City of Chattanooga, et al. The City later assigned Campbell to the S.W.A.T team for the City and an assignment as an investigator/detective.

Mike Wenger:

e. The City suspended, but did not fire Officer Mike Wenger for his unlawful assault of one of the two men (Trent Jones) in the aforesaid Kanku's incident which resulted in Trent Jones receiving a facial fracture. Rather than fire Wenger, the City later promoted Wenger to a detective position, and assigned Wenger to handle an investigation and bring criminal charges against the victim of police excessive force in the Tatum matter (described more fully in upcoming paragraphs).

Kenneth Freeman and Edwin McPherson:

f. The City refused to fire former detective Kenneth Freeman for his video-recorded assault of a 71-year old greeter at Wal-Mart, which resulted a lawsuit titled Walker v. City of Chattanooga. The video also captured Freeman shoving through a glass door a person who came to the aid of the greeter. Edwin McPherson was present and stood by. Despite the clear video evidence of the assault, and video evidence of Freeman assaulting an attorney in the Hamilton County Courthouse, the City allowed Freeman to remain a detective. Freeman had a long history of citizen and internal complaints that placed the City on notice of his propensity for misconduct. Despite the long history and the video evidence of assault on two persons at Wal-Mart and the attorney (Lloyd Levitt), it wasn't until a non-video recorded claim of domestic assault against Freeman arose that the City finally terminated Freeman's employment. The City never took action to address McPherson's failure to render aid to the greeter or to stop Freeman from injuring the greeter.

Steven Miller and Daniel Gibbs:

g. The City fired officers Steven Miller and Daniel Gibbs for macing then placing a homeless man, Robert Williams ("Williams"), in the trunk of Gibbs' police car

and transporting Williams to Camp Jordan Park in East Ridge, where the officers left Williams by the side of the road. Despite firing these two officers for excessive force and lying about the incident the City rehired and allowed these two officers to return to their employment as police officers.

Sean Emmer, and Adam Cooley:

h. **Despite having overwhelming video evidence of police brutality** in the Tatum v. City of Chattanooga, et al. case in the U.S. District Court (No. 1:13-cv-26), the City failed to remove defendants Sean Emmer (“Emmer”), and Adam Cooley (“Cooley”) from duty until many days later and only after a representative of Tatum made a complaint to the City.

i. The City was aware of numerous excessive force complaints against Emmer prior to the Tatum matter, but cleared Emmer each time and allowed him to remain on full duty despite the City’s own internal affairs office “flagging” of Emmer as a result of the numerous excessive force complaints.

j. CPD Sgt. D. Turner (“Turner”), was the supervisor of Cooley and Emmer. The City required its officers to write use of force reports whenever its officers use force on a suspect. Since Turner became the supervisor for Cooley, and Emmer, Turner’s shift saw a large increase in the use of force. This high and sudden rise in the use of force, coupled with the “flag” placed upon Emmer, put the City on notice that its officers were not properly supervised and trained, and thus constituted deliberate indifference that was the direct and proximate cause of Tatum’s injuries at the hands of Emmer, and Cooley.

Paul Page:

- l. Former Mayor Ron Littlefield (“Littlefield”) hired his friend Paul Page as the director of the City’s General Services.
- m. While employed as an agent for the City, Page was actively engaged in acts of sexual harassment against female City employees and one non-employee outside of Page’s duties with the City.
- n. Despite Littlefield’s full knowledge of Page’s misconduct, the City failed to take action to stop Page’s wrongdoing beyond a meager warning and requirement to take lessons on sexual harassment.
- o. Rather than take action against Page, the City terminated the employment of one of the women who complained against Page.
- p. Despite a finding by the EEOC that Page’s misbehavior (which included comments to the female employees about their breasts and comments about sex acts) constituted violations of federal law, the City stood by Page and refused to fire him.

The Timothy Hicks – Emmer Incident:

- q. In 2011, Emmer and other officers arrived at Track 29, a downtown music venue in response to calls from Track 29 security staff.
- r. One of the officers approached Richard Wetherbee from behind and without warning, used a taser on him.
- s. Emmer came behind Timothy Hicks (“Hicks”) and without warning, placed a chokehold on Hicks.
- t. Hicks was unaware a police officer placed the chokehold on him, and attempted to defend against the attack.
- u. Emmer and another officer slammed Hicks to the floor.

- v. Emmer straddled Hicks, and punched Hicks in the face and bashed Hicks' head on the concrete.
- w. The other officer held Hicks down and did nothing to stop Emmer's assault.
- x. The group of people who watched began to "boo" Emmer's actions.
- y. Emmer slapped Hicks' face to make Hicks "come to."
- z. At one point, Emmer pulled his service weapon and pointed it at the group and told them to stay back.
- aa. Other officers on the scene also directed the onlookers back and did nothing to stop Emmer's assault.
- bb. Emmer and another officer dragged Hicks by his ankles to a police car.
- cc. The transporting officers "screen tested" Hicks on the way to the hospital in a police car.
- dd. "Screen test" is a term to denote how police with a handcuffed and un-seat-belted arrestee in the back seat speed up then slow suddenly, which throws the arrestee into the screen that divides the officers in the front and the arrestee.
- ee. Hicks suffered seven fractures to bones in his face.
- ff. The very next day, former Chief Bobby Dodd ("Dodd") spoke publicly about how Hicks "sucker punched" Emmer, and Hicks deserved "the toughest penalty."
- gg. The City never conducted an investigation of the event with Hicks before Dodd publicly cleared all the officers involved.

hh. Dodd and IAU investigators were aware Emmer had a propensity to use excessive force in that Emmer had three excessive force complaints even before the Hicks matter.

ii. In one incident, where Emmer punched a drunken man, which split the man's tongue, Emmer explained his actions by stating, "My adrenaline gets going."

jj. In each of the three cases and the Hicks matter, fellow officers made false statements to support Emmer's reasons for the force he used, and the City exonerated Emmer each time.

Craig Joel:

kk. The following is taken from an IAU report of investigation dated March 16, 2018 as to the misconduct of former CPD Lt. Craig Joel ("Joel"):

On 02/02/2018 at approximately 1856hrs, the Hamilton County Sheriff's Office (HCSO) responded to call of an intoxicated person at [Amigo's Restaurant]. The information given by the complainant was a man in a black Ford car was falling over drunk. The caller advised the intoxicated subject was laying down in his car, and the caller was afraid the intoxicated subject was about to drive off in his vehicle. The caller specified it appeared to be newer Ford Fusion possibly an undercover police vehicle. The caller advised the intoxicated subject began walking towards the dock, and the caller then advised the intoxicated subject was getting into the vehicle, trying to start the vehicle. The caller then advised there were two people trying to stop him because they can tell he's clearly not okay. Ultimately, the HCSO arrived on scene and encountered the intoxicated identified as Chattanooga Police Lieutenant Craig Joel # 916.

ll. Over the course of the IAU investigation, IAU discovered Hamilton County deputies John Robbs and Charlene Choate arrived in response to the said complaint, and discovered Joel intoxicated, seated in his police vehicle, and in possession of a firearm. The following as an excerpt of the IAU investigation of facts as related by Deputy John Robbs:

Lt. Joel was asked who the car belonged to, and he was belligerent with his responses. Lt. Joel kept telling Deputy Choate to “take him to jail” and he seemed upset with Deputy Choate. Lt. Joel could not provide the keys to the car.

Robbs opened the door and located a firearm in the driver’s side floorboard along with Mr. Joel’s badge. Deputy Robbs described the firearm as a black Springfield Arms sub compact. Deputy Robbs secured the weapon at that point, and his chain of command was notified. Other Chattanooga Police personnel responded to the scene, but he wasn’t sure of their names.

Lt. Joel told Deputy Robbs that he was going through a divorce, and never denied drinking. Lt. Joel told Deputy Robbs that he drove the vehicle in question (Ford Fusion) to that location.

Deputy Robbs said he told Chattanooga Police personnel who had arrived on scene what had initially occurred. Deputy Robbs stated Lt. Joel was being passive-aggressive with Deputy Choate, but while he was being handcuffed Deputy Robbs did not let the situation rise to the level of resisting on Lt. Joel’s part. He wasn’t docile, but was upset.

Deputy Robbs stated the choice was made to change locations to release Lt. Joel into the custody of Lt. DePrimo. He was told he could get back in service by his supervisor at that point.

Deputy Robbs stated Lt. Joel eventually calmed down, but had his initial behavior continued he would have been arrested. Deputy Robbs said that he didn’t think Lt. Joel could have driven a vehicle based on his intoxication level. Lt. Joel seemed pretty confident with his behavior, and it didn’t seem to bother him when he got caught. He obviously knew what he was doing was wrong, being in law enforcement, but his overall attitude of taunting them to take him to jail was inappropriate.

mm. Three CPD supervisors arrived at the scene where the deputies detained Joel: Lt. Joe Primo, Edwin McPherson, and Zach McCullough. Lt. Joe Primo took physical custody of Joel, drove Joel to a waffle house in Cleveland, TN, had a meal, then after Joel “sobered up” took Joel to Joel’s home.

nn. Joel faced a subsequent disciplinary hearing set on two occasions. However, rather than hold the hearing, the City allowed Joel to resign and Plaintiffs believe with a pension after Joel threatened to sue the City. The second hearing date was set for November 8, 2018, but Joel resigned on November 7, 2018.

oo. Rather than suspend Joel with or without pay immediately after the incident at Amigo's, the City placed Joel on administrative leave, which was later modified to "modified duty status."

Desmond Logan:

pp. Starting in 2015, former CPD officer Desmond Logan ("Logan") was the subject of at least 3 rape allegations by three different women.

qq. Despite filing a complaint with CPD by at least two of the women, nothing appears in Logan's personnel records held by the City to reflect any investigation by IAU or any branch of CPD.

rr. Not until the third woman made claims of rape against Logan did the City take steps to remove Logan from the streets as a police officer.

ss. The City hired Logan as a CPD police officer despite Logan having been fired from another police officer position as a University of Tennessee at Chattanooga campus police officer after allegedly harassing a woman while working security at an event in 2016, according to an incident report

Benjamin Piazza:

tt. Benjamin Piazza ("Piazza") has a history of officer misconduct since he joined the Chattanooga Police Department on January 11, 2013. That misconduct included the following:

[a]. 2015 Verbal reprimand for failure to turn on car camera during an arrest in violation of department policy.

[b]. 2016 discipline for lying to his supervisor that he turned in all late or missing 40 or so DUI case files to the District Attorney. Piazza only

turned in 3 case files. As a result, Piazza was demoted and suspended by then Chief Fred Fletcher.

[c]. Also, in 2016, Piazza lied to his supervisor again about a “prank” he pulled on fellow officers wherein Piazza sped past said officers, cursing at them, then wondered why he didn’t get a reaction from them. Piazza, in an attempt to get the said officers’ reaction, threw firecrackers at the said officers whereby these officers believed they were being fired upon with a gun.

[d]. Piazza also had, in his short time as a police officer, complaints ranging from rudeness to excessive force.

[e]. On March 10, 2018, Piazza beat and falsely charged Frederico Wolfe (“Wolfe”) with resisting arrest. Although Piazza wrote a use of force report at the time of the incident, no one from the police department’s command ranks were aware of the beating Piazza inflicted upon Wolfe until January 2019 when the Times/Free-Press published dash and body camera video and audio of Piazza beating and abusing Wolfe.

[f]. There were two other officers who participated with Piazza as Piazza beat Wolfe; however, neither of these other two officers ever attempted to stop Piazza from his assault upon Wolfe nor did they ever report Piazza’s misconduct to anyone in the police department chain of command.

56. The failure of the City’s highest ranking police officers to remove officers from duty when they exhibit gross misconduct, exhibit odd behavior, and allow officers fired to later

return to their jobs or even promote them later constitutes a deliberate indifference to the public at large and created the atmosphere that allowed the individual defendants in the case at bar to believe their conduct would go unpunished and was the direct and proximate cause of Plaintiffs' damages and injuries.

a. Such conduct by the City through its police command ranks establishes the City cares more about its officers than the public at large, even when its officers persist in conduct that reflects inability to perform duties, and malfeasance of performance.

b. Such conduct by the City through its police command ranks establishes the City cares more about its officers than the public at large, despite recommendations for discipline by its own police personnel tasked with investigating police misconduct.

c. Such conduct by the City through its police command ranks establishes the City allows "procedures" to clear officers charged with misconduct that are solely in the hands of the police command rank officers, and is tantamount to a sham of internal oversight of its police personnel.

d. The delays in IAU investigations seen during Crumley's tenure and with Defendant Sutton reveals a long-rooted custom by the City to delay giving information to victims of police misconduct in an attempt to get the victims beyond their one-year statute of limitation, thus depriving persons with legitimate claims any ability to redress violations of their rights at the hands of officers.

57. The City's failure to take prompt action against Page, and its retaliation against the women who complained about Page, constitutes a deliberate indifference to the public at

large and created the atmosphere that allowed the individual defendants to believe their conduct in this matter before the Court would go unpunished and was the direct and proximate cause of Plaintiff's injuries.

58. The failure of the City to discipline Page, a friend of the former mayor, reveals a systemic culture of depravity and indifference to the laws of the land and the rights of all persons within the corporate limits of the City of Chattanooga that permeated to all levels of employees of the City a belief that misconduct was tolerated by the highest levels of City government and thus, would not be reported and punished, and such indifference was the direct and proximate cause of the Plaintiff's injuries and mental suffering.

59. The refusal of the City to take action against Page, and its retaliation against the female employee, and the subsequent defense of Page against the EEOC's overwhelming evidence of sexual misconduct by Page created a parallel culture of fear of reprisal among those officers and employees who would report the malfeasance.

Count One:
Violation of Civil Rights Under
Color of Law 42 U.S.C. §1983 –
Unreasonable Seizure by Excessive Force

60. Pursuant to Rule 10 of the Tennessee Rules of Civil Procedure, Plaintiffs reassert and incorporate fully all averments stated in this Complaint as if fully set out herein.

61. Defendants Thomas, Clemons, Elliott, Van Ness, and Bulkley had non-delegable duties to refrain from the use of excessive force against the Plaintiffs and to intervene and prevent their fellow defendants from using excessive force against the Plaintiffs.

62. Defendants Thomas, Clemons, Elliott, Van Ness, and Bulkley had non-delegable duties to report the misconduct of their fellow defendants to the command staff of the City's police department.

63. The force the three officers (who entered the home) used against Plaintiffs amounted to unlawful force that carried a high risk of causing serious and life-threatening bodily harm, was unnecessary and unreasonable under the circumstances and was the direct and proximate cause of Plaintiffs' injuries both physical and mental, needless suffering, and loss of enjoyment of life.

64. No reasonable law enforcement officer would have acted in this manner.

65. In addition, the failure of Thomas, Clemons, Elliott, Van Ness, and Bulkley to intervene and stop their fellow officers in their actions as set forth herein and their failure to report the misconduct of their fellow officers constituted a joint effort in which they participated as equals.

66. The City had a non-delegable duty to ensure that it properly trained officers to intervene when fellow officers used excessive force, and had an affirmative duty to ensure that its officers were properly trained in the use of force.

67. The City had a non-delegable duty to ensure that it did not retain officers with a propensity to commit violence towards citizens (including the Plaintiffs); who fabricate evidence; and who display odd and aberrant behaviors.

68. The City also had a non-delegable duty to properly investigate all reports of officer misconduct and to take swift and firm action against any offending officer in order to protect the public in general and Plaintiff in particular.

69. The City also had a non-delegable duty to properly and fully investigate all use of force reports written by Chattanooga police officers.

70. The City's continued employment of the individuals identified in the portions of this Complaint titled in-part, "City's Liability," and the City's failure to discipline the same

individuals in any meaningful manner, created an atmosphere that other City employees, including Thomas, Clemons, Elliott, Van Ness, and Bulkley, could act in the same manner, and thus not be punished in any significant way. The lack of action as to Page, and the retaliation by the City against the persons who filed complaints against Page also created an environment that stifled Thomas, Clemons, Elliott, Van Ness, and Bulkley from intervening in the misconduct of their fellow officers and reporting the misconduct of their fellow officers to the command structure of the City police department.

72. The failures of the City as set forth in previous paragraphs constituted deliberate indifference on the part of the City, created an environment that allowed the misconduct of Thomas, Clemons, Elliott, Van Ness, and Bulkley against the Plaintiffs, constituted a policy of the City, and was the direct and proximate cause of Plaintiffs' injuries both physical and mental, needless suffering, and loss of enjoyment of life.

73. Thomas, Clemons, Elliott, Van Ness, and Bulkley acted under color of law and their negligence and intentional acts along with the deliberate indifference of the City deprived the Plaintiffs of their rights secured to them under the Fourth and Fourteenth Amendments to United States Constitution to be free from unreasonable seizures of their persons without Due Process of Law.

74. Plaintiff sues the City and Thomas, Clemons, Elliott, Van Ness, and Bulkley in their official and individual capacities under this Count.

75. Thomas, Clemons, Elliott, Van Ness, and Bulkley committed their acts against Plaintiffs with actual malice toward the Plaintiffs and with willful and wanton indifference to and with deliberate disregard for the constitutional rights of the Plaintiffs. Thus, the Plaintiffs are entitled to punitive damages, actual damages, and attorney fees pursuant to 42. U.S.C. §1988.

76. The omissions of the City constitute deliberate indifference toward the Plaintiffs and with willful and wanton indifference to and with deliberate disregard for the constitutional rights and statutory civil rights of the Plaintiffs. This failure constitutes deliberate indifference and was the direct and proximate cause of Plaintiffs' injuries. Thus, the Plaintiffs are entitled to damages, and attorney fees pursuant to 42. U.S.C. §1988.

Count Two:
Violation of Civil Rights Under
Color of Law 42 U.S.C. §1983 –
Unreasonable Search and Entry

77. Pursuant to Rule 10 of the Tennessee Rules of Civil Procedure, Plaintiffs reassert and incorporate fully all averments stated in this Complaint as if fully set out herein.

78. Defendants Thomas, Clemons, Elliott, Van Ness, and Bulkley had non-delegable duties to refrain from entering Plaintiff's home without a valid search warrant. In fact, these defendants had no valid or lawful basis to justify their forced entry into the residence. The acts of these defendants constituted a search in that they were looking for evidence of a crime.

79. Despite the fact that Plaintiffs are unable to fully identify the three officers who made the illegal entry into the kitchen of Plaintiffs' home, Thomas, Clemons, Elliott, Van Ness, and Bulkley acted in unison and thus Plaintiffs assert that all five defendants named in this ¶ share equally in the responsibility for the entry.

80. Moreover, the City is estopped from asserting any defense it may raise due to Plaintiffs' inability to properly identify the said three officers because of Sutton's improper delay and stall tactics.

81. Unlawful entry into the Plaintiffs' home was unnecessary and unreasonable under the circumstances and was the direct and proximate cause of Plaintiffs' injuries both physical and mental, needless suffering, and loss of enjoyment of life.

82. No reasonable law enforcement officer would have acted in this manner.

83. In addition, the failure of Thomas, Clemons, Elliott, Van Ness, and Bulkley to intervene and stop their fellow officers in their actions as set forth herein and their failure to report the misconduct of their fellow officers constituted a joint effort in which they participated as equals.

84. The City had a non-delegable duty to ensure that it properly trained officers to intervene when fellow officers conducted unlawful searches and entries into private homes.

85. The City had a non-delegable duty to ensure that it did not retain officers with a propensity to commit violence towards citizens (including the Plaintiffs); who fabricate evidence; and who display odd and aberrant behaviors.

86. The City also had a non-delegable duty to properly investigate all reports of officer misconduct and to take swift and firm action against any offending officer in order to protect the public in general and Plaintiffs in particular.

87. The City also had a non-delegable duty to properly and fully investigate all use of force reports written by Chattanooga police officers.

88. The City's continued employment of the individuals identified in the portions of this Complaint titled in-part, "City's Liability," and the City's failure to discipline the same individuals in any meaningful manner, created an atmosphere that other City employees, including Thomas, Clemons, Elliott, Van Ness, and Bulkley, could act in the same manner, and thus not be punished in any significant way. The lack of action as to Page, and the retaliation by the City against the persons who filed complaints against Page also created an environment that stifled Thomas, Clemons, Elliott, Van Ness, and Bulkley from intervening in the misconduct and reporting the misconduct to the command structure of the City police department.

89. The failures of the City as set forth in previous paragraphs constituted deliberate indifference on the part of the City, created an environment that allowed the misconduct of Thomas, Clemons, Elliott, Van Ness, and Bulkley against the Plaintiffs, constituted a policy of the City, and was the direct and proximate cause of Plaintiffs' injuries both physical and mental, needless suffering, and loss of enjoyment of life.

90. Thomas, Clemons, Elliott, Van Ness, and Bulkley acted under color of law and their negligence and intentional acts along with the deliberate indifference of the City deprived the Plaintiffs of their rights secured to them under the Fourth and Fourteenth Amendments to United States Constitution to be free from unreasonable searches of their home without Due Process of Law.

91. Plaintiffs sue the City and Thomas, Clemons, Elliott, Van Ness, and Bulkley in their official and individual capacities under this Count.

92. Thomas, Clemons, Elliott, Van Ness, and Bulkley committed their acts against Plaintiffs with actual malice toward the Plaintiffs and with willful and wanton indifference to and with deliberate disregard for the constitutional rights of the Plaintiffs. Thus, the Plaintiffs are entitled to punitive damages, actual damages, and attorney fees pursuant to 42. U.S.C. §1988.

93. The omissions of the City constitute deliberate indifference toward the Plaintiffs and with willful and wanton indifference to and with deliberate disregard for the constitutional rights and statutory civil rights of the Plaintiffs. This failure constitutes deliberate indifference and was the direct and proximate cause of Plaintiffs' injuries. Thus, the Plaintiffs are entitled to damages, and attorney fees pursuant to 42. U.S.C. §1988.

Count Three:
Violation of Civil Rights Under
Color of Law 42 U.S.C. §1983 –
Failure to Protect and Render Aid

94. Pursuant to Rule 10 of the Tennessee Rules of Civil Procedure, Plaintiffs reassert and incorporate fully all averments stated in this Complaint as if fully set out herein.

95. Thomas, Clemons, Elliott, Van Ness, and Bulkley had non-delegable duties to intervene and prevent their fellow defendants from using excessive force against the Plaintiffs and from making unlawful entry and search of the Plaintiffs' home.

96. The individual defendants had non-delegable duties to report the misconduct of their fellow defendants to the command staff of the City's police department.

97. Once the Plaintiffs were in the joint custody of Thomas, Clemons, Elliott, Van Ness, and Bulkley there existed a special relationship between the Plaintiffs and Thomas, Clemons, Elliott, Van Ness, and Bulkley.

98. Once Plaintiffs were in the joint custody of Thomas, Clemons, Elliott, Van Ness, and Bulkley, they had an affirmative duty to protect Plaintiffs from injury from one another and to report the misconduct of their fellow co-defendants to those charged with the oversight of officer conduct.

99. The City had a non-delegable duty to ensure that it properly trained officers to intervene when fellow officers use excessive force or make unlawful searches, and had an affirmative duty to ensure that its officers were properly trained in the use of force and searches of homes.

100. The City had a non-delegable duty to ensure that it did not retain officers with a propensity to commit violence towards citizens (including the Plaintiffs); who to fabricate evidence; and who display odd and aberrant behaviors.

101. The City also had a non-delegable duty to properly investigate all reports of officer misconduct and to take swift and firm action against any offending officer in order to protect the public in general and Plaintiffs in particular.

102. The failure of Thomas, Clemons, Elliott, Van Ness, and Bulkley to intervene and stop the others in their actions as set forth herein and their failure to report the misconduct of their fellow officers constituted a joint effort in which they participated as equals.

103. The City's continued employment of the individuals identified in the portions of this Complaint titled in-part, "City's Liability," and the City's failure to discipline the same individuals in any meaningful manner, created an atmosphere that other City employees, including Thomas, Clemons, Elliott, Van Ness, and Bulkley, could act in the same manner, and thus not be punished in any significant way. The lack of action as to Page, and the retaliation by the City against the persons who filed complaints against Page also created an environment that stifled Thomas, Clemons, Elliott, Van Ness, and Bulkley from intervening in the misconduct and reporting the misconduct to the command structure of the City police department.

104. The failures of the City as set forth in previous paragraphs constituted deliberate indifference on the part of the City, created an environment that allowed the misconduct of Thomas, Clemons, Elliott, Van Ness, and Bulkley against the Plaintiffs, constituted a policy of the City, and was the direct and proximate cause of Plaintiffs' injuries both physical and mental, needless suffering, and loss of enjoyment of life.

105. Thomas, Clemons, Elliott, Van Ness, and Bulkley acted under color of law and their negligence and intentional acts along with the deliberate indifference of the City deprived the Plaintiffs of their rights secured to them under the Fourteenth Amendment to United States

Constitution to be free from injury and harm while in the custody of the individual defendants and the City.

106. Plaintiffs sue the City and Thomas, Clemons, Elliott, Van Ness, and Bulkley in their official and individual capacities under this Count.

107. Thomas, Clemons, Elliott, Van Ness, and Bulkley committed their acts against Plaintiffs with actual malice toward the Plaintiffs and with willful and wanton indifference to and with deliberate disregard for the constitutional rights of the Plaintiffs. Thus, the Plaintiffs are entitled to punitive damages, actual damages, and attorney fees pursuant to 42. U.S.C. §1988.

108. The omissions of the City constitute deliberate indifference toward the Plaintiffs and with willful and wanton indifference to and with deliberate disregard for the constitutional rights and statutory civil rights of the Plaintiffs. This failure constitutes deliberate indifference and was the direct and proximate cause of Plaintiffs' injuries. Thus, the Plaintiffs are entitled to damages, and attorney fees pursuant to 42. U.S.C. §1988.

Count Four:
Violation of Civil Rights Under
Color of Law 42 U.S.C. §1983 –
Deprivation of Equal Protection

109. Pursuant to Rule 10 of the Tennessee Rules of Civil Procedure, Plaintiff reasserts and incorporates fully all averments stated in this Complaint as if fully set out herein.

110. Under the First Amendment of the United States Constitution, Plaintiffs had a right to petition the City, and the state and federal courts to seek redress of grievances. The claims Plaintiffs brought to Sutton about Thomas, Clemons, Elliott, Van Ness, and Bulkley were such attempts.

111. However, Sutton's unjustified delays were designed to prevent Plaintiffs from any ability to bring a lawsuit against Thomas, Clemons, Elliott, Van Ness, and Bulkley and the City before the expiration of the applicable one-year statute of limitation.

112. This failure by Sutton deprived Plaintiffs from the benefit of the Equal Protection of Law.

113. Sutton's delays are a continuation and/or a reconstitution of the delays conducted by Crumley.

114. Sutton had non-delegable duties to properly investigate Plaintiffs' claims in a timely manner.

115. Sutton's notice to Dale that she would not release the names of the officers who made the entry into the kitchen was a deliberate and calculated attempt to get the Plaintiffs beyond the expiration of the applicable one-year statute of limitation.

116. No reasonable IAU investigator or IAU commander would act in this manner.

117. The City had non-delegable duties to properly train its IAU investigators to promptly investigate all citizen complaints against officers, and to provide much needed information as to the identities of the offending officer and to keep such citizens updated on the status of their complaints when called upon to make such updates.

118. The failures of the City as noted throughout the body of this Complaint constitutes deliberate indifference, and was the direct and proximate cause of Plaintiffs' damages.

119. Sutton acted under color of law and her negligence and intentional acts along with the deliberate indifference of the City deprived the Plaintiffs of their rights secured to them under the Fourteenth Amendment to United States Constitution to Equal Protection Under Law.

120. Plaintiffs sue the City and Sutton in her official and individual capacities under this Count.

121. Sutton committed her acts against Plaintiffs with actual malice toward the Plaintiffs and with willful and wanton indifference to and with deliberate disregard for the constitutional rights of the Plaintiffs. Thus, the Plaintiffs are entitled to punitive damages, actual damages, and attorney fees pursuant to 42. U.S.C. §1988.

122. The omissions of the City constitute deliberate indifference toward the Plaintiffs and with willful and wanton indifference to and with deliberate disregard for the constitutional rights and statutory civil rights of the Plaintiffs. This failure constitutes deliberate indifference and was the direct and proximate cause of Plaintiffs' injuries. Thus, the Plaintiffs are entitled to damages, and attorney fees pursuant to 42. U.S.C. §1988.

Count Five:
Common Law Battery

123. Pursuant to Rule 10 of the Tennessee Rules of Civil Procedure, Plaintiffs reassert and incorporate fully all averments stated in this Complaint as if fully set out herein.

124. The three officers who entered the kitchen physically abused Plaintiffs without any lawful justification. Plaintiffs were fully cooperative and did not present themselves as a threat to anyone to allow anyone to use the force they used in this matter.

125. The failures of Thomas, Clemons, Elliott, Van Ness, and Bulkley to intervene in one another's attack and their failures to report one another's misconduct was tantamount to a joint venture wherein Thomas, Clemons, Elliott, Van Ness, and Bulkley participated as equals to one another.

126. Thomas, Clemons, Elliott, Van Ness, and Bulkley's joint actions against Plaintiffs were the direct and proximate cause of Plaintiffs' injuries and mental anguish. Thomas,

Clemons, Elliott, Van Ness, and Bulkley committed their acts with actual malice that allows Plaintiffs an award of substantial punitive damages.

127. Plaintiffs sue Thomas, Clemons, Elliott, Van Ness, and Bulkley in their individual capacities.

Count Six:
Common Law Assault

128. Pursuant to Rule 10 of the Tennessee Rules of Civil Procedure, Plaintiffs reassert and incorporate fully all averments stated in this Complaint as if fully set out herein.

129. The three officers who entered the kitchen physically abused Plaintiffs without any lawful justification. Plaintiffs were fully cooperative and did not present themselves as a threat to anyone to allow anyone to use the force they used in this matter.

130. The failures of Thomas, Clemons, Elliott, Van Ness, and Bulkley to intervene in one another's attack and their failures to report one another's misconduct was tantamount to a joint venture wherein Thomas, Clemons, Elliott, Van Ness, and Bulkley participated as equals one another.

131. Thomas, Clemons, Elliott, Van Ness, and Bulkley's joint actions against Plaintiffs were the direct and proximate cause of Plaintiffs' injuries and mental anguish. Thomas, Clemons, Elliott, Van Ness, and Bulkley committed their acts with actual malice that allows Plaintiffs an award of substantial punitive damages.

132. Plaintiffs sue Thomas, Clemons, Elliott, Van Ness, and Bulkley in their individual capacities.

Count Seven:
**Intentional Infliction
of Emotional Distress**

133. Pursuant to Rule 10 of the Tennessee Rules of Civil Procedure, Plaintiffs reassert and incorporate fully all averments stated in this Complaint as if fully set out herein.

134. The joint acts and omissions of Thomas, Clemons, Elliott, Van Ness, and Bulkley has impacted Plaintiffs' well-being in that they constantly fear harm from anyone in any lawful authority. As a direct and proximate result, Dale continues to seek mental health treatment.

135. Thomas, Clemons, Elliott, Van Ness, and Bulkley's joint actions against Plaintiffs were the direct and proximate cause of Plaintiffs' injuries and mental anguish. Thomas, Clemons, Elliott, Van Ness, and Bulkley committed their acts with actual malice that allows Plaintiffs an award of substantial punitive damages.

136. Plaintiffs sue Thomas, Clemons, Elliott, Van Ness, and Bulkley in their individual capacities.

WHEREFORE, the Plaintiffs demand judgment against the Defendants and requests the following relief:

a. The Court to award compensatory damages in the amount of FIVE HUNDRED AND FIFTY THOUSAND DOLLARS (\$550,000) and punitive damages in the amount of SEVEN HUNDRED AND FIFTY THOUSAND DOLLARS (\$750,000);

b. That the Court award attorney's fees;

c. That the Court award costs, and discretionary costs;

d. Any other relief the Court may deem fit and proper;

e. Any other relief the Court may deem fit and proper pursuant to 42 U.S.C. §1988,

and

f. Allow a jury trial on all issues.

Respectfully submitted,

By: _____

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