

UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF NORTH CAROLINA

JA'LANA DUNLAP-BANKS,

Plaintiff,

v.

FAYETTEVILLE POLICE  
DEPARTMENT,

CITY OF FAYETTEVILLE,

FAYETTEVILLE CHIEF OF POLICE  
GINA V. HAWKINS,

OFFICER RYAN HADDOCK,  
individually,

DETECTIVE AMANDA BELL,  
individually,

JOHN AND JANE DOE'S 1-100,  
City of Fayetteville employees and police  
officers,

Defendants.

Civil Action No. 5:22-cv-00425

Judge:

**COMPLAINT FOR DAMAGES AND  
INJUNCTIVE RELIEF**

**DEMAND FOR JURY TRIAL**

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**INTRODUCTION**

**COMES NOW**, the Plaintiff, Ja'Lana Dunlap-Banks, through undersigned counsel, before this Court to file this COMPLAINT, requesting legal and equitable relief for unconstitutional and tortious conduct committed by the City of Fayetteville, the Fayetteville Police Department, the Fayetteville Chief of Police Gina V. Hawkins, and multiple officers (hereinafter collectively referred to as "Defendants"). Plaintiff reserves the right to amend this Complaint.

Plaintiff, a young African American woman, was performing her regular duties as a property manager on September 6, 2022. Following the instructions of her employer, she was calmly taking pictures of rubbish left at her employer's property. Suddenly, uniformed, sworn, and on-duty officers of Fayetteville Police Department stopped and seized Plaintiff in her vehicle, without reasonable suspicion or probable cause of any criminal conduct. Fearing for her safety in the private property she was managing, Plaintiff rightfully began recording the unconstitutional and tortious behavior of the officers. Shortly after the recording began, the officers unlawfully and forcefully dragged Plaintiff out of her vehicle without any explanation. They proceeded to handcuff her, throw her phone on the ground, push her against her car, and aggressively hold her up as she was vomiting from the stress. She still experiences distress from this egregious behavior.

The unprovoked and unreasonable actions of the officers violated Plaintiff's statutory rights pursuant to 42 U.S.C. § 1983, which creates an individual and private right of action against any person who "under color" of the law deprives "any rights, privileges, or immunities secured by the Constitution and laws." Specifically, the officers violated Plaintiff's clearly established rights under the First, Fourth, and Fourteenth Amendments of the United States Constitution.

Furthermore, Defendants' illegal and prolonged restraint of Plaintiff amounted to false imprisonment in North Carolina. In addition, Defendants' actions caused Plaintiff to suffer extreme emotional distress in violation of North Carolina law. Moreover, Defendants' intentional and unjustified physical acts constituted assault and battery under North Carolina law. Defendants also committed negligence under North Carolina law by failing to meet their duty of care in their official duties. Furthermore, Defendants committed trespass against Plaintiff's interests in North Carolina. Finally, Defendants committed negligence by failing to exercise due care in the hiring, training, and supervision of the officers. Plaintiff now seeks damages and injunctive relief.

## **PARTIES**

1. Plaintiff Ja'Lana Dunlap-Banks is an African American female United States citizen and resides in 5732 Aftonshire Drive, Fayetteville, North Carolina 28304.

2. Defendant City of Fayetteville is a municipal corporation and political subdivision, organized and existing under the laws of the State of North Carolina. The City of Fayetteville owns, operates, manages, directs, and controls Defendant Fayetteville Police Department (hereinafter collectively with the City of Fayetteville referred to as "Defendant Fayetteville").

3. Defendant Fayetteville Chief of Police Chief Gina V. Hawkins is the head of the Fayetteville Police Department (hereinafter referred to as "Defendant Chief of Police"). Defendant Chief of Police hires, trains, manages, directs, and controls all officers working for the Fayetteville Police Department.

4. Defendant Officer Ryan Haddock (hereinafter referred to as "Defendant Haddock") is a white male Fayetteville Police Department officer who was uniformed, sworn, and on-duty when he encountered Plaintiff.

5. Defendant Detective Amanda Bell (hereinafter referred to as "Defendant Bell") is a white female Fayetteville Police Department officer who was uniformed, sworn, and on-duty when she encountered Plaintiff.

6. Defendant John and Jane Doe's 1-100 are all relevant employees and officers of Defendant Fayetteville, the names and addresses of residence of which are unknown (hereinafter collectively with Defendant Haddock and Defendant Bell referred to as "Defendant Officers").

7. The City of Fayetteville was at all times relevant to this Complaint responsible for its employees, including the employees of Defendant Fayetteville Police Department. The City of Fayetteville is charged under the law with the duty of hiring, supervising, training, disciplining,

and establishing policy such that the conduct of its employees will conform to the Constitutions and laws of the State of North Carolina and of the United States of America.

8. Defendant Fayetteville and Defendant Officers are “persons” for purposes of 42 U.S.C. § 1983.

9. At all times relevant to this cause, Defendant Officers acted in conformance with policies, practices, usage, and/or customs pertaining to, among other things, investigations, arrests, and use of force, as set by Defendant Fayetteville.

10. At all times relevant to this cause, Defendant Officers were acting within the course and scope of their employment and under color of law.

### **JURISDICTION**

11. Counts I, II, and III in this Complaint seek recourse for the Plaintiff based on a violation of constitutional civil rights under 42 U.S.C. § 1981, a federal statute, and, as such, this Court has jurisdiction over these Claims pursuant to 28 U.S.C. § 1331, which grants federal district courts original jurisdiction over all matters “arising under the Constitution, laws, or treaties of the United States,” as well as 28 U.S.C. § 1343, given the “deprivation, under color of any State law, statute, ordinance, regulation, custom or usage, of any right, privilege or immunity secured by the Constitution of the United States.”

12. Counts IV, V, VI, VII, and VIII in this Complaint seek recourse for the Plaintiff based on tortious conduct under North Carolina law, arising from the same facts as Counts I, II, and III, and, as such this Court has supplemental jurisdiction over these state-based Claims pursuant to 28 U.S.C. § 1367, because they “are so related to claims in the action within such original jurisdiction that they form part of the same case or controversy.”

13. Defendants have established sufficient contacts in the Eastern District, subjecting each of them to personal jurisdiction in this district.

14. This Court has jurisdiction to award attorney's fees and costs to Plaintiff pursuant to 42 U.S.C. §§ 1983 and 1988.

### **VENUE**

15. Venue is proper before this Court pursuant to 28 U.S.C § 1391(b)(2) because the events and omissions giving rise to Plaintiff's claims occurred in Fayetteville, North Carolina, which is situated within the Eastern District of North Carolina.

16. Venue is proper before this Court pursuant to 28 U.S.C § 1391(b)(1) because Defendant Fayetteville are located within the Eastern District of North Carolina.

### **FACTUAL ALLEGATIONS COMMON TO ALL CLAIMS**

17. During the relevant time in question, Plaintiff was a property manager.

18. Plaintiff managed properties for an individual who owned several properties in the Fayetteville, North Carolina, area.

19. During the workday, the owner of the properties would determine Plaintiff's duties, which consisted of, for example, inspecting the properties, ensuring the property premises were clean, communicating with tenants, and following any other instruction of the owner.

20. On September 6, 2022, Plaintiff began her workday as a property manager, and the property owner directed Plaintiff to visit his property located 3400 Clearwater Drive, Fayetteville, North Carolina 28311 (hereinafter referred to as "the Property").<sup>1</sup>

21. Unknown individuals had illegally dumped rubbish in the Property, so the property owner instructed Plaintiff to go to the Property and inspect.

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<sup>1</sup> Exhibit A, Property located at 3400 Clearwater Drive, Fayetteville, North Carolina 28311.

22. The property owner directed Plaintiff to take pictures of the illegal dumping.

23. At or around 1:00 PM on the day in question, Plaintiff pulled up her vehicle into the Property to check if the rubbish was still in the area.

24. While her vehicle was parked inside the Property, Plaintiff exited her vehicle to take pictures of the rubbish at the Property.

25. Using her cellular phone, Plaintiff snapshotted four pictures of the illegal dumping at the Property.<sup>2</sup>

26. Plaintiff then reentered her vehicle and sat on her driver seat.

27. Immediately and suddenly, Defendant Haddock approached Plaintiff.

28. Defendant Haddock, who had parked his vehicle in the Property, indicated to Plaintiff that Defendant Fayetteville Police Department was searching for somebody who had run from the police.

29. Defendant Haddock proceeded to interrogate Plaintiff, questioning the purpose for which she was at the Property and implying that she was engaged in wrongdoing.

30. Plaintiff truthfully and calmly explained to Defendant Haddock that she was a property manager taking pictures of the rubbish, which was clearly visible in the Property.

31. Despite Plaintiff's cooperation with Defendant Haddock and fully answering his questions, Defendant Bell approached the back of Plaintiff's vehicle to capture and retrieve the vehicle's license plate information.

32. Defendant Haddock continued to question Plaintiff about the purpose for which she was at the Property, inquiring whether she did in fact know the property owner.

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<sup>2</sup> Exhibit B, Pictures taken by Plaintiff on September 6, 2022.

33. Despite no wrongdoing on behalf of Plaintiff, Plaintiff continued to cooperate and answer Defendant Haddock's questions.

34. Defendant Haddock, however, persisted his line of questioning, with seeming skepticism at Plaintiff's consistent and matching answers.

35. Sensing that Defendant Haddock and Defendant Bell had stopped Plaintiff under false pretenses and without a sufficient legal basis, Plaintiff affirmatively asserted her right to be free of unlawful seizures and requested to leave the Property.

36. Notwithstanding the fact that Plaintiff was simply completing her job duties and not engaged in any unlawful activity, Defendant Haddock informed Plaintiff that she was not permitted to leave and, therefore, was seized and detained.

37. Defendant Haddock then demanded Plaintiff's identification card.

38. Knowing that she had committed no wrongdoing and that she had the legal right to be free of unlawful seizures, Plaintiff gave Defendant Haddock her name and did not provide her identification card.

39. At that point in time, Defendant Bell radioed Defendant Haddock, and Defendant Bell indicated that the vehicle that Plaintiff was driving was registered to Plaintiff's mother.

40. Plaintiff explained to Defendant Haddock and Defendant Bell that Plaintiff's mother permits her to drive the vehicle.

41. Knowing her clearly established rights, Plaintiff further pleaded with Defendant Haddock and Defendant Bell that she had done nothing wrong and that she could leave if allowed.

42. Suspecting that something was amiss, and knowing that Defendant Officers were wrongfully seizing her, Plaintiff began recording the encounter with her cellular phone, seeking to capture the unlawful behavior of Fayetteville law enforcement officers and potentially report it.

43. Upon seeing that Plaintiff was recording them, Defendant Bell and Defendant Haddock, without any warning and without any wrongdoing from Plaintiff, approached the driver's side of the vehicle and began physically pulling at Plaintiff, forcefully manhandling her out of the vehicle.

44. Plaintiff, showing no resistance, told Defendant Bell and Defendant Haddock that she would exit the vehicle if they released her arm, hoping to deescalate the egregious situation.

45. However, despite Plaintiff's cooperation, neither officer released Plaintiff's arm, and they continued to pull her away from the driver seat.

46. Even though Plaintiff's safety belt was still latched, Defendant Bell and Defendant Haddock continued to wrestle and ultimately yanked Plaintiff out of the vehicle.

47. As the officers pulled Plaintiff out of the vehicle, Officer Haddock grabbed the vehicle's keys.

48. Immediately after Defendant Officers physically removed Plaintiff from the vehicle, they forcefully placed Plaintiff in handcuffs and slammed her against her vehicle.

49. While Defendant Officers aggressively held Plaintiff in handcuffs, they snatched Plaintiff's cellular phone from her hand and threw it on the ground, ending the recording and interfering with Plaintiff's clearly established right to record law enforcement officers executing their duties in public.

50. Due to the traumatizing events that Plaintiff was experiencing, the unjustified and disproportionate violence and aggression of Defendant Officers, and Plaintiff's underlying condition of sickle-cell anemia, Plaintiff began hyperventilating.

51. Plaintiff, who was visibly and concerningly breathing irregularly and heavily, began vomiting.



52. As Plaintiff was attempting to kneel down to vomit, Defendant Bell and Defendant Haddock continued yanking on Plaintiff for her to stand upright.

53. Plaintiff pleaded with and begged Defendant Officers to let her kneel down to vomit, but they continued to hold her against the vehicle.

54. As Plaintiff was vomiting in pain, Defendant Officers opened Plaintiff's fanny pack without her consent and took out Plaintiff's identification card.

55. After a significant amount of time in handcuffs, Sergeant Chris Kempf arrived on scene.

56. Immediately upon seeing what was transpiring, Sergeant Kempf released Plaintiff from the handcuffs.

57. Sergeant Kempf then proceeded to talk with Defendant Bell and Defendant Haddock, outside of Plaintiff's presence.

58. Plaintiff was still unable to leave the scene, however, as Defendant Bell and Defendant Haddock were still in possession of the keys to Plaintiff's vehicle.

59. As a result, Plaintiff was forced to continue remaining at this traumatizing scene for a significant amount of time.

60. Upon speaking with Defendant Bell and Defendant Haddock, Sergeant Kempf asked Plaintiff whether she needed medical attention and took pictures of Plaintiff's hands and wrists.

61. Sergeant Kempf then returned the keys to Plaintiff's vehicle and finally stated that Plaintiff was free to go.

62. Before leaving the scene, Plaintiff requested of Sergeant Kempf each officer's name and badge number.

63. Defendant Officers did not provide Plaintiff a citation or other charging document.

64. On September 8, 2022, Plaintiff filed an internal complaint with the Fayetteville Police Department, from which she has not heard any information.

**COUNT ONE**  
**DEPRIVATION OF CIVIL RIGHTS**  
**BY FALSE ARREST/UNLAWFUL SEIZURE AND ARREST**  
**UNDER 42 U.S.C. § 1983**

*(Against Defendant Officers, including John and Jane Doe's 1-100)*

65. Plaintiff hereby realleges and incorporates by reference the allegations contained in paragraphs 1 through 64 above.

66. Defendant Officers, in all of their actions described in this Complaint, were acting under color of law.

67. Defendant Officers wrongfully and unjustifiably stopped, seized, and arrested Plaintiff when Defendant Bell and Defendant Haddock surrounded and interrogated Plaintiff, thereby restricting her movement, and subsequently dragged her out of her vehicle, took her vehicle keys, and her placed in her handcuffs.

68. Defendant Officers deprived Plaintiff of her constitutional rights under the Fourth Amendment in a way that Defendant Officers should have fully understood was wrongful and in violation of clearly established law that Plaintiff was aware of.

69. Specifically, Defendant Officers lacked reasonable suspicion to stop Plaintiff when they prohibited her from leaving the scene, because they lacked a particularized and objective basis for suspecting that Plaintiff was engaged in any criminal activity when they began interacting with her.

70. Moreover, Defendant Officers lacked probable cause to seize and arrest Plaintiff when they refused to allow Plaintiff to leave the scene and placed her in handcuffs, because a

reasonable officer would not be justified in concluding that Plaintiff was violating the law when Defendant Officers approached Plaintiff in her vehicle and began asking questions.

71. Indeed, Plaintiff was not accused of committing any criminal offense.

72. The conduct of the Defendant Officers towards Plaintiff was objectively unreasonable and violated Plaintiff's clearly established rights under the Fourth and Fourteenth Amendments and 42 U.S.C. § 1983 "to be secure in their persons . . . against unreasonable searches and seizures."

73. As a direct and proximate result of the unlawful stop, seizure, and arrest, Plaintiff was deprived of her civil rights as guaranteed by the Fourth Amendment of the Constitution and suffered humiliation, degradation, apprehension for their bodily security, and other mental and emotional harms, which continue to this day and are likely to continue into the future.

74. Plaintiff is entitled to attorney's fees expended in this litigation pursuant to 42 U.S.C. § 1988.

WHEREFORE, Plaintiff demands judgment for compensatory and punitive damages against Defendant Officers and, in addition thereto, demands the award of attorney's fees and court costs pursuant to 42 U.S.C. §§ 1983 and 1988 and demands a trial by jury on all issues so triable.

**COUNT TWO**  
**DEPRIVATION OF CIVIL RIGHTS**  
**BY EXCESSIVE FORCE**  
**UNDER 42 U.S.C. § 1983**

*(Against Defendant Officers, including John and Jane Doe's 1-100)*

75. Plaintiff hereby realleges and incorporates by reference the allegations contained in paragraphs 1 through 74 above.

76. Defendant Officers wrongfully and unjustifiably used excessive force in unlawfully seizing Plaintiff when they forcefully seized and arrested her.

77. Defendants Officers lacked reasonable suspicion and probable cause that Plaintiff was engaged in unlawful activity during the event in question.

78. No reasonable officer in the same circumstances would have concluded that Plaintiff, unarmed and cooperative, posed a threat to Defendant Officers.

79. No reasonable officer in the same circumstances would have concluded that Plaintiff, calmly sitting in her vehicle, was actively evading or resisting Defendant Officers.

80. Despite the lack of circumstances meriting any use of force, Defendant Officers aggressively, physically, and without warning grabbed, wrestled, and yanked Plaintiff out of her vehicle during the event in question, very quickly escalating to an extreme use of force.

81. Plaintiff, showing no resistance, asked Defendant Officers to release her arm so she could exit the vehicle on her own volition, but Defendant Officers continued their forceful conduct.

82. Upon manhandling Plaintiff out of her vehicle, and still lacking reasonable suspicion and probable cause of any wrongdoing or threat, Defendant Officers forcefully placed Plaintiff in handcuffs.

83. Even though Plaintiff was already handcuffed, Defendant Officers continued to yank on Plaintiff's body in an attempt to get her to stand upright, as she was kneeling to vomit.

84. Even though Plaintiff was verbally pleading that she be allowed to kneel to vomit because she was hyperventilating, Defendant Officers continued to yank on Plaintiff's body in an attempt to get her to stand upright.

85. Defendant Officers' force in effectuating the unlawful arrest against Plaintiff was excessive because it was disproportionate, based on the totality of the circumstances.

86. Defendant Officers knowingly, continuously, and incessantly used excessive force against Plaintiff, against clearly established rights the Plaintiff knew of.

87. Defendant Officers, while acting under color of law as authorized officers and agents of Defendant Fayetteville, deprived Plaintiff of clearly established rights, under the Fourth and Fourteenth Amendments and 42 U.S.C. § 1983, because they used excessive force to seize a free citizen.

88. The actions alleged in this Complaint directly and proximately resulted in injury to Plaintiff.

89. As a direct and proximate result of the gross misconduct of Defendant Officers as set out in this Complaint and associated deliberate indifference, Plaintiff was injured, and is entitled to recover damages flowing from the deprivations of Plaintiff's constitutional rights under the Fourth and Fourteenth Amendments.

90. Plaintiff is entitled to attorney's fees expended in this litigation pursuant to 42 U.S.C. § 1988.

WHEREFORE, Plaintiff demands judgment and compensatory and punitive damages against Defendant Officers, and, in addition, demands attorney's fees and costs pursuant to 42 U.S.C. §§ 1983 and 1988 and demands trial by jury on all issues so triable.

**COUNT THREE**  
**DEPRIVATION OF CIVIL RIGHTS**  
**BY INTERFERENCE AND RETALIATION AGAINST FREEDOM OF SPEECH**  
**UNDER 42 U.S.C. § 1983**  
*(Against Defendant Officers, including John and Jane Doe's 1-100)*

91. Plaintiff hereby realleges and incorporates by reference the allegations contained in paragraphs 1 through 90 above.

92. Defendant Officers directly interfered, prevented, and prohibited Plaintiff's constitutionally protected speech and conduct, as well as retaliated against her for said conduct,

when Defendant Officers dragged her out of the vehicle after she began recording and subsequently threw Plaintiff's recording device to the ground, ending the recording.

93. Plaintiff was attempting to enforce her clearly established right under the First Amendment to record law enforcement officers publicly executing their official duties, while she was in her vehicle, in a property she had the right to be in, in public.

94. Defendant Officers thwarted Plaintiff's attempts at recording, and potentially reporting, the publicly visible incidents that form that basis of this Complaint, which implicates, in part, the public's concern of illegal seizures and arrests, as well as the unlawful use of force, by Defendant Officers and Defendant Fayetteville.<sup>3</sup>

95. Defendant Officers' actions against Plaintiff directly and causally impinged upon Plaintiff's constitutional rights under the First Amendment.

96. Defendants Officers' actions would chill a reasonable person of ordinary firmness from continuing to engage in the constitutionally protected activity of recording law enforcement officers during public encounters, by preventing individuals from observing, recording, and reporting on events of public interest, including the illegal seizures and arrests, as well as unlawful use of force, by Defendant Officers and Defendant Fayetteville.

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<sup>3</sup> Of note, there have been recent and numerous reported and public allegations of police violence in Fayetteville, North Carolina, including, but not limited to: the killing of Justin Livesay, <https://www.fayobserver.com/story/news/crime/2022/09/23/court-records-fayetteville-man-justin-livesay-threatened-suicide-by-cops/69513942007/>; the killing of Jada Johnson, <https://www.fayobserver.com/story/news/2022/07/27/jada-johnson-fayetteville-nc-shooting-911-calls-released/10108517002/>; the arrest of Zachary Brown, <https://www.fayobserver.com/story/news/2022/03/09/north-carolina-fayetteville-police-sergeant-arrested-charged-assault-stun-gun-used-handcuffed-man/9423177002/>; the arrest of Robert Edwards, <https://www.fayobserver.com/story/news/2021/05/07/fayetteville-police-body-cam-video-lawsuit-filed-excessive-force-north-carolina/4975435001/>; and the stop of Brandon McCormick, <https://www.fayobserver.com/story/news/crime/2019/08/08/fayetteville-man-says-he-was-roughed-up-during-traffic-stop-police-say-there-was-no-stop/4508352007/>. See also nationwide report finding 82% higher rate of killings by police in Fayetteville, North Carolina, <https://policescorecard.org/nc/police-department/fayetteville>.

97. Plaintiff's recording, and potential reporting, of Defendant Officers during her encounter with them was a substantial or motivating factor in Defendant Officers' retaliatory conduct.

98. The conduct of the Defendant Officers towards Plaintiff was objectively unreasonable and retaliatory, violating Plaintiff's clearly established rights under the First and Fourteenth Amendments and 42 U.S.C. § 1983 to freely discuss governmental affairs, prevent corruption as an individual citizen in a democratic government, and gather news from sources by means within the law.

99. As a direct and proximate result of the Defendants Officers' prevention and retaliation against Plaintiff's recording Defendant Officers, Plaintiff was deprived of her civil rights as guaranteed by the First Amendment, suffered humiliation, degradation, apprehension for her bodily security, and other mental and emotional harms, which continue to this day and are likely to continue into the future.

100. Plaintiff is entitled to attorney's fees expended in this litigation pursuant to 42 U.S.C. § 1988.

WHEREFORE, Plaintiff demands judgment for compensatory and punitive damages against Defendant Officer and in addition thereto, demands the award of attorney's fees and court costs pursuant to 42 U.S.C. §§ 1983 and 1988 and demands a trial by jury on all issues so triable.

**COUNT FOUR**  
**FALSE IMPRISONMENT**  
**UNDER NORTH CAROLINA LAW**  
*(Against all Defendants)*

101. Plaintiff hereby realleges and incorporates by reference the allegations contained in paragraphs 1 through 100 above.

102. Defendant Officers intentionally and illegally restrained Plaintiff by force and by an express and implied threat of further force.

103. Defendant Officers' restraint of Plaintiff was illegal, in that her seizure and arrest were committed without reasonable suspicion or probable cause.

104. Defendant Officers' intentional and illegal restraint of Plaintiff was against Plaintiff's will and without her consent.

105. Defendant Officers acted maliciously when they persisted in their excessively forceful and unlawful seizure and arrest, particularly given Plaintiff's repeated pleads and vomiting.

106. Defendant Officers went beyond the scope of their duties as law enforcement when they seized and arrested Plaintiff without reasonable suspicion or probable cause and thereafter used unlawful excessive force against Plaintiff.

107. Defendant Officers' conduct directly and proximately caused Plaintiff to suffer injuries, including, but not limited to, vomiting, humiliation, degradation, apprehension for their bodily security, and other mental and emotional harms, which continue to this day and are likely to continue into the future.

108. Defendant Fayetteville are responsible for Defendant Officers' conduct under a theory of *respondeat superior*.

109. Defendants' conduct was committed in bad faith, with malicious purposes, or a willful or wanton disregard of human rights, safety or property.

WHEREFORE, Plaintiff demands judgment and compensatory and punitive damages to the fullest extent of the law against Defendants and demands trial by jury on all issues so triable.



**COUNT FIVE**  
**INTENTIONAL INFLICTION OF EMOTIONAL DISTRESS**  
**UNDER NORTH CAROLINA LAW**  
*(Against all Defendants)*

110. Plaintiff hereby realleges and incorporates by reference the allegations contained in paragraphs 1 through 109 above.
111. Defendant Officers' conduct during the event in question was extreme and outrageous, in that Defendant Officers effectuated an unlawful detention and arrest of Plaintiff, and applied excessive force in conducting the same, by using their public office and a show of authority in the absence of reasonable suspicion, probable cause, or any display of threat or flight, beyond the bounds of decency in a civilized community.
112. Defendant Officers' acts were committed with the specific intent of causing Plaintiff severe emotional distress or with reckless indifference that their conduct would likely cause severe and prolonged emotional distress.
113. Defendant Officers went beyond the scope of their duties as law enforcement when they seized and arrested Plaintiff without reasonable suspicion or probable cause and thereafter used unlawful excessive force against Plaintiff.
114. Defendant Officers' conduct did in fact cause Plaintiff to suffer severe emotional distress, including, but not limited to humiliation, degradation, apprehension for her bodily security, and other mental and emotional harms, which continue to this day and are likely to continue into the future.
115. Plaintiff was especially susceptible to suffering severe emotional distress given her underlying condition of sickle-cell anemia, which became perceivable to Defendant Officers when Plaintiff began visibly breathing heavily and uncontrollably vomiting.

116. Defendant Fayetteville are responsible for Defendant Officers' conduct under a theory of *respondeat superior*.

WHEREFORE, Plaintiff demands judgment and compensatory and punitive damages to the fullest extent of the law against Defendants and demands trial by jury on all issues so triable.

**COUNT SIX**  
**ASSAULT AND BATTERY**  
**UNDER NORTH CAROLINA LAW**  
*(Against all Defendants)*

117. Plaintiff hereby realleges and incorporates by reference the allegations contained in paragraphs 1 through 116 above.

118. Defendant Officers' intentional conduct during the events in question created a reasonable apprehension of immediate harm to Plaintiff and actual infliction of harmful or offensive contact upon Plaintiff's person.

119. Defendant Officers' actions were carried out with the specific purpose of bringing about Plaintiff's apprehension of immediate harm and to physically contact Plaintiff without her consent, in an attempt to seize, detain, restrain, and subdue Plaintiff.

120. Plaintiff was in fact apprehensive and harmed due to Defendant Officers' conduct during the events in question.

121. Indeed, Plaintiff's apprehension and harm culminated in Plaintiff's vomiting and other physical manifestations.

122. Furthermore, Defendant Officers' intentional and unjustified acts directly and proximately caused harmful or offensive contact to Plaintiff's body when Defendant Officers' excessive use of force commenced, persisted, continued, and escalated during the events in question.

123. Defendant Officers acted maliciously in their wanton abuse of authority and use of unnecessary and excessive force.

124. Defendant Officers' conduct directly and proximately caused Plaintiff to suffer injuries, including, but not limited to, vomiting, humiliation, degradation, apprehension for their bodily security, and other mental and emotional harms, which continue to this day and are likely to continue into the future.

125. Defendant Fayetteville are responsible for Defendant Officers' conduct under a theory of *respondeat superior*.

WHEREFORE, Plaintiff demands judgment and compensatory and punitive damages to the fullest extent of the law against Defendants and demands trial by jury on all issues so triable.

**COUNT SEVEN**  
**NEGLIGENT EXECUTION OF OFFICIAL DUTIES**  
**UNDER NORTH CAROLINA LAW**  
*(Against all Defendants)*

126. Plaintiff hereby realleges and incorporates by reference the allegations contained in paragraphs 1 through 125 above.

127. Defendant Officers, as sworn law enforcement officers of Fayetteville Police Department, owed an official duty to Plaintiff to protect, rather than deprive, Plaintiff of her rights and physical and emotional well-being, and a duty to follow the policies created by the Fayetteville Police Department for police officers.

128. Defendant Officers breached their duty to Plaintiff based upon their unlawful conduct during the events in question, including, but not limited to, their unconstitutional seizure and arrest of Plaintiff, their unconstitutional use of force, and their tortious conduct as described in Counts I through VI.

129. Defendant Officers failed to follow Fayetteville Police Department's Policy Manual "Traffic Law Enforcement" policy, because they stopped Plaintiff in her vehicle without reasonable suspicion that she was committing a crime and failed to perform a brief and diligent investigation to dispel suspicions quickly.
130. Defendant Officers failed to follow Fayetteville Police Department's Policy Manual "Field Interviews" policy, because they detained Plaintiff without probable cause that she was committing a crime and failed to release Plaintiff within a reasonable period of time
131. Defendant Officers failed to follow Fayetteville Police Department's Policy Manual "Securing, Searching and Transporting Arrested Persons" policy, because they placed Plaintiff in handcuffs without any reasonable suspicion that Plaintiff was a threat to the Defendant Officers and kept her in handcuffs despite having no probable cause that Plaintiff was committing a crime.
132. Defendant Officers failed to follow Fayetteville Police Department's Policy Manual "Use of Force Procedure" policy, because they increased their use of force despite no possibility of violence or resistance, and they failed to use de-escalation techniques before escalating to physical force.
133. Defendant Officers' breach of their duties to Plaintiff directly and proximately caused Plaintiff to suffer damages, including, but not limited, to physical injuries and severe emotional distress, such as humiliation, degradation, apprehension for their bodily security, and other mental and emotional harms, which continue to this day and are likely to continue into the future.

134. Defendant Officers should have foreseen the likelihood that Plaintiff would be harmed by their actions and/or inactions, including, but not limited to, their unlawful and illegal seizure and arrest, along with their unlawful, excessive, unreasonable, and disproportionate use of force.

135. Plaintiff was especially susceptible to suffering damages given her underlying condition of sickle-cell anemia, which became perceivable to Defendant Officers when Plaintiff began visibly breathing heavily and uncontrollably vomiting.

136. Defendant Officers breached their duty of care with an intentional indifference to the predictable severe injury and damages to Plaintiff.

137. Defendant Fayetteville are responsible for Defendant Officers' conduct under a theory of *respondeat superior*.

WHEREFORE, Plaintiff demands judgment and compensatory and punitive damages to the fullest extent of the law against Defendants and demands trial by jury on all issues so triable.

**COUNT EIGHT**  
**TRESPASS**  
**UNDER NORTH CAROLINA LAW**  
*(Against all Defendants)*

138. Plaintiff hereby realleges and incorporates by reference the allegations contained in paragraphs 1 through 137 above.

139. Defendant Officers unlawfully and without consent entered on the Property and Plaintiff's vehicle, which Plaintiff was in possession of, and which Plaintiff had a right to be in free from interference.

140. Defendant Officers' invasion of Plaintiff's rights was unlawful and committed by direct force, including, but not limited to, physically grabbing, wrestling, yanking, and manhandling Plaintiff.

141. Defendant Officers lacked verbal and written permission to enter the Property and Plaintiff's vehicle.

142. Defendant Officers' conduct directly and proximately caused Plaintiff to suffer injuries, including, but not limited to, vomiting, humiliation, degradation, apprehension for their bodily security, and other mental and emotional harms, which continue to this day and are likely to continue into the future.

143. Defendant Fayetteville are responsible for Defendant Officers' conduct under a theory of *respondeat superior*.

WHEREFORE, Plaintiff demands judgment and compensatory and punitive damages to the fullest extent of the law against Defendants and demands trial by jury on all issues so triable.

**COUNT NINE**  
**NEGLIGENT HIRING, TRAINING, AND SUPERVISION**  
**UNDER NORTH CAROLINA LAW**  
*(Against Defendant Fayetteville and Defendant Chief of Police)*

144. Plaintiff hereby realleges and incorporates by reference the allegations contained in paragraphs 1 through 143 above.

145. Defendant Fayetteville and Defendant Chief of Police, responsible of managing, hiring, training, and supervising the officers of the Fayetteville Police Department, owed a duty to Plaintiff to properly hire, train, and supervise police officers in their execution of their official duties, as well as to follow official policies for the safety of the public.

146. Defendant Fayetteville and Defendant Chief of Police breached their duty of care by failing to properly hire, train, and supervise Defendant Officers, who acted beyond and against their official duties during the events in question, including, but not limited to, those enumerated in paragraphs 129 through 132 and thoroughly explained in Counts I through VIII, resulting in multiple harms to Plaintiff.

147. Defendant Fayetteville failed to follow the Fayetteville Police Department's Policy Manual "Training" chapter, because it did not appropriately recruit and select; train and educate; or professionally develop Defendant Officers.

148. Defendant Fayetteville and Defendant Chief of Police's breach of their duty to Plaintiff directly and proximately caused Plaintiff to suffer damages, including, but not limited, to physical injuries and severe emotional distress, such as humiliation, degradation, apprehension for their bodily security, and other mental and emotional harms, which continue to this day and are likely to continue into the future.

149. Defendant Fayetteville and Defendant Chief of Police should have foreseen the likelihood that Plaintiff would be harmed by their actions and/or inactions, including, but not limited to, failing to properly hire, train, and supervise Defendant Officers.

150. Plaintiff was especially susceptible to suffering damages given her underlying condition of sickle-cell anemia, which became perceivable to Defendant Officers when Plaintiff began visibly breathing heavily and uncontrollably vomiting.

WHEREFORE, Plaintiff demands judgment and compensatory and punitive damages to the fullest extent of the law against Defendants and demands trial by jury on all issues so triable.

#### **PRAYER FOR RELIEF**

**WHEREFORE**, Plaintiff prays this Honorable Court: Enter judgment in Plaintiff's favor, and against the Defendants, and: (a) for compensatory damages in an amount in excess of SEVENTY-FIVE THOUSAND DOLLARS (\$75,000.00); (b) consequential damages, (c) punitive damages; (d) injunctive and declaratory relief; (e) all costs and disbursements of this action and such other attorney's fees; and (f) further relief as justice requires.

**DEMAND FOR JURY TRIAL**

Pursuant to Federal Rule of Civil Procedure 38(b), Plaintiff demands a jury trial for all issues in this matter.

DATED, this 25th day of October, 2022.

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