

DOE OFFICERS employment with MGPD, such that the doctrine of respondeat superior applies to this action.

466. As a direct and proximate result of the false arrests alleged above, Mr. PICART suffered bodily injury, pain and suffering, mental anguish, loss of capacity for enjoyment of life, lost wages, and loss of ability to earn money. These injuries and losses are permanent and continuing, and Mr. PICART will suffer such losses in the future.

467. The CITY, MAYOR GILBERT, FORMER MAYOR GIBSON, CITY MANAGER CREW, and CHIEF BOYD either directly or tacitly approved of, sanctioned, encouraged and/or failed to supervise and discipline DUNASKE, SANTIAGO, TRIMINO and/or UNIDENTIFIED JOHN DOES.

**WHEREFORE**, Mr. PICART respectfully requests compensatory damages and punitive damages against Defendants, CITY, MAYOR GILBERT, FORMER MAYOR GIBSON, CITY MANAGER CREW, CHIEF BOYD, DUNASKE, SANTIAGO, TRIMINO, and/or UNIDENTIFIED JOHN DOE OFFICERS, together with prejudgment interest on all economic losses, costs of this action and a trial by jury on all issues triable as a matter of right.

### **COUNT VIII**

#### **Individual State Law Claim of Mr. PICART for Intentional Infliction of Emotional Distress**

468. This is an action, under the common law of the State of Florida, for intentional infliction of emotion distress. Such claim arises from a common nucleus of operative facts as the violations of 42 U.S.C. § 1983, as set forth above.

469. Plaintiff, Mr. PICART, realleges paragraphs 1 through 127 and 411 through 418, as if fully set forth herein.

470. The conduct of DUNASKE, SANTIAGO, TRIMINO, and/or UNIDENTIFIED JOHN DOE OFFICERS in stopping, searching, seizing, and/or arresting Mr. PICART, was intentional, negligent, or reckless and was committed within the course and scope of their employment with MGPD.

471. The conduct was outrageous — going beyond all bounds of decency and regarded as odious and utterly intolerable in a civilized community.

472. Defendants, the CITY, MAYOR GILBERT, FORMER MAYOR GIBSON, CITY MANAGER CREW, and CHIEF BOYD, are responsible for the intentional inflictions of emotional distress committed by DUNASKE, SANTIAGO, TRIMINO and/or UNIDENTIFIED JOHN DOE OFFICERS upon the person of Mr. PICART, in that intentional inflictions of emotional distress were intentional and were committed within the course and scope of DUNASKE, SANTIAGO, TRIMINO, and/or UNIDENTIFIED JOHN DOE OFFICERS employment with MGPD, such that the doctrine of respondeat superior applies to this action.

473. The conduct caused, and continues to cause, severe emotional distress. Mr. PICART is afraid to walk around his own neighborhood, afraid to go to work, and afraid to enjoy his life as a CITY resident.

474. The CITY, MAYOR GILBERT, FORMER MAYOR GIBSON, CITY MANAGER CREW, and CHIEF BOYD either directly or tacitly approved of, sanctioned, encouraged and/or failed to supervise and discipline DUNASKE, SANTIAGO, TRIMINO and/or UNIDENTIFIED JOHN DOE OFFICERS.

**WHEREFORE**, Mr. PICART respectfully requests compensatory damages and punitive damages against Defendants, CITY, MAYOR GILBERT, FORMER MAYOR GIBSON, CITY MANAGER CREW, CHIEF BOYD, DUNASKE, SANTIAGO, TRIMINO and/or UNIDENTIFIED JOHN DOE OFFICERS, together with prejudgment interest on all economic losses, costs of this action and a trial by jury on all issues triable as a matter of right.

**COUNT IX**

**Individual State Law Claim of Mr. PICART for Malicious Prosecution**

475. This is an action, under the common law of the State of Florida, for malicious prosecution. Such claims arise from a common nucleus of operative facts as the violations of 42 U.S.C. § 1983, as set forth above.

476. Plaintiff, Mr. PICART, realleges Paragraphs 1 through 127 and 411 through 418, as if fully set forth herein.

477. The unlawful arrest which took place on December 21, 2012 resulted in the commencement of an original judicial proceeding against Mr. PICART.

478. DUNASKE, SANTIAGO, TRIMINO, and/or UNIDENTIFIED JOHN DOE OFFICERS were all the legal cause of the original proceedings against MR. PICART.

479. The termination of the original proceeding against Mr. PICART constituted a bona fide termination of that proceeding in favor of Mr. PICART. Specifically, the State Attorney's Office took "no action" against Mr. PICART finding the arrest was made without probable cause.

480. Defendants, DUNASKE, SANTIAGO, TRIMINO, and/or UNIDENTIFIED JOHN DOE OFFICERS, operated with malice in arresting Mr. PICART without probable

cause. DUNASKE, SANTIAGO, TRIMINO and/or UNIDENTIFIED JOHN DOE OFFICERS knew they lacked probable cause to arrest Mr. PICART but, notwithstanding this knowledge, proceeded to arrest him each time.

481. Mr. PICART suffered, and continues to suffer damages, as a result of the original proceedings. Mr. PICART was incarcerated and eventually had to seek legal counsel to prevent him from being charged with the crimes improperly begun and facilitated against him by DUNASKE, SANTIAGO, TRIMINO, and/or UNIDENTIFIED JOHN DOE OFFICERS.

482. The CITY, MAYOR GILBERT, FORMER MAYOR GIBSON, CITY MANAGER CREW and CHIEF BOYD are responsible for the malicious prosecution of Mr. PICART in that the malicious prosecution was intentional, willful, wanton, and malicious, and/or negligent, and were committed within the course and scope of the PICART ARRESTING OFFICERS employment with MGPD, such that the doctrine of respondeat superior applies to this action.

**WHEREFORE**, Mr. PICART respectfully requests compensatory damages and punitive damages against Defendants, CITY, MAYOR GILBERT, FORMER MAYOR GIBSON, CITY MANAGER CREW, CHIEF BOYD DUNASKE, SANTIAGO, TRIMINO, and/or UNIDENTIFIED JOHN DOE OFFICERS, together with prejudgment interest on all economic losses, costs of this action and a trial by jury on all issues triable as a matter of right.

**SPECIFIC ALLEGATIONS AS TO RODERICK DEWAYNE SMITH**

483. Mr. SMITH is a twenty-six old black male who has been a resident of the CITY for his entire life.

484. On February 7, 2013, Mr. SMITH was unlawfully stopped-and-frisked, searched, seized, and arrested without reasonable suspicion or arguable probable cause within the CITY and by MGPD officers. The incident with MGPD officers resulted in an excessive use of force.

485. Mr. SMITH was on the QUICKSTOP property drinking an allegedly alcoholic beverage. He was approached by MGPD officers who asked for his identification and poured out the contents of the beverage. Simultaneously, MGPD officers performed a full search of Mr. SMITH'S person without consent and without reasonable articulable suspicion or probable cause.

486. After the unlawful search, Mr. SMITH was released, at which time he attempted to walk into the QUICKSTOP to purchase water. MGPD officers instructed him not to enter the QUICKSTOP – which was open to the public at the time. MGPD officers again requested Mr. SMITH's identification and when he asked "why?" he was thrown, head-first, into a steel door, handcuffed, picked up, and thrown against the police car.

487. After several minutes of physical detainment, he was released and issued a Promise to Appear for possession of an open container. Subsequent to the arrest, MGPD officers failed to complete a Use of Force Report as required by MGPD policy and Florida law.

488. The Court subsequently dismissed the open container charge.

489. The following named Defendants, all of whom were acting under color of authority, were involved at least one of the seven stop-and-frisks, searches, seizures, and arrests, either directly or through tacit approval: RUIZ, TAMAYO, MALONE, BAMFORD, HARRIS, SANTIAGO, PINKNEY, ROVINELLI, and UNIDENTIFIED JOHN DOE OFFICERS.

490. The acts and omissions of the CITY, MAYOR GILBERT, CITY MANAGER CREW, CHIEF BOYD, RUIZ, TAMAYO, MALONE, BAMFORD, HARRIS, SANTIAGO, PINKNEY, ROVINELLI, and UNIDENTIFIED JOHN DOE OFFICERS, constitute a continuing violation of MR. SMITH's constitutional rights.

**COUNT I**

**Individual Claim of Mr. SMITH, Pursuant to 42 U.S.C § 1983, for Violation of the Fourth Amendment Right against Unreasonable Searches and Seizures**

491. Plaintiff, Mr. SMITH, realleges paragraphs 1 through 127 and 483 through 490, as if fully set forth herein.

492. The conduct of Defendants, RUIZ, TAMAYO, MALONE, BAMFORD, HARRIS, SANTIAGO, PINKNEY, ROVINELLI, and UNIDENTIFIED JOHN DOE OFFICERS, in stopping-and-frisking, searching, seizing, and/or arresting Mr. SMITH on seven separate instances, including February 7, 2013, was performed under color of law and without reasonable articulable suspicion and/or arguable probable. Moreover, the stop-and-frisk, search, seizure, and/or arrest were performed on the basis of race and/or national origin.

493. A reasonable officer would not have believed there was reasonable suspicion to stop-and-frisk and/or probable cause to arrest Mr. SMITH in light of clearly established law and the information possessed by Defendants, RUIZ, TAMAYO, MALONE, BAMFORD, HARRIS, SANTIAGO, PINKNEY, ROVINELLI, and UNIDENTIFIED JOHN DOE OFFICERS, at the time of the incidents.

494. As a direct and proximate result of such acts, Defendants, RUIZ, TAMAYO, MALONE, BAMFORD, HARRIS, SANTIAGO, PINKNEY, ROVINELLI, and

UNIDENTIFIED JOHN DOE OFFICERS, deprived Mr. SMITH of his Fourth Amendment rights in violation of 42 U.S.C. § 1983.

495. As a direct and proximate result of the referenced constitutional abuses, Mr. SMITH has suffered, and will continue to suffer, physical, mental, and emotional pain and suffering, mental anguish, embarrassment, and humiliation.

496. The acts of Defendants, RUIZ, TAMAYO, MALONE, BAMFORD, HARRIS, SANTIAGO, PINKNEY, ROVINELLI, and UNIDENTIFIED JOHN DOE OFFICERS, were intentional, deliberate, wanton, malicious, reckless, and oppressive, thus entitling Mr. SMITH to an award of punitive damages.

497. Pursuant to 42 U.S.C. § 1988, Plaintiff is entitled to a reasonable allowance for attorney fees as part of Plaintiff's costs.

498. The CITY, MAYOR GILBERT, FORMER MAYOR GIBSON, CITY MANAGER CREW, and CHIEF BOYD either directly or tacitly approved of, sanctioned, encouraged and/or failed to supervise and discipline RUIZ, TAMAYO, MALONE, BAMFORD, HARRIS, SANTIAGO, PINKNEY, ROVINELLI, and UNIDENTIFIED JOHN DOE OFFICERS.

**WHEREFORE**, Mr. SMITH requests judgment against Defendants, CITY, MAYOR GILBERT, FORMER MAYOR GIBSON, CITY MANAGER CREW, CHIEF BOYD, RUIZ, TAMAYO, MALONE, BAMFORD, HARRIS, SANTIAGO, PINKNEY, ROVINELLI and UNIDENTIFIED JOHN DOE OFFICERS, for compensatory damages, punitive damages, reasonable attorney fees, costs, and such other relief as this Court deems just and proper.

**COUNT II**

**Individual Claim of Mr. SMITH, Pursuant to 42 U.S.C § 1983, for Violation of the Equal Protection Clause of the Fourteenth Amendment**

499. Plaintiff, Mr. SMITH, realleges paragraphs 1 through 127 and 483 through 490as if fully set forth herein.

500. RUIZ, TAMAYO, MALONE, BAMFORD, HARRIS, SANTIAGO, PINKNEY, ROVINELLI, and UNIDENTIFIED JOHN DOE OFFICERS have implemented and enforced a policy, practice and/or custom of stopping-and-frisking, searching, seizing, and/or arresting Mr. SMITH without reasonable articulable suspicion and/or arguable probable cause and, instead, based solely on his race and/or national origin.

501. There is direct, circumstantial, and/or statistical evidence that Mr. SMITH was, and continues to be, a target of racial profiling by RUIZ, TAMAYO, MALONE, BAMFORD, HARRIS, SANTIAGO, PINKNEY, ROVINELLI, and UNIDENTIFIED JOHN DOE OFFICERS in this action.

502. As a result of MGPD's policy, practice, and/or custom (specifically, the Racial Targeting Policy) of stopping-and-frisking, searching, seizing, and arresting Mr. SMITH without reasonable articulable suspicion and/or probable cause RUIZ, TAMAYO, MALONE, BAMFORD, HARRIS, SANTIAGO, PINKNEY, ROVINELLI, and UNIDENTIFIED JOHN DOE OFFICERS intentionally discriminated against a member of a protected class.

503. As a direct and proximate result of such acts, RUIZ, TAMAYO, MALONE, BAMFORD, HARRIS, SANTIAGO, PINKNEY, ROVINELLI, and UNIDENTIFIED JOHN



DOE OFFICERS deprived Mr. SMITH of his constitutionally protected rights under the Fourteenth Amendment.

504. As a direct and proximate result of the referenced constitutional abuses, Mr. SMITH has suffered, and will continue to suffer, physical, mental, and emotional pain and suffering, mental anguish, embarrassment, and humiliation.

505. The acts of RUIZ, TAMAYO, and UNIDENTIFIED JOHN DOE OFFICERS were intentional, deliberate, wanton, malicious, reckless, and oppressive, thus entitling Mr. SMITH to an award of punitive damages.

506. The CITY, MAYOR GILBERT, FORMER MAYOR GIBSON, CITY MANAGER CREW, and CHIEF BOYD either directly or tacitly approved of, sanctioned, encouraged, and/or failed to supervise and discipline RUIZ, TAMAYO, MALONE, BAMFORD, HARRIS, SANTIAGO, PINKNEY, ROVINELLI, and UNIDENTIFIED JOHN DOE OFFICERS.

**WHEREFORE**, Mr. SMITH requests judgment against Defendants, CITY, MAYOR GILBERT, FORMER MAYOR GIBSON, CITY MANAGER CREW, CHIEF BOYD, RUIZ, TAMAYO, MALONE, BAMFORD, HARRIS, SANTIAGO, PINKNEY, ROVINELLI, and UNIDENTIFIED JOHN DOE OFFICERS, for compensatory damages, punitive damages, reasonable attorney fees, costs, and such other relief as this Court deems just and proper.

**COUNT III**

**Individual Claim of Mr. SMITH, Pursuant to 42 U.S.C. § 1983, for Malicious Prosecution  
in Violation of the Fourth Amendment**

507. Plaintiff, Mr. SMITH, realleges paragraphs 1 through 127 and 483 through 490, as if fully set forth herein.

508. The unlawful arrest which took place on February 7, 2013 resulted in the commencement of an original judicial proceeding against Mr. SMITH.

509. RUIZ, TAMAYO and/or UNIDENTIFIED JOHN DOES were all the legal cause of the original proceeding against MR. SMITH.

510. The termination of the original proceeding against Mr. SMITH constituted a bona fide termination of that proceeding in favor of Mr. SMITH. Specifically, the Court dismissed the charges, finding the arrest was made without probable cause.

511. RUIZ, TAMAYO and UNIDENTIFIED JOHN DOE OFFICERS operated with malice in arresting Mr. SMITH without probable cause. Defendants RUIZ, TAMAYO, and UNIDENTIFIED JOHN DOE OFFICERS, knew they lacked probable cause to arrest Mr. SMITH but, notwithstanding this knowledge, proceeded to nevertheless arrest him.

512. Mr. SMITH suffered, and continues to suffer damages, as a result of the original proceedings. Mr. SMITH was arrested, to await bond hearings and/or arraignment and was therefore seized in violation of his Fourth Amendment Rights.

513. The CITY, MAYOR GILBERT, FORMER MAYOR GIBSON, CITY MANAGER CREW, and CHIEF BOYD either directly or tacitly approved of, sanctioned,

encouraged and/or failed to supervise and discipline RUIZ, TAMAYO, and UNIDENTIFIED JOHN DOE OFFICERS.

**WHEREFORE**, Mr. SMITH requests judgment against Defendants, CITY, MAYOR GILBERT, FORMER MAYOR GIBSON, CITY MANAGER CREW, CHIEF BOYD, RUIZ, TAMAYO, and UNIDENTIFIED JOHN DOE OFFICERS for compensatory damages, punitive damages, reasonable attorney fees, costs, and such other relief as this Court deems just and proper.

#### **COUNT IV**

##### **Individual Claim of Mr. SMITH, Pursuant to 42 U.S.C. § 1983, for Excessive Use of Force in Violation of the Fourth Amendment**

514. Plaintiff, Mr. SMITH, realleges paragraphs 1 through 127 and 483 through 490, as if fully set forth herein.

515. On February 7, 2013, Mr. SMITH was unlawfully stopped-and-frisked, searched, seized, and arrested without reasonable suspicion or arguable probable cause within the CITY and by RUIZ, TAMAYO, and/or UNIDENTIFIED JOHN DOE OFFICERS.

516. The incident with RUIZ, TAMAYO, and/or UNIDENTIFIED JOHN DOE OFFICERS resulted in an excessive use of force.

517. Mr. SMITH was on the QUICKSTOP property drinking an allegedly alcoholic beverage. He was approached by RUIZ, TAMAYO, and/or UNIDENTIFIED JOHN DOE OFFICERS who asked for his identification and poured out the contents of the beverage. Simultaneously, RUIZ, TAMAYO, and/or UNIDENTIFIED JOHN DOE OFFICERS

performed a full search of Mr. SMITH'S person without consent and without reasonable articulable suspicion or probable cause.

518. After the unlawful search, Mr. SMITH was released at which time he attempted to walk into the QUICKSTOP to purchase water. RUIZ, TAMAYO, and/or UNIDENTIFIED JOHN DOE OFFICERS instructed him not to enter the QUICKSTOP – which was open to the public at the time. RUIZ, TAMAYO, and/or UNIDENTIFIED JOHN DOE OFFICERS again requested Mr. SMITH's identification and when he asked "why?" he was thrown, head-first, into a steel door, handcuffed, picked up, and thrown against the police car.

519. After several minutes of physical detainment, he was released and issued a Promise to Appear for possession of an open container. Subsequent to the arrest, RUIZ, TAMAYO, and/or UNIDENTIFIED JOHN DOE OFFICERS failed to complete a Use of Force Report as required by MGPD policy and Florida law.

520. The use of force was unreasonable and negligent under the circumstances resulting in multiple injuries to Mr. SMITH and violation of his rights under the Fourth Amendment.

521. The CITY, MAYOR GILBERT, FORMER MAYOR GIBSON, CITY MANAGER CREW, and CHIEF BOYD either directly or tacitly approved of, sanctioned, encouraged and/or failed to supervise and discipline RUIZ, TAMAYO, and/or UNIDENTIFIED JOHN DOE OFFICERS .

**WHEREFORE**, Mr. SMITH requests judgment against Defendants, CITY, MAYOR GILBERT, FORMER MAYOR GIBSON, CITY MANAGER CREW, CHIEF BOYD, RUIZ, TAMAYO, and/or UNIDENTIFIED JOHN DOE OFFICERS for compensatory damages,

punitive damages, reasonable attorney fees, costs, and such other relief as this Court deems just and proper.

**COUNT V**

**Individual State Law Claim of Mr. SMITH for Civil Battery**

522. This is a cause of action, under the common law of the State of Florida, for civil battery. Such claim arises from a common nucleus of operative facts as the violations of 42 U.S.C. § 1983, as set forth above.

523. Plaintiff, Mr. SMITH, realleges paragraphs 1 through 127 and 483 through 490, as if fully set forth herein.

524. The conduct of RUIZ, TAMAYO, MALONE, BAMFORD, HARRIS, SANTIAGO, PINKNEY, ROVINELLI, and UNIDENTIFIED JOHN DOE OFFICERS in illegally searching and arresting Mr. SMITH was intentional, malicious, wanton and willful, and/or negligent, and intended to cause a harmful or offensive contact with the person of Mr. SMITH.

525. The conduct of RUIZ, TAMAYO, MALONE, BAMFORD, HARRIS, SANTIAGO, PINKNEY, ROVINELLI, and UNIDENTIFIED JOHN DOE OFFICERS was committed within the course and scope of their employment with MGPD.

526. Defendants, the CITY, MAYOR GILBERT, FORMER MAYOR GIBSON, CITY MANAGER CREW and CHIEF BOYD, are responsible for the battery committed by RUIZ, TAMAYO, MALONE, BAMFORD, HARRIS, SANTIAGO, PINKNEY, ROVINELLI, and UNIDENTIFIED JOHN DOE OFFICERS upon the person of Mr. SMITH, in that the civil battery was intentional and was committed within the course and scope of RUIZ, TAMAYO,

MALONE, BAMFORD, HARRIS, SANTIAGO, PINKNEY, ROVINELLI, and UNIDENTIFIED JOHN DOE OFFICERS employment with MGPD, such that the doctrine of respondeat superior applies to this action.

527. As a direct and proximate result of the battery alleged above, Mr. SMITH suffered bodily injury and resulted in pain and suffering, mental anguish, loss of capacity of enjoyment of life, lost wages and loss of ability to earn money. These injuries and losses are permanent and continuing, and Mr. SMITH will suffer such losses in the future.

528. The CITY, MAYOR GILBERT, FORMER MAYOR GIBSON, CITY MANAGER CREW, and CHIEF BOYD either directly or tacitly approved of, sanctioned, encouraged and/or failed to supervise and discipline RUIZ, TAMAYO, MALONE, BAMFORD, HARRIS, SANTIAGO, PINKNEY, ROVINELLI, and UNIDENTIFIED JOHN DOE OFFICERS.

**WHEREFORE**, Mr. SMITH respectfully requests compensatory damages and punitive damages against Defendants, CITY, MAYOR GILBERT, FORMER MAYOR GIBSON, CITY MANAGER CREW, CHIEF BOYD, RUIZ, TAMAYO, MALONE, BAMFORD, HARRIS, SANTIAGO, PINKNEY, ROVINELLI, and UNIDENTIFIED JOHN DOE OFFICERS, together with prejudgment interest on all economic losses, costs of this action and a trial by jury on all issues triable as a matter of right.

**COUNT VI**

**Individual State Law Claim of Mr. SMITH for False Arrest**

529. This is an action, under the common law of the State of Florida, for false arrest. Such claims arise from a common nucleus of operative facts as the violations of 42 U.S.C. § 1983, as set forth above.

530. Plaintiff, Mr. SMITH, realleges paragraphs 1 through 127 and 483 through 490, as if fully set forth herein.

531. The conduct of RUIZ, TAMAYO, and/or UNIDENTIFIED JOHN DOES was intentional, willful, wanton, and malicious, and/or negligent, and was committed within the course and scope of their employment with MGPD.

532. Mr. SMITH was unlawfully detained and deprived of his liberty against his will when RUIZ, TAMAYO, and/or UNIDENTIFIED JOHN DOES arrested him without legal authority.

533. The conduct of RUIZ, TAMAYO, and/or UNIDENTIFIED JOHN DOES constituted false arrests of Mr. SMITH, as the arrest was made without probable cause or even arguable probable cause.

534. The CITY, MAYOR GILBERT, FORMER MAYOR GIBSON, CITY MANAGER CREW, and CHIEF BOYD are responsible for the false arrest of Mr. SMITH in that the false arrest was intentional, willful, wanton, and malicious, and/or negligent, and was committed within the course and scope of RUIZ, TAMAYO, and/or UNIDENTIFIED JOHN DOES employment with MGPD, such that the doctrine of respondeat superior applies to this action.

535. As a direct and proximate result of the false arrests alleged above, Mr. SMITH suffered bodily injury, pain and suffering, mental anguish, loss of capacity for enjoyment of life, lost wages, and loss of ability to earn money. These injuries and losses are permanent and continuing, and Mr. SMITH will suffer such losses in the future.

**WHEREFORE**, Mr. SMITH respectfully requests compensatory damages and punitive damages against Defendants, CITY, MAYOR GILBERT, FORMER MAYOR GIBSON, CITY MANAGER CREW, CHIEF BOYD, RUIZ, TAMAYO, and/or UNIDENTIFIED JOHN DOES, together with prejudgment interest on all economic losses, costs of this action and a trial by jury on all issues triable as a matter of right.

#### **COUNT VII**

##### **Individual State Law Claim of Mr. SMITH for Intentional Infliction of Emotional Distress**

536. This is an action, under the common law of the State of Florida, for intentional infliction of emotional distress. Such claims arise from a common nucleus of operative facts as the violations of 42 U.S.C. § 1983, as set forth above.

537. Plaintiff, Mr. SMITH, realleges paragraphs 1 through 127 and 483 through 490, as if fully set forth herein.

538. The conduct of RUIZ, TAMAYO, MALONE, BAMFORD, HARRIS, SANTIAGO, PINKNEY, ROVINELLI, and UNIDENTIFIED JOHN DOE OFFICERS in stopping, searching, seizing, and/or arresting Mr. SMITH as well as using unjustified force upon him, was intentional, negligent, or reckless and was committed within the course and scope of their employment with MGPD.



539. The conduct was outrageous — going beyond all bounds of decency and regarded as odious and utterly intolerable in a civilized community.

540. The conduct caused, and continues to cause, severe emotional distress. Mr. SMITH is afraid to walk around his own neighborhood, afraid to go to the store, and afraid to enjoy his life as a CITY resident.

541. The CITY, MAYOR GILBERT, FORMER MAYOR GIBSON, CITY MANAGER CREW, and CHIEF BOYD either directly or tacitly approved of, sanctioned, encouraged and/or failed to supervise and discipline RUIZ, TAMAYO, MALONE, BAMFORD, HARRIS, SANTIAGO, PINKNEY, ROVINELLI, and UNIDENTIFIED JOHN DOE OFFICERS

**WHEREFORE**, Mr. SMITH respectfully requests compensatory damages and punitive damages against Defendants, CITY, MAYOR GILBERT, FORMER MAYOR GIBSON, CITY MANAGER CREW, CHIEF BOYD, RUIZ, TAMAYO, MALONE, BAMFORD, HARRIS, SANTIAGO, PINKNEY, ROVINELLI, and UNIDENTIFIED JOHN DOE OFFICERS together with prejudgment interest on all economic losses, costs of this action and a trial by jury on all issues triable as a matter of right.

### **COUNT VIII**

#### **Individual State Law Claim of Mr. SMITH for Malicious Prosecution**

542. This is an action, under the common law of the State of Florida, for malicious prosecution. Such claims arise from a common nucleus of operative facts as the violations of 42 U.S.C. § 1983, as set forth above.

543. Plaintiff, Mr. SMITH, realleges paragraphs 1 through 127 and 483 through 490, as if fully set forth herein.

544. The unlawful arrest which took place on February 7, 2013 resulted in the commencement of an original judicial proceeding against Mr. SMITH.

545. RUIZ, TAMAYO and/or UNIDENTIFIED JOHN DOES were all the legal cause of the original proceeding against Mr. SMITH.

546. The termination of the original proceeding against Mr. SMITH constituted a bona fide termination of that proceeding in favor of Mr. SMITH. Specifically, the Court dismissed the charges, finding the arrest was made without probable cause.

547. RUIZ, TAMAYO, and/or UNIDENTIFIED JOHN DOES operated with malice in arresting Mr. SMITH without probable cause. Defendants knew they lacked probable cause to arrest Mr. SMITH but, notwithstanding this knowledge, proceeded to nevertheless arrest him.

548. Mr. SMITH suffered, and continues to suffer damages, as a result of the original proceedings. Mr. SMITH was incarcerated following his arrest and/or arraignments to await bond hearings and/or trial.

549. The CITY, MAYOR GILBERT, FORMER MAYOR GIBSON, CITY MANAGER CREW, and CHIEF BOYD either directly or tacitly approved of, sanctioned, encouraged and/or failed to supervise and discipline RUIZ, TAMAYO ,and/or UNIDENTIFIED JOHN DOES.

**WHEREFORE**, Mr. SMITH respectfully requests compensatory damages and punitive damages against Defendants, CITY, MAYOR GILBERT, FORMER MAYOR GIBSON, CITY MANAGER CREW, CHIEF BOYD, RUIZ, TAMAYO, and/or

UNIDENTIFIED JOHN DOES, together with prejudgment interest on all economic losses, costs of this action and a trial by jury on all issues triable as a matter of right.

**SPECIFIC ALLEGATIONS AS TO KENNETH CRANE**

550. Mr. CRANE is a forty six year old black male who has resided in the CITY for his entire life.

551. Mr. CRANE was unlawfully stopped-and-frisked, searched, seized, and/or arrested without reasonable suspicion or arguable probable cause within the CITY by MGPD officers.

552. On November 23, 2012, Mr. CRANE was riding his bicycle to the QUICKSTOP when he was stopped without reasonable suspicion, and subsequently searched and arrested without probable cause by MGPD officers.

553. The following named Defendants, all of whom were acting under color of authority, were involved in the November 23, 2012 search, seizure, and arrest, either directly or through tacit approval: the CITY, MAYOR GILBERT, FORMER MAYOR GIBSON, CITY MANAGER CREW, CHIEF BOYD, DUNASKE, HARRIS, TRIMINO, and UNIDENTIFIED JOHN DOE OFFICERS. The acts and omissions of the CITY, MAYOR GILBERT, FORMER MAYOR GIBSON, CITY MANAGER CREW, CHIEF BOYD, DUNASKE, TRIMINO, SANTIAGO, and UNIDENTIFIED JOHN DOE OFFICERS, constitute a continuing violation of Mr. CRANE's constitutional rights.

**COUNT I**

**Individual Claim of Mr. CRANE, Pursuant to 42 U.S.C § 1983, for Violation of the Fourth Amendment Right against Unreasonable Searches and Seizures**

554. Plaintiff, Mr. CRANE, realleges paragraphs 1 through 127 and 550 through 553, as if fully set forth herein.

555. The conduct of Defendants, DUNASKE, HARRIS, TRIMINO, and UNIDENTIFIED JOHN DOE OFFICERS, in stopping-and-frisking, searching, seizing, and/or arresting Mr. CRANE on November 23, 2012, was performed under color of law and without reasonable articulable suspicion and/or arguable probable cause. Moreover, the stop-and-frisk, search, seizure, and/or arrest were performed on the basis of race and/or national origin.

556. A reasonable officer would not have believed there was reasonable suspicion to stop-and-frisk and/or probable cause to arrest Mr. CRANE in light of clearly established law and the information possessed by Defendant officers at the time of the incidents.

557. As a direct and proximate result of such acts, Defendants, DUNASKE, HARRIS, TRIMINO, and UNIDENTIFIED JOHN DOE OFFICERS, deprived Mr. CRANE of his Fourth Amendment rights in violation of 42 U.S.C. § 1983.

558. As a direct and proximate result of the referenced constitutional abuses, Mr. CRANE has suffered, and will continue to suffer, physical, mental, and emotional pain and suffering, mental anguish, embarrassment, and humiliation.

559. The acts of Defendants, DUNASKE, HARRIS, TRIMINO, and UNIDENTIFIED JOHN DOE OFFICERS, were intentional, deliberate, wanton, malicious, reckless, and oppressive, thus entitling Mr. CRANE to an award of punitive damages.

560. The CITY, MAYOR GILBERT, FORMER MAYOR GIBSON, CITY MANAGER CREW, and CHIEF BOYD either directly or tacitly approved of, sanctioned, encouraged and/or failed to supervise and discipline DUNASKE, HARRIS, TRIMINO, and UNIDENTIFIED JOHN DOE OFFICERS.

561. Pursuant to 42 U.S.C. § 1988, Plaintiff, Mr. CRANE, is entitled to a reasonable allowance for attorney fees as part of Plaintiff's costs.

**WHEREFORE**, Mr. CRANE requests judgment against Defendants, the CITY, MAYOR GILBERT, FORMER MAYOR GIBSON, CITY MANAGER CREW, CHIEF BOYD, DUNASKE, HARRIS, TRIMINO, and UNIDENTIFIED JOHN DOE OFFICERS, for compensatory damages, punitive damages, reasonable attorney fees, costs, and such other relief as this Court deems just and proper.

## **COUNT II**

### **Individual Claim of Mr. CRANE, Pursuant to 42 U.S.C § 1983, for Violation of the Equal Protection Clause of the Fourteenth Amendment**

562. Plaintiff, Mr. CRANE, realleges paragraphs 1 through 127 and 550 through 553 as if fully set forth herein.

563. DUNASKE, HARRIS, TRIMINO, and UNIDENTIFIED JOHN DOE OFFICERS have implemented and enforced a policy, practice and/or custom of stopping-and-frisking, searching, seizing, and/or arresting Mr. CRANE without reasonable articulable suspicion and/or arguable probable cause and, instead, based solely on his race and/or national origin.

564. There is direct, circumstantial, and/or statistical evidence that Mr. CRANE was, and continues to be, a target of racial profiling by DUNASKE, HARRIS, TRIMINO, and UNIDENTIFIED JOHN DOE OFFICERS in this action.

565. As a result of MGPD's policy, practice, and/or custom (specifically, the Racial Targeting Policy) of stopping-and-frisking, searching, seizing, and arresting Mr. CRANE without reasonable articulable suspicion and/or probable cause DUNASKE, HARRIS, TRIMINO, and UNIDENTIFIED JOHN DOE OFFICERS intentionally discriminated against a member of a protected class.

566. As a direct and proximate result of such acts, DUNASKE, HARRIS, TRIMINO, and UNIDENTIFIED JOHN DOE OFFICERS deprived Mr. CRANE of his constitutionally protected rights under the Fourteenth Amendment.

567. As a direct and proximate result of the referenced constitutional abuses, Mr. SAMPSON has suffered, and will continue to suffer, physical, mental, and emotional pain and suffering, mental anguish, embarrassment, and humiliation.

568. The acts of DUNASKE, HARRIS, TRIMINO, and UNIDENTIFIED JOHN DOE OFFICERS were intentional, deliberate, wanton, malicious, reckless, and oppressive, thus entitling Mr. CRANE to an award of punitive damages.

569. The CITY, MAYOR GILBERT, FORMER MAYOR GIBSON, CITY MANAGER CREW, and CHIEF BOYD either directly or tacitly approved of, sanctioned, encouraged, and/or failed to supervise and discipline the DUNASKE, HARRIS, TRIMINO, and UNIDENTIFIED JOHN DOE OFFICERS

**WHEREFORE**, Mr. CRANE requests judgment against Defendants, CITY, MAYOR GILBERT, FORMER MAYOR GIBSON, CITY MANAGER CREW, CHIEF BOYD, DUNASKE, HARRIS, TRIMINO, and UNIDENTIFIED JOHN DOE OFFICERS, for compensatory damages, punitive damages, reasonable attorney fees, costs, and such other relief as this Court deems just and proper.

**COUNT III**

**Individual Claim of Mr. CRANE, Pursuant to 42 U.S.C. § 1983, for Malicious Prosecution in Violation of the Fourth Amendment**

570. Plaintiff, Mr. CRANE, realleges paragraphs 1 through 127 and 550 through 553, as if fully set forth herein.

571. The unlawful arrest which took place on November 23, 2012 resulted in the commencement of an original judicial proceeding against Mr. CRANE.

572. DUNASKE, HARRIS, TRIMINO, and UNIDENTIFIED JOHN DOE OFFICERS, were all the legal cause of the original proceeding against MR. CRANE.

573. The termination of the original proceeding against Mr. CRANE constituted a bona fide termination of that proceeding in favor of Mr. CRANE. Specifically, the State Attorney's Office took "no action" against Mr. CRANE.

574. DUNASKE, HARRIS, TRIMINO, and UNIDENTIFIED JOHN DOE OFFICERS, operated with malice in arresting Mr. CRANE without probable cause. Defendants knew they lacked probable cause to arrest Mr. CRANE but, notwithstanding this knowledge, proceeded to nevertheless arrest him.

575. Mr. CRANE suffered, and continues to suffer damages, as a result of the original proceedings. Mr. CRANE was incarcerated prior to his arraignment to await trial and therefore seized in violation of his Fourth Amendment Rights.

**WHEREFORE**, Mr. CRANE requests judgment against Defendants, the CITY, MAYOR GILBERT, FORMER MAYOR GIBSON, CHIEF BOYD, DUNASKE, HARRIS, TRIMINO, and UNIDENTIFIED JOHN DOE OFFICERS, for compensatory damages, punitive damages, reasonable attorney fees, costs, and such other relief as this Court deems just and proper.

#### **COUNT IV**

##### **Individual State Law Claim of Mr. CRANE for Civil Battery**

576. This is a cause of action, under the common law of the State of Florida, for civil battery. Such claims arise from a common nucleus of operative facts as the violations of 42 U.S.C. § 1983, as set forth above.

577. Plaintiff, Mr. CRANE, realleges paragraphs 1 through 127 and 550 through 553, as if fully set forth herein.

578. The conduct of DUNASKE, HARRIS, TRIMINO, and UNIDENTIFIED JOHN DOE OFFICERS, in illegally searching and arresting Mr. CRANE was intentional, malicious, wanton and willful, and/or negligent, and intended to cause a harmful or offensive contact with the person of Mr. CRANE.

579. The conduct of DUNASKE, HARRIS, TRIMINO, and UNIDENTIFIED JOHN DOE OFFICERS, was committed within the course and scope of their employment with MGPD.



580. Defendants, the CITY, MAYOR GILBERT, CITY MANAGER CREW and CHIEF BOYD, are responsible for the battery committed by DUNASKE, HARRIS, TRIMINO, and UNIDENTIFIED JOHN DOE OFFICERS, upon the person of Mr. CRANE, in that the civil battery was intentional and was committed within the course and scope of DUNASKE, HARRIS, TRIMINO, and UNIDENTIFIED JOHN DOE OFFICERS, employment with MGPD, such that the doctrine of respondeat superior applies to this action.

581. As a direct and proximate result of the battery alleged above, Mr. CRANE suffered bodily injury and resulted in pain and suffering, mental anguish, loss of capacity of enjoyment of life, lost wages and loss of ability to earn money. These injuries and losses are permanent and continuing, and Mr. CRANE will suffer such losses in the future.

**WHEREFORE**, Mr. CRANE respectfully requests compensatory damages and punitive damages against Defendants, the CITY, MAYOR GILBERT, FORMER MAYOR GIBSON, CHIEF BOYD, DUNASKE, HARRIS, TRIMINO, and UNIDENTIFIED JOHN DOE OFFICERS, together with prejudgment interest on all economic losses, costs of this action and a trial by jury on all issues triable as a matter of right.

#### **COUNT V**

##### **Individual State Law Claim of Mr. CRANE for False Arrest**

582. This is an action, under the common law of the State of Florida, for false arrest. Such claims arise from a common nucleus of operative facts as the violations of 42 U.S.C. § 1983, as set forth above.

583. Plaintiff, Mr. CRANE, realleges paragraphs 1 through 127 and 550 through 553, as if fully set forth herein.

584. The conduct of DUNASKE, HARRIS, TRIMINO, and UNIDENTIFIED JOHN DOE OFFICERS, was intentional, willful, wanton, and malicious, and/or negligent, and was committed within the course and scope of their employment with MGPD.

585. Mr. CRANE was unlawfully detained and deprived of his liberty against his will when DUNASKE, HARRIS, TRIMINO, and UNIDENTIFIED JOHN DOE OFFICERS, arrested him without legal authority.

586. The conduct of DUNASKE, HARRIS, TRIMINO, and UNIDENTIFIED JOHN DOE OFFICERS, constituted false arrest of Mr. CRANE, as the arrest was made without probable cause or even arguable probable cause. The CITY, MAYOR GILBERT, FORMER MAYOR GIBSON, CITY MANAGER CREW and CHIEF BOYD are responsible for the false arrest of Mr. CRANE in that the false arrest was intentional, willful, wanton, and malicious, and/or negligent, and was committed within the course and scope of DUNASKE, HARRIS, TRIMINO, and UNIDENTIFIED JOHN DOE OFFICERS, employment with MGPD, such that the doctrine of respondeat superior applies to this action.

587. As a direct and proximate result of the false arrests alleged above, Mr. CRANE suffered bodily injury, pain and suffering, mental anguish, loss of capacity for enjoyment of life, lost wages, and loss of ability to earn money. These injuries and losses are permanent and continuing, and Mr. CRANE will suffer such losses in the future.

**WHEREFORE**, Mr. CRANE respectfully requests compensatory damages and punitive damages against Defendants, the CITY, MAYOR GILBERT, FORMER MAYOR GIBSON,

CHIEF BOYD, DUNASKE, HARRIS, TRIMINO, and UNIDENTIFIED JOHN DOE OFFICERS, together with prejudgment interest on all economic losses, costs of this action and a trial by jury on all issues triable as a matter of right.

**COUNT VI**

**Individual State Law Claim of Mr. CRANE for Intentional  
Infliction of Emotional Distress**

588. This is an action, under the common law of the State of Florida, for intentional infliction of emotion distress. Such claims arise from a common nucleus of operative facts as the violations of 42 U.S.C. § 1983, as set forth above.

589. Plaintiff, MR. CRANE, realleges paragraphs 1 through 127 and 550 through 553, as if fully set forth herein.

590. The conduct of DUNASKE, HARRIS, TRIMINO, and UNIDENTIFIED JOHN DOE OFFICERS, in stopping, searching, seizing, and/or arresting Mr. CRANE was intentional, negligent, or reckless and was committed within the course and scope of their employment with MGPD.

591. The conduct was outrageous — going beyond all bounds of decency and regarded as odious and utterly intolerable in a civilized community.

592. The CITY, MAYOR GILBERT, FORMER MAYOR GIBSON, CITY MANAGER CREW, and CHIEF BOYD either directly or tacitly approved of, sanctioned, encouraged and/or failed to supervise and discipline DUNASKE, HARRIS, TRIMINO, and UNIDENTIFIED JOHN DOE OFFICERS.

593. The conduct caused, and continues to cause, severe emotional distress. Mr. CRANE is afraid to walk around his own neighborhood, afraid to go to work, and afraid to enjoy his life as a CITY resident.

**WHEREFORE**, Mr. CRANE respectfully requests compensatory damages and punitive damages against Defendants, the CITY, MAYOR GILBERT, FORMER MAYOR GIBSON, CHIEF BOYD, DUNASKE, TRIMINO, HARRIS, and UNIDENTIFIED JOHN DOE OFFICERS, together with prejudgment interest on all economic losses, costs of this action and a trial by jury on all issues triable as a matter of right.

#### **COUNT VII**

##### **Individual State Law Claim of Mr. CRANE for Malicious Prosecution**

594. This is an action, under the common law of the State of Florida, for malicious prosecution. Such claims arise from a common nucleus of operative facts as the violations of 42 U.S.C. § 1983, as set forth above.

595. Plaintiff, Mr. CRANE, realleges paragraphs 1 through 127 and 550 through 553, as if fully set forth herein.

596. Mr. CRANE was arrested a total of one time in 2012. In the instant case, an original judicial proceeding against Mr. CRANE was commenced.

597. DUNASKE, HARRIS, TRIMINO, and UNIDENTIFIED JOHN DOE OFFICERS, were all the legal cause of the original proceedings against Mr. CRANE.

598. The termination of the original proceedings against Mr. CRANE constituted a bona fide termination of that proceeding in favor of Mr. CRANE. Specifically, the State