

**UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF LOUISIANA**

CHASITY HARVESTON,

Plaintiff,

v.

OFFICER TRAVIS CLAY DEPEW; CHIEF
OF POLICE FRED ALLEN; JACKSON
POLICE DEPARTMENT, LOUISIANA;
TOWN OF JACKSON, LOUISIANA

Defendants.

Civil Action No. 3:21-cv-631

Judge:

Magistrate Judge:

JURY TRIAL DEMANDED

COMPLAINT

1. Plaintiff Chasity Harveston files this Complaint pursuant to 42 U.S.C. § 1983. She seeks to recover for violations of her rights under the United States Constitution and pursuant to Louisiana state law. This lawsuit is brought to recover for an unconstitutional stop, search, seizure, physical and sexual assault, false arrest, and use of excessive force, among other counts. Defendant Officer Travis Clay Depew instigated these actions against Plaintiff Chasity Harveston under the color of state law and without just cause. In support of this Complaint, Plaintiff Harveston states the following:

INTRODUCTION

2. This case represents yet another disturbing occurrence in a string of troubling incidents where innocent people in the United States are subject to unconstitutional stops, unlawful searches, and excessive force at the hands of law enforcement. In this case, as in others, in order to prevent the focus of the incident from revolving around officer misconduct, the officer fabricates criminal charges that spuriously claim the person at issue resisted arrest and battered the officer.

3. Plaintiff Harveston is one of too many women to endure inappropriate contact at the hands of law enforcement, only to face criminal charges stemming from that very same incident. Law enforcement officers commonly use “cover charges,” such as resisting arrest, to justify their unconstitutional use of inappropriate contact and excessive force.¹ As a result, women like Plaintiff Harveston not only suffer from the physical and psychological trauma of police violence and inappropriate touching, they must also confront a criminal legal system that frequently views them not as victims, but as criminals—resulting in long-lasting barriers to employment, housing, and education.

4. On the night of November 4, 2020, Plaintiff Harveston was driving lawfully home from work, in Jackson, Louisiana; her seven-year-old daughter was in the car with her.

5. Plaintiff Harveston believes that Defendant Depew stopped her that night because he was intent on sexually harassing her.

6. As detailed below, Defendant Depew quickly escalated the incident by sexually and physically assaulting Plaintiff Harveston prior to, during, and following her illegal arrest—leaving Plaintiff Harveston with lasting physical, mental, and emotional injuries.

7. This incident never should have happened because the Town of Jackson and the Jackson Police Department never should have hired Defendant Depew. As described below, he had been fired from a previous law enforcement job after being charged with the crimes of stalking and malfeasance in office. Although these charges were later expunged, they nevertheless drive

¹ See, e.g., Marian Hetherly, *Police use of force against women up 350% and other facts about policing women*, NPR, July 20, 2020, <https://www.wbfo.org/crime/2020-07-20/part-1-police-use-of-force-against-women-up-350-and-other-facts-about-policing-women> (last visited October 14, 2021); Philip M. Stinson, John Liederbach, Steven L. Brewer, & Brooke E. Mathna, *Police Sexual Misconduct: A national scale study of arrested officers*, CRIMINAL JUSTICE FACULTY PUB. (2014), <https://www.bwjp.org/assets/documents/pdfs/webinars/dhhs-police-sexual-misconduct-a-national-scale-study.pdf>.

home the allegation that Defendant Depew has a pattern of aggressive and unlawful behavior, including inappropriate behavior toward women.

8. Defendant Depew's troubling history was publicly accessible, and yet, on information and belief, the Town of Jackson and the Jackson Police Department ("the Department") hired Defendant Depew without conducting a background check or in spite of his criminal history. The Town of Jackson and the Department thus failed to ensure that Defendant Depew was capable of faithfully serving in his role as a police officer and of fulfilling his duty to serve and protect all people with whom he came into contact.

9. Moreover, Defendant Depew continued his misconduct while on the force of the Jackson Police Department:

- On August 6, 2020, Defendant Depew pulled over a Black man without cause, then slammed him to the ground, causing injuries.
- On or around October 12, 2020, Defendant Depew reportedly beat a Black man in the face with a flashlight, causing blowout facial fractures.
- On February 5, 2021, Defendant Depew allegedly choked a Black teenager in a parking lot and called him the N-word, a racial slur. Defendant Depew was arrested for choking the teenager in May 2021 and charged with simple battery and malfeasance while in office.

10. In short, Defendant Depew has been involved in various acts of violence, including violent takedowns that suspiciously charge the victims with resisting arrest—just like the incident described in this Complaint.

PARTIES

11. Plaintiff Chasity Harveston is a resident of Jackson, Louisiana. She resides at 4149 Cooper Lane.

12. Plaintiff Harveston is a citizen of the United States of America.

13. Defendant Officer Travis Clay Depew is a Police Officer for the Jackson Police Department in Louisiana, although he has been placed on leave based on the February 5, 2021 incident described above. He is sued in his individual capacity.

14. Defendant Depew is a person for purposes of 42 U.S.C. § 1983. Defendant Depew was, at all relevant times, acting under the color of state law in his capacity as an Officer for the Jackson Police Department and his acts or omissions were conducted within the scope of his official duties or employment.

15. Defendant Fred Allen, upon information and belief, is a resident of Jackson, Louisiana, within the Middle District of Louisiana. Defendant Allen is the Police Chief of the Jackson Police Department, and the Marshal of Jackson Marshal's Office. He has responsibility for the overall leadership of the Police Department, including hiring, training, supervising, disciplining, and firing officers. He is sued in his official capacity.

16. On information and belief, Defendant Jackson Police Department is the primary law enforcement agency for Jackson, Louisiana and is an agency of the town government. The Jackson Police Department is also responsible for preventive, investigative and enforcement services, as well as for ensuring the safety of all citizens of Jackson, Louisiana.

17. Defendant Town of Jackson, Louisiana is a municipality in East Feliciana Parish, and has been duly incorporated. Defendant Town of Jackson is a municipality for purposes of 42 U.S.C. § 1983.

JURISDICTION AND VENUE

18. Plaintiff Harveston seeks redress for the deprivation of her rights secured by the United States Constitution. This action is instituted pursuant to 42 U.S.C. § 1983 and seeks relief for Defendants' violations of Plaintiff Harveston's constitutional rights. Therefore, this Court has subject-matter jurisdiction over this action under 28 U.S.C. § 1331 and 28 U.S.C. § 1343. This Court also has jurisdiction over Plaintiff Harveston's state law claims pursuant to 28 U.S.C. § 1367(a).

19. This Court has personal jurisdiction over Defendants because Defendants are domiciled in Jackson, Louisiana, and the infringement of Plaintiff Harveston's rights guaranteed by the United States Constitution and Louisiana state law occurred within Jackson, Louisiana.

20. Venue appropriately lies in this judicial district under 28 U.S.C. § 1391(b)(2) because the events and omissions giving rise to Plaintiff Harveston's claims occurred within this judicial district.

21. Declaratory relief is authorized by 28 U.S.C. § 2201. A declaration of law is necessary to determine the rights and duties of the parties.

FACTUAL ALLEGATIONS

A. Defendant Depew Has an Ongoing History of Misconduct.

22. Information in the public domain suggests that Defendant Depew has a pattern and practice of misusing state power and of violating citizens' rights, particularly those of women and minorities.

23. Publicly available reports indicate that Defendant Depew has a history of unlawful conduct that both preceded and accompanied his time as a law enforcement officer with the Jackson Police Department. The past incidents involving Defendant Depew include, but are potentially not limited to, the following.

- In or around 2017, according to published reports, Defendant Depew, while employed by a different police department—this time, the Pointe Coupee Parish Sheriff’s Office—was terminated after being arrested for stalking and malfeasance in office on August 11, 2017. Those arrest records were eventually expunged, although it is not known how or why Defendant Depew was able to expunge these records. In any event, the expungement occurred well after he was hired by the Jackson Police Department—the law enforcement agency at issue in this case—and after Defendant Depew’s unlawful arrest of Plaintiff Harveston.²
- Approximately two months later, on or around October 12, 2020, Defendant Depew, while employed by the Jackson Police Department, reportedly beat a Black man in the face with a flashlight, causing blowout facial fractures—specifically, a right depressed orbital floor fracture and right zygomaticomaxillary complex (“tripod”) fracture. News reports indicate that this man was named Tyquan Vessell, and, like Plaintiff Harveston, he also was accused of resisting arrest.³

24. Because these documented instances of misconduct were readily available in the public domain, they required investigation by the Town of Jackson and the Jackson Police Department. On information and belief, this investigation never occurred, resulting in the negligent hiring of Defendant Depew.

² See Scottie Hunter, *Jackson deputy marshal accused of choking teen arrested, fired from previous law enforcement agency*, WAFB9, April 6, 2021, <https://www.wafb.com/2021/04/07/investigators-jackson-deputy-marshal-accused-choking-teen-arrested-fired-previous-law-enforcement-agency/> (last visited August 5, 2021).

³ See Staff Report, *East Feliciana Parish Prison Bookings*, The Advocate, December 15, 2020, https://www.theadvocate.com/baton_rouge/news/communities/east_feliciana/article_52425eb0-38d7-11eb-b0fd-3bfcfbefa7e8.html (last visited August 5, 2021)

25. Defendant Depew's unlawful stop, search, and assault of Plaintiff Harveston falls into a pattern of conduct he employed as an Officer with the Jackson Police Department. On information and belief, after being hired by the Department, he quickly became known around town as a police officer who routinely harassed civilians, particularly women and African-Americans.⁴

26. The Town of Jackson, the Jackson Police Department and Police Chief Allen knew or should have known about these events and, on information and belief, deliberately turned a blind eye to them, and potentially other officers with a similarly troubling history of misconduct. In doing so, the Town of Jackson, the Department and Allen ratified a *de facto* policy or custom condoning at a minimum, the unlawful conduct of Defendant Depew and, at a maximum, the unlawful conduct of multiple officers. The Town of Jackson, the Department, and Allen are therefore liable for Defendant Depew's assault of Plaintiff Harveston. Had the Town of Jackson, the Department and Allen properly supervised Defendant Depew, the incident on November 4, 2020, with Plaintiff Harveston would never have happened.

27. Instead, on November 4, 2020, Defendant Depew, while employed by the Jackson Police Department, sexually and physically assaulted Plaintiff Harveston during a traffic stop—with her seven-year-old child present.

28. After stepping out of the vehicle at Defendant Depew's request, Defendant Depew came up behind Plaintiff Harveston and groped her breasts without first conducting—or even indicating he was about to perform—a pat down. After Plaintiff Harveston warned Defendant

⁴ See WBRZ Staff, *Police officer on leave over claims he choked teen, used slur*, WBRZ, March 25, 2021, https://www.wbrz.com/news/jackson-police-officer-placed-on-leave-over-claims-he-choked-teen-used-slur/?fbclid=IwAR2ILV_XIMD1Xe-b7SatzFmI6icbs3qccnWjIh0y634OkrJNYAJ3LihJHYo (last visited August 5, 2021)

Depew against touching her inappropriately, he advised her to move toward the back of her car; Plaintiff Harveston's seven-year-old daughter then exited Plaintiff Harveston's car and ran toward her.

29. When, at Defendant Depew's request, Plaintiff Harveston moved to put her daughter back in her car, Defendant Depew grabbed Plaintiff Harveston and told her she was resisting arrest before slamming her into the ground. After he handcuffed her, he forced her into the back of his squad car, where his assault continued: he grabbed her by the neck and began choking her, while also radioing for backup. When Plaintiff Harveston tried to yell for help into Defendant Depew's radio, he moved away from his squad car and slammed the rear, passenger-side door on Plaintiff Harveston's legs, causing further injuries. At no point during this incident did Defendant Depew read Plaintiff Harveston her *Miranda* rights, and although Defendant Depew was equipped with a body-worn camera, he either has not turned over the entire footage or only recorded part of the incident.

30. Disturbingly, but not surprisingly, Defendant Depew's misconduct continued after he assaulted Plaintiff Harveston.

31. On or about February 9, 2021, Defendant Depew's charges of stalking and malfeasance in office, which led to his termination from the West Feliciana Sheriff's Office, were, for reasons currently unknown, expunged. Nonetheless, the records of these charges and attendant convictions should have been visible to the Jackson Police Department at the time Defendant Depew was hired in 2020.

32. About two weeks after these charges were expunged, Defendant Depew, while employed by the Jackson Police Department, allegedly choked a 16-year-old Black teenager. He did so outside the Main Street Market Gas Station, all while calling the teenager the N-word.

Despite being equipped with a body-worn camera, again, Defendant Depew chose to not turn it on during the encounter, contrary to department policy. The incident only ended after another officer intervened and pulled Defendant Depew off the teenager. Months later, on May 5, 2021, Defendant Depew turned himself in to the East Feliciana Parish Jail on two charges: simple battery and malfeasance in office.⁵ Those charges remain pending.

33. On information and belief, after turning himself in, Defendant Depew was placed on leave by the Jackson Police Department and currently remains on leave.

B. Defendant Depew Wrongly Stopped Plaintiff Harveston.

34. On November 4, 2020, Plaintiff Harveston was driving her Toyota Corolla with her seven-year-old daughter in tow. She was headed home from Main Street Market and Deli, in Jackson, Louisiana, where she works. Sometime around 10 p.m., near Bank Street, Defendant Depew pulled her over.

35. Plaintiff Harveston was driving normally. She was not breaking any traffic laws, nor was she speeding or swerving or otherwise driving erratically.

36. As Plaintiff Harveston recently had purchased her car, a temporary license plate was displayed in her car's rear windshield.

37. Defendant Depew thus had no probable cause or lawful reason to stop Plaintiff Harveston.

38. Plaintiff Harveston felt uneasy about being pulled over by Defendant Depew at night. Accordingly, after she noticed she had been signaled to stop by law enforcement, she pulled her car over into the well-lit, gravel parking lot of the Napa Auto Parts store.

⁵ See Scottie Hunter, *Deputy marshal accused of choking teen at gas station arrested*, WAFB9, May 5, 2021, <https://www.wafb.com/2021/05/05/investigators-deputy-accused-choking-teen-gas-station-arrested/> (last visited August 5, 2021)

39. On information and belief, contrary to Department policy, Defendant Depew either deliberately chose to not activate his body-worn camera at the beginning of the encounter, or has not turned over the full recording of the incident.

40. Upon pulling over her vehicle, Defendant Depew told Plaintiff Harveston that he had stopped her because she was speeding and driving erratically. Both claims were false.

41. On information and belief, Defendant Depew manufactured this excuse in order to conduct the stop. In reality, Defendant Depew stopped Plaintiff Harveston not because she was driving erratically, but because he sought to sexually harass her and wield power over her, as he had done previously.. At bottom, Defendant Depew targeted Plaintiff Harveston, intending to harass her.

42. As Plaintiff Harveston would later find out during the course of the investigation that preceded this litigation, it is Defendant Depew's common practice to use false pretexts to unlawfully stop and search vehicles and their occupants.

43. After she stopped her vehicle, and as she waited for Defendant Depew to approach, Plaintiff Harveston retrieved her driver's license and registration. She put them in her hand and dangled them out the window. She hoped the law enforcement stop would both begin and end routinely.

44. This did not occur. Instead, after approaching the vehicle, Defendant Depew asked Plaintiff Harveston why she was speeding up and down the road. She denied that she had been doing anything of the sort because the accusation was not true.

45. Plaintiff Harveston was particularly uneasy when she identified Defendant Depew as the officer who stopped her because he had behaved inappropriately toward her in the past. Specifically, Defendant Depew improperly stopped Plaintiff Harveston in her vehicle on a prior

occasion, in the preceding six months, and asked her where she lived and whether she paid her rent with money made from prostitution. In addition to being highly inappropriate, the question had no basis in fact.

46. Despite not having reasonable suspicion nor probable cause to effectuate the stop on November 4, 2020, Defendant Depew asked Plaintiff Harveston to exit her vehicle. Plaintiff Harveston complied, after telling her seven-year-old daughter to remain in the back seat.

C. Defendant Depew Unlawfully Assaults Plaintiff Harveston.

47. At no point before or during Defendant Depew's unconstitutional stop did Plaintiff Harveston pose a danger to Defendant Depew or ever threaten any harm to him.

48. Plaintiff Harveston did not have any drugs or other contraband on her person or in her car.

49. At no time while she was standing outside of her vehicle did Plaintiff Harveston reach for any of her pockets. At no time did Plaintiff Harveston make any threatening movements in any way to put Defendant Depew in reasonable fear for his safety. Plaintiff Harveston's hands and waistline were at all times visible to Defendant Depew. Plaintiff Harveston did not have any weapons, let alone any object that could be used to harm Defendant Depew.

50. Nonetheless, without warning, after Plaintiff Harveston exited her vehicle at Defendant Depew's command, Defendant Depew came up behind Plaintiff Harveston, and, without her consent, grabbed and squeezed her breasts.

51. Defendant Depew did not pat down any other part of Plaintiff Harveston's person before groping Plaintiff Harveston's breasts.

52. In fact, prior to groping her breasts, Defendant Depew never once signaled to Plaintiff Harveston that he was about to perform any purported pat-down.

53. Nothing in Defendant Depew’s “Statement of Probable Cause” (the “Depew Statement”) references his illegal search of Plaintiff Harveston’s person.

54. Plaintiff Harveston did not give Defendant Depew permission to search her person, let alone concede to a sexual assault.

55. Defendant Depew’s pat-down was thus an unlawful action. At bottom, it was clearly established at the time of this encounter that a police officer needs to be able to articulate specific facts that lead him to have a reasonable suspicion that the person is armed or poses an immediate threat to safety—upon which a limited pat-down of the outer surface of the person’s clothing is permissible. Here, there was no reasonable suspicion that Plaintiff Harveston was armed. A *Terry v. Ohio*, 392 U.S. 1 (1966) pat-down of her breasts was thus not permissible.

56. Further, Defendant Depew’s “search” of Plaintiff Harveston’s person was not incident to an arrest, because Defendant Depew performed it *before* placing her under arrest.

57. Therefore, Defendant Depew’s sexual assault of Plaintiff Harveston violated Plaintiff Harveston’s rights under the Fourth Amendment, and constituted a sexual assault under state law.

58. After Defendant Depew groped Plaintiff Harveston’s breasts, she reflexively moved her shoulder away from him and told him he was “not supposed to do that.”

59. Contrary to the Depew Statement, Plaintiff Harveston did not “sw[i]ng at” Defendant Depew “with her right hand” at any point during this unconstitutional stop, nor did Plaintiff Harveston make any other action that could reasonably be construed as an act of aggression towards Defendant Depew.

D. Defendant Depew Violently Assaults Plaintiff Harveston.

60. After Plaintiff Harveston admonished Defendant Depew for groping her breasts, he told her to go toward the back of his vehicle.

61. Fearing for her and her daughter's safety, however, Plaintiff Harveston insisted that she remain toward the front of her vehicle, in full view of her daughter.

62. At this point, Plaintiff Harveston's daughter exited the vehicle, screamed, "Mama!", and attempted to run over to Plaintiff Harveston.

63. Attempting to avoid any further acts of aggression by Defendant Depew, Plaintiff Harveston asked him what she should do to secure her daughter's safety, given the time (after 10 p.m.) and location (in a graveled parking lot) of this unconstitutional stop.

64. Defendant Depew told Plaintiff Harveston to put her child back into her car.

65. Then, when Plaintiff Harveston took her first step in her daughter's direction, Defendant Depew violently grabbed her, told her to stop resisting arrest, and violently slammed her to the ground, causing injuries to her knees, legs, arms and hands. Photographs of Plaintiff Harveston's injuries are attached as Exhibit A.

66. By engaging in this illegal action, Defendant Depew prevented Plaintiff Harveston from securing her daughter, who was then free to run into the road—causing a serious threat to her child's safety.

67. Defendant Depew engaged in this violent takedown of Plaintiff Harveston despite having no reasonable suspicion or probable cause to arrest her—and despite the fact that no reasonable police officer in Defendant Depew's position would have believed that arresting Plaintiff Harveston was reasonable.

68. Additionally, at no point prior to this assault did Defendant Depew advise Plaintiff Harveston that he was placing her under arrest.

69. As a result of this violent takedown, Plaintiff Harveston dropped her phone, which collided with the ground. The phone was thereafter damaged.

E. Defendant Depew Unlawfully Arrests, Detains, and Continues Assaulting Plaintiff Harveston.

70. After his excessively forceful and unconstitutional take-down of Plaintiff Harveston, Defendant Depew placed Plaintiff Harveston under arrest and handcuffed her, despite having no probable cause to do so. Plaintiff Harveston would later learn that Defendant Depew claimed that she attempted to assault him, and that she was under the influence of drugs or alcohol. None of those claims are true.

71. In a warrantless arrest scenario, under La. Code Crim. Pro. art. 218, Defendant Depew was required to inform Plaintiff Harveston of the cause of her arrest prior to placing her in custody. Defendant Depew failed to fulfill this requirement. In fact, it was not until Plaintiff Harveston appeared before a magistrate that she learned of the charges against her, which had been premised on Defendant Depew's Statement.

72. At the time he arrested her, Defendant Depew did not read Plaintiff Harveston her Miranda rights. This fact too was contradicted by the Depew Statement.

73. The fact is, after placing her in handcuffs, Defendant Depew moved Plaintiff Harveston toward the open rear door of his squad car, threatening to tase her if she did not comply.

74. He then pushed Plaintiff Harveston onto the back seat in a sideways position so that her legs were facing towards the door. He then stood between her legs and placed his left hand on her throat, after which he began choking her, while at the same time using his right hand to radio for backup.

75. In the hope that the person on the other end of the radio transmission would hear her, Plaintiff Harveston shouted for help as loudly as Defendant Depew's choking grasp would permit, screaming that she was being choked.

76. Defendant Depew then dropped his radio, released his hold on Plaintiff Harveston's neck, stepped out from between her legs and away from his squad car, and slammed the rear, passenger-side door against Plaintiff Harveston's legs, causing her further injury.

77. It was only after the requested backup arrived, that Defendant Depew read Plaintiff Harveston her *Miranda* rights. It was also then that he began to illegally go through her phone, without her permission.

78. Defendant Depew also proceeded to threaten to turn over Plaintiff Harveston's daughter to the Office of Child Services if she could not name someone he could call to pick the daughter up. When Plaintiff Harveston provided him with such persons, he refused to call any of the people named.

F. Defendant Depew Takes Plaintiff Harveston to Jail.

79. After unlawfully detaining Plaintiff Harveston for over three hours, Defendant Depew took Plaintiff Harveston to the East Feliciana Parish Jail in Clinton, LA for booking. Her seven-year-old daughter was placed in the rear of the police car by Defendant Depew and was also transported to the jail. They arrived at approximately 2:30 a.m. on November 5, 2020.

80. Adding insult to injury, Defendant Depew called the Office of Child Services, despite the fact that Plaintiff Harveston could have made arrangements for a family friend to pick her daughter up. Someone from the Office of Child Services came to the jail and took temporary custody of Plaintiff Harveston's daughter. Ultimately, they transferred the daughter to Plaintiff Harveston's grandmother, an elderly woman who had to drive several hours from Mississippi in the middle of the night to retrieve the child.

81. After her daughter was taken from her, Plaintiff Harveston was then placed in a jail cell, where she fell asleep.

82. Despite arriving at the jail with many abrasions and contusions, Plaintiff Harveston was not offered any medical attention.

83. She appeared in front of a judge by phone the following morning, and made bail later that day. All told, she spent almost a full day in jail for something she never should have been arrested for.

84. Approximately one day after being released, Plaintiff Harveston sought medical attention from Lane Regional Medical Center, where she was diagnosed with a shoulder contusion.

85. To this day, Plaintiff Harveston continues to suffer from the after-effects of the sexual assault and vicious attack Defendant Depew exacted upon her. In addition, Plaintiff Harveston and her daughter, now eight years old, have both been deeply traumatized by this incident, and they continue to suffer from anxiety, depression, and loss of sleep.

86. Specifically, Plaintiff Harveston felt frightened, humiliated, and embarrassed during and after the incident. She has suffered severe mental anguish from the arrest, due to being inappropriately touched; slammed to the ground; taken to jail in the middle of a pandemic; and being handcuffed to a bench. Moreover, she is being emotionally burdened with a criminal prosecution for alleged wrongdoing she did not commit. She has been forced to see Defendant Depew at court appearances, which has been very distressing to her.

G. Defendant Depew Misrepresents the Incident and the Jackson Police Department Ratifies Defendant Depew's Fabricated Allegations.

87. Following the incident, Defendant Depew wholly misrepresented the circumstances of this incident in the Depew Statement and, by virtue thereof, to other officers, the District Attorney, and the Court.

88. The official documents authored by Defendant Depew were replete with intentional false statements, including, but not limited to, the following:

- Plaintiff Harveston was speeding at the time he pulled her over;
- Plaintiff Harveston drove erratically;
- Plaintiff Harveston appeared to be under the influence of drugs;
- Plaintiff Harveston swung at Defendant Depew, intending to hit him;
- Plaintiff Harveston refused to comply with lawful orders; and
- Defendant Depew read Plaintiff Harveston her *Miranda* rights at the time he placed her in handcuffs.

89. Based on Defendant Depew's history, the Jackson Police Department knew or should have known that these statements were false and that the charges against Plaintiff Harveston were false. However, the Department ratified these charges, acting with deliberate indifference to Plaintiff Harveston's constitutional rights.

H. The Town of Jackson and the Jackson Police Department Never Should Have Hired Defendant Depew.

90. The Town of Jackson and the Jackson Police Department owe a duty of care to the public prior to hiring a police officer and arming him with a gun. Among other responsibilities, this includes the duty to perform a background check prior to making a new hire.

91. Information in the public record indicates that Defendant Depew was fired from his previous law enforcement position at the Pointe Coupee Sheriff's Office after being arrested for stalking and malfeasance while in office. This conduct, which would have been discovered during any reasonable background check, should have disqualified Defendant Depew from further employment as a police officer with the Town of Jackson and the Jackson Police Department.

92. Nonetheless, on information and belief, the Town of Jackson and the Jackson Police Department failed to employ an appropriate background check process.

I. The Jackson Police Department Knew or Should Have Known of Defendant Depew's Unlawful Behavior

93. Making matters worse, after negligently hiring Defendant Depew, the Town of Jackson and the Jackson Police Department failed to appropriately supervise him.

94. The Town of Jackson and the Department knew or should have known about Defendant Depew's pattern of unlawful behavior, described above, before he was placed on leave.

95. Additionally, as also described above, the Town of Jackson and the Department knew or should have known about the pattern of misconduct Defendant Depew engaged in while on its force.

**COUNT I
42 U.S.C. § 1983 CLAIM
VIOLATION OF THE FOURTH AND FOURTEENTH AMENDMENTS
UNREASONABLE STOP
AGAINST DEFENDANT DEPEW**

96. Plaintiff Harveston hereby adopts all of the preceding paragraphs as if set forth fully herein.

97. The Fourth Amendment of the U.S. Constitution protects citizens against unreasonable search and seizure by law enforcement officers. This constitutional right has been interpreted by the United States Supreme Court to also protect drivers from unlawful stops of their vehicle while driving.

98. The Fourteenth Amendment of the U.S. Constitution protects citizens against arbitrary deprivation of life, liberty, or property by the state.

99. It was clearly established at the time Defendant Depew pulled Plaintiff Harveston over that the Fourth and Fourteenth Amendments prohibit fabricating the rationale for a pretextual traffic stop and thereby seizing a person without just cause.

100. Defendant Depew did not witness Plaintiff Harveston break any traffic law, nor did Defendant Depew have any reason to believe that Plaintiff Harveston had broken any law.

101. Any reasonable police officer would have known that stopping Plaintiff Harveston under these circumstances was objectively unreasonable and would violate her clearly established constitutional rights.

102. As a direct and proximate result of this unlawful stop, Plaintiff Harveston has experienced physical harm, economic harm, and emotional harm, including depression, anxiety, and sleeplessness, and is therefore entitled to compensatory damages.

103. Plaintiff Harveston is entitled to attorneys' fees and costs under 42 U.S.C. § 1988, prejudgment interest, and costs allowable by federal law.

104. Plaintiff Harveston is also entitled to punitive damages against Defendant Depew under 42 U.S.C. § 1983 because Defendant Depew's actions were malicious, willful, or, at a minimum, committed with reckless or wanton disregard for Plaintiff Harveston's constitutional rights.

COUNT II
42 U.S.C. § 1983 CLAIM
VIOLATION OF THE FOURTH AND FOURTEENTH AMENDMENTS
UNREASONABLE SEIZURE
AGAINST DEFENDANT DEPEW

105. Plaintiff Harveston hereby adopts all of the preceding paragraphs as if set forth fully herein.

106. The Fourth Amendment of the U.S. Constitution protects citizens against unreasonable search and seizure by law enforcement officers. This constitutional right has been interpreted by the United States Supreme Court to also protect drivers from unlawful stops and seizures.

107. The Fourteenth Amendment of the U.S. Constitution protects citizens against arbitrary deprivation of life, liberty, or property by the state.

108. It was clearly established at the time Defendant Depew pulled Plaintiff Harveston over that the Fourth and Fourteenth Amendments prohibit seizing a person without just cause.

109. It was clearly established at the time Defendant Depew pulled Plaintiff Harveston over that the Fourth and Fourteenth Amendments prohibit the inappropriate touching of a person who was seized without just cause, and who was not free to leave or otherwise end the encounter.

110. Defendant Depew ordered Plaintiff Harveston to get out of her car after she was unlawfully stopped, and then unlawfully groped Plaintiff Harveston's breasts when she was outside of her vehicle, and in a position where she was not free to leave or otherwise end the encounter.

111. Any reasonable police officer would have known that touching Plaintiff Harveston in this manner and under these circumstances was objectively unreasonable and would violate her clearly established constitutional rights.

112. As a direct and proximate result of this unlawful seizure, Plaintiff Harveston has experienced physical harm, economic harm, and emotional harm, including depression, anxiety, and sleeplessness, and is therefore entitled to compensatory damages.

113. Plaintiff Harveston is entitled to attorneys' fees and costs under 42 U.S.C. § 1988, prejudgment interest, and costs allowable by federal law.

114. Plaintiff Harveston is also entitled to punitive damages against Defendant Depew under 42 U.S.C. § 1983 because Defendant Depew's actions were malicious, willful, or, at a minimum, committed with reckless or wanton disregard for Plaintiff Harveston's constitutional rights.

COUNT III
42 U.S.C. § 1983 CLAIM
VIOLATION OF THE FOURTH AND FOURTEENTH AMENDMENTS
UNLAWFUL SEARCH
AGAINST DEFENDANT DEPEW

115. Plaintiff Harveston hereby adopts all of the preceding paragraphs as if set forth fully herein.

116. The Fourth Amendment of the U.S. Constitution protects citizens against unreasonable searches by law enforcement officers.

117. The Fourteenth Amendment of the U.S. Constitution protects citizens against arbitrary deprivation of life, liberty, or property by the state.

118. It was clearly established at the time Defendant Depew pulled Plaintiff Harveston over that the Fourth and Fourteenth Amendments prohibit conducting a warrantless search of a person without reasonable suspicion or probable cause.

119. Defendant Depew groped Plaintiff Harveston's breasts without advising her of his intention to perform a safety pat-down, and before touching any other part of her body, without reasonable suspicion or probable cause. The lack of reasonable suspicion or probable cause to search Plaintiff Harveston would have been evident to any reasonable law enforcement officer based on the facts and circumstances within Defendant Depew's knowledge at the time.

120. Any reasonable police officer would thus have known that searching Plaintiff Harveston under these circumstances was objectively unreasonable and would violate her clearly established constitutional rights.

121. As a direct and proximate result of this unlawful search, Plaintiff Harveston has experienced physical harm, economic harm, and emotional harm, including depression, anxiety, and sleeplessness, and is therefore entitled to compensatory damages.

122. Plaintiff Harveston is entitled to attorneys' fees and costs under 42 U.S.C. § 1988, prejudgment interest, and costs allowable by federal law.

123. Plaintiff Harveston is also entitled to punitive damages against Defendant Depew under 42 U.S.C. § 1983 because Defendant Depew's actions were malicious, willful, or, as a minimum, committed with reckless or wanton disregard for Plaintiff Harveston's constitutional rights.

COUNT IV
42 U.S.C. § 1983 CLAIM
VIOLATION OF THE FOURTH AND FOURTEENTH AMENDMENTS
UNLAWFUL ARREST
AGAINST DEFENDANT DEPEW

124. Plaintiff Harveston hereby adopts all of the preceding paragraphs as if set forth fully herein.

125. The Fourth Amendment of the U.S. Constitution protects citizens against unreasonable seizures by law enforcement officers. This constitutional right has been interpreted by the United States Supreme Court to prohibit a warrantless arrest without probable cause.

126. The Fourteenth Amendment of the U.S. Constitution protects citizens against arbitrary deprivation of life, liberty, or property by the state.

127. It was clearly established at the time Defendant Depew pulled Plaintiff Harveston over that the Fourth and Fourteenth Amendments prohibit a warrantless arrest of a person without probable cause.

128. Defendant Depew arrested Plaintiff Harveston, who had not done anything wrong, without probable cause.

129. The lack of probable cause to arrest Plaintiff Harveston would have been evident to any reasonable law enforcement officer based on the facts and circumstances within Defendant Depew's knowledge at the time.

130. Any reasonable police officer would thus have known that arresting Plaintiff Harveston under these circumstances was objectively unreasonable and would violate her clearly established constitutional rights.

131. As a direct and proximate result of this unlawful arrest, Plaintiff Harveston has experienced physical harm, economic harm, and emotional harm, including depression, anxiety, and sleeplessness, and is therefore entitled to compensatory damages.

132. Plaintiff Harveston is entitled to attorneys' fees and costs under 42 U.S.C. § 1988, prejudgment interest, and costs allowable by federal law.

133. Plaintiff Harveston is also entitled to punitive damages against Defendant Depew under 42 U.S.C. § 1983 because Defendant Depew's actions were malicious, willful, or, as a minimum, committed with reckless or wanton disregard for Plaintiff Harveston's constitutional rights.

COUNT V
42 U.S.C. § 1983 CLAIM
VIOLATION OF THE FOURTH AND FOURTEENTH AMENDMENTS
EXCESSIVE FORCE
AGAINST DEFENDANT DEPEW

134. Plaintiff Harveston hereby adopts all of the preceding paragraphs as if set forth fully herein.

135. The Fourth Amendment of the U.S. Constitution protects citizens against unreasonable seizures by law enforcement officers. This constitutional right has been interpreted by the United States Supreme Court to prohibit the use of excessive force by law enforcement.

136. The Fourteenth Amendment of the U.S. Constitution protects citizens against arbitrary deprivation of life, liberty, or property by the state.

137. It was clearly established at the time of Plaintiff Harveston's arrest that the Fourth and Fourteenth Amendments prohibit law enforcement officers from using an unreasonable level of force during an arrest.

138. By groping her breasts, violently tackling her to the ground without warning, choking her in the back seat of his squad car *after* placing her in handcuffs, and slamming his squad car's rear, passenger-side door on her legs, Defendant Depew repeatedly violated Plaintiff Harveston's clearly established Fourth and Fourteenth Amendment rights.

139. The level of force Defendant Depew used against Plaintiff Harveston was objectively unreasonable because: (a) Plaintiff Harveston had not committed any traffic violations or otherwise behaved suspiciously; (b) Plaintiff Harveston was on a public street and objectively posed no threat to Defendant Depew, or to anyone else at any point during the arrest; and (c) Plaintiff Harveston did not resist arrest.

140. Any reasonable law enforcement officer would have known that the level of force and the repeated use of unjustified force that Defendant Depew employed against Plaintiff Harveston would violate her clearly established constitutional rights.

141. Any reasonable police officer would thus have known that the repeated excessive force used under these circumstances was objectively unreasonable and would violate Plaintiff Harveston's clearly established constitutional rights.

142. As a direct and proximate result of Defendant Depew's excessive force, Plaintiff Harveston has experienced physical harm, economic harm, and emotional harm, including depression, anxiety, and sleeplessness, and is therefore entitled to compensatory damages.

143. Plaintiff Harveston is entitled to attorneys' fees and costs under 42 U.S.C. § 1988, prejudgment interest, and costs allowable by federal law.

144. Plaintiff Harveston is also entitled to punitive damages against Defendant Depew under 42 U.S.C. § 1983 because his actions were malicious, willful, or, as a minimum, committed with reckless or wanton disregard for Plaintiff Harveston's constitutional rights.

COUNT VI
42 U.S.C. § 1983 CLAIM
VIOLATION OF THE FOURTH AND FOURTEENTH AMENDMENTS
MONELL LIABILITY FOR OFFICER MISCONDUCT
AGAINST DEFENDANTS TOWN OF JACKSON AND ALLEN

145. Plaintiff Harveston hereby adopts all of the preceding paragraphs as if set forth fully herein.

146. Although the United States Supreme Court has held that a municipality or police agency is not automatically liable under 42 U.S.C. § 1983 for the intentional misconduct of its law enforcement officers, in *Monell v. Dept. of Social Services of New York*, 436 U.S. 658 (1978), the Court clarified that “local governments, like every other § 1983 ‘person,’ by the very terms of the statute, may be sued for constitutional deprivations visited pursuant to governmental ‘custom’ even though such a custom has not received formal approval through the body’s official decision-making channels.”

147. Here, on information and belief, there were sufficient incidents of unlawful conduct by Defendant Depew on innocent civilians in Jackson, Louisiana that Police Chief Allen and the Town of Jackson either knew or should have known prior to November 4, 2020, when Defendant Depew violently and unlawfully assaulted Plaintiff Harveston. Nonetheless, Police Chief Allen and the Town of Jackson did nothing to discipline Defendant Depew, remove him from the force (temporarily or permanently), offer him re-training, or otherwise hold him accountable.

148. By refusing to take any of these readily available actions, Police Chief Allen and the Town of Jackson ratified Defendant Depew's conduct, such that it became *de facto* official policy or custom for law enforcement to engage in misconduct with impunity. This ratification by Police Chief Allen and the Town of Jackson was the moving force behind and the proximate cause of the constitutional violations suffered by Plaintiff Harveston, because had Police Chief Allen and the Town of Jackson properly supervised Defendant Depew, the constitutional violations would not have happened. As such, Police Chief Allen and the Town of Jackson are liable to Plaintiff Harveston under 42 U.S.C. § 1983.

149. As a direct and proximate result of Police Chief Allen's and the Town of Jackson's failure to properly supervise Defendant Depew, Plaintiff Harveston has experienced physical harm, economic harm, and emotional harm, including depression, anxiety, and sleeplessness, and is therefore entitled to compensatory damages.

150. Plaintiff Harveston is entitled to attorneys' fees and costs under 42 U.S.C. § 1988, prejudgment interest, and costs allowable by federal law.

**COUNT VII
STATE LAW
FALSE ARREST
AGAINST DEFENDANT DEPEW**

151. Plaintiff Harveston hereby adopts all of the preceding paragraphs as if set forth fully herein.

152. Plaintiff Harveston's arrest was unlawful because there was no probable cause for the arrest. Defendant Depew had no reasonable basis to believe that Plaintiff Harveston had broken any law.

153. The facts and circumstances within Defendant's knowledge during his interaction with Plaintiff Harveston would not have caused a reasonable law enforcement officer to conclude that Plaintiff Harveston had committed or was in the process of committing any offense.

154. As a direct and proximate result of this false arrest, Plaintiff Harveston has experienced physical harm, economic harm, and emotional harm, including depression, anxiety, and sleeplessness, and is therefore entitled to compensatory damages.

**COUNT VIII
STATE LAW
ASSAULT
AGAINST DEFENDANT DEPEW**

155. Plaintiff Harveston hereby adopts all of the preceding paragraphs as if set forth fully herein.

156. Defendant Depew committed various acts immediately preceding his physical battery of Ms. Harveston. Those actions constituted imminent threats to batter and cause physical injury to Ms. Harveston. Specifically, Defendant Depew approached Ms. Harveston in a menacing way just before battering her, and he later threatened to tase her.

157. Defendant Depew intended to threaten to batter and cause injury to Ms. Harveston.

158. Defendant Depew's threat of physical injury to Ms. Harveston was unreasonable, without cause or justification under the circumstances, and excessive.

159. As a direct and proximate result of Defendant Depew's assault, Plaintiff Harveston has experienced physical harm, economic harm, and emotional harm, including depression, anxiety, and sleeplessness, and is therefore entitled to compensatory damages.

**COUNT IX
STATE LAW
SEXUAL BATTERY
AGAINST DEFENDANT DEPEW**

160. Plaintiff Harveston hereby adopts all of the preceding paragraphs as if set forth fully herein.

161. Defendant Depew committed the tort of sexual battery against Plaintiff Harveston by intentionally groping her breasts without her consent. This was an intentional action by Defendant Depew, who knew that he was engaging in unwanted and offensive contact.

162. As a direct and proximate result of Defendant Depew's assault, Plaintiff Harveston has experienced emotional harm, including depression, anxiety, and sleeplessness, and is therefore entitled to compensatory damages.

**COUNT X
STATE LAW
BATTERY
AGAINST DEFENDANT DEPEW**

163. Plaintiff Harveston hereby adopts all of the preceding paragraphs as if set forth fully herein.

164. Defendant Depew intentionally used an unreasonable and unnecessary amount of force on Plaintiff Harveston, causing harmful and offensive contact. Defendant Depew slammed Plaintiff Harveston into a graveled parking lot, causing injuries to her legs; choked her in the back seat of his squad car, after he already had placed her in handcuffs; and slammed the car door on her legs.

165. Defendant Depew had no reason to believe that Plaintiff Harveston would become violent or was in any way a danger to him during his unconstitutional search, seizure, and arrest of Plaintiff Harveston.

166. Plaintiff Harveston never tried to flee from the public street where she was arrested.

167. Defendant Depew did not face any danger from anyone else nearby.

168. Based on the totality of facts and circumstances presented, and compared with the force that any ordinary, prudent, and reasonable person would have considered necessary, this amount of force was objectively excessive and constitutes a battery under Louisiana law.

**COUNT XI
STATE LAW
FALSE IMPRISONMENT
AGAINST DEFENDANT DEPEW**

169. Plaintiff Harveston hereby adopts all of the preceding paragraphs as if set forth fully herein.

170. Plaintiff Harveston was detained in the East Feliciana Parish Jail without probable cause for her arrest. Her detention was therefore unlawful.

171. Defendant Depew caused this unlawful detention by arresting Plaintiff Harveston without probable cause.

172. As a direct and proximate result of his unlawful detention, Plaintiff Harveston has experienced physical harm, economic harm, and emotional harm, including depression, anxiety, and sleeplessness, and is therefore entitled to compensatory damages.

**COUNT XII
STATE LAW
MALICIOUS PERSECUTION
AGAINST DEFENDANT DEPEW**

173. Plaintiff Harveston hereby adopts all of the preceding paragraphs as if set forth fully herein.

174. Plaintiff Harveston was charged with the following offenses arising out of her November 4, 2020 arrest: operating a vehicle without plates (a moving violation); and resisting a police officer (a misdemeanor).

175. Both of these charges were directly and maliciously caused by Defendant Depew. Defendant's malice is shown by the lack of probable cause for these baseless charges.

176. Defendant Depew furthered the prosecution of Plaintiff Harveston by submitting false and misleading statements. For example, the Depew Statement falsely stated that Plaintiff Harveston attempted to hit Defendant Depew before he arrested her, and that Plaintiff Harveston appeared to be under the influence of drugs.

177. As a direct and proximate result of Defendant Depew's malicious conduct, Plaintiff Harveston has experienced physical harm, economic harm, and emotional harm, including depression, anxiety, and sleeplessness, and is therefore entitled to compensatory damages.

**COUNT XIII
STATE LAW
INTENTIONAL INFLICTION OF EMOTIONAL DISTRESS
AGAINST DEFENDANT DEPEW**

178. Plaintiff Harveston hereby adopts all of the preceding paragraphs as if set forth fully herein.

179. Defendant's conduct—including the inappropriate sexual assault and the excessive force used on Plaintiff Harveston in front of her young daughter and the decision to charge her with two misdemeanors, despite the lack of probable cause—was extreme and outrageous.

180. Defendant's conduct was particularly extreme and outrageous because the physical and sexual assault and other acts of excessive force were committed in front of Plaintiff Harveston's then seven-year-old daughter.

181. After Defendant Depew sexually assaulted Plaintiff Harveston, her daughter exited the vehicle and ran to her mother. When Plaintiff Harveston then moved toward her daughter – at Defendant Depew's direction – she was physically assaulted in front of her daughter.

182. Plaintiff Harveston's seven-year-old daughter was then placed in the car with her mother and driven to the East Feliciana Parish Jail in Clinton, LA where she was handed over to the Office of Child Services despite the availability of family friends to pick her up.

183. Defendant Depew intended that his conduct would cause Plaintiff Harveston severe emotional distress, or knew that his conduct was certain or substantially certain to cause Plaintiff Harveston severe emotional distress.

184. As a direct and proximate result of Defendant Depew's misconduct, Plaintiff Harveston has experienced physical harm, economic harm, and emotional harm, including depression, anxiety, and sleeplessness, and is therefore entitled to compensatory damages.

**COUNT XIV
STATE LAW
NEGLIGENT INFLICTION OF EMOTIONAL DISTRESS
AGAINST DEFENDANT DEPEW**

185. Plaintiff Harveston hereby adopts all of the preceding paragraphs as if set forth fully herein.

186. Defendant Depew owed a duty to Plaintiff Harveston to refrain from using an excessive amount of force against her. Additionally, Defendant was duty bound to choose a course of action that was reasonable under the circumstances.

187. Defendant breached those duties.

188. Defendant's breach of his duty was a cause-in-fact of Plaintiff Harveston's severe emotional distress. As a direct and proximate result of Defendant Depew's conduct, Plaintiff Harveston has experienced physical harm, economic harm, and emotional harm, including depression, anxiety, and sleeplessness, and is therefore entitled to compensatory damages.

**COUNT XV
STATE LAW
NEGLIGENT HIRING
AGAINST DEFENDANTS JACKSON POLICE DEPARTMENT AND TOWN OF
JACKSON**

189. Plaintiff Harveston hereby adopts all of the preceding paragraphs as if set forth fully herein.

190. Under Louisiana law, "a duty is imposed on a municipal employer in arming deputies to exercise reasonable care in hiring, training and retaining such deputies." *Roberts v. Benoit*, 605 So.2d 1032 (1992).

191. Here, the Town of Jackson and Jackson Police Department breached their duty to exercise reasonable care in hiring Defendant Depew. A reasonable background check would have informed hiring authority of the Town of Jackson and the Jackson Police Department that there were allegations of unlawful behavior that had been made against Defendant Depew, and that he had been arrested for stalking and malfeasance in office. Thus, the Town of Jackson and Jackson Police Department either knew or should have known of these past incidents, as the information was in the public domain and readily accessible upon a reasonable search. Any responsible law enforcement agency that knew or should have known of these allegations would not have hired Defendant Depew.

192. The Town of Jackson and the Jackson Police Department breached their duty to exercise reasonable care in hiring Defendant Depew. This was the proximate cause of the injuries that Plaintiff Harveston suffered at the hands of Defendant Depew on November 4, 2020.

193. As a direct and proximate result of the Town of Jackson and the Jackson Police Department's tortious conduct, Plaintiff Harveston has experienced physical harm, economic harm, and emotional harm, including depression, anxiety, and sleeplessness, and is therefore entitled to compensatory damages.

PRAYER FOR RELIEF

WHEREFORE, Plaintiff respectfully requests that the Court enter judgment in his favor and against each of the Defendants, and award the following relief:

- A. Declaration that Defendants' conduct violated the Fourth and Fourteenth Amendments of the United States Constitution;
- B. Compensatory and consequential damages, including damages for emotional distress, humiliation, loss of enjoyment of life, and other pain and suffering on all claims allowed by law in an amount to be determined at trial;
- C. Compensation for economic losses on all claims allowed by law in an amount to be proven at trial;
- D. Punitive damages on all claims allowed by law in an amount to be determined at trial;
- E. Attorneys' fees and costs associated with this action, including expert witness fees, on all claims allowed by law;
- F. Pre- and post-judgment interest at the lawful rate; and
- G. Any other relief the Court deems just and proper.

Dated: November 2, 2021

Respectfully submitted,

/s/ Megan E. Snider
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**Pro Hac Vice Application Forthcoming*

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