

**IN THE CIRCUIT COURT OF ST. LOUIS COUNTY
STATE OF MISSOURI**

MARVIA GRAY,

Plaintiff,

v.

CITY OF DES PERES, MISSOURI; DES PERES POLICE OFFICER MICHAEL CLAYBORNE; DES PERES POLICE OFFICER BRANDLEY SUMMERS; DES PERES POLICE OFFICER RYAN RIGHESISSEN; DES PERES POLICE OFFICER BILL MAULL,

Defendants.

Case No.

Division

JURY TRIAL DEMANDED

COMPLAINT

Plaintiff Marvia Gray, by and through her counsel, The Dailey Law Firm and Action Injury Law Group, and for her cause of action against Defendants, City of Des Peres, Missouri, Des Peres Police Officer Michael Clayborne, Des Peres Police Officer Brandley Summers, Des Peres Police Officer Ryan Righesisen, and Des Peres Police Officer Bill Maull hereby states as follows:

PARTIES

1. Plaintiff Marvia Gray is a sixty-eight year old African American female, resident of the State of Missouri and the mother of Derek Gray.

2. Defendant the City of Des Peres, Missouri (“City of Des Peres”) is a city and a political subdivision of the State of Missouri duly organized under the Constitution of Missouri. The Des Peres Department of Public Safety (“DPDPS”) is an instrumentality of the City of Des Peres, organized and controlled pursuant to the Statutes of the State of Missouri.

3. Defendant Des Peres Police Officer Michael Clayborne (“Officer Clayborne”) is employed by the DPDPS.

4. Defendant Des Peres Police Officer Brandley Summers (“Officer Summers”) is employed by the DPDPS.

5. Des Peres Police Officer Ryan Righesisen (“Officer Righesien”) is employed by the DPDPS.

6. Des Peres Police Officer Bill Maull (“Officer Maull”) is employed by the DPDPS.

JURISDICTION AND VENUE

7. This Court has general jurisdiction over the Defendants because the defendants are residents of St. Louis County, Missouri.

8. Venue in this Court is proper under Section 508.010 of the Missouri Revised Statutes because the incident at issue occurred in St. Louis County, Missouri.

ALLEGATIONS COMMON TO ALL COUNTS

9. Plaintiff Marvia Gray and her son Derek Gray (“the Grays”) were present on March 23, 2020, at the Sam’s Club located at 13455 Manchester Road (“the Store”) in St. Louis, Missouri to shop for a television and other items.

10. Marvia was a frequent customer of the Store and known by the Store’s staff and DPDPS that worked at or near the store.

11. Among other items purchased that day, the Grays purchased a 65” Sony Bravia flat screen television (“Television”) at the Store.

12. After purchasing the Television, the Grays showed their sale receipt to a Store employee who was stationed at the door scanning receipts to ensure that items were not stolen.

13. The Grays discovered that the Television would not fit into their 2018 Lexus sports utility vehicle (“SUV”).

14. Derek Gray informed the Store staff that he would return later in the day to pick up the television. Derek was told by Store employees to leave the Television by a pallet near the door and that it would be there when he returned.

15. Derek Gray returned to the store later in the day on March 23, 2020, with his receipt to pick up the Television. When he returned to the store, he found that the Television had been moved from the pallet near the front of the store.

16. When Derek Gray asked Store employees about the whereabouts of the Television, it was withheld from him on suspicion that he was attempting to steal it.

17. Eventually that same day, the Television was released to Derek Gray when a Store employee interceded with management and confirmed that Derek had in fact made the purchase.

18. Derek Gray then left the Store with the Television.

19. As he attempted to load the Television into their vehicle, Officer Clayborne followed Derek to his vehicle.

20. After Derek Gray left the store, a Store employee informed Officer Clayborne that Derek and Marvia Gray were at the store earlier and had in fact purchased the Television that Derek was loading into the family’s Lexus SUV.

21. Despite knowing this information, Officer Clayborne made an emergency phone call to the Des Peres Police Department. During this emergency call, Officer Clayborne falsely reported that he had “witnessed Gray steal a TV and place it in the parked vehicle.”

22. Shortly after leaving the Store with the Television, Derek Gray arrived at Marvia Gray's residence with the Television and informed Marvia Gray about the false accusations against him of attempting to steal the Television.

23. The Gray's immediately returned to the Store to get a refund for the Television.

24. While the Grays were at the Store attempting to get a refund, Officer Clayborne, Officer Summers, Officer Righesisen, and Officer Maull, without cause or adequate provocation and in the presence of countless witnesses, violently and physically seized Marvia Gray and Derek Gray, throwing them to the floor, beating them, handcuffing them, then arresting them. These actions are captured on closed-circuit video taken by the surveillance cameras in the Store and cell phones of onlookers.

25. Marvia Gray was arrested and falsely charged with interfering with an officer and resisting arrest ("Charges Against Marvia Gray") after she attempted to walk away from the Defendant Police Officers.

26. The Charges Against Marvia Gray are false.

27. The City of Des Peres and DPDPS reported that they recovered the 65" Sony Bravia purchased by the Grays as property stolen from the Store.

28. The 65" Sony Bravia reported as stolen was in fact purchased by the Grays and was at no time relevant herein "stolen property."

29. Officer Clayborne knew or should have known that the Television was not "in fact stolen" prior to 6:30pm on March 23, 2020.

30. After Derek Gray and Marvia Gray were arrested, they were taken into police custody.

31. On March 23, 2020, the DPDPS seized the Television and other purchases Derek Gray and Marvia Gray had made at the Store and towed their vehicle.

32. On March 24, 2020, the DPDPS released the Television and other purchases to Marvia Gray and Derek Gray.

33. As a result of the actions of Officer Clayborne, Officer Summers, Officer, Righesisen, and Officer Maull, Marvia Gray suffered severe injuries to her tailbone, her back, her rotator cuff, her knees and her arms, among other injuries. These injuries have severely aggravated Marvia Gray's pre-existing medical conditions of sarcoidosis, rheumatoid arthritis, osteoarthritis, osteoporosis and glaucoma. These injuries have caused Marvia Gray irremediable and permanent physical loss.

34. As a result of the actions of one or more of Officer Clayborne, Officer Summers, Officer Righesisen, and Officer Maull, Derek Gray suffered severe injuries to his head requiring approximately twelve (12) stitches and seven (7) metal staples, injury above the right eye requiring seven (7) stitches, three (3) shattered front teeth, severe neck and back pain, among other injuries. Witnessing her only son suffering these injuries after being falsely accused caused Marvia Gray extreme emotional distress and other psychological trauma.

35. Defendant Police Officers Clayborne, Summers, Righesisen, and Maull intentionally assaulted Plaintiff Marvia Gray and Derek Gray.

36. Defendant Police Officers Clayborne, Summers, Righesisen, and Maull either intentionally or negligently inflicted emotional distress upon Marvia Gray by assaulting her only son in front of her.

COUNT I
ASSAULT AND BATTERY AGAINST DEFENDANT OFFICER CLAYBORNE

37. Plaintiff incorporates by reference the allegations in the foregoing paragraphs of this Complaint as fully set forth herein.

38. Officer Clayborne physically assaulted Plaintiff Marvia Gray, without justification or provocation, by forcefully pushing her, violently and physically seizing her, throwing her to the floor, sitting on her, pressing his knee into her back, squeezing her hands, twisting her arms and wrists, and handcuffing her.

39. As a result of this unlawful assault and battery, Marvia Gray was injured.

40. As a direct and proximate result of the assault on Marvia Gray by Officer Clayborne, Plaintiff Marvia Gray suffered physical injuries, pain and suffering, and incurred medical bills.

41. The unlawful actions of the Defendant also caused her pain of the mind, including but not limited to mental anguish, inconvenience, humiliation, embarrassment, loss of enjoyment, stress and loss of reputation, and inability to return to work.

42. The conduct of Officer Clayborne was reckless and callously indifferent to the rights of Plaintiff and malicious and wanton with respect to those rights.

43. Officer Clayborne intentionally harmed Plaintiff Marvia Gray without just cause or acted with a deliberate and flagrant disregard for her safety. An award of punitive damages is warranted and necessary to punish the Defendant in his individual capacity and to deter him and others from the same or similar transgressions in the future.

WHEREFORE, Plaintiff Marvia Gray prays for judgment against Officer Clayborne for compensatory damages in an amount that is fair and reasonable for her physical injuries and pain and suffering and for emotional pain and suffering; for punitive damages against the Defendants

in their individual capacities; for the costs of this action, to include but not necessarily be limited to reasonable attorney's fees; and for such other and further relief as the Court deems fair and appropriate under the circumstances.

COUNT II
ASSAULT AND BATTERY AGAINST DEFENDANT OFFICER SUMMERS

44. Plaintiff incorporates by reference the allegations in the foregoing paragraphs of this Complaint as fully set forth herein.

45. Officer Summers physically assaulted Plaintiff Marvia Gray, without justification or provocation, by forcefully pushing her, violently and physically seizing her, throwing her to the floor, sitting on her, pressing his knee into her back, squeezing her hands, twisting her arms and wrists, and handcuffing her.

46. As a result of this unlawful assault and battery, Marvia Gray was injured.

47. As a direct and proximate result of the assault on Marvia Gray by Officer Summers, Plaintiff Marvia Gray suffered physical injuries, pain and suffering, and incurred medical bills.

48. The unlawful actions of the Defendant also caused her pain of the mind, including but not limited to mental anguish, inconvenience, humiliation, embarrassment, loss of enjoyment, stress and loss of reputation, and inability to return to work.

49. The conduct of Officer Summers was reckless and callously indifferent to the rights of Plaintiff and malicious and wanton with respect to those rights.

50. Officer Summers intentionally harmed Plaintiff Marvia Gray without just cause or acted with a deliberate and flagrant disregard for her safety. An award of punitive damages is warranted and necessary to punish the Defendant in his individual capacity and to deter him and others from the same or similar transgressions in the future.

WHEREFORE, Plaintiff Marvia Gray prays for judgment against Officer Summers for compensatory damages in an amount that is fair and reasonable for her physical injuries and pain and suffering and for emotional pain and suffering; for punitive damages against the Defendants in their individual capacities; for the costs of this action, to include but not necessarily be limited to reasonable attorney's fees; and for such other and further relief as the Court deems fair and appropriate under the circumstances.

COUNT III
ASSAULT AND BATTERY AGAINST DEFENDANT OFFICER RIGHESISEN

51. Plaintiff incorporates by reference the allegations in the foregoing paragraphs of this Complaint as fully set forth herein.

52. Officer Righesisen physically assaulted Plaintiff Marvia Gray, without justification or provocation, by forcefully pushing her, violently and physically seizing her, throwing her to the floor, sitting on her, pressing his knee into her back, squeezing her hands, twisting her arms and wrists, and handcuffing her.

53. As a result of this unlawful assault and battery, Marvia Gray was injured.

54. As a direct and proximate result of the assault on Marvia Gray by Officer Righesisen, Plaintiff Marvia Gray suffered physical injuries, pain and suffering, and incurred medical bills.

55. The unlawful actions of the Defendant also caused her pain of the mind, including but not limited to mental anguish, inconvenience, humiliation, embarrassment, loss of enjoyment, stress and loss of reputation, and inability to return to work.

56. The conduct of Officer Righesisen was reckless and callously indifferent to the rights of Plaintiff and malicious and wanton with respect to those rights.

57. Officer Righesisen intentionally harmed Plaintiff Marvia Gray without just cause or acted with a deliberate and flagrant disregard for her safety. An award of punitive damages is warranted and necessary to punish the Defendant in his individual capacity and to deter him and others from the same or similar transgressions in the future.

WHEREFORE, Plaintiff Marvia Gray prays for judgment against Officer Righesisen for compensatory damages in an amount that is fair and reasonable for her physical injuries and pain and suffering and for emotional pain and suffering; for punitive damages against the Defendants in their individual capacities; for the costs of this action, to include but not necessarily be limited to reasonable attorney's fees; and for such other and further relief as the Court deems fair and appropriate under the circumstances.

COUNT IV
ASSAULT AND BATTERY AGAINST DEFENDANT OFFICER MAULL

58. Plaintiff incorporates by reference the allegations in the foregoing paragraphs of this Complaint as fully set forth herein.

59. Officer Maull physically assaulted Plaintiff Marvia Gray, without justification or provocation, by forcefully pushing her, violently and physically seizing her, throwing her to the floor, sitting on her, pressing his knee into her back, squeezing her hands, twisting her arms and wrists, and handcuffing her.

60. As a result of this unlawful assault and battery, Marvia Gray was injured.

61. As a direct and proximate result of the assault on Marvia Gray by Officer Maull, Plaintiff Marvia Gray suffered physical injuries, pain and suffering, and incurred medical bills.

62. The unlawful actions of the Defendant also caused her pain of the mind, including but not limited to mental anguish, inconvenience, humiliation, embarrassment, loss of enjoyment, stress and loss of reputation, and inability to return to work.

63. The conduct of Officer Maull was reckless and callously indifferent to the rights of Plaintiff and malicious and wanton with respect to those rights.

64. Officer Maull intentionally harmed Plaintiff Marvia Gray without just cause or acted with a deliberate and flagrant disregard for her safety. An award of punitive damages is warranted and necessary to punish the Defendant in his individual capacity and to deter him and others from the same or similar transgressions in the future.

WHEREFORE, Plaintiff Marvia Gray prays for judgment against Officer Maull for compensatory damages in an amount that is fair and reasonable for her physical injuries and pain and suffering and for emotional pain and suffering; for punitive damages against the Defendants in their individual capacities; for the costs of this action, to include but not necessarily be limited to reasonable attorney's fees; and for such other and further relief as the Court deems fair and appropriate under the circumstances.

COUNT V
FALSE IMPRISONMENT AGAINST ALL DEFENDANTS

65. Plaintiff incorporates by reference the allegations in the foregoing paragraphs of this Complaint as if fully set forth herein.

66. Plaintiff Marvia Gray was arrested against her will, consent or authority by Officer Clayborne, Officer Summers, Officer Righesisen, and Officer Maull.

67. Officer Clayborne, Officer Summers, Officer Righesisen, and Officer Maull acted with the intent to confine, arrest and detain Marvia Gray against her will, consent or authority.

68. Plaintiff Marvia Gray was detained by the Des Peres Police Department without legal justification.

69. As a result of these actions Marvia Gray was injured.

70. As a direct and proximate result of the confinement, arrest and detention of Marvia Gray by the Defendants, Plaintiff Marvia Gray suffered physical injuries and pain and suffering, and caused her to incur medical bills. The unlawful actions of the Defendants also caused her pain of the mind, including but not limited to mental anguish, inconvenience, humiliation, embarrassment, loss of enjoyment, stress and loss of reputation.

71. The conduct of the Defendants was reckless and callously indifferent to the rights of Plaintiff and malicious and wanton with respect to those rights.

72. The Defendants intentionally harmed Plaintiff Marvia Gray without just cause or acted with a deliberate and flagrant disregard for her safety. An award of punitive damages is warranted and necessary to punish the Defendant in their individual capacities and to deter them and others from the same or similar transgressions in the future.

WHEREFORE, Plaintiff Marvia Gray prays for judgment Officer Clayborne, Officer Summers, Officer Righesisen, and Officer Maull and the Des Peres Police Department seeking money damages against them for compensatory damages in an amount that is fair and reasonable for her physical injuries and pain and suffering and for emotional pain and suffering; for punitive damages against the Defendants in their individual capacities; for the costs of this action, to include but not necessarily be limited to reasonable attorney's fees; and for such other and further relief as the Court deems fair and appropriate under the circumstances.

COUNT VI
MALICIOUS FALSE PROSECUTION AGAINST ALL DEFENDANTS

73. Plaintiff incorporates by reference each and every allegation and averment set forth in the preceding paragraphs in this Complaint as though fully set forth herein.

74. In detaining and arresting the Plaintiff, the Defendants made an illegal, improper, perverted use of process, a use neither warranted nor authorized by the process.

75. The Defendants had an improper purpose in exercising such illegal, perverted, or improper use of process – namely to conceal their illegal and unconstitutional assault and detention on Plaintiff Marvia Gray.

76. As a direct and proximate result of the actions of the Defendants, Plaintiff sustained damages as set forth above.

77. The conduct of the Defendants was reckless and callously indifferent to the rights of Plaintiff and malicious and wanton with respect to those rights.

78. The Defendants intentionally harmed Plaintiff Marvia Gray without just cause or acted with a deliberate and flagrant disregard for her safety. An award of punitive damages is warranted and necessary to punish the Defendant in their individual capacities and to deter them and others from the same or similar transgressions in the future.

WHEREFORE, Plaintiff Marvia Gray prays for judgment against Defendants seeking money damages against them for compensatory damages in an amount that is fair and reasonable for her physical injuries and pain and suffering and for emotional pain and suffering; for punitive damages against the Defendants in their individual capacities; for the costs of this action, to include but not necessarily be limited to reasonable attorney's fees; and for such other and further relief as the Court deems fair and appropriate under the circumstances.

COUNT VII
STATE LAW CLAIM FOR RESPONDEAT SUPERIOR
AGAINST DEFENDANT CITY DES PERES

79. Plaintiff incorporates by reference each and every allegation and averment set forth in the preceding paragraphs in this Complaint as though fully set forth herein.

80. Officer Clayborne, Officer Summers, Officer Righesisen, and Officer Maull were, at all times material to the allegations made in this complaint, employees and agents of the

Defendant City of Des Peres acting within the scope of their employment. Defendant Des Peres is liable for the acts of Officer Clayborne, Officer Summers, Officer Righesisen, and Officer Maull which violated state law under the doctrine of respondeat superior.

WHEREFORE, Plaintiff Marvia Gray prays for judgment jointly and severally from the City of Des Peres seeking compensatory damages in an amount that is fair and reasonable for her physical injuries and pain and suffering and for emotional pain and suffering; for punitive damages against the City of Des Peres; for the costs of this action, to include but not necessarily be limited to reasonable attorney's fees; and for such other and further relief as the Court deems fair and appropriate under the circumstances.

Respectfully submitted,

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