

**IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF TEXAS**

**JESSICA CURS,**

**Plaintiff,**

**V.**

**CAPTAIN GARY MELSON, in his official  
and individual capacities,**

**ALVARADO POLICE DEPARTMENT,  
and**

**CITY OF ALVARADO, TEXAS**

### Defendants.



**CIVIL ACTION NO:** \_\_\_\_\_

## JURY TRIAL DEMANDED

**PLAINTIFF'S ORIGINAL COMPLAINT**

Plaintiff Jessica Curs, for her complaint against Defendants Captain Gary Melson, the Alvarado Police Department, and the City of Alvarado, Texas, states as follows:

## INTRODUCTION

1. This is an action for money damages, declaratory, and injunctive relief brought pursuant to 42 U.S.C. § 1983, the Fourth and Fourteenth Amendments to the United States Constitution, and under the laws of the State of Texas against Captain Gary Melson (herein “Captain Melson”), a police captain of the City of Alvarado, in his individual and official capacity, against the Alvarado Police Department (herein “Police Department”), and against the City of Alvarado, Texas (herein “the City of Alvarado”).

2. Plaintiff Jessica Curs alleges that Captain Melson made an unreasonable seizure of her person, assaulted, battered, and falsely imprisoned her by stopping her and physically restraining her without cause. Plaintiff alleges that Captain Melson committed the tort of malicious prosecution when he initiated the criminal prosecution of Plaintiff for the alleged

offense of evading arrest. Plaintiff alleges that the Police Department and the City of Alvarado are liable under the theory of respondeat superior for the torts committed by Captain Melson.

### **THE PARTIES**

3. Plaintiff Jessica Curs is an adult citizen and resident of Burleson, Texas.

4. Defendant Captain Gary Melson is a captain with the Alvarado Police Department. He is sued in his individual and official capacities.

5. Defendant Alvarado Police Department is a department of the municipal corporation of the City of Alvarado, Texas. It is located at 600 South Parkway, Alvarado, Texas 76009. It is the employer and supervisor of Captain Melson.

6. Defendant City of Alvarado, Texas is located in Johnson County, Texas. It is a municipal corporation and is the public employer of Captain Melson.

### **JURISDICTION AND VENUE**

7. This Court has original jurisdiction pursuant to 28 U.S.C. §§ 1331 and 1343 over Plaintiff's causes of action arising under the U.S. Constitution and 42 U.S.C. § 1983. This Court has supplemental jurisdiction over Plaintiff's causes of action arising under Texas state law pursuant to 28 U.S.C. § 1367.

8. This Court has personal jurisdiction over Defendants because Defendant Captain Melson resides in Texas, Defendant Police Department is a department of a Texas municipal corporation, and the City of Alvarado is a Texas municipal corporation.

9. Venue is based on 28 U.S.C. § 1391(b)(2) because a substantial part of the events

or omissions giving rise to Plaintiff's claims for relief arose in Johnson County, Texas.

### **BACKGROUND**

10. On or about February 21, 2015, Plaintiff was coaching a girls youth basketball team at a game in Burleson, Texas. The game was held at Norwood Elementary, located at 619 Evelyn Lane, Burleson, Texas 76028, which is outside the jurisdiction of the Police Department.

11. Captain Melson, dressed in plain clothes, was a spectator at the game, and he volunteered to keep score. He was seated on Plaintiff's side of the gym. Most of the other spectators were seated in the bleachers across the gym from Plaintiff and Captain Melson.

12. At some point during the game, Captain Melson began heckling Plaintiff, saying things such as, "you're just trying to run out the clock" and "can't you just let the girls play." After a foul was called by the referee, Captain Melson stated that "this is how this team plays, this is how they win." At that point, Plaintiff turned to Captain Melson and, in a normal tone of voice, asked him to stop being a "dip." Captain Melson jumped up and grabbed Plaintiff's arm, telling her to step outside with him. Plaintiff refused and pulled her arm away. Captain Melson accused Plaintiff of using an expletive, which Plaintiff denied. Plaintiff explained to Captain Melson that she does not use expletives in front of her players, who are eight- and nine-year-old girls. Captain Melson insisted that Plaintiff exit the gymnasium with him, and he flashed his badge in Plaintiff's face. Plaintiff responded that she had no way of knowing that his badge was authentic. Captain Melson then informed Plaintiff that he was going to call the Burleson Police Department.

13. Officers from the Burleson Police Department arrived. They spoke with Plaintiff and with Captain Melson, and then they informed Plaintiff that she was free to go.

14. About two months later, Plaintiff received a notice in the mail, which indicated that a warrant had been issued for her arrest by the Alvarado Police Department for evading arrest.

15. Plaintiff turned herself in to the Alvarado Police Department the next morning. Plaintiff was told that she would only have to submit to a “walk-through,” in which she would sign paperwork and then leave. Plaintiff was told that the duration of walk-throughs could vary, but that it was a relatively simple process. Instead, Plaintiff was forced to submit to a demeaning search, her clothes were taken away, and she was left in a jail cell for approximately six hours.

16. Since this incident, Plaintiff’s employer has been contacted anonymously several times with copies of Plaintiff’s arrest warrant and related paperwork.

17. After the incident, the Alvarado Police Department also publicly posted misleading and defamatory statements about Plaintiff on social media outlets, including Facebook. See “Exhibit A,” attached. This post was circulated by other media outlets, and it was widely viewed and commented on by members of the public before it was deleted by the Alvarado Police Department.

18. As a direct and proximate result of the acts of Captain Melson, Plaintiff suffered the following injuries and damages:

- (a) Violation of her rights under the Fourth and Fourteenth Amendments to the U.S. Constitution to be free from an unreasonable seizure of his person;
- (b) Loss of her physical liberty;
- (c) Intentional, offensive contact with her body; and
- (d) Humiliation and emotional distress.

19. The actions of Captain Melson violated the clearly established and well settled constitutional rights of Plaintiff, including the right to freedom from unreasonable seizure of her person.

20. At all relevant times, Captain Melson was acting under color of law and under color of authority as a police officer, employee, and agents/servant of the Alvarado Police Department and the City of Alvarado and as an agent of the State of Texas.

**COUNT I**

**42 U.S.C. § 1983 Claim against Defendant Captain Melson**

21. Plaintiff re-alleges and incorporates by reference ¶¶ 1-20.

22. Plaintiff claims damages under 42 U.S.C. § 1983 for the injuries set forth above against Defendant Captain Melson for violation of her constitutional rights under color of law.

**COUNT II**

**Assault against Defendant Captain Melson**

23. Plaintiff re-alleges and incorporates by reference ¶¶ 1-22.

24. Defendant Captain Melson assaulted Plaintiff by unlawfully offering or attempting to touch her under circumstances creating fear when he grabbed Plaintiff's arm and demanded that she go outside with him.

**COUNT III**

**Battery against Defendant Captain Melson**

25. Plaintiff re-alleges and incorporates by reference ¶¶ 1-24.

26. Defendant Captain Melson battered Plaintiff by intentionally and offensively

making contact with Plaintiff's body when he grabbed her arm.

**COUNT IV**

**False Imprisonment against Defendant Captain Melson**

27. Plaintiff re-alleges and incorporates by reference ¶¶ 1-26.

28. Defendant Captain Melson falsely imprisoned Plaintiff by unlawfully detaining her against her will. Defendant Captain Melson had no reason to detain Plaintiff because he did not reasonably believe that Plaintiff had committed a criminal offense.

**COUNT V**

**Malicious Prosecution against Defendant Captain Melson**

29. Plaintiff re-alleges and incorporates by reference ¶¶ 1-28.

30. Defendant Captain Melson committed malicious prosecution against Plaintiff by maliciously procuring the criminal prosecution of Plaintiff for evading arrest when he did not have probable cause to do so.

**COUNT VI**

**42 U.S.C. § 1983 Claim against Defendant Alvarado Police Department**

31. Plaintiff re-alleges and incorporates by reference ¶¶ 1-30.

32. Prior to February 21, 2015, the Police Department developed and maintained policies exhibiting a conscious indifference to the constitutional rights of persons in and around the city of Alvarado, which caused or contributed to the violation of Plaintiff's rights.

33. It was the policy of the Police Department to fail to exercise reasonable care in hiring and supervising its police officers, including Captain Melson, thereby failing to prevent

constitutional violations on the part of its police officers.

34. The above-described policies demonstrate a conscious indifference on the part of the Police Department to the constitutional rights of persons in and around the city of Alvarado and were the cause of the violations of Plaintiff's rights as alleged herein.

**COUNT VII**

**Respondeat Superior of Defendant Alvarado Police Department**

35. Plaintiff re-alleges and incorporates by reference ¶¶ 1-34.

36. The Police Department is liable for the assault, battery, false imprisonment, and malicious prosecution committed against Plaintiff by Captain Melson. The Police Department was the employer of Captain Melson who committed assault, battery, false imprisonment, and malicious prosecution while acting in the scope of his employment.

**COUNT VIII**

**42 U.S.C. § 1983 Claim against Defendant City of Alvarado**

37. Plaintiff re-alleges and incorporates by reference ¶¶ 1-36.

38. Prior to February 21, 2015, the Police Department developed and maintained policies exhibiting a conscious indifference to the constitutional rights of persons in and around the City of Alvarado, which caused or contributed to the violation of Plaintiff's rights.

39. It was the policy of the Police Department to fail to exercise reasonable care in hiring and supervising its police officers, including Captain Melson, thereby failing to prevent constitutional violations on the part of its police officers.

40. The above-described policies demonstrate a conscious indifference on the part of the City of Alvarado to the constitutional rights of persons in and around the City of Alvarado

and were the cause of the violations of Plaintiff's rights as alleged herein.

**COUNT IX**  
**Respondeat Superior of City of Alvarado**

41. Plaintiff re-alleges and incorporates by reference ¶¶ 1-40.

42. The City of Alvarado is liable for the assault, battery, false imprisonment, and malicious prosecution committed against Plaintiff by Captain Melson. The City of Alvarado was the employer of Captain Melson who committed assault, battery, false imprisonment, and malicious prosecution while acting in the scope of his employment.

**PRAYER FOR RELIEF**

WHEREFORE, Plaintiff respectfully requests that this Court:

- (a) Enter a judgment in favor of Plaintiff and against Defendants;
- (b) Enter an order declaring Defendant Captain Melson's conduct unconstitutional;
- (c) Award Plaintiff compensatory and punitive damages against Defendants;
- (d) Award Plaintiff's counsel reasonable attorneys' fees and costs pursuant to 42 U.S.C. § 1988 and any other applicable provisions of law; and
- (e) Grant to Plaintiff such other and further relief as this Court finds necessary and proper, including but not limited to appropriate injunctive relief.

**DEMAND FOR JURY TRIAL**

Plaintiff respectfully requests a trial by jury, pursuant to the Seventh Amendment to the U.S. Constitution, as to all claims for damages.



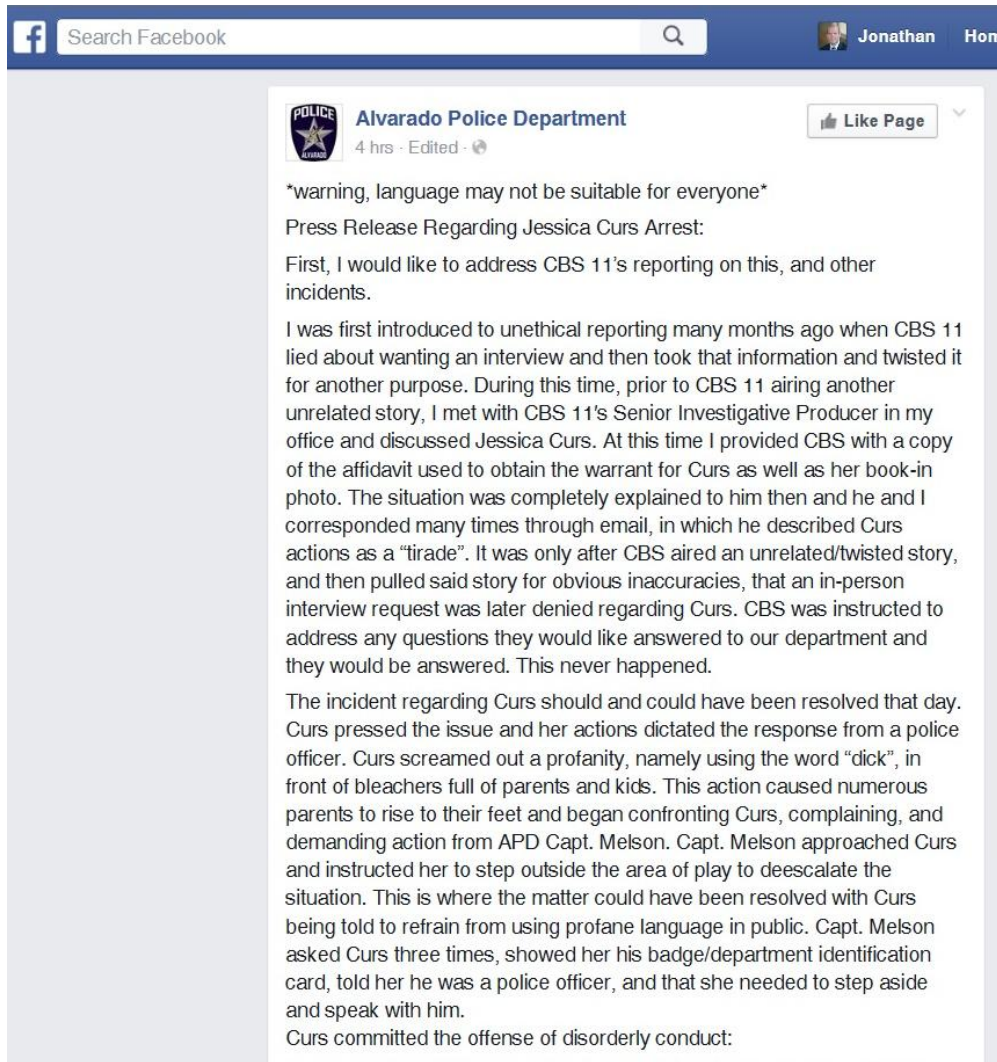
Respectfully submitted,  
CHAD WEST, PLLC

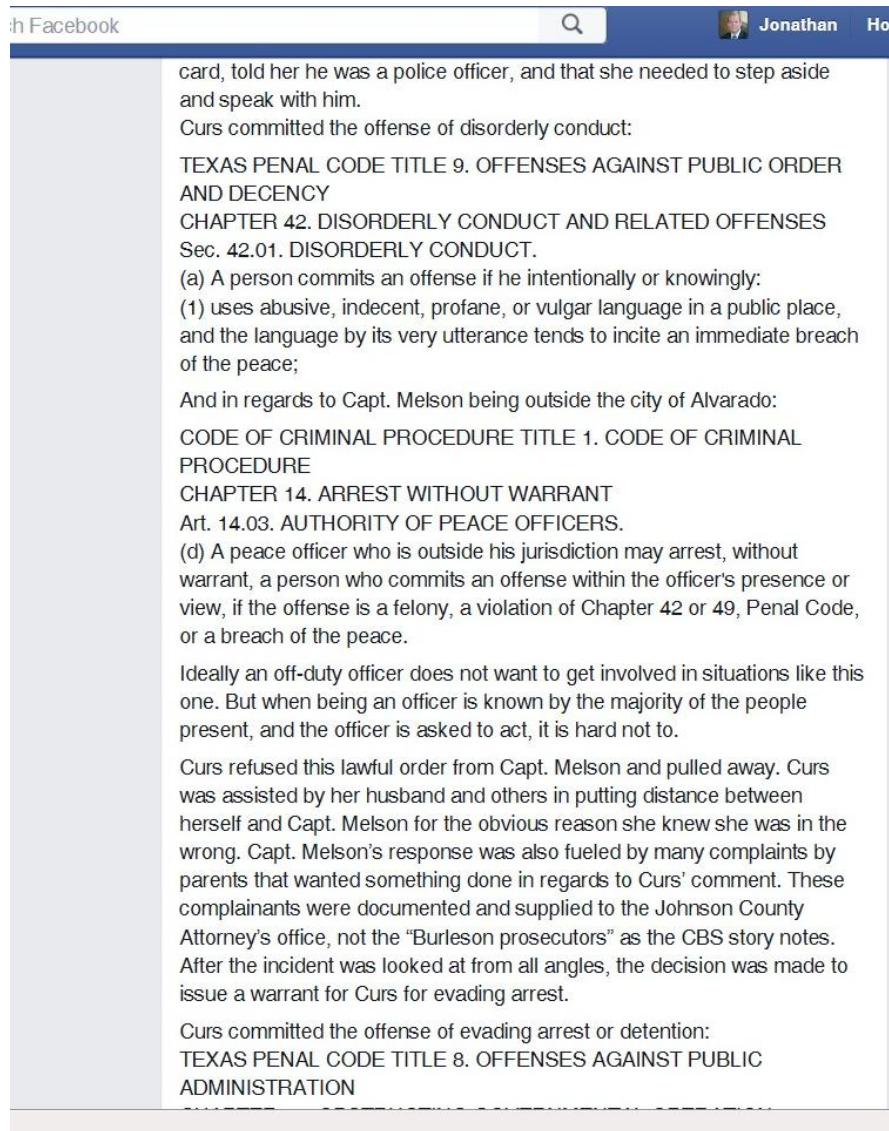
A handwritten signature in black ink, appearing to read 'C. West', is positioned above a horizontal line.

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ATTORNEYS FOR PLAINTIFF

## EXHIBIT “A”









can act out on and the rules and laws do not apply to them. To these parents this incident should be a sobering reminder that they are wrong. The example and message that you should and can yell profanities in public places and think this behavior is acceptable is sickening. Furthermore, the current message is the empty can rattles the most, and hope you don't have to be held accountable for your actions.

Another element left out of this story was that Curs has a history of questionable behavior that has led to her to being removed from games/events, etc. This incident seems to be on par with Curs' past and the environment she thrives in. Chants of "fuck you Alvarado" could be heard from the facility as the teams left.

As with most cases, the person at fault here is Curs and Curs directed her own path which resulted in her subsequent arrest and pending court case. Curs found a voice with CBS and together they constructed a story based on unethical reporting. This story, in addition to others, cements our decision to carefully guard any information supplied to CBS. The Alvarado Police Department has always interacted and cooperated well with all news outlets and will continue to do so.

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 **John Crane** APD might want to reconsider their hiring criteria when it comes to the officers they put on the public payroll. Clearly, this man has deep seated issues; perhaps he should seek therapy or professional consoling.  
Like · Reply ·  2 · 57 mins  
 1 Reply

 **Christopher Papachristou** Yet police say far worse to people all the time....  
Like · Reply ·  3 · 54 mins

 **Gavin Seim** Where is the local Sheriff upholding his oath and arresting the lawless officers of the Alvarado Police Department.  
Like · Reply ·  3 · 52 mins

**CERTIFICATE OF SERVICE**

On October 12, 2015, I electronically submitted the foregoing document with the clerk of the court for the U.S. District Court, Northern District of Texas, using the electronic case filing system of the court.

A handwritten signature in black ink, appearing to read 'Chad West', is written above a horizontal line.

Chad West