

**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF LOUISIANA**

DEANNA THOMAS,

Plaintiff,

v.

OFFICER ROBERT TEWIS, OFFICER KIRT
ARNOLD, EAST JEFFERSON LEVEE
DISTRICT POLICE DEPARTMENT, and EAST
JEFFERSON LEVEE DISTRICT CHIEF OF
POLICE,

Defendants.

Civil Action No. 2:21-cv-00698

Judge Greg G. Guidry

Magistrate Judge Dana M. Douglas

Section: "T" (3)

FIRST AMENDED COMPLAINT AND JURY DEMAND

NATURE OF THE CASE

1. This is a civil action seeking declaratory relief, injunctive relief, and damages against Defendant Officers Robert Tewis and Kirt Arnold, both of whom are employed by the East Jefferson Levee District Police Department, the East Jefferson Levee District Police Department, and the East Jefferson Levee District Police Department (EJLD PD) Chief of Police. On multiple occasions, Defendants Tewis and Arnold participated in unconstitutional and unlawful uses of excessive force against the Plaintiff, Deanna Thomas (Ms. Thomas)—a 55-year-old African American mother and homeless resident of Louisiana. Defendant Tewis also cited Ms. Thomas for violations of state statutes that are unconstitutional in their application against Ms. Thomas, as an unhoused individual.

2. Ms. Thomas is one of many victims who suffer from the unjust criminalization of poverty and homelessness in Louisiana and around the country,¹ an issue only exacerbated by the

¹ See, e.g., *No Safe Place: The Criminalization of Homelessness in U.S. Cities*, National Law Center on Homelessness and Poverty (2014) at 7 (stating "Homeless people, like all people, must engage in activities such as sleeping or

COVID-19 pandemic, when the Greater New Orleans area, including Jefferson Parish, suffered from a sharp and sudden increase in unhoused residents.²

3. Because poverty and homelessness are inextricably linked to institutional racism, the criminalization of homelessness disproportionately affects Black people.³ This reality, coupled with systemic racism in policing,⁴ far too often leads to police violence against already deeply marginalized homeless Black people, like Ms. Thomas.⁵

4. On the morning of April 6, 2020, Ms. Thomas was minding her own business in a public park when Defendants Tewis and Arnold approached her and demanded that she leave the park. Rather than give her a chance to collect her belongings, including her cell phone, Defendant Tewis handcuffed her. He later proceeded to knock the handcuffed and compliant Ms. Thomas to the ground. Unable to break her fall because she was handcuffed, Ms. Thomas slammed face-first into the ground. The impact of the fall injured both her wrist and shoulder. It also caused her glasses to snap in half against her face, lacerating it, and prompted the unintentional release of her

sitting down in order to survive. Yet, in communities across the nation, these harmless, unavoidable behaviors are treated as criminal activity under laws that criminalize homelessness.”).

² See, Unity of New Orleans, *Homelessness During the Pandemic: A Report on Progress Made and Progress Lost in Housing the Most Vulnerable*, (October 2020), (finding that, for the first time in 13 years, homelessness increased in Greater New Orleans by 11% from 1,179 in January 2019 to a total of 1,314 in January 2020), <https://unitygno.org/wp-content/uploads/2020/11/A-Gathering-Storm-October-2020-Report-on-Homelessness-During-the-Pandemic.pdf>.

³ See, e.g., Marian Moser Jones, *Does Race Matter in Addressing Homelessness? A Review of the Literature*, 8 World Medical & Health Policy J., 139, (2016), <https://doi.org/10.1002/wmh3.189>; Ebony Slaughter-Johnson, *The Criminalization of Black Homelessness*, Economic Hardship Reporting Project, Dec. 9, 2016, <https://economichardship.org/2016/12/the-criminalization-of-black-homelessness/>.

⁴ See, e.g., Frank Edwards, et al., *Risk of being killed by police use of force in the United States by age, race – ethnicity, and sex*, 116 PNAS 16793, 16794 (2019) (finding that Black men are 2.5 more likely than white men to be killed by law enforcement); Mark Hoekstra & Carly Will Sloan, *Does Race Matter for Police Use of Force? Evidence from 911 Calls*, NBER, Feb. 2020, <https://www.nber.org/papers/w26774>; Oliver Laughland, *US police have a history of violence against black people. Will it ever stop?*, The Guardian, Jun. 4, 2020, <https://www.theguardian.com/us-news/2020/jun/04/american-police-violence-against-black-people>.

⁵ See, e.g., Tianna Kelly, *Police Violence, Homelessness, and Black Lives*, National Alliance to End Homelessness, Oct. 1, 2020, <https://endhomelessness.org/police-violence-homelessness-and-black-lives/>.

bowels. While she was still handcuffed, Defendant Tewis knelt on her shoulder with all his body weight. After taking his weight off, he then grabbed and lifted her arm; twisted her shoulder; and pulled her off of the ground by the back of her arms.

5. Defendant Arnold witnessed the entire incident. Nonetheless, he did not intervene to serve and protect Ms. Thomas.

6. Defendant Tewis, Defendant Arnold, and other officers of the East Jefferson Levee District Police Department continued to pursue, harass, and at times brutalize Ms. Thomas during subsequent encounters on April 15, 2020, May 7, 2020, May 11, 2020, May 12, 2020, and May 28, 2020.

7. Ms. Thomas continues to experience emotional and psychological harm as a result of the incidents, including anxiety, sleeplessness, sleep disturbances, and an increased distrust of law enforcement officers.

8. Because of Ms. Thomas's homeless status, Ms. Thomas is involuntarily in public and will be subject to further harassment, arrest, and use of excessive force.

PARTIES⁶

9. Plaintiff Deanna Thomas is a person of majority and a resident of New Orleans, Louisiana.

10. Defendant Officer Robert Tewis is currently, and was at the time of the events set forth in this complaint, an officer with the East Jefferson Levee District Police Department. He is sued in his individual capacity.

⁶ As required under Federal Rule of Civil Procedure 5.1, the Louisiana Attorney General is being served with this Complaint "by certified or registered mail or by sending it to an electronic address designated by the attorney general for this purpose." The Louisiana Attorney General will also be served with the required notice of constitutional question that Plaintiff plans to file shortly after this Complaint is filed. See Fed. R. Civ. P. 5.1(a)(2).

11. Defendant Officer Kirt Arnold is currently, and was at the time of the events set forth in this complaint, an officer with the East Jefferson Levee District Police Department (EJLD PD). He is sued in his individual capacity.

12. The East Jefferson Levee District Police Department is a political subdivision of the State of Louisiana.

13. The East Jefferson Levee District Police Department Chief of Police is sued in his official capacity. The East Jefferson Levee District Police Department Chief of Police is an official with authority to enforce LA R.S. 38:225 and LA R.S. 14:63.3. On information and belief, the office of Chief of Police is currently vacant and the duties of the office are currently performed in an acting capacity by Captain Donald Juneau and Captain Terry Durnin.

JURISDICTION AND VENUE

14. This Court has original jurisdiction pursuant to 28 U.S.C. §§ 1331 and 1343(a)(3) because Plaintiff's claims of federal civil rights violations arise under the Constitution and laws of the United States, including 28 U.S.C. § 1983. This Court has supplemental jurisdiction over Plaintiff's Louisiana state law claims pursuant to 28 U.S.C. § 1367.

15. Venue in the Eastern District of Louisiana is proper pursuant to 28 U.S.C. § 1391(b)(2) because a substantial part of the events giving rise to Plaintiff's claims occurred in Jefferson Parish, Louisiana, which is located within the Eastern District of Louisiana.

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

STATEMENT OF FACTS



17. Laketown Park is a public park,⁷ ordinarily used by the public. There is a bike trail. Members of the public frequently bike, walk, run, sit, lie, take in the sun, lie in hammocks, and otherwise recreate in Laketown Park.

18. Plaintiff Deanna Thomas, a 55-year old African American woman, is a mother and an unhoused resident of Louisiana. Ms. Thomas has been unhoused for approximately three years following an economically debilitating combination of events, including a workplace injury and the embezzlement of child support payments, her only other source of income, by a government worker.

19. Ms. Thomas is unable to work and earn income because of her Lupus condition, which causes physical disability because of symptoms including extreme fatigue, muscle pain and weakness, and joint pain, which are exacerbated by emotional stress.

20. Ms. Thomas has applied for and been denied social services, including Social Security Disability and Section 8 benefits to secure housing.

⁷ Photo of Laketown in City of Kenner, available at https://www.kenner.la.us/pages/section_3_15.asp.

21. Ms. Thomas has no support network that can financially support her or provide resources, other than occasional donations of small amounts of money from her family or friends.

22. Any income Ms. Thomas receives, whether from her family or strangers, is insufficient to obtain and maintain housing.

23. The need for housing support in the Greater New Orleans area vastly exceeds availability.⁸

24. Collectively, forces beyond her control, such as illness, unemployment, penury, and the lack of a social safety net, compel her to live and sleep in public. Ms. Thomas's status of being unhoused is involuntary.

25. Being unhoused means that Ms. Thomas and others like her are necessarily present in public spaces, such as Laketown Park.

26. Criminalizing homelessness does not prevent homelessness; by contrast, increased interaction with the criminal justice system reduces the ability of those who are homeless to obtain shelter, work, and income, and maintain a livelihood.⁹ In recognition of this, on June 12, 2020,

⁸ See, e.g., Richard A. Webster, *New Orleans homeless population rising after 11 years of decreases, advocates fear*, The Times-Picayune (April 26, 2019) (stating that, "every single day in our community people are newly falling into homelessness ... and our coalition does not have enough rent assistance to house all the people who need it... We can't keep up. We don't have the resources."), available at: https://www.nola.com/entertainment_life/health_fitness/article_d055c9be-b31b-5744-827a-cd9d16bb16fd.html. See also, Michael Isaac Stein, *We're looking at a lot of new homeless people': Service providers report growing number of people on street as pandemic drags on*, The Lens NOLA (September 2, 2020) (finding that "New Orleans' unsheltered homeless population has exploded over the last few months, including a growing number of first-time homeless residents, some of whom have fallen out of a tourism and hospitality industry hobbled by the coronavirus pandemic."), available at: <https://thelensnola.org/2020/09/02/were-looking-at-a-lot-of-new-homeless-people-service-providers-report-growing-number-of-people-on-street-as-pandemic-drags-on/>

⁹ See, e.g., National Law Center on Homelessness & Poverty, *Housing, Not Handcuffs: Ending the Criminalization of Homelessness in U.S. Cities* (2019), available at: <https://homelesslaw.org/wp-content/uploads/2019/12/HOUSING-NOT-HANDCUFFS-2019-FINAL.pdf>; see also, National Law Center on Homelessness & Poverty, *No Safe Place: The Criminalization of Homelessness in U.S. Cities* (2019), available at: https://homelesslaw.org/wp-content/uploads/2019/02/No_Safe_Place.pdf; see also, United States Interagency Council on Homelessness, *Ending Homelessness for People Living in Encampments: Advancing the Dialogue* (August 2015), (stating "the forced dispersal of people from encampment settings is not an appropriate solution or strategy, accomplishes nothing toward the goal of linking people to permanent housing opportunities, and can make it more difficult to provide such lasting

Governor John Bel Edwards signed into law ACT 172—HB 137, which repealed La. R.S. 14:107, a state statute criminalizing vagrancy.¹⁰

April 6, 2020

27. Around 8:00 a.m. on the morning of April 6, 2020, Ms. Thomas was peacefully present on a levee in Laketown Park, a public park in Kenner, Louisiana. Ms. Thomas had several of her belongings with her, including a laptop computer, a sleeping bag, certain important legal documents (her birth certificate included), and an outdoor canopy that she used to protect herself from the elements. Ms. Thomas kept these possessions, particularly the laptop and legal documents, near or on her person at all times. At the time, Ms. Thomas's cell phone was charging several hundred feet away near a public restroom at the park.

28. At or around 8:30 a.m., Defendants Tewis and Arnold, both in uniform, approached Ms. Thomas. Defendant Tewis told Ms. Thomas that she was illegally occupying the park and instructed her to leave. He informed Ms. Thomas that he had not arrested anyone in two weeks. Ms. Thomas replied that she was unable to move all of her belongings without assistance. The belongings she had with her included heavy and cumbersome items, including the canopy, a camping pad, a chair, a speaker, various clothing items, laundry detergent, a rolling cart, and several bags. Ms. Thomas stated that someone she knew would be available to assist her that evening, and that she would be happy to move her belongings at that time. Defendant Tewis

solutions to people who have been sleeping and living in the encampment.”), available at https://www.usich.gov/resources/uploads/asset_library/Ending_Homelessness_for_People_Living_in_Encampments_Aug2015.pdf

¹⁰ See, NOTICE: Bills Signed, Vetoed by Gov. Edwards (June 12, 2020), available at <https://gov.louisiana.gov/index.cfm/newsroom/detail/2549>; see also, 2020 Regular Session Act. No. 172, House Bill No. 137, available at <http://www.legis.la.gov/legis/ViewDocument.aspx?d=1181905>.

replied that, if Ms. Thomas did not immediately leave the park, with or without her belongings, she would be arrested.

29. Ms. Thomas then told Defendant Tewis that she would need to retrieve her cell phone from near the public restroom before leaving the park. Defendant Arnold asked Ms. Thomas where her phone was, and Ms. Thomas pointed to the phone and replied that the phone was behind the restroom by the docks. Defendant Tewis instructed that he required Ms. Thomas, before retrieving her cell phone, to move all of her other items. As Ms. Thomas began to walk toward the restroom to retrieve her cell phone, Defendant Tewis grabbed her by her jacket and began to drag her toward his vehicle. As he did so, Defendant Tewis placed both of Ms. Thomas's hands in handcuffs behind her back.

30. Ms. Thomas told Defendant Tewis that the handcuffs were too tight and that they were injuring her hands and wrists. She informed him that she suffered from Lupus, which causes swelling, and that the swelling compounded the discomfort and injury that the excessively tight handcuffs were causing. Defendant Tewis did not loosen the handcuffs.

31. Ms. Thomas also begged Defendant Tewis to get her cell phone as it was the only way for her to get in touch with her children, who were out of state, and her family, but he refused.

32. He nevertheless continued to drag and pull Ms. Thomas, with both hands cuffed behind her back, toward his vehicle. As they approached the police vehicle, and while Ms. Thomas was standing on her feet and complying with Defendant Tewis's instructions, Defendant Tewis threw Ms. Thomas to the ground, where she landed on her right side and face. Ms. Thomas's hands were still handcuffed behind her back. Although she wrenched her shoulder in an attempt to protect herself, she was unable to break her fall. Ms. Thomas hit the ground face first, causing her eyeglasses to break in half.

33. Ms. Thomas's face began to bleed, swell, and bruise. The force and impact of being thrown to the ground caused her to release her bowels. Her neck, back, and right shoulder were injured. The fall also resulted in abrasions and an open wound to her nose.

34. Defendant Tewis then knelt with his full body weight on Ms. Thomas's left shoulder. He then pushed down on her right thumb. Defendant Tewis knelt on Ms. Thomas's shoulder for approximately 60 seconds. The force of the handcuffs against Ms. Thomas's hands caused her additional injury, including to her right wrist, to three fingers on her right hand, and to the inside of her right hand.

35. Shocked from being thrown to the ground face first, Ms. Thomas began to cry. Her glasses had broken, she could not see properly, and her face was bleeding over her nose.

36. After lifting his knee off of her shoulder, Defendant Tewis grabbed her left arm, and lifted it, twisting her left shoulder. Defendant Tewis then pulled Ms. Thomas, who was handcuffed, up and off of the ground by the back of her arms, injuring her shoulders.

37. Defendant Tewis nevertheless continued to drag and pull Ms. Thomas by both of her arms, with her hands cuffed behind her back, toward his vehicle. Defendant Tewis began to try to move Ms. Thomas toward his vehicle to place her in it. Ms. Thomas asked for "a minute" to collect herself before getting into the vehicle.

38. When they reached the police vehicle, Defendant Tewis placed Ms. Thomas in the backseat. Overwhelmed by the pain and shock, Ms. Thomas laid down across the back seat face down to avoid sitting upright and putting more pressure on her swollen and handcuffed wrists.

39. Defendant Tewis instructed Ms. Thomas that she could not lie down in the vehicle. Ms. Thomas pleaded with Defendant Tewis, telling him that she was in pain, and asked for time to collect herself before she readjusted herself in the backseat.

40. Defendant Tewis did not give Ms. Thomas time to collect herself. Instead, he lifted Ms. Thomas up by the forearms, causing further injury to her shoulders, and pulled Ms. Thomas from the vehicle. Ms. Thomas again told Defendant Tewis that the handcuffs were too tight and that she could not sit against her wrists. Being made to sit against the vehicle seat with her hands cuffed behind her applied additional pressure and caused increased pain to Ms. Thomas's wrists. Ms. Thomas felt Defendant Tewis adjust the handcuffs, which afterward felt tighter. Shouting at her, Defendant Tewis stated that she needed to sit upright in the vehicle with her legs in front of her. Ms. Thomas then re-entered the vehicle and sat upright in the backseat, her back pressing her wrists painfully into the seat. She faced towards the door of the vehicle to protect her injured hands from being pressed against the seat.

41. Throughout the physical altercation between Ms. Thomas and Defendant Tewis, Defendant Arnold was standing approximately ten feet away. At no point did Defendant Arnold interject, intervene, or otherwise prevent Defendant Tewis from dragging Ms. Thomas to the police car, throwing her to the ground, kneeling on her shoulder and twisting her shoulder, pushing down on her thumb, or pulling her back out of the police car by her forearms. During the entire ordeal, which lasted approximately five minutes, Defendant Arnold did not utter a single word.

42. After Ms. Thomas was situated in the police car, Defendant Tewis took pictures of her belongings—the belongings she was unable to take with her—and the area surrounding the belongings.

43. Ms. Thomas begged Defendant Tewis to bring her black bag with her legal papers and laptop in it, and to get her cell phone, as it was the only way for her to get in touch with her children, who were out of state, and her family, but he refused. Defendant Tewis prevented Ms. Thomas from retrieving her belongings.

44. Defendant Tewis failed to provide Ms. Thomas with forty-eight hours' notice to remove obstructions as required by LA R.S. 38:225. Rather, Defendant Tewis instructed Ms. Thomas to take her items immediately and then arrested her.

45. Defendant Tewis failed to provide Ms. Thomas with instructions as to how to retrieve her personal property.

46. Defendant Tewis drove Ms. Thomas to the Jefferson Parish Correctional Center, where she was booked, fingerprinted, and placed in a holding cell with a woman who had been recently exposed to the COVID-19 virus and was displaying signs of infection. Ms. Thomas was aware that correctional facilities are dangerous transmission zones for the COVID-19 virus and did not want to expose herself to it. Despite the inherent risks and dangers involved, Ms. Thomas was not given a mask by the correctional facility staff, who were not wearing masks themselves.

47. At the Jefferson Parish Correctional Center, Defendant Tewis removed the handcuffs from Ms. Thomas's wrists to reveal that the skin was scraped off the knuckles of her right index, middle, and ring fingers and left index and middle fingers, and there was swelling and cuts on both of her wrists as well as abrasions on her right wrist.

48. At the Jefferson Parish Correctional Center, Ms. Thomas was finally able to wash her soiled clothes.

49. At around 3:30 p.m. the same day, Ms. Thomas was released from the Jefferson Parish Correctional Center, which is approximately 30 minutes by car from Laketown Park. She returned to Laketown Park to discover that all of her belongings had been removed, including her laptop computer, her sleeping bag, her birth certificate, and her outdoor canopy. The only item remaining was a pair of disposable rubber gloves that Defendant Tewis had used to search Ms. Thomas's belongings.

50. Three days later, Ms. Thomas found one half of her broken eyeglasses. This was a lucky find because she could not afford to buy new glasses. She used this half lens for months in order to see.

51. Ms. Thomas contacted EJLD PD to ask about picking up her items. EJLD PD staff repeatedly told Ms. Thomas over the phone that her items could be collected at 1100 Rev. Richard Wilson Drive, Kenner, LA 70062, yet when she called EJLD PD on the day she was going to pick up her items, EJLD PD informed her that her items had been taken to the Lesan Drive location at the St. Charles Parish line. When Ms. Thomas arrived, she found that many of her items were missing, including her book bag, canopy, computer, and legal papers. Other items, including her sleeping bag and some clothes, had been thrown in the dumpster at the site.

52. The Arrest Report for April 6, 2020 written by Defendant Tewis charged Ms. Thomas with “LA R.S. 38:225 Obstruction of Levee” and “LA R.S. 14:108.B.1.B Resisting Arrest Violent”, though others had been recreating at the public park and Ms. Thomas did not resist arrest. Significantly, the District Attorney has declined to accept the charges.

April 15, 2020

53. On April 15, 2020, Defendant Tewis returned to Laketown Park. Again, he found Ms. Thomas, who was asleep at Laketown Park. He woke her and wrongly told her that she was on private property.

54. As Ms. Thomas complied and gathered her things to leave, Defendant Tewis went to his police vehicle and answered a call. Ms. Thomas could overhear him laughing and informing the person on the other end of the line that he would be at a meeting in less than 15 minutes.

55. As Ms. Thomas began walking down the levee with her things in tow, including her rolling cart, Defendant Tewis approached her again, grabbed her by the jacket, shook her by

the shoulders forward and backwards, and pushed her as she was walking downward with enough force that he almost pushed her down the levee. The force was so great that it broke the wheel of her cart.

56. Defendant Tewis threatened to arrest Ms. Thomas again, but eventually left without handcuffing or arresting her. He told her again, wrongfully, that she was on private property, was trespassing, and not to come back.

May 7, 2020

57. On May 7, 2020, Defendant Tewis returned to Laketown Park. Again, he found Ms. Thomas, who was asleep at Laketown Park. He woke her by loudly stating “Deanna, get up, hands behind your back” and repeatedly told her he was charging her with a felony. Ms. Thomas complied. Defendant Tewis handcuffed and arrested her.

58. While in the police vehicle, Ms. Thomas observed Defendant Tewis and Arnold going through her things, including her blue bag, which contained food, clothing, and other essentials. Ms. Thomas kept these possessions, particularly the blue bag containing food and clothing, near or on her person at all times. Defendant Tewis drove Ms. Thomas away from Laketown Park. Ms. Thomas never saw her blue bag again.

59. Upon information and belief, Defendant Tewis failed to provide Ms. Thomas with forty-eight hours’ notice to remove obstructions as required by LA R.S. 38:225.

60. Defendant Tewis failed to provide Ms. Thomas with instructions as to how to retrieve her personal property.

61. In the police vehicle, Ms. Thomas informed Defendant Tewis that the handcuffs were too tight.

62. At the Jefferson Parish Correctional Center, while Ms. Thomas was still handcuffed, Defendant Tewis grabbed Ms. Thomas by her jacket and dragged her around the facility. She was forced to accompany him in this fashion to his locker and to watch him unload his gun.

63. Defendant Tewis continued to hold the handcuffed Ms. Thomas by the jacket and drag her to the processing area.

64. Defendant Tewis aggressively reached towards Ms. Thomas's head to remove her hat, but the processing staff interrupted him, stating that it was unnecessary to remove her hat to take her temperature.

65. At processing, Defendant Tewis removed the handcuffs to reveal knicks and scratching and bruising around Ms. Thomas's wrists. Ms. Thomas again informed Defendant Tewis that the handcuffs had been too tight.

66. As Jefferson Parish Correctional Center staff processed Ms. Thomas and fingerprinted her, they confirmed that Ms. Thomas was not being charged with a felony but rather a misdemeanor.

67. Jefferson Parish Correctional Center staff dumped out Ms. Thomas's medicine on the unsanitary counter and refused to give Ms. Thomas her face mask, instead offering her one that had been handled by staff who wore no gloves or mask.

68. After Ms. Thomas was released, she searched for her items at Laketown Park, only to find that they had been thrown in the dumpster. Her blue bag was not there.

69. The Arrest Report for May 7, 2020, written by Defendant Tewis, charged Ms. Thomas with "LA R.S. 38:225 Obstruction of Levee" and "LA R.S. 14:63.3 Entry / Remain After

Forbid”, though others had been recreating at the public park, and Ms. Thomas complied and did not resist arrest. Significantly, the District Attorney has declined to accept the charges.

May 11, 2020

70. On May 11, 2020, Defendant Tewis returned to Laketown Park. Again, he found Ms. Thomas, who was asleep at Laketown Park. He woke her. Ms. Thomas was compliant as Defendant Tewis handcuffed and arrested her.

71. Defendant Tewis took Ms. Thomas’s purse and only one of her bags, her black bag.

72. While Ms. Thomas was in the police vehicle, Defendant Arnold appeared and assisted Defendant Tewis in searching through her items.

73. Defendant Arnold took her red bag, which contained food, clothing, and other essentials, and put it in his truck.

74. Defendants threw the remaining items on the ground and left them there.

75. Defendants failed to provide Ms. Thomas with instructions as to how to retrieve her personal property.

76. Upon information and belief, Defendant Tewis failed to provide Ms. Thomas with forty-eight hours’ notice to remove obstructions as required by LA R.S. 38:225.

77. After Ms. Thomas was released, Ms. Thomas returned to Laketown Park to search for her red bag only to find that it was gone. She later found other belongings, including her sleeping bag and blanket, in the dumpster.

78. The Arrest Report for May 11, 2020 written by Defendant Tewis charged Ms. Thomas with “LA R.S. 38:225 Obstruction of Levee” and “LA R.S. 14:63.3 Remain After Being Forbid”, though others had been recreating at the public park and Ms. Thomas did not resist arrest. Significantly, the District Attorney has declined to accept the charges.

May 12, 2020

79. On May 12, 2020, at approximately 2:30 a.m., Ms. Thomas was on the levee at Laketown Park, a public park. Ms. Thomas, who was asleep, awoke to observe a spotlight shining on her. The spotlight came from the Ponchartrain Center side of the levee, from a Kenner Police Department (KPD) vehicle. Ms. Thomas remained still.

80. Immediately afterward, Ms. Thomas observed the same KPD vehicle rapidly drive up the bike trail side of the levee near to her, along with a second KPD vehicle.

81. Ms. Thomas began to leave, but KPD Officer A.G. and another KPD officer exited their KPD vehicles, and KPD Officer A.G. told her to stop. Ms. Thomas complied.

82. Suddenly, three EJLD PD trucks drove up quickly on the Ponchartrain Center side of the levee. Three EJLD PD officers quickly exited their trucks. KPD Officer A.G. instructed the three EJLD PD officers to “back off” so that he could speak with Ms. Thomas. While KPD Officer A.G. spoke to Ms. Thomas, all three unknown EJLD PD officers remained out of their trucks, looking on to Ms. Thomas. After KPD Officer A.G. stopped talking to Ms. Thomas, she took her things and walked away, toward the bus stop. Upon information and belief, but for KPD Officer A.G. instructing the three EJLD PD officers to “back off”, Ms. Thomas would have experienced another incidence of harassment, handcuffing, and arrest by EJLD PD officers.

May 28, 2020

83. On May 28, 2020, Ms. Thomas was at Laketown Park, a public park, when an unidentified EJLD PD officer stopped her. He informed Ms. Thomas that he would send one of his other officers to arrest her.

Ms. Thomas’s Complaint

84. Shortly after April 6, 2020, Ms. Thomas attempted to make a complaint about Defendants Tewis's and Arnold's conduct on April 6, 2020.

85. She called the East Jefferson Parish Levee District Police Department, and the staff informed her that EJLD PD did not have an internal affairs representative.

86. Upon calling the Louisiana State Police, Ms. Thomas learned the name of the internal affairs representative of EJLD PD. However, upon calling EJLD PD and asking for that person, she was told that person was not the internal affairs representative, but the person speaking with her refused to say who was.

87. Upon calling the Louisiana State Police again, Ms. Thomas was informed that, in fact, Captain Donald Juneau ("Captain Juneau") was the person to whom she should submit her complaint.

88. Ms. Thomas called Captain Juneau several times and left voicemails.

89. When Captain Juneau finally returned her call, she informed him that she wanted to make a complaint about the conduct of Defendants Tewis and Arnold. Captain Juneau informed her that she had to write out her complaint on a form at the EJLD PD office. Captain Juneau did not instruct her to detail Defendants Tewis's and Arnold's conduct but instead stated he wanted her to list all of the material items that she was missing after the incident on April 6, 2020.

90. When Ms. Thomas arrived at the EJLD PD office, a staff member approached her with the complaint form. Ms. Thomas then overheard the staff member ask someone, whom she believes to be Captain Juneau, whether he wanted to meet Ms. Thomas, and she heard that person say "no."

91. Ms. Thomas took the form with her. She had to add additional pages so that she could write her full complaint. Even though her hand was still sore, she completed the complaint and submitted it at the EJLD PD offices on May 21, 2020.

92. Afterward, Ms. Thomas called Captain Juneau to confirm that he had received the complaint she submitted. Captain Juneau did not confirm but assured her that, if his staff had the complaint, then he would receive it.

93. About May 24, 2020, Ms. Thomas again called Captain Juneau to inquire about the status of her complaint and asked for an item number. Captain Juneau gave no update and no item number and instead informed her that he had spoken to the District Attorney and convinced them to drop the charges against her.

94. During one conversation, Captain Juneau reprimanded Ms. Thomas for stating what Defendants Tewis and Arnold did on April 6, 2020 and not simply listing the material items that were lost as a result of that incident.

95. Again, about May 29, 2020, Ms. Thomas again called Captain Juneau to inquire about the status of her complaint and obtain an item number. Captain Juneau again gave no update and no item number and instead informed her that he had spoken to the District Attorney and convinced them to drop the charges against her. This time, Captain Juneau told Ms. Thomas that she did not need an item number because Captain Juneau knew her, and she knew him. Captain Juneau informed her that he worked with these men—presumably Defendant Tewis and Arnold—and knew them.

96. About June 23, 2020, Ms. Thomas spoke with Captain Juneau again, and he finally gave her an item number for her complaint and informed her that the investigation would take 90 days and have to go up his chain of command.

97. After that time, Ms. Thomas continued to call to get an update about the investigation into her complaint and would leave messages. To this day, Ms. Thomas has never received an update about the investigation, its status, or its results.

98. This is not the first time that Captain Juneau has misled a victim of police violence seeking to file a citizens' complaint form and refused to investigate. *See* Complaint at ¶¶ 80-94, *Suggs v. Mikkelsen*, Case No. 2:21-cv-01387 (E.D. La. July 12, 2021) (describing how EJLD PD and Captain Juneau and his staff repeatedly denied receiving a citizen complaint form from the plaintiff and failed to investigate its allegations until repeated inquiries were made).¹¹

Additional Encounters

99. Sometime in the Spring of 2020, when Ms. Thomas was at the Wendy's restaurant, which was part of her daily routine, she observed Defendant Arnold inside the restaurant, not eating, and watching her.

100. At least three times, when Ms. Thomas was at Wal-Mart, she observed Defendant Tewis watching her from his EJLD PD truck.

101. Sometime in September or October of 2020, Ms. Thomas had arrived at the airport by public transportation, and, before she exited the bus, she observed Defendant Tewis watching her. On one of these occasions Defendant Tewis stood outside the window of the bus, in which Ms. Thomas was sitting, and stared directly at her, while another Jefferson Parish Sheriff's Officer stood at the door of the bus.

102. In the months following the events of April 6, 2020 and continuing to this day, Ms. Thomas suffers from physical and emotional pain as a result of Defendant Tewis's harassment, and Defendant Tewis's actions and Defendant Arnold's inaction. Ms. Thomas's

¹¹ The original complaint is available at <https://aclujusticelab.org/wp-content/uploads/2021/07/2021-07-12-1-Suggs-Complaint-USDC-EDLA-21-cv-1327.pdf>.

fingers exhibit evidence of serious injury, including contusions and bumps. Her right shoulder still hurts, and the palm of her right hand was bruised for months after the April 6, 2020 incident and continues to hurt. Upon information and belief, Ms. Thomas has nerve damage in the palm of her right hand caused during the April 6, 2020 incident. Ms. Thomas also experiences anxiety, sleeplessness, sleep disturbances, and an increased distrust of law enforcement officers—all stemming from the April 6, 2020 physical assault she endured. The incidents of April 15, 2020, May 7, 2020, May 11, 2020, May 12, 2020, and May 28, 2020 and subsequent encounters with Defendants Tewis and Arnold exacerbate the physical and emotional injuries sustained on April 6, 2020. Moreover, Ms. Thomas feels a decreased level of comfort in public, where she involuntarily is. The sight of police officers now incites immediate anxiety, distrust, wariness and unease.

103. On information and belief, the EJLD Police Department and its officers continue to enforce LA R.S. 38:225 and LA R.S. 14:63.3, including against Ms. Thomas and other individuals who are homeless involuntarily.

104. On information and belief, the EJLD Police Department continues its policy, practice, and/or custom of allowing its officers to arrest individuals and seize and/or destroy moveable property within the Levee District, without notice and an opportunity to be heard.

105. When Ms. Thomas returns to Laketown Park, because of her status as a homeless person, she is at risk of being harassed, handcuffed, and arrested, through use of excessive force.

106. Ms. Thomas is homeless involuntarily, is necessarily in public, and will necessarily and repeatedly be in violation of the state statutes LA R.S. 38:225 and LA R.S. 14:63.3.

FIRST CAUSE OF ACTION
42 U.S.C. § 1983 – Excessive Force – Fourth and Fourteenth Amendments
(Against Defendant Tewis)

107. Plaintiff incorporates all other paragraphs of this complaint.

108. Defendant Tewis, at all relevant times, was acting under color of state law in his capacity as an East Jefferson Levee District Police Department officer, and his acts or omissions were conducted within the scope of his official duties or employment.

109. On April 6, 2020, though Ms. Thomas repeatedly and compliantly followed all instructions by law enforcement and was in no manner resisting, Defendants Tewis deployed increasing and objectively unreasonable excessive force against Ms. Thomas when he:

- grabbed her by the jacket;
- grabbed her hands to handcuff and restrain Ms. Thomas;
- handcuffed her too tightly;
- kept the handcuffs tight even after Ms. Thomas advised that the handcuffs were too tight and exacerbated the swelling and pain of her Lupus condition;
- pulled and dragged the handcuffed Ms. Thomas;
- physically shoved the handcuffed Ms. Thomas to the ground, so forcefully that the force caused her to release her bowels;
- knelt on her left shoulder while she was on the ground and handcuffed behind her back;
- continued to kneel on her left shoulder and placed his full body weight on Ms. Thomas while she was on the ground and handcuffed behind her back, for approximately 60 seconds;
- pushed on her right thumb while she was on the ground and handcuffed behind her back while he knelt on her;

- grabbed and lifted her left arm, twisting her left shoulder while she was handcuffed behind her back;
- pulled her, while she was handcuffed up and off of the ground by the back of her arms, injuring her shoulders;
- dragged and pulled Ms. Thomas to the vehicle while she was handcuffed;
- lifted and pulled Ms. Thomas out of the vehicle by her forearms while she was handcuffed; and
- further tightened the handcuffs after Ms. Thomas again told Defendant Tewis that the handcuffs were too tight.

110. On April 15, 2020, Defendant Tewis approached Ms. Thomas as she was asleep on the levee. As Ms. Thomas began walking down the levee with her things in tow, including her rolling cart, Defendant Tewis grabbed her by the jacket, shook her by the shoulders forward and backwards, and pushed her as she was walking downward with enough force that he almost pushed her down the levee. The force was so great that it broke the wheel of her cart.

111. On May 7, 2020, Defendant Tewis deployed objectively unreasonable force against Ms. Thomas after she was handcuffed. Specifically—after Ms. Thomas had already repeatedly and compliantly followed all instructions by law enforcement, was handcuffed, and had not in any manner resisted apprehension—Defendant Tewis kept the handcuffs too tight, and Defendant Tewis grabbed Ms. Thomas by her jacket and dragged her around the facility, forcing her to watch him unload his gun. Then, in a use of additional excessive force, Defendant Tewis continued to hold the handcuffed Ms. Thomas by the jacket and drag her to the processing area.

112. At the time that Defendant Tewis used excessive force on Ms. Thomas, there were no factual circumstances that would have led a reasonable person to believe that Ms. Thomas posed

any threat to any person, or that any force was required to lead Ms. Thomas around the correctional facility or into the processing area. Defendant Tewis's use of force was patently excessive and objectively unreasonable.

113. Defendant Tewis's actions and omissions, including the uses of force, as described above, were objectively unreasonable in light of the facts and circumstances and violated Plaintiff's rights under the Fourth Amendment.

114. Defendant Tewis's actions and omissions, including the uses of force, as described above, were also malicious and involved reckless, callous, and deliberate indifference to Plaintiff's federally protected rights. The force used by Defendant Tewis shocks the conscience and accordingly violated Plaintiff's Fourteenth Amendment rights.

115. Defendant Tewis engaged in the conduct described above wilfully, maliciously, in bad faith, and with reckless disregard of Plaintiff's rights.

116. Defendant Tewis is not entitled to qualified immunity for the complained-of conduct because this conduct was objectively unreasonable and violated Plaintiff's clearly established constitutional rights.

117. As a direct and proximate consequence of Defendant Tewis's acts and omissions, including the uses of force, Plaintiff has suffered and continues to suffer damages, including through physical and emotional injury and through damage to and loss of her property.

118. Plaintiff seeks damages for these injuries.

SECOND CAUSE OF ACTION
42 U.S.C. § 1983 – Failure to Intervene – Fourth and Fourteenth Amendments
(Against Defendant Arnold)

119. Plaintiff incorporates all other paragraphs of this complaint.

120. Defendant Arnold, at all relevant times, was acting under color of state law in his capacity as an East Jefferson Levee District Police Department officer, and his acts or omissions were conducted within the scope of his official duties or employment.

121. On April 6, 2020 Defendant Arnold witnessed the use of excessive force by Defendant Tewis against Plaintiff and had ample time to intervene in order to prevent or mitigate injury to her.

122. Defendant Arnold did not take reasonable steps to intervene and protect Plaintiff from the objectively unreasonable and excessive force that Defendant Tewis employed despite being in a position to do so.

123. Any reasonable police officer in the position of Defendant Arnold would have recognized that the force being used against Plaintiff was unconstitutionally excessive and would have known that they had a duty to take reasonable measures to prevent harm to Plaintiff.

124. Defendant Arnold is not entitled to qualified immunity for the complained-of conduct because this conduct was objectively unreasonable and violated Plaintiff's clearly established constitutional rights.

125. As a direct and proximate consequence of Defendant Arnold's omissions, including the uses of force, Plaintiff has suffered and continues to suffer damages, including through physical and emotional injury and through damage to and loss of her property.

THIRD CAUSE OF ACTION
LA R.S. 38:225 & LA R.S. 14:63.3 Unconstitutional As Applied to Plaintiff,
Violation of Due Process – Deprivation of Liberty and Property
Fourteenth Amendment
Louisiana Constitution Art. I §2
(Against East Jefferson Levee District Police Department Chief of Police)

126. Plaintiff incorporates all other paragraphs of this complaint.

127. Plaintiff has a constitutionally protected liberty interest to be in parks or on other city lands of her choosing that are open to the public generally.

128. Unsheltered, unhoused people in the Greater New Orleans area, including Ms. Thomas, are involuntarily present in public with their personal property. They have no place else to go.

129. Sheltering oneself is not voluntary conduct. It is a basic human need, it is harmless, and it is an act integral to the status of homelessness.

130. The freedom to loiter for innocent purposes is part of the liberty protected by the Due Process Clause of the Fourteenth Amendment.

131. The right to remove from one place to another according to inclination is an attribute of personal liberty protected by the Constitution.

132. Other members of the public frequent Laketown Park, a public park, to bike, walk, run, sit, lie, take in the sun, and otherwise recreate, undeterred and uninterrupted by Defendants or threat of arrest.

133. No person shall be deprived of life, liberty, or property, except by due process of law. Louisiana Constitution Art. I §2.

134. Defendants have arrested Plaintiff three times for LA R.S. 38:225 (Obstructions on levees), on April 6, May 7, and May 11, 2020, and two times for LA R.S. 14:63.3 (Entry on or remaining in places or on land after being forbidden) on May 7 and May 11, 2020.

135. These arrests deprive Plaintiff of liberty and property.

136. Even if the state statutes LA R.S. 38:225 and LA R.S. 14:63.3 are facially valid, Defendants' practice of applying and enforcing the state statutes against Ms. Thomas effectively

punishes the act of sheltering oneself in public and the status of homelessness and is unconstitutional as applied by Defendants to Ms. Thomas.

137. Furthermore, Defendants' practice of applying and enforcing the state statutes LA R.S. 38:225 and LA R.S. 14:63.3, which punishes the act of sheltering oneself in public and thereby punishes the status of homelessness, continues to enforce the crime of vagrancy, which has been repealed by act of the governor and legislature.¹²

138. Ms. Thomas is homeless involuntarily, is necessarily in public, and will necessarily and repeatedly be in violation of the state statutes LA R.S. 38:225 and LA R.S. 14:63.3.

139. Application and enforcement of LA R.S. 38:225 and LA R.S. 14:63 by Defendants to Ms. Thomas occurs through Defendants' repeated arrests, use of excessive force, and harassment of Ms. Thomas for an immutable characteristic that she cannot change – her status as a person who is homeless.

140. Repeated arrests deprive Ms. Thomas of her liberty, subject her to mental and bodily injury caused by use of excessive force, subject her to unsanitary conditions of confinement during the COVID-19 crisis, and deprive her of her property through the destruction and disposal of her personal property.

141. The repeated arrests act to prohibit Plaintiff from moving freely about, enjoying public park spaces, and loitering innocently.

142. The application and enforcement of LA R.S. 38:225 and LA R.S. 14:63.3 by Defendants against Ms. Thomas is a direct violation of Ms. Thomas's constitutional rights to due process under the Fourteenth Amendment.

¹² On June 12, 2020, Governor John Bel Edwards signed into law ACT 172—HB 137, which repealed La. R.S. 14:107, which criminalized vagrancy. See, NOTICE: Bills Signed, Vetoed by Gov. Edwards (June 12, 2020), available at <https://gov.louisiana.gov/index.cfm/newsroom/detail/2549>; see also, 2020 Regular Session Act. No. 172, House Bill No. 137, available at <http://www.legis.la.gov/legis/ViewDocument.aspx?d=1181905>.

143. Plaintiff seeks protection from Defendants' violation of her right to due process and her liberty.

144. Plaintiff seeks declaratory and injunctive relief against the East Jefferson Levee District Police Department Chief of Police in his official capacity.

145. In the absence of a declaration and prospective relief, Ms. Thomas is certain to be arrested in violation of her right to due process and sustain similar injuries and loss of liberty and property.

FOURTH CAUSE OF ACTION
Violation of Due Process – Deprivation Without Notice or Opportunity To Be Heard
42 U.S.C. § 1983 – Fourteenth Amendment
Louisiana Constitution Art. I §2
(Against Defendant East Jefferson Levee District Police Department)

146. Plaintiff incorporates all other paragraphs of this complaint.

147. Unsheltered, unhoused people in the Greater New Orleans area, including Ms. Thomas, are involuntarily present in public with their personal property. They have no place else to go.

148. Sheltering oneself is not voluntary conduct. It is a basic human need, it is harmless, and it is an act integral to the status of homelessness.

149. No person shall be deprived of life, liberty, or property, except by due process of law. Louisiana Constitution Art. I §2.

150. Plaintiff has a property interest in her possessions, and an interest in being afforded adequate notice prior to the seizure of her property, and adequate notice regarding the storage of her property and how to reclaim it.

151. EJLD PD officers have arrested Plaintiff three times for LA R.S. 38:225 (Obstructions on levees), on April 6, May 7, and May 11, 2020, and two times for LA R.S. 14:63.3 (Entry on or remaining in places or on land after being forbidden) on May 7 and May 11, 2020.

152. Following her arrest on April 6, 2020, an unknown officer at EJLD PD answered Ms. Thomas's phone call and told her where the department was storing her belongings. Later she was informed that her belongings had been moved to another location operated by EJLD PD.

153. On May 12, 2020, EJLD PD officers approached Plaintiff while she was present at Laketown Park. Only the command that KPD officers gave to "back off" prevented EJLD PD from again harassing and arresting Ms. Thomas and taking her property.

154. The District Attorney refuses to charge or prosecute these alleged offenses, and, therefore, Ms. Thomas has no process for contesting the arrest of her person or disposal of her personal property.

155. Even if the state statutes LA R.S. 38:225 and LA R.S. 14:63.3 are facially valid, Defendants' practice of applying and enforcing the statutes against Ms. Thomas effectively punishes the act of sheltering oneself in public and the status of homelessness and is unconstitutional as applied to Ms. Thomas.

156. Furthermore, Defendants' practice of applying and enforcing the state statutes LA R.S. 38:225 and LA R.S. 14:63.3, which punishes the act of sheltering oneself in public and thereby punishes the status of homelessness, continues to enforce the crime of vagrancy, which has been repealed by act of the governor and legislature.¹³

¹³ On June 12, 2020, Governor John Bel Edwards signed into law ACT 172—HB 137, which repealed La. R.S. 14:107, which criminalized vagrancy. See, NOTICE: Bills Signed, Vetoed by Gov. Edwards (June 12, 2020), available at <https://gov.louisiana.gov/index.cfm/newsroom/detail/2549>; see also, 2020 Regular Session Act. No. 172, House Bill No. 137, available at <http://www.legis.la.gov/legis/ViewDocument.aspx?d=1181905>.

157. Ms. Thomas is homeless involuntarily, is necessarily in public, and will necessarily and repeatedly be in violation of the state statutes LA R.S. 38:225 and LA R.S. 14:63.3.

158. Application and enforcement of LA R.S. 38:225 and LA R.S. 14:63 by Defendants to Ms. Thomas occurs through Defendants' repeated and threatened arrests, use of excessive force, and harassment of Ms. Thomas for an immutable characteristic that she cannot change—her status as a person who is homeless.

159. Repeated arrests deprive Ms. Thomas of her liberty, subject her to mental and bodily injury caused by use of excessive force, subject her to unsanitary conditions of confinement during the COVID-19 crisis, and deprive her of her property, through the destruction and disposal of her personal property.

160. Plaintiff is under threat of arrest and prosecution if she is present at Laketown Park, even though Defendants have not identified for her a concrete, alternative housing option that is practically available to her.

161. The EJLD PD's application and enforcement of LA R.S. 38:225 and LA R.S. 14:63.3 against Ms. Thomas is a direct violation of Ms. Thomas's constitutional rights to due process under the Fourteenth Amendment.

162. Defendants' actions, as described herein, were motivated by malice and/or involved reckless or callous indifference to Plaintiffs' federally and state protected rights, and Defendants engaged in these actions and omissions intentionally, willfully, and/or wantonly, demonstrating deliberate indifference to, and a reckless disregard for, Plaintiff's rights protected under the federal and state constitutions.

163. Plaintiff seeks redress for Defendants' violation of her right to due process and the opportunity to be heard.

164. Plaintiff seeks damages.

165. Plaintiff seeks declaratory and injunctive relief.

166. In the absence of a declaration and prospective relief, Ms. Thomas is effectively enjoined from being present at Laketown Park, despite lacking any process to contest the arrest of her person or disposal of her personal property, and is certain to be arrested again in violation of her right to due process and sustain similar injuries and loss of liberty and property.

FIFTH CAUSE OF ACTION
Takings Clause
42 U.S.C. § 1983 – Fifth Amendment
(Against Defendant East Jefferson Levee District Police Department)

167. Plaintiff incorporates all other paragraphs of this complaint.

168. Under the Fifth Amendment, as incorporated against the states by the Fourteenth Amendment, private property shall not be taken for public use, without just compensation.

169. Plaintiff had a property interest in her possessions.

170. On April 6, 2020, Defendants Tewis and Arnold arrested Plaintiff and refused to allow her to bring her cell phone or black bag, which included a laptop and important legal papers.

171. Later that day, after being released from custody, Plaintiff returned to Laketown Park to discover that all of her belongings had been removed, including her laptop computer, her sleeping bag, her birth certificate, and her outdoor canopy.

172. Following her arrest on April 6, 2020, an unknown officer at the EJLD PD answered Ms. Thomas's phone call and told her where the department was storing her belongings. Later she was informed that her belongings had been moved to another location operated by EJLD PD.

173. Upon arriving at the second location, Ms. Thomas found that most of items were gone, including her book bag, canopy, computer, and legal papers. Others had been thrown in the dumpster.

174. On May 7, 2020, Defendants Tewis and Arnold arrested Plaintiff and took her possessions, including a blue bag containing food and clothes.

175. Plaintiff never saw her blue bag again.

176. On May 11, 2020, Defendant Arnold took Plaintiff's red bag, which contained food, clothing, and other essentials, and put it in his truck.

177. Plaintiff never saw her red bag again.

178. On May 12, 2020, EJLD PD officers approached Plaintiff while she was present at Laketown Park. Only the command that KPD officers gave to "back off" prevented EJLD PD from again harassing and arresting Ms. Thomas and taking her property.

179. Plaintiff never received compensation for her possessions.

180. Defendants' seizure of Plaintiff's possessions without just compensation violated the Takings Clause.

181. Plaintiff seeks damages.

SIXTH CAUSE OF ACTION
Unreasonable Seizure
42 U.S.C. § 1983 – Fourth Amendment
Louisiana Constitution Art. I §5
(Against Defendant Tewis, Defendant Arnold, and Defendant East Jefferson Levee District
Police Department)

182. Plaintiff incorporates all other paragraphs of this complaint.

183. Under the Fourth Amendment, as incorporated against the states by the Fourteenth Amendment, Plaintiff has a constitutionally protected right to be secure in her person against unreasonable seizures.

184. Every person shall be secure in his person, property, communications, houses, papers, and effects against unreasonable searches, seizures, or invasions of privacy. Louisiana Constitution Art. I §5. No warrant shall issue without probable cause supported by oath or affirmation, and particularly describing the place to be searched, the persons or things to be seized, and the lawful purpose or reason for the search. *Id.*

185. During the events of April 6, May 7, and May 11, 2020, Plaintiff's property was not abandoned, and it was clear to Defendants that Plaintiff's property was not abandoned.

186. On May 12, 2020, EJLD PD officers approached Plaintiff while she was present at Laketown Park. Only the command that KPD officers gave to "back off" prevented EJLD PD from again harassing and arresting Ms. Thomas and seizing her property.

187. By seizing and destroying Plaintiff's property, Defendants and/or those acting under their direction and control meaningfully and permanently interfered with Plaintiff's possessory interest in their property and unlawfully seized Plaintiff's property.

188. Defendants' actions, as described herein, were motivated by malice and/or involved reckless or callous indifference to Plaintiff's federally and state protected rights, and Defendants engaged in these actions and omissions intentionally, willfully, and/or wantonly, demonstrating deliberate indifference to, and a reckless disregard for, Plaintiff's rights protected under the federal and state constitutions.

189. Without a declaration and the injunctive relief sought, Plaintiff will be subject to the unlawful seizure and destruction of her personal property, in violation of her rights under the state and federal constitutions.

SEVENTH CAUSE OF ACTION
Declaratory Relief
(Against East Jefferson Levee District Police Department Chief of Police)

190. Plaintiff incorporates all other paragraphs of this complaint.

191. There is an actual controversy between the parties relating to their legal rights and duties under the U.S. Constitution.

192. In particular, Ms. Thomas asserts that the individual Defendants violated her Fourth Amendment legal rights. Ms. Thomas also asserts that the application of LA R.S. 38:225—Obstructions on levees and LA R.S. 14:63.3—Entry on or remaining in places or on land after being forbidden to Ms. Thomas by Defendants is unconstitutional because it punishes Ms. Thomas, who is involuntarily present in public, for her status as being homeless.

193. Ms. Thomas therefore seeks a declaration of the rights and duties of the parties under the U.S. Constitution pursuant to 28 U.S.C. § 2201 and requests a speedy hearing pursuant to Rule 57 of the Federal Rules of Civil Procedure.

194. By punishing the act of sheltering oneself in public and thereby punishing the status of homelessness, the state statutes LA R.S. 38:225 and LA R.S. 14:63.3 continue to enforce the crime of vagrancy, which has been repealed by act of the governor and legislature.

195. Ms. Thomas is homeless involuntarily, is necessarily in public, and will necessarily and repeatedly be in violation of the state statutes LA R.S. 38:225 and LA R.S. 14:63.3.

196. In the absence of prospective relief, Ms. Thomas is certain to be arrested.

197. Ms. Thomas seeks declaratory relief.

EIGHTH CAUSE OF ACTION
Intentional Infliction of Emotional Distress
(Against Defendants Tewis and Arnold)

198. Plaintiff incorporates all other paragraphs of this complaint.

199. Defendants, at all relevant times, were acting under the color of state law in their capacity as East Jefferson Levee District Police Department officers and their acts or omissions were conducted within the scope of their official duties or employment. However, Defendants' actions had no relationship to legitimate governmental objectives.

200. As a direct and proximate result of the intentional acts of the Defendants described above, Plaintiff suffered physical injury, psychiatric distress, and continues to suffer from these injuries and from shock, distress, anguish, humiliation, and loss of enjoyment of life.

201. Plaintiff's physical and psychological injuries were caused by Defendants' intentional acts.

202. Defendants' acts and omissions were extreme and outrageous, malicious, and done with the specific intent to harm Plaintiff and/or with reckless disregard for the consequences of their acts and omissions.

NINTH CAUSE OF ACTION
Negligent Infliction of Emotional Distress
(Against Defendants Tewis and Arnold)

203. Plaintiff incorporates all other paragraphs of this complaint.

204. Defendants, at all relevant times, were acting under the color of state law in their capacity as East Jefferson Levee District Police Department officers and their acts or omissions were conducted within the scope of their official duties or employment. However, Defendants' actions had no relationship to legitimate governmental objectives.

205. Defendants' acts and omissions breached their duty of care to Plaintiff, which resulted in harm to Plaintiff.

206. As a direct and proximate result of the negligent acts of Defendants described above, Plaintiff suffered physical injury, psychiatric distress, and continues to suffer from these injuries and from shock, distress, anguish, humiliation, and loss of enjoyment of life.

207. Plaintiff's injuries were caused wholly by the negligent acts of Defendants, who acted with reckless disregard for the consequences of their acts and omissions.

TENTH CAUSE OF ACTION
Assault
(Against Defendant Tewis)

208. Plaintiff incorporates all other paragraphs of this complaint.

209. Defendant Tewis's various actions immediately preceding his physical assault of Ms. Thomas—including, but not limited to, threatening to arrest her despite her compliance and then reaching to grab Ms. Thomas by the jacket to pull her down to the ground—constituted threats to cause Ms. Thomas physical injury.

210. Defendant Tewis intended to threaten to cause physical injury to Plaintiff, and did in fact threaten to cause physical injury to Plaintiff.

211. Defendant Tewis's threat of physical injury to Plaintiff was unreasonable, was not justified in light of the circumstances, and was excessive. Defendant Tewis's actions were extreme and outrageous, and he acted maliciously and with specific intent to oppress and harm Plaintiff. His actions had no relationship to legitimate governmental objectives.

212. As a direct and proximate result of the intentional conduct of Defendant Tewis, Plaintiff suffered and continues to suffer physical and psychological injury. These injuries were caused wholly by the intentional acts of Defendant Tewis.

ELEVENTH CAUSE OF ACTION

Battery

(Against Defendant Tewis)

213. Plaintiff incorporates all other paragraphs of this complaint.

214. Defendant Tewis intended to use force to cause physical injury to Plaintiff, and did in fact use force to cause injury to Plaintiff.

215. Defendant Tewis's use of force to cause physical injury to Plaintiff was unreasonable, was not justified in light of the circumstances, and was excessive. Defendant Tewis's actions were extreme and outrageous, and he acted maliciously and with specific intent to oppress and harm Plaintiff. His actions had no relationship to legitimate governmental objectives.

216. As a direct and proximate result of the intentional conduct of Defendant Tewis, Plaintiff suffered and continues to suffer physical and psychological injury. These injuries were caused wholly by the intentional acts of Defendant Tewis.

TWELTH CAUSE OF ACTION

Negligence

(Against Defendants Tewis and Arnold)

217. Plaintiff incorporates all other paragraphs of this complaint.

218. Plaintiff asserts violations of Louisiana law relative to intentional torts by Defendants Tewis and Arnold, who were acting within the course and scope of their employment with the East Jefferson Levee District Police Department.

219. Defendants Tewis and Arnold at all times relevant hereto was acting under the color of state law.

220. The acts or omissions of Defendant Arnold, as described herein, deprived Plaintiff of her constitutional rights and caused her other damages.

221. The acts of Defendant Tewis, as described herein, deprived Plaintiff of her constitutional rights and caused her other damages.

222. Defendants Tewis and Arnold breached their duty of care to Plaintiff resulting in harm to Plaintiff within the scope of protection of the duty they owed to her. As a result of their negligent acts, Plaintiff suffered physical injury, psychiatric distress, and continues to suffer from severe and shock, distress, anguish, sorrow, and loss of enjoyment of life.

223. The aforesaid physical and psychological injuries sustained by Plaintiff were caused wholly by reason of the negligent acts of Defendants Tewis and Arnold described herein.

224. Defendants Tewis and Arnold acted with reckless disregard of the consequences of their actions and omissions, and as a result, Plaintiff is entitled to damages in an amount to be proven at trial.

THIRTEENTH CAUSE OF ACTION
Louisiana Civil Code Art. 2315
(Against Defendants Tewis and Arnold)

225. Plaintiff incorporates all other paragraphs of this complaint.

226. Louisiana Civil Code Article 2315(A) provides that “[e]very act whatever of man that causes damage to another obliges him by whose fault it happened to repair it.”

227. Plaintiff asserts violations of Louisiana law relative to intentional torts by Defendants Tewis and Arnold who were acting within the course and scope of their employment with the East Jefferson Levee District Police Department.

228. Defendants Tewis and Arnold at all times relevant hereto were acting under the color of state law. However, their actions had no relationship to legitimate governmental objectives.

229. The intentional conduct of Defendants Tewis and Arnold caused Plaintiff damages, including destruction of her property.

230. As a direct and proximate result of the intentional conduct of Defendants Tewis and Arnold, Plaintiff suffered and continues to suffer injury. These injuries were caused wholly by the intentional acts of Defendants Tewis and Arnold.

231. Plaintiff seeks damages.

PRAYER FOR RELIEF

232. Plaintiff prays for

- (i) Compensatory damages and punitive damages to be developed during discovery and proven at trial;
- (ii) A declaration that Defendants' practices described herein violate the Fourth and Fourteenth Amendments of the United States Constitution;
- (iii) A declaration that La. R.S. §§ 38:225 and 14:63.3, as applied, violate the rights to due process, liberty, hearing and notice under the U.S. and Louisiana constitutions.
- (iv) A permanent injunction or other order preventing Defendants from using La. R.S. §§ 38:225 and 14:63.3 to violate the rights to due process, liberty, hearing and notice, and unlawful seizure under the U.S. and Louisiana constitutions.
- (v) Reasonable attorney's fees and costs;
- (vi) All other such relief as the Court deems necessary, just, and proper.

DEMAND FOR A JURY TRIAL

233. Plaintiff demands a jury trial on all claims in this action.

Respectfully submitted,

/s/ Megan E. Snider _____

Nora S. Ahmed* (T.A.)

nahmed@laaclu.org

Megan E. Snider

msnider@laaclu.org

LA Bar No. 33382

ACLU FOUNDATION OF LOUISIANA

1340 Poydras St, Ste. 2160

New Orleans, LA 70112

(t) 504 522 0628

** admitted pro hac vice*

Attorneys for Plaintiff Deanna Thomas