

STATE OF MICHIGAN

IN THE CIRCUIT COURT FOR THE COUNTY OF WAYNE

**DAVID JAREL BIVINS and HILLARY
ROSS,**

Plaintiffs,

Case No. 17- NO

v.

Honorable

**MEIJER, INC., a domestic for-profit 17-015053-NO corporation, LONNIE WADE, an individual,
FILED IN MY OFFICE JOHN DOE MEIJER SECURITY GUARD, an individual, WAYNE COUNTY
CLERK**

**JOHN and JANE ROE MEIJER SECURITY GUARDS, individuals
T. TABB, an individual,**

10/16/2017 1:23:26 PM

CATHY M. GARRETT

Defendants.

GEOFFREY N. FIEGER (P30441)
GARY N. FELTY, Jr. (P55554)
Fieger, Fieger, Kenney, & Harrington P.C.
Attorneys for Plaintiff
19390 West Ten Mile Road
Southfield, MI 48075
(248) 355-5555 / Fax: (248) 355-5148 g.felty@fiegerlaw.com

COMPLAINT AND JURY DEMAND

There is no other civil action between these parties arising out of the same transaction or occurrence as alleged in this complaint pending in this court, nor has any such action been previously filed and dismissed or transferred after having been assigned to a judge, nor do I know of any other civil action not between these parties arising out of the same transaction or occurrence as alleged in this complaint that is either pending, or was previously filed and dismissed, transferred or otherwise disposed of after having been assigned to a judge in this court.

Plaintiffs, **DAVID JAREL BIVINS and HILLARY ROSS**, by and through their attorneys,
FIEGER, FIEGER, KENNEY, & HARRINGTON, P.C., states as follows for their complaint
against the above-named Defendants:

1. This lawsuit arises out of the wrongful detention, the brutal use of force against, and the unlawful arrest of David Jarel Bivins by Defendant, Meijer, Inc., through its agents and employees who are all individually responsible for their actions, that occurred at the Meijer store

{00431577.DOCX}

located at Eight Mile Rd. and Woodward Ave., in the City of Detroit, Wayne County, Michigan on October 8, 2017.

2. At all times relevant to this litigation, Plaintiff, **DAVID JAREL BIVINS**, was a resident of the City of Detroit, Wayne County, Michigan.

3. At all times relevant to this litigation, Plaintiff, **HILLARY ROSS**, was a resident of the City of Detroit, Wayne County, Michigan.

4. At all times relevant to this litigation, Defendant, **MEIJER, INC.**, was a domestic for-profit corporation, with its corporate offices located in the City of Grand Rapids, Kent County, Michigan that was transacting business in Wayne County, Michigan at all times that are material.

5. At all times relevant to this litigation, Defendant, **LONNIE WADE**, was an offduty Detroit Police Officer, who was employed by Defendant, **MEIJER, INC.**, as a security guard, who was permitted to wear his Detroit Police Uniform pursuant to the City of Detroit's Secondary Employment in Uniform Program.

6. At all times relevant to this litigation, Defendant, **LONNIE WADE**, was an agent and / or employee of Defendant, **MEIJER, INC.**, acting as a security guard.

7. At all times relevant to this litigation, Defendant, **LONNIE WADE**, was acting within the course and scope of his employment as a security guard paid by Defendant, **MEIJER, INC.**

8. At all times relevant to this litigation, Defendants, **JOHN DOE MEIJER SECURITY GUARD** and **JOHN and JANE ROE MEIJER SECURITY GUARDS**, were agents and / or employees of Defendant, **MEIJER, INC.**, who were paid to provide asset protection and / or security services.

9. At all times relevant to this litigation, Defendants, **JOHN DOE MEIJER**

SECURITY GUARD and **JOHN and JANE ROE MEIJER SECURITY GUARDS**, were acting within the course and scope of their employment with Defendant, **MEIJER, INC.** as security guards.

10. At all times relevant to this litigation, Defendant, **T. TABB**, was an off-duty Detroit Police Officer, who was employed by Defendant, **MEIJER, INC.**, as a security guard, who was permitted to wear her Detroit Police Uniform pursuant to the City of Detroit's Secondary Employment in Uniform Program.

11. At all times relevant to this litigation, Defendant, **T. TABB**, was an agent and / or employee of Defendant, **MEIJER, INC.**, acting as a security guard.

12. At all times relevant to this litigation, Defendant, **T. TABB**, was acting within the course and scope of her employment as a security guard paid by Defendant, **MEIJER, INC.**

13. Upon information and belief, Defendant **LONNIE WADE**, resides in Wayne County and / or was at all material times engaged in employment in Wayne County.

14. Upon information and belief, Defendant **T. TABB**, resides in Wayne County and / or was at all material times engaged in employment in Wayne County.

15. Upon information and belief, Defendants, **JOHN DOE MEIJER SECURITY GUARD** and **JOHN and JANE ROE MEIJER SECURITY GUARDS**, resided in Wayne County and / or were at all material times engaged in employment in Wayne County.

16. All transactions and occurrences giving rise to this lawsuit occurred in Wayne County.

17. Defendant, **MEIJER, INC.**, is a merchant that is liable for the actions of its security guards, security agents and security employees, including Defendants, **LONNIE WADE**,
JOHN DOE MEIJER SECURITY GUARD, JOHN AND JANE ROE SECURITY

GUARDS, and **T. TABB**, who were acting within the scope of their agency or employment for a merchant as security personnel, doing the type of work that Defendant **MEIJER, INC.**, knew or reasonably expected would include the use of force against patrons, the potential detention of patrons, the potential arrest of patrons, and the possible prosecution of patrons.

18. The amount in controversy greatly exceeds the jurisdictional threshold for this Court of Twenty-Five Thousand Dollars (\$25,000.00).

FACTUAL ALLEGATIONS

19. Plaintiffs hereby reincorporate each and every allegation contained in Paragraphs 1 thru 18 as if fully set forth herein.

20. Plaintiff, **DAVID JAREL BIVINS**, was out shopping with his fiancée, Plaintiff **HILLARY ROSS**, at the Meijer store located near Eight Mile and Woodward, in the City of Detroit, that is owned and / or operated by Defendant **MEIJER, INC.**

21. The fanfare of this Meijer store may be recalled as the date of the invitation-only, grand-opening ceremony of July 24, 2013 approached.

22. Defendant **MEIJER, INC.**, was lauded for opening a store that would serve and embody the spirit of the inner city and would employ 550 Detroit residents.

23. Behind the scenes, the Gateway Marketplace, for which the Meijer store is the anchor, was built directly across the street from Oakland County, upon the foundation of Michigan Brownfield Redevelopment tax credits and United States Department of Treasury New Market tax credits.

24. Exactly how Defendant **MEIJER, INC.**, has chosen to serve and embody Detroit's spirit was demonstrated in the early evening hours of October 8, 2017 when its agents employed their institutional bias by wrongfully detaining and falsely accusing two young AfricanAmerican Detroit residents of retail fraud and savagely beating one of them.

25. The wrongful acts alleged occurred on Plaintiffs' first date night following the premature birth of their first child.

26. Of the Detroit residents employed by Defendant **MEIJER, INC.** on October 8, 2017, were off-duty police officers, including but not limited to Defendant **LONNIE WADE**.

27. Upon information and belief, Defendant **T. TABB** was also an off-duty Detroit Police Officer who was, at all material times, employed by Defendant, **MEIJER, INC.**

28. Plaintiffs completed their shopping and paid for all of their items.

29. Plaintiffs' goods were bagged by Defendant **MEIJER, INC.**'s employees, and, in customary fashion, they were placed in a shopping cart.

30. Plaintiffs innocently attempted to leave the store.

31. To leave the store, plaintiffs were required to pass a security station that was being monitored by Defendant, **LONNIE WADE**, who was in the company of Defendant, **JOHN DOE MEIJER SECURITY GUARD**.

32. Plaintiffs passed the security station and moved through one set of exit doors into the Meijer vestibule, where Plaintiff **HILLARY ROSS** paused to use the restroom, recognizing that the bus ride home would take significant time.

33. Plaintiff **DAVID JAREL BIVINS**, stood next to the shopping cart that the couple was using, waiting for his fiancée to return so that they could catch the bus home. As he waited, he began to arrange the wares that had been purchased in preparation for the return route.

34. While Plaintiff **DAVID JAREL BIVINS** was arranging the items that had been properly purchased, Defendant **LONNIE WADE** approached Mr. Bivins with Defendant **JOHN DOE MEIJER SECURITY GUARD** close by his side, and demanded that Plaintiff **DAVID JAREL BIVINS** produce a receipt for the items, against his will.

35. Neither Defendant **LONNIE WADE** nor any security personnel were privileged to

detain plaintiffs.

36. There existed no reasonable suspicion or probable cause to believe that plaintiffs had done anything wrong; furthermore, all defendants lacked the legal authority to detain to investigate.

37. Plaintiff **DAVID JAREL BIVINS**, did not believe that he was free to leave the store nor would the ordinary customer; because Defendant **LONNIE WADE**, wearing a Detroit Police Uniform, blocked his path of exit, placed his hands upon Mr. Bivins' property, grasped the shopping cart holding plaintiffs' goods and otherwise directly or indirectly restricted Plaintiff **DAVID JAREL BIVINS**' freedom of movement.

38. Furthermore, in an act of intimidation, Defendant **JOHN DOE MEIJER SECURITY GUARD**, transplanted himself in close proximity to Defendant **LONNIE WADE**, staring down Mr. Bivins, intent upon not blinking an eye.

39. As Plaintiff **DAVID JAREL BIVINS** looked through the cart for his receipt, Defendant **WADE**'s aggressive posture rapidly escalated as he addressed Mr. Bivins with a demeaning tone and ignored Mr. Bivins' explanation.

40. Mr. Bivins attempted to explain that he could not locate the receipt and that he believed that Plaintiff **HILLARY ROSS** had taken it with her into the ladies' room.

41. Plaintiff, **HILLARY ROSS** returned from the ladies' room and produced the receipt to Defendant **LONNIE WADE** and Defendant **JOHN DOE MEIJER SECURITY GUARD**.

42. Offended that she and her fiancée had been falsely accused of stealing and that they had been wrongfully detained by Defendant **MEIJER INC.** without any factual basis, Plaintiff, **HILLARY ROSS**, decided to return the couple's purchases.

43. Plaintiff **HILLARY ROSS**, overcome with embarrassment over the ordeal, returned the items to the register and received a total refund because nothing was stolen and defendants had no reasonable belief that any theft or attempted theft had occurred.

44. Defendant **LONNIE WADE** was not done with Mr. Bivins.

45. Defendant **LONNIE WADE** continued to detain Mr. Bivins without cause, standing between the exit and Mr. Bivins and the shopping cart, all while Plaintiff **HILLARY ROSS** was returning the purchases to Defendant **MEIJER INC.**

46. Defendant **LONNIE WADE** attempted to ransack plaintiffs' additional belongings and restricted Plaintiff **DAVID JAREL BIVINS'** movement by placing his hands upon the shopping cart to prevent it from being moved and to prevent Mr. Bivins from leaving the store, all against plaintiff's will.

47. No defendant had reasonable cause to believe that Plaintiffs had stolen anything.

48. Defendants were not privileged to detain shoppers such as Plaintiffs **DAVID JAREL BIVINS** and **HILLARY ROSS**, but did so anyway.

49. When Plaintiff **DAVID JAREL BIVINS** asked Defendant **LONNIE WADE** to leave him alone and let him go, Defendant **LONNIE WADE** responded to words with force: he pushed Mr. Bivins' shopping cart out of his own way so that he could lay his hands upon Mr. Bivins' collar and otherwise attack him.

50. Defendant **LONNIE WADE** grabbed and struck Plaintiff **DAVID JAREL BIVINS** about the upper body, chest, neck and collar.

51. Plaintiff **DAVID JAREL BIVINS** was alarmed and terrified by Defendant **LONNIE WADE'S** rage.

52. Despite his right to use physical force to defend himself, Plaintiff **DAVID JAREL BIVINS'** response to Defendant **LONNIE WADE's** acts of aggression was flight rather than fight: he attempted passively and with words and reason to get away from the angry security guard and go out the door.

53. Defendant **LONNIE WADE** would not let the matter end.

54. Defendant **LONNIE WADE**, continued to grab Plaintiff **DAVID JAREL BIVINS**, trying to hold him inside the vestibule of the store.

55. As Plaintiff **DAVID JAREL BIVINS** pleaded with Defendant Wade to let him go, backing away in an effort to free the grasp of the aggressor, Defendant **LONNIE WADE** withdrew a baton and began striking Mr. Bivins with it.

56. Defendant **LONNIE WADE** assaulted and battered Plaintiff **DAVID JAREL BIVINS** by striking him with a baton in the head, face, legs, arms, and torso at least 7 or 8 times inside the vestibule of the Meijer store.

57. Defendant **LONNIE WADE**, struck Plaintiff **DAVID JAREL BIVINS** in the legs and ankles with his baton and threw him to the ground.

58. Defendant **LONNIE WADE** climbed on top of plaintiff as Plaintiff **DAVID JAREL BIVINS** lied upon the ground, pleading to be let up.

59. Plaintiff was able to get off the ground; however, Defendant **LONNIE WADE** continued to unlawfully restrain and tug on him as Plaintiff **DAVID JAREL BIVINS** tried to regain his freedom.

60. Instead of allowing Plaintiff **DAVID JAREL BIVINS** his freedom of movement, Defendant **LONNIE WADE** continued to viciously attack Mr. Bivins with his baton all about the body, striking plaintiff many times.

61. The attack of Defendant **LONNIE WADE** upon Plaintiff **DAVID JAREL BIVINS** culminated with a final head and facial blow, one that smashed Plaintiff **DAVID JAREL BIVINS'** teeth.

62. Defendant **LONNIE WADE**, unlawfully struck plaintiff numerous times with his baton, forcefully striking plaintiff in the arms, legs, torso, lower body, head, neck, face and other

parts of Plaintiff **DAVID JAREL BIVINS'** body, causing injuries, known and yet to be determined, and damages that include but are not limited to:

- a. Multiple contusions;
- b. Significant bruising and swelling;
- c. Multiple smashed teeth, upper and lower;
- d. Fractured jaw;
- e. Injuries to both arms;
- f. Injuries to both legs;
- g. Back injury;
- h. Neck injury;
- i. Head injury;
- j. Headaches;
- k. Deprivation of his freedom and denial of social pleasures;
- l. Unlawful detention;
- m. False arrest;
- n. False imprisonment;
- o. Humiliation;
- p. Slander;
- q. Libel;
- r. Embarrassment;
- s. Severe emotional distress;
- t. The casting of him in a false light;
- u. Mortification;
- v. Wage loss and / or loss of earning capacity;

- w. The need for extensive medical treatment;
- x. The need for future medical treatment;
- y. Medical expenses;
- z. Dental expenses; aa. Prescription expenses; and
- bb. Other incidental and compensatory expenses that are yet to be determined;
- cc. Exemplary damages; dd. Punitive damages; and, ee. Treble damages pursuant to MCL § 600.2907.

63. Defendant **LONNIE WADE** continued to detain Plaintiff **DAVID JAREL BIVINS**, after brutally beating him.

64. Defendant **LONNIE WADE** then laid false criminal charges upon Plaintiff **DAVID JAREL BIVINS** and unlawfully arrested him with the assistance, acquiescence, and approval of Defendant **T. TABB**.

65. Defendant **LONNIE WADE**, did all of the foregoing with the aid, assistance, and approval of the remaining individual defendants, who stood by and did nothing, all in violation of their contractual and common law duties of ordinary care to intervene, by, at minimum, calling authorities to stop the criminal attack that was being perpetrated by Defendant **LONNIE WADE**.

66. The individual defendants then caused Plaintiff, **DAVID JAREL BIVINS** to be maliciously prosecuted to cover up the unlawful accusation advanced by all defendants that preceded his unlawful detention and beating caused by all defendants.

67. The illegal and unconscionable acts of all defendants resulted in Plaintiff **DAVID JAREL BIVINS** being maliciously charged and unlawfully incarcerated for approximately two days for which he incurred legal expenses to obtain a writ of habeas corpus for his release because defendants refused to recant their false and malicious allegations.

COUNT I
FALSE ARREST

68. Plaintiffs hereby reincorporate each and every allegation contained in Paragraphs 1 through 67 as if fully set forth herein.

69. Defendant, **MEIJER, INC.**, through its agents and / or employees, Defendant **LONNIE WADE**, Defendant **JOHN DOE MEIJER SECURITY GUARD** and / or Defendants **JOHN and JANE ROE MEIJER SECURITY GUARDS**, and Defendant **T.TABB**, for vexation or trouble or with malice, caused or procured Plaintiffs **DAVID JAREL BIVINS** and **HILLARY ROSS**, to be arrested, attached, and proceeded against and are all liable pursuant to MCL 600.2907 for compensatory damages, exemplary damages, punitive damages, and treble damages.

70. Defendant, **MEIJER, INC.**, through its agents and / or employees, Defendant **LONNIE WADE**, Defendant **JOHN DOE MEIJER SECURITY GUARD** and / or Defendants **JOHN and JANE ROE MEIJER SECURITY GUARDS**, and Defendant **T.TABB**, unlawfully took, seized, and detained Plaintiffs **DAVID JAREL BIVINS** and **HILLARY ROSS**, by touching or putting their hands upon plaintiffs and engaging in acts and behavior indicating their intent to take them into custody and by subjecting them to the actual control and will of the Defendants.

71. The taking, seizure, and detention of Plaintiffs **DAVID JAREL BIVINS** and **HILLARY ROSS** by Defendant, **MEIJER, INC.**, through its agents and / or employees, Defendant **LONNIE WADE**, Defendant **JOHN DOE MEIJER SECURITY GUARD** and / or Defendants **JOHN and JANE ROE MEIJER SECURITY GUARDS**, and Defendant **T.TABB**, was unlawful and without probable cause.

72. Plaintiffs **DAVID JAREL BIVINS** and **HILLARY ROSS** were aware of the fact of being taken, seized, detained and / or actually arrested.

73. The taking, seizure, detention, and / or arrest of Plaintiffs **DAVID JAREL BIVINS** and **HILLARY ROSS** by Defendant **MEIJER, INC.**, through its agents and / or employees, Defendant **LONNIE WADE**, Defendant **JOHN DOE MEIJER SECURITY GUARD** and / or Defendants **JOHN and JANE ROE MEIJER SECURITY GUARDS**, and Defendant **T.TABB**, was against plaintiffs' will.

74. Defendant **MEIJER, INC.**, through its agents and / or employees, Defendant **LONNIE WADE**, Defendant **JOHN DOE MEIJER SECURITY GUARD** and / or Defendants **JOHN and JANE ROE MEIJER SECURITY GUARDS**, and Defendant **T.TABB**, intended to take, seize, detain, and / or arrest Plaintiffs **DAVID JAREL BIVINS** and **HILLARY ROSS**.

75. Plaintiff, **DAVID JAREL BIVINS**, suffered injuries and damages as a result of the unlawful taking, seizure, detention, and arrest of him that include but are not necessarily limited to the following:

- a. Deprivation of his liberty;
- b. Multiple contusions;
- c. Significant bruising and swelling;
- d. Multiple smashed teeth, upper and lower;
- e. Fractured jaw;
- f. Injuries to both arms;
- g. Injuries to both legs;
- h. Back injury;
- i. Neck injury;
- j. Head injury;
- k. Headaches;
- l. Deprivation of his freedom and denial of social pleasures;

- m. Humiliation;
- n. Slander;
- o. Libel;
- p. Embarrassment;
- q. Severe emotional distress;
- r. The casting of him in a false light;
- s. Mortification;
- t. Wage loss and / or loss of earning capacity;
- u. The need for extensive medical treatment;
- v. The need for future medical treatment;
- w. Medical expenses;
- x. Dental expenses;
- y. Prescription expenses; and
- z. Other incidental and compensatory expenses that are yet to be determined; aa. Exemplary damages; bb. Punitive damages; and, cc. Treble damages pursuant to MCL § 600.2907.

76. Plaintiff, **HILLARY ROSS**, suffered injuries and damages as a result of the unlawful taking, seizure, detention, and arrest of her that include but are not necessarily limited to the following:

- a. Deprivation of her liberty;
- b. Deprivation of her freedom and denial of social pleasures;
- c. Humiliation;
- d. Slander;
- e. Libel;

- f. Embarrassment;
- g. Severe emotional distress;
- h. The casting of her in a false light;
- i. Mortification;
- j. Wage loss and / or loss of earning capacity;
- k. Other incidental and compensatory expenses that are yet to be determined;
- l. Exemplary damages;
- m. Punitive damages; and,
- n. Treble damages pursuant to MCL § 600.2907.

COUNT II
FALSE IMPRISONMENT

77. Plaintiffs hereby reincorporate each and every allegation contained in Paragraphs 1 through 76 as if fully set forth herein.

78. Defendant, **MEIJER, INC.**, through its agents and / or employees, Defendant **LONNIE WADE**, Defendant **JOHN DOE MEIJER SECURITY GUARD** and / or Defendants **JOHN and JANE ROE MEIJER SECURITY GUARDS**, and Defendant **T.TABB**, for vexation or trouble or with malice, caused or procured Plaintiff **DAVID JAREL BIVINS**, to be arrested, attached, brutally beaten and proceeded against and are all liable pursuant to MCL 600.2907 for compensatory damages, exemplary damages, punitive damages, and treble damages.

79. Defendant, **MEIJER, INC.**, through its agents and / or employees, Defendant **LONNIE WADE**, Defendant **JOHN DOE MEIJER SECURITY GUARD** and / or Defendants **JOHN and JANE ROE MEIJER SECURITY GUARDS**, and Defendant **T.TABB**, unlawfully restrained Plaintiff **DAVID JAREL BIVINS'** personal liberty and / or freedom of movement by threat of physical force and actual physical force.

80. Defendant, **MEIJER, INC.**, through its agents and / or employees, Defendant **LONNIE WADE**, Defendant **JOHN DOE MEIJER SECURITY GUARD** and / or Defendants **JOHN and JANE ROE MEIJER SECURITY GUARDS**, and Defendant **T.TABB**, detained, restrained, and confined Plaintiff **DAVID JAREL BIVINS**.

81. The confinement of Plaintiff **DAVID JAREL BIVINS** by Defendant, **MEIJER, INC.**, through its agents and / or employees, Defendant **LONNIE WADE**, Defendant **JOHN DOE MEIJER SECURITY GUARD** and / or Defendants **JOHN and JANE ROE MEIJER SECURITY GUARDS**, and Defendant **T.TABB**, was against plaintiff's will.

82. Defendant, **MEIJER, INC.**, through its agents and / or employees, Defendant **LONNIE WADE**, Defendant **JOHN DOE MEIJER SECURITY GUARD** and / or Defendants **JOHN and JANE ROE MEIJER SECURITY GUARDS**, and Defendant **T.TABB**, accomplished the false imprisonment by express or implied threat of force and the actual use of physical force.

83. Defendant, **MEIJER, INC.**, through its agents and / or employees, Defendant **LONNIE WADE**, Defendant **JOHN DOE MEIJER SECURITY GUARD** and / or Defendants **JOHN and JANE ROE MEIJER SECURITY GUARDS**, and Defendant **T.TABB**, intended to deprive Plaintiff **DAVID JAREL BIVINS** of his personal liberty or freedom of movement.

84. Plaintiff, **DAVID JAREL BIVINS**, suffered injuries and damages as a result of the unlawful taking, seizure, detention, arrest and imprisonment of him that include but are not necessarily limited to the following:

- a. Deprivation of his liberty;
- b. Multiple contusions;
- c. Significant bruising and swelling;
- d. Multiple smashed teeth, upper and lower;

- e. Fractured jaw;
- f. Injuries to both arms;
- g. Injuries to both legs;
- h. Back injury;
- i. Neck injury;
- j. Head injury;
- k. Headaches;
- l. Deprivation of his freedom and denial of social pleasures;
- m. Humiliation;
- n. Slander;
- o. Libel;
- p. Embarrassment;
- q. Severe emotional distress;
- r. The casting of him in a false light;
- s. Mortification;
- t. Wage loss and / or loss of earning capacity;
- u. The need for extensive medical treatment;
- v. The need for future medical treatment;
- w. Medical expenses;
- x. Dental expenses;
- y. Prescription expenses; and
- z. Other incidental and compensatory expenses that are yet to be determined; aa. Exemplary damages; bb. Punitive damages; and, cc. Treble damages pursuant to MCL § 600.2907.

COUNT III
ASSAULT AND BATTERY

85. Plaintiff hereby reincorporates each and every allegation contained in Paragraphs 1 through 84 as if fully set forth herein.

86. Defendant, **MEIJER, INC.**, through its agents and / or employees, Defendant **LONNIE WADE**, Defendant **JOHN DOE MEIJER SECURITY GUARD** and / or Defendants **JOHN and JANE ROE MEIJER SECURITY GUARDS**, and Defendant **T.TABB**, for vexation or trouble or with malice, caused or procured Plaintiff **DAVID JAREL BIVINS**, to be arrested, attached, brutally beaten and proceeded against and are all liable pursuant to MCL 600.2907 for compensatory damages, exemplary damages, punitive damages, and treble damages.

87. Defendant, **MEIJER, INC.**, through its agents and / or employees, Defendant **LONNIE WADE**, Defendant **JOHN DOE MEIJER SECURITY GUARD** and / or Defendants **JOHN and JANE ROE MEIJER SECURITY GUARDS**, assaulted Plaintiff **DAVID JAREL BIVINS** by:

- a. Intentionally and unlawfully threatening or offering to do bodily injury to him;
- b. Under circumstances that created in plaintiff a well-founded fear of imminent peril;
- c. With the apparent present ability to carry out the act if not prevented.

88. Defendant, **MEIJER, INC.**, through its agent and / or employee, Defendant **LONNIE WADE**, assaulted and battered Plaintiff, **DAVID JAREL BIVINS** by touching him against his will in the following manner:

- a. Grabbing plaintiff by the collar and / or neck;
- b. Pulling upon plaintiff to confine him to Defendant **MEIJER INC.'s** premises;

- c. Propelling a baton into plaintiff's head, face, teeth, upper torso, arms, legs, ankles, and otherwise about his body;
- d. Tackling plaintiff;
- e. Physically restraining plaintiff, and directing him into **MEIJER INC's** premises;
- f. Attempting to handcuff plaintiff;
- g. Assisting in the handcuffing of plaintiff;
- h. Other manners that may be discovered in litigation.

89. Defendant, **MEIJER, INC.**, through its agent and / or employee, Defendant **T. TABB**, assaulted and battered Plaintiff, **DAVID JAREL BIVINS** by handcuffing him, physically directing his movement and physically causing him to be detained and imprisoned against his will.

90. Plaintiff, **DAVID JAREL BIVINS**, suffered injuries and damages as a result of the unlawful taking, seizure, detention, arrest and imprisonment of him that include but are not necessarily limited to the following:

- a. Deprivation of his liberty;
- b. Multiple contusions;
- c. Significant bruising and swelling;
- d. Multiple smashed teeth, upper and lower;
- e. Fractured jaw;
- f. Injuries to both arms;
- g. Injuries to both legs;
- h. Back injury;
- i. Neck injury;
- j. Head injury;

- k. Headaches;
- l. Deprivation of his freedom and denial of social pleasures;
- m. Humiliation;
- n. Slander;
- o. Libel;
- p. Embarrassment;
- q. Severe emotional distress;
- r. The casting of him in a false light;
- s. Mortification;
- t. Wage loss and / or loss of earning capacity;
- u. The need for extensive medical treatment;
- v. The need for future medical treatment;
- w. Medical expenses;
- x. Dental expenses;
- y. Prescription expenses; and
- z. Other incidental and compensatory expenses that are yet to be determined; aa. Exemplary damages; bb. Punitive damages; and, cc. Treble damages pursuant to MCL § 600.2907.

91. The amount of force used against Plaintiff **DAVID JAREL BIVINS** by Defendant **MEIJER, INC.**, through its agents and employees Defendant **LONNIE WADE** and Defendant **T. TABB**, was unjust, unlawful, excessive and unreasonable.

92. Plaintiff **DAVID JAREL BIVINS** was entitled to resist his unlawful seizure, detention and arrest and to defend himself from the excessive force being employed by Defendant **LONNIE WADE**.

93. Plaintiff, **DAVID JAREL BIVINS**' reaction and response to the unlawful conduct of Defendant **LONNIE WADE**, was reasonable and lawful.

COUNT IV
LIBEL / SLANDER / FALSE LIGHT INVASION OF PRIVACY

94. Plaintiffs hereby reincorporate each and every allegation contained in Paragraphs 1 through 93 as if fully set forth herein.

95. Defendant, **MEIJER, INC.**, through its agents and / or employees, Defendant **LONNIE WADE**, Defendant **JOHN DOE MEIJER SECURITY GUARD** and / or Defendants **JOHN and JANE ROE MEIJER SECURITY GUARDS**, and Defendant **T.TABB**, libeled and slandered Plaintiffs **DAVID JAREL BIVINS** and **HILLARY ROSS**, by making false oral and written statements suggesting that they had committed theft or some other criminal act which were communicated to third-persons and had a tendency to harm their reputation and / or cast them in a false light.

96. Plaintiffs **DAVID JAREL BIVINS** and **HILLARY ROSS** were initially damaged as a result of the false statements, by being detained and deprived of their freedom of movement.

97. Plaintiffs **DAVID JAREL BIVINS** and **HILLARY ROSS** were further damaged as the false accusations proximately resulted in Plaintiff **DAVID JAREL BIVINS** being beaten, incarcerated and physically and emotionally injured.

98. Plaintiffs **DAVID JAREL BIVINS** and **HILLARY ROSS** were thereafter cast in a false light when Defendant, **MEIJER, INC.**, through its agents and / or employees, Defendant **LONNIE WADE**, Defendant **JOHN DOE MEIJER SECURITY GUARD** and / or Defendants **JOHN and JANE ROE MEIJER SECURITY GUARDS**, and Defendant **T.TABB** disclosed unreasonable and highly objectionable information to the general public or a large number of people suggesting that they had stolen merchandise or otherwise engaged in criminal behavior.

99. Defendant, **MEIJER, INC.**, through its agents and / or employees, Defendant **LONNIE WADE**, Defendant **JOHN DOE MEIJER SECURITY GUARD** and / or Defendants **JOHN and JANE ROE MEIJER SECURITY GUARDS**, and Defendant **T.TABB** knew that the accusations about Plaintiffs were false and / or they acted in reckless disregard as to the veracity of the information and the false light in which plaintiffs would be placed.

100. As a direct and proximate result of Defendant, **MEIJER, INC.**'s libelous and slanderous statements that cast them in a false light, Plaintiffs **DAVID JAREL BIVINS** and **HILLARY ROSS** are entitled to recover actual damages, compensatory damages, exemplary damages, and punitive damages.

COUNT V
MALICIOUS PROSECUTION

101. Plaintiffs hereby reincorporate each and every allegation contained in Paragraphs 1 through 100 as if fully set forth herein.

102. Defendant, **MEIJER, INC.**, through its agents and / or employees, Defendant **LONNIE WADE**, Defendant **JOHN DOE MEIJER SECURITY GUARD** and / or Defendants **JOHN and JANE ROE MEIJER SECURITY GUARDS**, and Defendant **T.TABB**, for vexation or trouble or with malice, caused or procured Plaintiff **DAVID JAREL BIVINS**, to be arrested, attached, brutally beaten and proceeded against and are all liable pursuant to MCL 600.2907 for compensatory damages, exemplary damages, punitive damages, and treble damages. 103.

Defendant **MEIJER, INC.**, through its agents, Defendant **LONNIE WADE**, Defendant **JOHN DOE MEIJER SECURITY GUARD** and / or Defendants **JOHN and JANE ROE MEIJER SECURITY GUARDS**, and Defendant **T.TABB**, caused charges of resisting and obstructing a police officer to be initiated against Plaintiff **DAVID JAREL BIVINS** that included

the preparation of a criminal complaint and a request for an arrest warrant being submitted to the Wayne County Prosecutor's Office.

104. Plaintiff **DAVID JAREL BIVINS** was incarcerated and remained in jail as a result of the vexatious proceeding until a writ of habeas corpus was executed by the Wayne County Circuit Court commanding that plaintiff be released from custody.

105. In addition, Defendant **MEIJER, INC.**, through its agents, Defendant **LONNIE WADE**, Defendant **JOHN DOE MEIJER SECURITY GUARD** and / or Defendants **JOHN and JANE ROE MEIJER SECURITY GUARDS**, and Defendant **T.TABB**, caused a charge of disorderly conduct to be improperly initiated and continued against Plaintiff **DAVID JAREL BIVINS**.

106. The criminal complaint alleging that Plaintiff **DAVID JAREL BIVINS** resisted and obstructed arrest terminated in his favor when the Wayne County Prosecutor's Office rejected the request for warrant on October 10, 2017; said warrant request having been initiated by Defendant **MEIJER, INC.**, through its agents, Defendant **LONNIE WADE**, Defendant **JOHN DOE MEIJER SECURITY GUARD** and / or Defendants **JOHN and JANE ROE MEIJER SECURITY GUARDS**, and Defendant **T.TABB**.

107. It is expected that the remaining charges that were initiated by Defendant **MEIJER, INC.**, through its agents, Defendant **LONNIE WADE**, Defendant **JOHN DOE MEIJER SECURITY GUARD** and / or Defendants **JOHN and JANE ROE MEIJER SECURITY GUARDS**, and Defendant **T.TABB**, will terminate in favor of Plaintiff **DAVID JAREL BIVINS**.

108. The charges that were initiated and continued against Plaintiff **DAVID JAREL BIVINS** by Defendant **MEIJER, INC.**, through its agents, Defendant **LONNIE WADE**,

Defendant **JOHN DOE MEIJER SECURITY GUARD** and / or Defendants **JOHN and JANE ROE MEIJER SECURITY GUARDS**, and Defendant **T.TABB**, were initiated and continued without probable cause.

109. The charges that were initiated and continued against Plaintiff **DAVID JAREL BIVINS** by Defendant **MEIJER, INC.**, through its agents, Defendant **LONNIE WADE**, Defendant **JOHN DOE MEIJER SECURITY GUARD** and / or Defendants **JOHN and JANE ROE MEIJER SECURITY GUARDS**, and Defendant **T.TABB**, were initiated and continued with malice or a primary purpose other than that of bringing an offender to justice.

110. Plaintiff, **DAVID JAREL BIVINS**, suffered injuries and damages as a result of the unlawful taking, seizure, detention, arrest, imprisonment, and malicious prosecution of him that include but are not necessarily limited to the following:

- a. Deprivation of his liberty;
- b. Multiple contusions;
- c. Significant bruising and swelling;
- d. Multiple smashed teeth, upper and lower;
- e. Fractured jaw;
- f. Injuries to both arms;
- g. Injuries to both legs;
- h. Back injury;
- i. Neck injury;
- j. Head injury;
- k. Headaches;
- l. Deprivation of his freedom and denial of social pleasures;
- m. Humiliation;

- n. Slander;
- o. Libel;
- p. Embarrassment;
- q. Severe emotional distress;
- r. The casting of him in a false light;
- s. Mortification;
- t. Wage loss and / or loss of earning capacity;
- u. The need for extensive medical treatment;
- v. The need for future medical treatment;
- w. Medical expenses;
- x. Dental expenses;
- y. Prescription expenses; and
- z. Other incidental and compensatory expenses that are yet to be determined; aa. Exemplary damages; bb. Punitive damages; and, cc. Treble damages pursuant to MCL § 600.2907.

COUNT VI
INTENTIONAL INFLICTION OF EMOTIONAL DISTRESS

111. Plaintiffs hereby reincorporate each and every allegation contained in Paragraphs 1 through 110 as if fully set forth herein.

112. The conduct of Defendant **MEIJER, INC.**, through its agents, Defendant **LONNIE WADE**, Defendant **JOHN DOE MEIJER SECURITY GUARD** and / or Defendants **JOHN and JANE ROE MEIJER SECURITY GUARDS**, and Defendant **T.TABB**, alleged in the factual section and throughout this Complaint was extreme and outrageous.

113. The conduct of Defendant **MEIJER, INC.**, through its agents, Defendant

LONNIE WADE, Defendant **JOHN DOE MEIJER SECURITY GUARD** and / or Defendants **JOHN and JANE ROE MEIJER SECURITY GUARDS**, and Defendant **T.TABB**, alleged in the factual section and throughout this Complaint was intentional or reckless.

114. The conduct of Defendant **MEIJER, INC.**, through its agents, Defendant **LONNIE WADE**, Defendant **JOHN DOE MEIJER SECURITY GUARD** and / or Defendants **JOHN and JANE ROE MEIJER SECURITY GUARDS**, and Defendant **T.TABB**, alleged in the factual section and throughout this Complaint caused Plaintiffs **DAVID JAREL BIVINS** and **HILLARY ROSS**, severe emotional distress, resulting in injury and damages.

115. Plaintiff, **DAVID JAREL BIVINS**, suffered injuries and damages as a result of the unlawful taking, seizure, detention, arrest, imprisonment, malicious prosecution, and intentional infliction of emotional distress upon him that include but are not necessarily limited to the following:

- a. Deprivation of his liberty;
- b. Multiple contusions;
- c. Significant bruising and swelling;
- d. Multiple smashed teeth, upper and lower;
- e. Fractured jaw;
- f. Injuries to both arms;
- g. Injuries to both legs;
- h. Back injury;
- i. Neck injury;
- j. Head injury;
- k. Headaches;
- l. Deprivation of his freedom and denial of social pleasures;

- m. Humiliation;
- n. Slander;
- o. Libel;
- p. Embarrassment;
- q. Severe emotional distress;
- r. The casting of him in a false light;
- s. Mortification;
- t. Wage loss and / or loss of earning capacity;
- u. The need for extensive medical treatment;
- v. The need for future medical treatment;
- w. Medical expenses;
- x. Dental expenses;
- y. Prescription expenses; and
- z. Other incidental and compensatory expenses that are yet to be determined; aa. Exemplary damages; bb. Punitive damages; and, cc. Treble damages pursuant to MCL § 600.2907.

116. Plaintiff, **HILLARY ROSS**, suffered injuries and damages as a result of the unlawful taking, seizure, detention, and arrest of her that include but are not necessarily limited to the following:

- a. Deprivation of her liberty;
- b. Deprivation of her freedom and denial of social pleasures;
- c. Humiliation;
- d. Slander;

- e. Libel;
- f. Embarrassment;
- g. Severe emotional distress;
- h. The casting of her in a false light;
- i. Mortification;
- j. Wage loss and / or loss of earning capacity;
- k. Other incidental and compensatory expenses that are yet to be determined;
- l. Exemplary damages;
- m. Punitive damages; and,
- n. Treble damages pursuant to MCL § 600.2907.

COUNT VII
NEGLIGENCE

117. Plaintiffs hereby reincorporate each and every allegation contained in Paragraphs 1 through 116 as if fully set forth herein.

118. Defendant, **MEIJER, INC.**, owed Plaintiff **DAVID JAREL BIVINS** a duty to exercise ordinary care to provide him a reasonably safe place to shop including the duty to protect him by, at minimum, timely contacting on duty law enforcement officers to protect him from the use of excessive force by its agents or employees.

119. Defendant, **MEIJER INC.**, breached its duties of care, through its agents or employees, Defendant **JOHN DOE MEIJER SECURITY GUARD** and / or Defendants **JOHN and JANE ROE MEIJER SECURITY GUARDS**, and Defendant **T.TABB**, by failing to instruct its agent / employee, Defendant **LONNIE WADE**, to cease his detention of Plaintiff **DAVID JAREL BIVINS**, after a receipt of purchase was produced, and failing to request the presence of on-duty police officers to prevent the attack initiated by Defendant **LONNIE WADE**.

120. Defendant, **MEIJER INC.**, breached its duties of care, through its agents or employees, Defendant **JOHN DOE MEIJER SECURITY GUARD** and / or Defendants **JOHN and JANE ROE MEIJER SECURITY GUARDS**, and Defendant **T.TABB**, by ratifying, supporting, and / or encouraging the conduct of Defendant **LONNIE WADE**.

121. As a direct and proximate result of Defendant **MEIJER, INC.**'s negligence, Plaintiff, **DAVID JAREL BIVINS**, suffered injuries and damages that include but are not necessarily limited to the following:

- a. Deprivation of his liberty;
- b. Multiple contusions;
- c. Significant bruising and swelling;
- d. Multiple smashed teeth, upper and lower;
- e. Fractured jaw;
- f. Injuries to both arms;
- g. Injuries to both legs;
- h. Back injury;
- i. Neck injury;
- j. Head injury;
- k. Headaches;
- l. Deprivation of his freedom and denial of social pleasures;
- m. Humiliation;
- n. Slander;
- o. Libel;
- p. Embarrassment;
- q. Severe emotional distress;

- r. The casting of him in a false light;
- s. Mortification;
- t. Wage loss and / or loss of earning capacity;
- u. The need for extensive medical treatment;
- v. The need for future medical treatment;
- w. Medical expenses;
- x. Dental expenses;
- y. Prescription expenses; and
- z. Other incidental and compensatory expenses that are yet to be determined; aa. Exemplary damages; bb. Punitive damages; and, cc. Treble damages pursuant to MCL § 600.2907.

EXEMPLARY, PUNITIVE, AND TREBLE DAMAGES

122. Plaintiffs hereby reincorporate each and every allegation contained in Paragraphs 1 through 121 as if fully set forth herein.

123. Plaintiffs are entitled to exemplary, punitive, and treble damages pursuant to the common law, MCL 600.2907 and MCL 600.2917.

124. Defendant **MEIJER, INC.**, through its agent / employee, Defendant **LONNIE WADE**, used excessive force after unlawfully detaining Plaintiffs **DAVID JAREL BIVINS** and **HILLARY ROSS**.

125. Defendant **MEIJER, INC.**, through its agent / employee, Defendant **LONNIE WADE**, detained Plaintiff **DAVID JAREL BIVINS** for an unreasonable length of time and caused a malicious prosecution of him to be initiated and continued.

126. Defendant **MEIJER, INC.**, through its agents or employees, Defendant **LONNIE WADE**, Defendant **JOHN DOE MEIJER SECURITY GUARD** and / or Defendants **JOHN and JANE ROE MEIJER SECURITY GUARDS**, and Defendant **T.TABB**, acted with an unreasonable disregard of Plaintiffs **DAVID JAREL BIVINS'** and **HILLARY ROSS'** rights or sensibilities.

127. Defendant **MEIJER INC.**, through its agents or employees, Defendant **LONNIE WADE**, Defendant **JOHN DOE MEIJER SECURITY GUARD** and / or Defendants **JOHN and JANE ROE MEIJER SECURITY GUARDS**, and Defendant **T.TABB**, acted with intent to injure Plaintiff **DAVID JAREL BIVINS**.

WHEREFORE, Plaintiffs **DAVID JAREL BIVINS** and **HILLARY ROSS**, respectfully request that a judgment be entered in their favor against each individual defendant and Defendant **MEIJER, INC.** for compensatory damages in an amount that greatly exceeds twenty-five thousand dollars (\$25,000.00) plus exemplary damages, punitive damages, treble damages, costs, interest, and attorney fees.

Respectfully Submitted,

/s/ *Gary N. Felty Jr.*

GEOFFREY N. FIEGER (P30441)

GARY N. FELTY, Jr. (P55554)

Fieger, Fieger, Kenney & Harrington P.C.

Attorneys for Plaintiff

19390 West Ten Mile Road

Southfield, MI 48075

(248) 355-5555

Dated: October 16, 2017

STATE OF MICHIGAN

IN THE CIRCUIT COURT FOR THE COUNTY OF WAYNE

**DAVID JAREL BIVINS and
HILLARY ROSS,**

Plaintiffs,

Case No. 17- NO

v.

Honorable

**MEIJER, INC., a domestic for-profit corporation,
LONNIE WADE, an individual,
JOHN DOE MEIJER SECURITY GUARD, an individual,
JOHN and JANE ROE MEIJER SECURITY GUARDS, individuals
T. TABB, an individual,**

Defendants.

GEOFFREY N. FIEGER (P30441)
GARY N. FELTY, Jr. (P55554)
Fieger, Fieger, Kenney, & Harrington P.C.
Attorneys for Plaintiff
19390 West Ten Mile Road
Southfield, MI 48075
(248) 355-5555 / Fax: (248) 355-5148 g.felty@fiegerlaw.com

DEMAND FOR JURY TRIAL

Plaintiffs, **DAVID JAREL BIVINS** and **HILLARY ROSS**, by and through their attorneys,
FIEGER, FIEGER, KENNEY, & HARRINGTON, P.C., hereby demand a trial by jury in the
above-captioned matter.

Respectfully Submitted,

/s/ *Gary N. Felty Jr.*
GEOFFREY N. FIEGER (P30441)
GARY N. FELTY, Jr. (P55554)
Fieger, Fieger, Kenney & Harrington P.C.
Attorneys for Plaintiff
19390 West Ten Mile Road
Southfield, MI 48075
(248) 355-5555

Dated: October 16, 2017