

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF MICHIGAN  
SOUTHERN DIVISION

BRITTANY PRESTON,	)	
Plaintiff,	)	
v.	)	Case No.
	)	
CITY OF ST. CLAIR SHORES, MICHIGAN,	)	Hon.
POLICE OFFICER DAVID JACQUEMAIN ,	)	
POLICE OFFICER JEREMY MOSKWA,	)	
ANIMAL CONTROL OFFICER TOM MASSEY,	)	
Defendants.	)	

**COMPLAINT AND JURY DEMAND**

Plaintiff Brittany Preston (“Plaintiff”), by and through her attorney, Olson PLLC, states the following for her Complaint against Defendant City of St. Clair Shores, Michigan (“Defendant City”):

1. This is a civil action arising under 42 U.S.C. § 1983 and common law avenues of recovery for deprivations of Plaintiff’s rights against Defendants.

2. Plaintiff sues the individual Defendants in their individual capacities.

**JURISDICTION**

3. Jurisdiction of this Court is invoked pursuant to 28 U.S.C. § 1331, 1367(a) and § 1341.

## **VENUE**

4. Venue is proper under 28 U.S.C. § 1391(b).

5. At all times relevant herein, Plaintiff resided and was a citizen of St. Clair Shores, Michigan.

6. Defendant City is a political subdivision of the State of Michigan acting under color of State law, and is a person for purposes of a 42 U.S.C. § 1983 action.

7. Defendants Jacquemain and Moskwa were at all relevant times police officers employed by the City.

8. Defendant Massey was at all relevant times an animal control officer employed by the City.

## **COLOR OF STATE LAW**

9. At all times relevant herein, Defendants Jacquemain, Moskwa and Massey acted under color of state law.

10. Particularly, Defendants Jacquemain, Moskwa and Massey acted under color of the laws, statutes, ordinances, regulations, policies, customs and usages of the State of Michigan, and its political subdivisions.

## **FACTUAL BACKGROUND**

11. On November 22, 2013, Plaintiff owned a 44-pound female mixed breed dog named “Lexie.”

12. On November 22, 2013, Lexie was approximately one and one half years old.

13. On November 22, 2013, Plaintiff and Lexie resided at Plaintiff's grandfather's home located at 27200 Princeton, St. Clair Shores, Michigan 48081.

14. At all times relevant herein, Lexie had a dog collar and tag around her neck until she was taken into custody of the St. Clair Shores animal control officer.

15. On information and belief, Plaintiff's grandfather, Thomas Warunek, accidentally left Lexie outside of Plaintiff's residence in the early morning hours of November 22, 2013.

16. On November 22, 2013 at 3:12 a.m., Police reported that a "dog got out of the yard" at the corner of Yale and Princeton, which is the location of Plaintiff's residence at that time.

17. On November 22, 2013 at 4:41 a.m. a paper boy reported a "pit bull" is roaming around the neighborhood . . . in the Walton and Princeton neighborhood . . . he seems like a nice dog . . . he is wearing a collar." The paper boy said that the dog was not being vicious.

18. On November 22, 2013 at 4:45 a.m. the police were dispatched to investigate a "loose pitbull."

19. At 4:54 a.m. police reported a dog “hanging out at the corner of Walton and Princeton.”

20. At 7:18 a.m. a neighbor reported that there was a loose pit bull at the corner of Princeton and Walton that “he’s been barking for an hour and a half . . . this dog is on somebody’s porch . . .”

21. Police reported that they have checked on that dog twice and were going to get an animal control stick or snare from the station.

22. Police had an animal control stick or snare at the scene.

23. At 7:26 a.m. a woman reported that a dog was on the porch of 27200 Princeton and would not leave the porch.

24. Police arrived around 7:20 a.m. on November 22, 2013.

25. While the Lexie was barking from her front porch, a police officer was recorded on the police dash cam stating, “The only thing I’m gonna do is *shoot it anyway*. I do not like dogs.”

26. Subsequent dash camera audio recording revealed an officer stating, “I don’t do snares, I don’t do dogs . . . *I’ll shoot the fucking thing.*”

27. Next, the police officer was recorded stating that Lexie who was barking on her front porch was “a vicious dog.”

28. Next, the police officers discussed employing a Taser and noose to gain control of Lexie and then **shooting** her if the Taser did not work.

29. Police then knocked on the door of Plaintiffs residence. While waiting for an answer at the door, dash camera audio reveals that the police officers stated that they earlier asked Mr. Warunek, “Hey, can you bring your dog inside before we **shoot it**.”

30. Next an officer is heard asking “What about that big net that we got?” No response is heard.

31. Next, an officer is heard on police dash camera audio recording shouting at Mr. Warunek, “Hey, here is what I’m gonna tell you, if this isn’t your dog, then you don’t care if I **shoot it** because I’m about to. I’m very close to **killing this dog**, do you understand what I’m telling you right now? I will **kill this dog**. So if this is your damn dog, bring it in the house.”

32. Next an officer said, “get you and everyone out of the house . . . and **I’ll shoot it** and I don’t want to shoot you.

33. Next another officer asked Mr. Warunek to let the dog into his home, which Mr. Warunek agreed to do.

34. Next, a passerby told the police that he thought Lexie was his neighbor's dog, to which police responded, "o.k., well we have our guns out, ***we might have to shoot it*** so I wouldn't be walking around here, o.k.?"

35. Next, an officer said that Mr. Warunek knows the dog and that he was going to let it in."

36. Within seconds, police officers fired four shots at Lexie hitting her three times.

37. Lexie cried in pain and ran and hid in the bushes next to her house.

38. At 7:42 a.m. police reported that they "shot the dog."

39. Police officers stated that they struck Lexie once in the face, once in the neck and once in the side.

40. Next an officer said, "Just die dog."

41. Next, Mr. Warunek said to police officers, "what the fuck, you shooting it right in front of me?!"

42. A police officer haltingly claimed that "it attacked us, sir."

43. Mr. Warunek replied, "***I don't think so. You guys ought to go on T.V.***"

44. Although Mr. Warunek's excited utterance that Lexie did not attack the police officers is clearly audible on recordings that the police

disclosed in response to Freedom of Information Act requests, Mr. Warunek's statement was not recorded in any police report.

45. Moreover, Mr. Warunek's statement was not addressed in Defendant City's subsequent internal investigation despite the fact that it was made by a witness to the shooting.

46. At 7:46 a.m. police requested that the animal control officer go to Plaintiffs residence because they had "still not been able to get close enough to put him down yet."

47. Next a police officer went into the bushes and shot Lexie a fourth time.

48. Lexie cried in pain again.

49. Next, a police officer said that the animal control officer would be there shortly.

50. A police officer approached a neighbor Richard Imlay to tell him that Lexie tried to attack him.

51. Richard Imlay admitted on dash camera audio recording that he was in his house getting his children out of the shower when he heard the police shoot Lexie.

52. Police included in their police report a statement that Mr. Imlay saw Lexie attack the police officers leaving no choice but to shoot Lexie.

53. Police next remarked that Lexie had a collar and tag on her.

54. Police officers stated on dash camera audio recording that Lexie had four bullet wounds at the time.

55. Defendant Massey, the animal control officer's Daily Activity Report shows that he arrived at Plaintiff's home at 8:15 a.m. on November 22, 2013.

56. Defendant police officers asked Defendant Massey if he could "choke it out."

57. Another police officer suggested using a shovel to kill Lexie.

58. Defendant Massey remarked that doing so would not be a good idea because "you know this shit is going to be all over Facebook in about an hour" to which a police officer responded, "yeah, unfortunately."

59. Defendant Massey used a control stick to snare Lexie, who walked to the animal control truck.

60. A neighbor cried as a witness' video recorded Lexie walk to the animal control truck.

61. Defendant Massey placed Lexie into the animal control truck alive but wounded.

62. Defendant Massey remained on the scene for a period of 75 minutes until 9:30 a.m.



63. Defendant Massey's daily log shows that he did nothing with Lexie until 3:00 p.m. at which time he removed her dead body and washed out the truck.

64. In a report that Massey prepared on December 11, 2013, nineteen days after police shot Lexie, Massey claimed that he was taking Lexie to the VCA for treatment when he heard Lexie expire. In any event, Defendant Massey's log shows he remained at Plaintiff's residence for 75 minutes before leaving. The December 11, 2013 report was created after Defendant City received the first FOIA request concerning the shooting of Lexie.

65. On November 29, 2013, Dr. Deborah Burkholder, a licensed veterinarian, performed a gross necropsy on Lexie.

66. Notwithstanding the fact that the police shot Lexie four times at Plaintiff's home, the necropsy report identified 15 bullet holes in Lexie, seven of which were pass through wounds. In other words, the necropsy report shows that Lexie was shot eight times with seven out of eight passing through her body and one entry-only wound. Evidently, assuming that all of the gun shot wounds that police inflicted upon Lexie were pass through wounds, Lexie was shot four more times after Defendant Massey took custody Lexie. Nothing in the records that the police produced in response

to Freedom of Information Act requests records shooting Lexie after taking custody of her and no documents show a transfer of custody to any other entity other than the City of St. Clair Shores. Furthermore, a November 25, 2013 police report indicates that Plaintiff recovered Lexie's body from the City of St. Clair Shores police garage.

67. Thus, representatives of the City of St. Clair Shores shot Lexie four more times after removing her still alive from Plaintiffs home.

68. Lexie's dog tag had been removed by the time Plaintiff recovered Lexie's body from St. Clair Shores police.

69. St. Clair Shores did not issue any ticket in connection with the events leading to the shooting death of Lexie.

70. Two St. Clair Shores police detectives appeared at Dr. Burkholder's offices at 22300 Greater Mack, St. Clair Shores, Michigan 48080 where they confronted Dr. Burkholder about claimed impropriety of her preparing a necropsy on Lexie. In particular, the City's police officers told Dr. Burkholder that her necropsy of Lexie was illegal (which it is not) and appeared to be attempting to intimidate her.

71. In short, Defendants arrived at Plaintiffs home responding to a complaint of a barking dog. Immediately upon arrival, St. Clair Shores police officers began saying that they were going to shoot the dog and

indeed said that they were going to shoot or kill Lexie at least nine times before they shot and killed Lexie. Defendants then prepared reports that omitted key facts (e.g., Mr. Warunek's excited utterance that Lexie did not attack the police and that they should "go on T.V.," shooting Lexie four more times after taking her into custody while claiming that she died on the way to the VCA and that witness Richard Imlay, from whom police took a statement that Lexie attacked police, stated on police dash cam video that he was in the bathroom of his house with his children when he heard the police shoot Lexie) and attempted to intimidate the veterinarian who prepared the necropsy. Each of these acts and omissions belie Defendants' claim that they shot and killed Lexie because she attacked them. Defendants expressed their intent to kill Lexie on arrival and that is precisely what they did.

72. On December 16, 2013 and January 6, 2014, the killing of Lexie was discussed at the Defendant City's City Council meetings.

73. On January 6, 2014, St. Clair Shore police department presented preliminary findings from their internal affairs investigation that concluded that the police engaged in no wrongdoing based in part upon a factual conclusion that no witnesses contradicted the police officers' account of the events. Evidently, the internal affairs investigation either missed or ignored Mr. Warunek's statement clearly audible on dash camera audio

recordings that Lexie did not attack the police officers and that they “should go on T.V.” for their actions. Evidently, the internal affairs investigation also missed or ignored the fact that one of the witnesses was inside his house getting his children out of the shower when he heard the police shooting Lexie, which would call into question whether the witness in fact saw the shooting from inside his home.

74. The internal affairs investigation information was requested pursuant to the Freedom of Information Act but Mayor Kip C. Walby denied that request on April 14, 2014.

**COUNT I**  
**VIOLATION OF CIVIL RIGHTS**  
**42 U.S.C. § 1983 AND FOURTH AMENDMENT**  
**AGAINST THE INDIVIDUAL DEFENDANTS**  
**FOR COMPENSATORY DAMAGES, PUNITIVE DAMAGES**  
**AND ATTORNEY’S FEES**

75. Plaintiff re-alleges all of the preceding paragraphs as if set forth fully herein.

76. The Fourth Amendment of the United States Constitution, U.S. Const. amend. IV, prohibits the government from unreasonably destroying or seizing a citizen’s property.

77. "The destruction of property by state officials poses as much of a threat, if not more, to people's right to be 'secure . . . in their effects' as does the physical taking of them." *Fuller v. Vines*, 36 F.3d 65, 68 (9th Cir.

1994), overruled on other grounds, *Robinson v. Solano County*, 278 F.3d 1007, 1013 (9th Cir. 2002) (citation omitted).

78. "The killing of [a] dog is a destruction recognized as a seizure under the Fourth Amendment" and can constitute a cognizable claim under § 1983. *Id.*

79. Dogs are more than just a personal effect. *San Jose Charter of the Hells Angels Motorcycle Club v. City of San Jose*, 402 F.3d 962, 975 (9<sup>th</sup> Cir. 2005) (holding that defendant police's shooting of plaintiff's dogs was an unreasonable seizure).

80. The emotional attachment to a family's dog is not comparable to a possessory interest in furniture. *Id.*

81. Indeed, Plaintiffs' Fourth Amendment interests involved are substantial because "the bond between a dog owner and his pet can be strong and enduring," and Plaintiff thinks of Lexie "in terms of an emotional relationship, rather than a property relationship." *Altman v. City of High Point, N.C.*, 330 F.3d 194, 205 (4th Cir. 2003).

82. In circumstances where, as here, the dog does not pose an imminent threat, or the officer is not surprised by the dog and has had time to make alternate plans to control the dog, other than shooting, the shooting of the dog has been found to be an unreasonable seizure. *Dziekan v. Gaynor*,

376 F. Supp. 2d 267, 270-71 (D. Conn. 2005). (citing cases and discussing of *San Jose Charter of the Hells Angels Motorcycle Club*, 402 F.3d at 975).

83. Defendants' acts described herein were objectively unreasonable allowing for the fact that police officers are often forced to make split-second judgments — in circumstances that are tense, uncertain, and rapidly evolving — about the amount of force that is necessary in a particular situation." *Graham v. Connor*, 490 U.S. 386, 396-97, 109 S. Ct. 1865, 104 L. Ed. 2d 443 (1989).

84. Indeed, Defendants acts described herein were intentional, grossly negligent, amounted to reckless or callous indifference to Plaintiffs' constitutional rights.

85. Defendants' premeditated shooting and killing of Lexie was unreasonable under the totality of the circumstances and therefore constituted an unreasonable seizure under the Fourth Amendment.

86. Defendants premeditated shooting and killing of Lexie was more intrusive than necessary. *Florida v. Royer*, 460 U.S. 491, 504 (1983) ("A seizure becomes unlawful when it is 'more intrusive than necessary'").

87. No governmental interest justifies the intrusion involved in this case.

88. The right to possess a dog is clearly established. *Leshner v. Reed*, 12 F.3d 148, 150-51 (8th Cir. 1994).

89. Defendants Jacquemain and Moskwa's shooting and killing Plaintiff's dog Lexie was objectively unreasonable because Plaintiff's dog Lexie was merely barking and did not charge at the police officers.

90. Defendant Jacquemain, Moskwa and Massey's shooting and killing Lexie after taking her into custody was objectively unreasonable because she was under control and did not pose any threat to them.

91. Defendant Massey's failure to timely seek or obtain medical care for Lexie and instead waiting for hours or shooting her repeatedly was objectively unreasonable.

92. Defendants were not in any immediate danger that would have justified the use of deadly force. *Fuller v. Vines*, 36 F.3d 65 (9th Cir. 1994).

93. The Individual Defendants acted in concert together to kill Lexie.

94. Evidently, the Defendants were unaware that Michigan law provides that evidence that a dog was barking, snarling, and jumping toward another does not establish that the dog was abnormally vicious, or that the dog had unusually dangerous propensities. *Hiner v. Mojica*, 271 Mich. App. 604, 611-12 (2006); and see *Plowman v. Pratt*, 268 Neb. 466, 471 (2004) (a

dog's barking is "[n]ormal canine behavior," and it is unreasonable to attribute vicious propensities to a dog merely because it barks at strangers); *Collier v Zambito*, 1 N.Y.3d 444, 447; 775 N.Y.S.2d 205 (2004) ("nothing in our case law suggests that the mere fact that a dog was kept enclosed or chained or that a dog previously barked at people is sufficient to raise a triable issue of fact as to whether it had vicious propensities"); *Yuzon v Collins*, 116 Cal. App. 4th 149, 164; 10 Cal. Rptr. 3d 18 (2004) (dog's "pushing, barking, and jumping" was common behavior and was insufficient to give notice of dog's dangerous propensities); *Swain v Simon*, 699 S.W.2d 769, 773 (Mo App, 1985) ("[e]vidence of a dog's barking, running loose, jumping and lunging" do not create issue of fact with respect to viciousness because they are activities common to all dogs); *Allen v Whitehead*, 423 So. 2d 835, 837 (Ala, 1982) ("evidence that a dog was large and mean looking, chased and barked at cars, and frequently barked at neighbors" is insufficient to raise genuine issue of fact regarding whether dog has vicious propensities); *Royer v Pryor*, 427 N.E.2d 1112, 1117 (Ind App, 1981) (it is not reasonable to attribute vicious propensities to a dog "merely because [it] barks at strangers" or "because a person is afraid of the dog").



**COMPENSATORY DAMAGES**

95. Under 42 U.S.C. § 1983 Plaintiff is entitled to an award of compensatory damages against the individual Defendants in their individual capacities.

**PUNITIVE DAMAGES**

96. The individual Defendants' actions were:

- a. Reckless;
- b. Showed callous indifference toward the rights of Plaintiff; and
- c. Were taken in the face of a perceived risk that the actions would violate federal law.

97. Plaintiff is entitled to an award of punitive damages against the individual Defendants in their individual capacity, in order to punish them and to deter others.

**ATTORNEY'S FEES**

98. Under 42 U.S.C. § 1988 if Plaintiff is the prevailing party in this litigation, then she will be entitled to receive an award of reasonable attorney's fees, non-taxable expenses and costs.

WHEREFORE, Plaintiff prays for judgment under 42 U.S.C. § 1983 and 1988 against the individual Defendant in their individual capacity, for

compensatory damages in a fair and reasonable amount, for punitive damages, for reasonable attorney's fees, for and non-taxable expenses, for costs, and Plaintiff prays for such other relief as may be just under the circumstances and consistent with the purpose of 42 U.S.C. § 1983.

**COUNT II**  
**VIOLATION OF CIVIL RIGHTS**  
**42 U.S.C. § 1983 AND FOURTH AMENDMENT**  
**AGAINST DEFENDANT CITY**  
**FOR COMPENSATORY DAMAGES AND ATTORNEY'S FEES**

99. Plaintiff re-alleges her prior allegations.

**COMPENSATORY DAMAGES**  
**1ST ALTERNATIVE BASIS OF MUNICIPAL LIABILITY**  
**DELEGATION TO INDIVIDUAL DEFENDANTS**

100. As the first alternate basis for liability against Defendant City, the policy maker for Defendant, the mayor, or someone else, and that person delegated full authority and/or empowered the individual Defendants policy.

101. That delegation of authority by the actual policy maker of Defendant City placed the individual Defendants in a policy making position, and the acts of the individual Defendants may fairly be said to be those of the municipality. *Id.* at 483, and *Kujawski v. Board of Com'rs of Bartholomew County, Ind.*, 183 F.3d 734, 737 (7th Cir. 1999).

102. Those acts therefore subject Defendant City to liability for the constitutional violations of the individual Defendants. *Id.* at 483; *Kujawski*

*v. Board of Com'rs of Bartholomew County, Ind.*, 183 F.3d 734, 737 (7th Cir. 1999).

**2ND ALTERNATIVE BASIS OF MUNICIPAL LIABILITY – FAILURE TO TRAIN, SUPERVISE, CONTROL**

103. As the second alternative basis for liability against Defendant City, Defendant City failed to properly hire, train, supervise, control and/or discipline the individual Defendants with respect to dogs such as Lexie.

104. Defendant City was thus deliberately indifferent to the rights of others in adopting its hiring and training practices, and in failing to supervise, control and/or discipline the individual Defendants such that those failures reflected a deliberate or conscious choice by Defendant City made from among various alternatives. *City of Canton v. Harris*, 489 U.S. 378, 389 (1989).

105. Those deficiencies were the moving force that caused Plaintiff damages. *Larson By Larson v. Miller*, 76 F.3d 1446, 1454 (8th Cir. 1996).

106. In light of the fact that it was the individual Defendants who engaged in the constitutional violations, the need to correct the deficiencies is so obvious, and the inadequacy so likely to result in the violation of constitutional rights, that the policymakers of Defendant City can reasonably be said to have been deliberately indifferent to the need. *Andrews v. Fowler*, 98 F.3d 1069, 1076 (8th Cir. 1996).

107. If Defendant City had properly hired, trained, supervised, controlled and/or disciplined the individual Defendants, the constitutional violations committed by the individual Defendants would not have occurred.

108. These failures by Defendant City to hire, train, supervise, control and/or discipline the individual Defendants subject Defendant City to liability for the constitutional violations committed by the individual Defendants.

109. On information and belief, Defendant City had no policy or training in place in how to handle a barking dog, which was evident in Defendants' actions alleged herein.

110. Indeed, Defendant City claimed that it would initiate some training and policy in the aftermath of Lexie's killing.

#### **COMPENSATORY DAMAGES**

111. Under 42 U.S.C. § 1983, Plaintiff is entitled to an award of compensatory damages against Defendant City.

#### **ATTORNEY'S FEES**

112. Under 42 U.S.C. § 1988 if Plaintiff is the prevailing party in this litigation, then she will be entitled to receive an award of reasonable attorney's fees, non-taxable expenses and costs.

WHEREFORE, Plaintiff prays for judgment under 42 U.S.C. § 1983 and 1988 against Defendant City for compensatory damages in a fair and reasonable amount, for reasonable attorney's fees, and non-taxable expenses, for costs and such other relief as may be just under the circumstances and consistent with the purpose of 42 U.S.C. § 1983.

**COUNT III  
VIOLATION OF CIVIL RIGHTS  
42 U.S.C. § 1983, *RESPONDEAT SUPERIOR*  
AGAINST DEFENDANT CITY  
FOR COMPENSATORY DAMAGES AND ATTORNEY'S FEES**

113. Plaintiff re-alleges her prior allegations.

114. At all relevant times the individual Defendants were:

- a. Serving as an employees of Defendant City as a police officers or in Massey's case as an animal control officer;
- b. Engaging in a government function; and
- c. Acting within the course and scope of that employment.

115. Defendant City is liable under a theory of *respondeat superior*.

116. The actions of the individual Defendants caused Plaintiff to suffer the damages outlined herein.

**COMPENSATORY DAMAGES**

117. Under 42 U.S.C. § 1983, Plaintiff is entitled to an award of compensatory damages against Defendant City.

**ATTORNEY'S FEES**

118. Under 42 U.S.C. § 1988 if Plaintiff is the prevailing party in this litigation, then she will be entitled to receive an award of reasonable attorney's fees, non-taxable expenses and costs.

WHEREFORE, Plaintiff prays for judgment under 42 U.S.C. § 1983 and 1988 against Defendant City for compensatory damages in a fair and reasonable amount, for reasonable attorney's fees, and non-taxable expenses, for costs and such other relief as may be just under the circumstances and consistent with the purpose of 42 U.S.C. § 1983.

**COUNT IV  
CONVERSION**

119. Plaintiff repeats her prior allegations.

120. "Conversion is any distinct act of dominion wrongfully exerted over another's personal property in denial of or inconsistent with his rights therein." *Thoma v. Tracy Motor Sales, Inc.*, 360 Mich. 434, 438, 104 N.W.2d 360 (1960)(quoting *Nelson & Witt v. Texas Co.*, 256 Mich 65, 70)).

121. Defendant's killing of Lexie was a distinct act of dominion wrongfully exerted over Plaintiffs' dog in denial of or inconsistent with her rights.

WHEREFORE, Plaintiff requests relief under applicable law or in equity, including, without limitation, a judgment and an award of statutory

treble damages and all reasonable costs, interest and attorney fees. M.C.L. § 600.2919a.

**COUNT V**  
**INTENTIONAL INFLICTION OF EMOTIONAL DISTRESS**

122. Plaintiff incorporates her prior allegations.

123. Defendants' conduct described herein was extreme and outrageous conduct because it was beyond all possible bounds of decency and could be regarded as atrocious and utterly intolerable in a civilized community and would (and in fact has) cause an average member of the community would . . . exclaim, "Outrageous!"

124. Defendants actions described herein were intentional or reckless

125. Defendants actions caused Plaintiff severe emotional distress so severe that no reasonable person could be expected to endure it, including without limitation, severe horror, grief and anger over the loss of Lexie, nausea, inability to eat, loss of sleep, inability to concentrate among others. *Haverbush v. Powelson*, 217 Mich. App. 228, 234-35 (1996).

WHEREFORE, Plaintiff requests a judgment for damages, exemplary damages, reasonable attorneys' fees and costs and any other relief that the Court deems just and equitable.

**DEMAND FOR JURY TRIAL**

Pursuant to Rule 38 of the Federal Rules of Civil Procedure, Plaintiff demands trial by jury in this action of all issues so triable.

Respectfully submitted,

OLSON PLLC

s/Christopher S. Olson  
Christopher S. Olson (P58780)  
32121 Woodward Avenue  
Suite 300  
Royal Oak, Michigan 48073  
(248) 672-7368  
(248) 415-6263 Facsimile  
colson@olsonpllc.mygbiz.com  
*Attorney for Plaintiff*

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Detroit, Michigan