

**IN THE UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF OHIO
EASTERN DIVISION**

SOMIER MCLAUGHLIN)
856 SMITHFIELD ROAD #1807)
SAGAMORE HILLS, OHIO 44067)

Plaintiff,)

-vs-)

SERGEANT MARK S. PODGORSKI)
C/O SAGAMORE HILLS POLICE DEPARTMENT)
11551 VALLEY VIEW ROAD)
SAGAMORE HILLS, OHIO 44067)

and)

DETECTIVE KENNETH WOLF)
C/O SAGAMORE HILLS POLICE DEPARTMENT)
11551 VALLEY VIEW ROAD)
SAGAMORE HILLS, OHIO 44067)

and)

PATROLMAN TIMOTHY ELLIS)
C/O SAGAMORE HILLS POLICE DEPARTMENT)
11551 VALLEY VIEW ROAD)
SAGAMORE HILLS, OHIO 44067)

and)

DOUG SMITH)
1222 HIDDENVIEW STREET, N.W.)
NORTH CANTON, OHIO 44720)

and)

TOWNSHIP OF SAGAMORE HILLS)
C/O JEFFREY SNELL, LAW DIRECTOR)
ADMINISTRATIVE OFFICES)
11551 VALLEY VIEW)
SAGAMORE HILLS, OHIO 44067)

Defendants.)

CASE NO.:

JUDGE

COMPLAINT
(Jury Trial Endorsed Hereon)

Now comes Plaintiff, by and through the undersigned counsel, and for her Complaint against Defendants, state as follows:

I. JURISDICTION AND VENUE

1. The plaintiff brings a civil right lawsuit pursuant to 42 U.S.C. Section 1983 to redress the deprivation, by the Defendants under color of state law, of the rights secured to her under the First, Fourth and Fourteenth Amendments to the United States Constitution and Article I, Section 14, Article I, Section 11 and Article I, Section 1 of the Constitution of the State of Ohio.
2. Jurisdiction is conferred up on this court by 28 U.S.C. Section 1343(3) and Section 1343(4), which provide for original jurisdiction in this court for all suits pursuant to 42 U.S.C. Section 1983. Jurisdiction is also conferred on this court by 28 U.S.C. Section 1331(8) because the action arises out of the constitutional laws of the United States.
3. Venue properly lies in the Northern District of Ohio pursuant to 28 U.S.C. Section 1391 and Section 1392, in that all of the parties reside in this federal district and all of the events alleged herein occurred in the this federal district.

II. PARTIES

4. Plaintiff, Somier McLaughlin, at all times material herein was and is a citizen of the United States and a resident of Summit County, Ohio.
5. Defendant, Mark S. Podgorski, is, and at all times material herein has been, a police officer employed by the Township of Sagamore Hills, a township organized and existing

pursuant to the laws of the State of Ohio.

6. At all times material herein, and in all his actions described herein, Defendant, Mark S. Podgorski (hereinafter Defendant “Podgorski”), was acting under the color of law, including the customs, usages, policies and practices established by the Township of Sagamore Hills, and in his capacity pursuant to his authority as a police officer of the Township of Sagamore Hills.
7. Defendant Podgorski is also sued individually.
8. Defendant, Patrolman Ellis, is, and at all times material herein has been, a police officer employed by the Township of Sagamore Hills, a township organized and existing pursuant to the laws of the State of Ohio.
9. At all times material herein, and in all his actions described herein, Defendant, Patrolman Ellis (hereinafter Defendant “Ellis”), was acting under the color of law, including the customs, usages, policies and practices established by the Township of Sagamore Hills, and in his capacity pursuant to his authority as a police officer of the Township of Sagamore Hills.
10. Defendant Ellis is also sued individually.
11. Defendant, Detective Wolf, is, and at all times material herein has been, a police officer employed by the Township of Sagamore Hills, a township organized and existing pursuant to the laws of the State of Ohio.
12. At all times material herein, and in all his actions described herein, Defendant, Detective Wolf (hereinafter Defendant “Wolf”), was acting under the color of law, including the customs, usages, policies and practices established by the Township of Sagamore Hills, and in his capacity pursuant to his authority as a police officer of the Township of Sagamore Hills.

13. Defendant Wolf is also sued individually.
14. Defendant, Doug Smith (hereinafter Defendant Smith), is the ex-husband of Plaintiff, Somier McLaughlin, and at all times material herein, was a Deputy Sheriff in the Summit County Sheriff's Department.
15. Defendant Smith is also sued individually.

III. FACTS

16. Plaintiff, Somier McLaughlin, was married to Defendant Smith and they were divorced on or about January 23, 2002. Jane Doe (identity withheld due to her "minor" status) is the minor daughter of Plaintiff, Somier McLaughlin, and Defendant Smith.
17. Plaintiff, Somier McLaughlin, at all times material herein, was and is the custodial parent of Jane Doe.
18. Prior to June 8, 2007, Defendant Smith had requested permission from Plaintiff, Somier McLaughlin, to take their daughter out of the country for an unscheduled visit.
19. Prior to June 8, 2007, Plaintiff, Somier McLaughlin, had advised Defendant Doug Smith that she would not permit Jane Doe to go with the Defendant Doug Smith out of the country.
20. On or about June 8, 2007, at or near 856 Smithfield Road #1807, Sagamore Hills, Ohio, Plaintiff was sleeping in her home at approximately 1:00 a.m. when Defendants Podgorski, Ellis and Wolf knocked on her door.
21. Prior to knocking on Plaintiff's door, Defendants Podgorski and Ellis met with Defendant Smith just down the street from Plaintiff's home.
22. Defendant Smith explained to Defendants Podgorski and Ellis that he wanted to take his

- daughter out of the country later that same morning but Plaintiff would not permit it.
23. Defendant Smith produced no court order for the purposes of permitting him to take custody of Jane Doe at that time and no such court order ever existed.
 24. Defendant Smith and Defendant Podgorski had a professional relationship prior to June 8, 2007, and Defendants Podgorski, Ellis and Wolf all knew that Defendant Smith was a Summit County Deputy Sheriff.
 25. Following the conversation with Defendant Smith, Defendants Podgorski, Wolf and Ellis agreed to intercede in a purely civil matter and proceeded to Plaintiff's home.
 26. Defendant Smith and his new wife, Kristina Albrecht, stayed approximately four units away (just around the corner) while Defendants Podgorski and Ellis proceeded to Plaintiff's home.
 27. Defendants Podgorski and Ellis knocked on Plaintiff's door and announced themselves as "Sagamore Hills Police."
 28. Defendants Podgorski, Wolf and Ellis had no legitimate reason to knock on Plaintiff's door at 1:00 a.m. on June 8, 2007.
 29. Defendants Podgorski, Wolf and Ellis conspired with Defendant Smith to obtain physical custody of Jane Doe for Defendant Smith, thereby allowing Defendant Smith to take Jane Doe out of the country.
 30. Upon waking up to the knocking on the door and hearing the introduction of "Somier, open up, it's the Sagamore Hills Police," Plaintiff was startled.
 31. When Plaintiff opened the door, Defendant Podgorski entered her home.
 32. Defendant Podgorski stated, "Where is Jane Doe? I hear [Jane Doe] is going to Mexico."
 33. Upon hearing this, Plaintiff, Somier McLaughlin, immediately informed Defendant Podgorski that Jane Doe was not going anywhere. Defendant Ellis then entered the

- home.
34. Plaintiff, Somier McLaughlin instructed Defendants Podgorski and Ellis to leave her home.
 35. Defendants Podgorski and Ellis did not leave Plaintiff's home as demanded by the Plaintiff.
 36. Plaintiff repeatedly told Defendants, Podgorski, Ellis and Wolf to leave her home.
 37. Defendants Podgorski, Ellis and Wolf repeatedly refused to leave Plaintiff's home.
 38. Defendants did not have a search warrant, court order or arrest warrant and were intervening in a purely civil matter.
 39. Following being told to leave on several occasions and refusing to leave, Defendants Podgorski, Ellis and Wolf arrested Plaintiff, Somier McLaughlin, in her own home for persistent disorderly conduct.
 40. The arrest of Plaintiff was done without probable cause and in violation of Plaintiff's civil rights and excessive force was used to effect the unlawful arrest.
 41. Following the arrest of Plaintiff by Defendants Podgorski, Ellis and Wolf, Defendant Smith entered Plaintiff's home and took Jane Doe with him.
 42. Defendant Smith had no permission to enter the home of the Plaintiff and take Jane Doe.
 43. Following the arrest of Plaintiff by Defendants Podgorski, Ellis and Wolf, Plaintiff was transported to Sagamore Hills Medical Center/Southpointe Hospital and then to the Sagamore Hills Police Station.
 44. Following Plaintiff's arrest, Defendant Smith took Jane Doe to the Airport and then out of the country to Punta Cana in the Dominican Republic.
 45. Defendants Podgorski, Ellis and Wolf assisted their fellow law enforcement officer in the abduction of Jane Doe from Plaintiff's custody.

46. Defendants Podgorski, Ellis and Wolf conspired with Defendant Smith in order to assist Defendant Smith in obtaining physical custody of Jane Doe in order to permit him to take Jane Doe out of the country.
47. Plaintiff, Somier McLaughlin, was charged by Defendants, Podgorski, Ellis and Wolf with disorderly conduct, resisting arrest and assault of a police officer, a felony of the fourth degree.
48. Plaintiff was indicted on or about July 31, 2007 on charges of Assault, 2903.13(A), Felony 4, Resisting Arrest, 2921.33(B), Misdemeanor 1, Persistent Disorderly Conduct, 2917.11(A)(2), Misdemeanor 4, in Summit County Common Pleas Court, Case No.: CR 2007-06-2109, based on the testimony provided by Defendants, Podgorski, Ellis, Wolf and Smith.
49. Plaintiff proceeded to jury trial on or about January 28, 2008 and was acquitted of all charges on or about January 30, 2008.

IV. FIRST CAUSE OF ACTION
VIOLATION OF PLAINTIFF'S CIVIL RIGHTS

50. Plaintiff hereby restates and reavers the allegations contained in paragraphs one through forty-nine as if fully restated herein.
51. The warrantless entry into Plaintiff's home and arrest of Plaintiff, by Defendants Podgorski, Ellis and Wolf without a search warrant or other court order, without free or voluntary consent, and Defendant's refusal to leave upon request by Plaintiff, was in violation of Plaintiff's rights under the United States Constitution and the Ohio Constitution to be secure in their persons and home against unreasonable searches and seizures in violation of 42 U.S.C. Section 1983.

52. The warrantless arrest and seizure of the Plaintiff by Defendants Podgorski, Ellis and Wolf was done without probable cause and in violation of Plaintiff's civil rights and in violation of 42 U.S.C. Section 1983.
53. Defendants Podgorski, Ellis and Wolf, and each of them, intentionally interfered with and deprived Somier McLaughlin, of her custody of Jane Doe, by interfering in a purely civil custody dispute and by unlawfully and forcibly removing Jane Doe from Plaintiff's custody and permitting Defendant Smith to enter Plaintiff's home in order to abduct Jane Doe, against the will of Plaintiff, in violation of Plaintiff's civil rights and in violation of 42 U.S.C. § 1983.
54. The actions of Defendants Podgorski, Ellis and Wolf, and each of them, were deliberate and intentional violations of 42 U.S.C. Section 1983 and the clearly established rights of the Plaintiff, Somier McLaughlin, as guaranteed by the First, Fourth and Fourteenth Amendments to the Constitution of the United States.
55. As a direct and proximate result of the wrongful, tortious, illegal and unconstitutional acts of Defendants Podgorski, Ellis and Wolf, and each of them, Plaintiff, Somier McLaughlin, has suffered, is suffering and will continue to suffer physical pain and suffering, humiliation, embarrassment, loss of reputation, severe mental and emotional distress, out of pocket economic damages, and was otherwise damaged.
56. As a further direct and proximate result of the tortious, illegal and unconstitutional acts of Defendants Podgorski, Ellis and Wolf, and each of them, Plaintiff, Somier McLaughlin, has suffered, is suffering and will continue to suffer the loss of earning and earnings capacity.
57. The intentional actions of Defendants Podgorski, Ellis and Wolf, and each of them, were intentional, malicious, willful, wanton and oppressive and in deliberate disregard for the

rights of Plaintiff, Somier McLaughlin, so as to entitle Plaintiff to an award of punitive damages in addition to compensatory damages.

V. SECOND CAUSE OF ACTION
USE OF UNREASONABLE AND EXCESSIVE FORCE

58. Plaintiff hereby restates and reavers the allegations contained in paragraphs one through fifty-seven as if fully restated herein.
59. The intentional use of unreasonable and excessive force intended to cause bodily harm to Plaintiff, Somier McLaughlin, was malicious and sadistic and for the very purpose of causing the bodily harm to her and not for any good faith, legitimate purpose.
60. The intentional use of unreasonable and excessive force intended to cause bodily harm to Plaintiff, Somier McLaughlin, was shocking to the conscience.
61. The actions of Defendants Podgorski, Ellis and Wolf, and each of them were deliberate and intentional in violations of the 42 U.S.C. Section 1983 and the clearly established rights of the Plaintiff as guaranteed by the Fourteenth Amendment to the Constitution of the United States.

VI. THIRD CAUSE OF ACTION
FAILURE TO TRAIN

62. Plaintiff restates and reavers the allegations contained in paragraphs one through sixty-one as if fully rewritten herein.
63. Defendant, The Township of Sagamore Hills by and through the Sagamore Hills Police Department failed to provide proper training for their police officers, thereby resulting in the violation of Plaintiff's constitutional rights as described herein.

64. Defendant, The Township of Sagamore Hills, by and through the Sagamore Hills Police Department, failed to promulgate policies, plans and procedures designed to protect the civil rights of the persons who come in contact with its police officers, thereby resulting in violations of Plaintiff's constitutional rights as described herein.
65. As a direct and proximate result of Defendant's, The Township of Sagamore Hills, official policies and failure to train, Plaintiff's civil rights were violated and the Plaintiff suffered the damages previously described herein.

VII. FOURTH CAUSE OF ACTION
OFFICIAL POLICIES OF TOWNSHIP OF SAGAMORE HILLS

66. Plaintiff restates and reavers the allegations contained in paragraphs one through sixty-five as if fully rewritten herein.
67. Upon information and belief, Defendants Podgorski, Ellis and Wolf acted pursuant to official policies, plans and training of their respective agencies when they interfered with the custodial rights of Plaintiff and when they entered her home without a warrant and without probable cause, when they falsely arrested her, when they facilitated the abduction of Jane Doe, maliciously prosecuted her, and otherwise violated her civil rights.
68. Upon information and belief, Defendants Podgorski, Ellis and Wolf acted pursuant to official policies, plans and training of The Township of Sagamore Hills Police Department at all times as described herein.
69. The policies and procedures of the Township of Sagamore Hills and/or the Sagamore Hills Police Department resulted in violations of Plaintiff's civil rights as described herein and exhibited a deliberate indifference to the civil rights of Plaintiff and others

with whom Defendants come in contact.

70. The Township of Sagamore Hills and/or the Sagamore Hills Police Department, negligently hired, trained and/or provided inadequate training to Defendants Podgorski, Ellis and Wolf.
71. The hiring practices, training practices, policies, procedures and customs of the Township of Sagamore Hills Police Department, and the policies and procedures adopted by the Sagamore Hills Police Department amount to a deliberate indifference to rights and liberties of the persons with whom they come in contact.
72. As a direct and proximate result of the Township of Sagamore Hills hiring practices, training practices and official policies and procedures, as well as the customs adopted, implemented and used by the personnel of the Sagamore Hills Police Department, Plaintiff's civil rights were violated and Plaintiff, Somier McLaughlin, suffered physical injuries, great pain of body and mind, humiliation, embarrassment, loss of reputation, severe mental anguish and emotional distress, and was denied the custody and companionship of her daughter, Jane Doe.

XIII. FIFTH CAUSE OF ACTION
CIVIL CONSPIRACY

73. Plaintiff restates and reavers the allegations contained in paragraphs one through seventy-two as if fully rewritten herein.
74. On or about June 8, 2007, Defendants Podgorski, Ellis, Wolf and Smith wrongfully and tortiously conspired to violate the civil rights of Plaintiff, Somier McLaughlin, by conspiring to gain illegal entry into Plaintiff's home, by conspiring to falsely arrest Plaintiff, by conspiring to permit Defendant Smith to gain physical custody of Jane Doe

for the purpose of taking her out of the country against the will of Plaintiff, by maliciously prosecuting Plaintiff, by providing false and misleading testimony and by otherwise conspiring to violate Plaintiff's civil rights, both federal and state, as will be more fully established at trial.

75. The Actions of Defendants Podgorski, Ellis, Wolf and Smith as described herein, were overt acts done in the furtherance of a conspiracy.
76. Defendants, acting in a combination of two or more persons, conspired to injure Plaintiff in a way that would not occur if each acted alone.
77. As a direct and proximate result of the wrongful, tortious, illegal and unconstitutional acts of Defendants Podgorski, Ellis, Wolf and Smith, and each of them, Plaintiff, Somier McLaughlin, has suffered, is suffering and will continue to suffer physical pain and suffering, humiliation, embarrassment, loss of reputation, severe mental and emotional distress, out of pocket economic damages, and was otherwise damaged.
78. As a further direct and proximate result of the tortious, illegal and unconstitutional acts of Defendants Podgorski, Ellis, Wolf and Smith, and each of them, Plaintiff, Somier McLaughlin, has suffered, is suffering and will continue to the loss of earning and earnings capacity.
79. The actions of Defendants Podgorski, Ellis, Wolf and Smith were done in the furtherance of a conspiracy and were intentional, malicious, willful, wanton and oppressive and in deliberate disregard for the rights of Somier McLaughlin so as to entitle Plaintiff to an award of punitive damages in addition to compensatory damages against each defendant.

IX. SIXTH CAUSE OF ACTION
TORTIOUS INTERFERENCE WITH FAMILIAL RELATIONSHIPS

80. Plaintiff restates and reavers the allegations contained in paragraphs one through seventy-nine as if fully rewritten herein.
81. On or about June 8, 2007, Defendants Podgorski, Ellis, Wolf and Smith and each of them, intentionally, willfully, wantonly, recklessly and/or negligently interfered with the custodial and parental rights of Plaintiff, Somier McLaughlin.
82. On or about June 8, 2007, Defendants Podgorski, Ellis, Wolf and Smith and each of them, intentionally, willfully, wantonly, recklessly and/or negligently deprived Plaintiff of her physical custody and familial relationship with her daughter, Jane Doe.
83. On or about June 8, 2007, Defendants Podgorski, Ellis, Wolf and Smith, and each of them, deprived Plaintiff of her civil rights as guaranteed by the First, Fourth and Fourteenth Amendment to the Constitution, by falsely arresting Plaintiff, Somier McLaughlin, and permitting Defendant Smith to take Jane Doe from Plaintiff's home without Plaintiff's permission, in violation of Plaintiff's civil rights pursuant to 42 U.S.C. Section 1983 and the Fourth and Fourteenth Amendment to the United States Constitution.
84. The actions of Defendants Podgorski, Ellis, Wolf and Smith and each of them, were deliberate and intentional violations of 42 U.S.C. Section 1983 and the clearly established rights of Plaintiff, Somier McLaughlin as guaranteed by the Fourth and Fourteenth Amendment to the Constitution of the United States.
85. As a direct and proximate result of the wrongful, tortious, illegal and unconstitutional acts of Defendants Podgorski, Ellis, Wolf and Smith, and each of them, Plaintiff, Somier McLaughlin, has suffered, is suffering and will continue to suffer physical pain and suffering, humiliation, embarrassment, loss of reputation, severe mental and emotional distress, the loss of familial consortium and companionship of her daughter, Jane Doe.

86. The intentional actions of Defendants Podgorski, Ellis, Wolf and Smith, and each of them, were intentional, malicious, willful, wanton and oppressive and in deliberate disregard for the rights of Plaintiff, Somier McLaughlin, so as to entitle Plaintiff to an award of punitive damages in addition to compensatory damages.

X. SEVENTH CAUSE OF ACTION
BATTERY

87. Plaintiff restates and reavers the allegations contained in paragraphs one through eighty-six as if fully rewritten herein.

88. Defendants Podgorski, Ellis and Wolf, and each of them, had intent to cause a harmful touching to the person of Plaintiff, Somier McLaughlin.

89. Defendants Podgorski, Ellis and Wolf, and each of them, did cause a harmful touching to the person of Plaintiff, Somier McLaughlin.

90. As a direct and proximate result of the harmful touching to the person of Plaintiff, Somier McLaughlin, by Defendants Podgorski, Ellis and Wolf, and each of them, Plaintiff, Somier McLaughlin, has suffered physical injuries, scarring, great pain of body and mind, humiliation, embarrassment, loss of reputation, severe mental anguish and emotional distress, and was otherwise damaged.

91. As a further direct and proximate result of the harmful touching by Defendants Podgorski, Ellis and Wolf, and each of them, Plaintiff, Somier McLaughlin, has suffered economic damages in an amount to be ascertained, said damages being continuing in nature, including, but not limited to, medical expenses and lost income.

92. The actions of Defendants Podgorski, Ellis and Wolf, and each of them, were malicious, in bad faith, and wanton and reckless within the meaning of O.R.C. 2744.03(A)(6)(b).

93. The actions of Defendants Podgorski, Ellis and Wolf, and each of them were intentional, malicious, willful, oppressive and in deliberate disregard for the rights of the Plaintiff, Somier McLaughlin, so as to entitle Plaintiff to an award of punitive damages and attorney fees in addition to compensatory damages.

XI. EIGHTH CAUSE OF ACTION
ASSAULT

94. Plaintiff restates and reavers the allegations contained in paragraphs one through ninety-three as if fully rewritten herein.
95. Defendants Podgorski, Ellis and Wolf, and each of them, had the intent to place Plaintiff, Somier McLaughlin, in imminent apprehension of harmful touching to her person.
96. Defendants Podgorski, Ellis and Wolf, and each of them, had the apparent present ability to cause a harmful touch to the person of Plaintiff, Somier McLaughlin.
97. Plaintiff, Somier McLaughlin, was actually placed in imminent apprehension of an immediate harmful bodily contact by the actions of Defendants Podgorski, Ellis and Wolf, and each of them.
98. As a direct and proximate result of the imminent apprehension of an immediate harmful bodily contact by the actions of Defendants Podgorski, Ellis and Wolf, and each of them, Plaintiff, Somier McLaughlin, has suffered physical injuries, scarring, great pain of body and mind, humiliation, embarrassment, loss of reputation, severe mental anguish and emotional distress, and was otherwise damaged.
99. As a further direct and proximate result of the imminent apprehension of an immediate harmful bodily contact by the actions of Defendants Podgorski, Ellis and Wolf, and each of them, Plaintiff, Somier McLaughlin, has suffered economic damages in an amount to

be ascertained, said damages being continuing in nature, including, but not limited to, medical expenses and lost income.

100. The actions of Defendants Podgorski, Ellis and Wolf, and each of them, were malicious, in bad faith, and wanton and reckless within the meaning of O.R.C. 2744.03(A)(6)(b).
101. The actions of Defendants Podgorski, Ellis and Wolf, and each of them, were intentional, malicious, willful, oppressive and in deliberate disregard for the rights of the Plaintiff, Somier McLaughlin, so as to entitle Plaintiff to an award of punitive damages and attorney fees, in addition to compensatory damages.

XII. NINTH CAUSE OF ACTION
FALSE ARREST/FALSE IMPRISONMENT

102. Plaintiff restates and reavers the allegations contained in paragraphs one through one hundred and one as if fully rewritten herein.
103. Defendants Podgorski, Ellis and Wolf, and each of them, intended to seize and confine the person of Plaintiff, Somier McLaughlin.
104. Defendants Podgorski, Ellis and Wolf, and each of them, did seize and confine the person of Plaintiff, Somier McLaughlin, without a warrant and without probable cause.
105. As a direct and proximate result of said false arrest and imprisonment, Plaintiff, Somier McLaughlin, suffered physical injuries, scarring, great pain of body and mind, humiliation, embarrassment, loss of reputation, severe mental anguish and emotional distress, and was otherwise damaged.
106. As a direct and proximate result of said false arrest and imprisonment, Plaintiff, Somier McLaughlin, suffered economic damages in an amount to be ascertained, said damages being continuing in nature, including, but not limited to, medical expenses and lost

income.

107. The actions of Defendants Podgorski, Ellis and Wolf, and each of them, were malicious, in bad faith, and wanton and reckless within the meaning of O.R.C. 2744.03(A)(6)(b).
108. The actions of Defendants Podgorski, Ellis and Wolf, and each of them, were intentional, malicious, willful, oppressive and in deliberate disregard for the rights of the Plaintiff, Somier McLaughlin, so as to entitle Plaintiff to an award of punitive damages and attorney fees in addition to compensatory damages.

XIII. TENTH CAUSE OF ACTION
INTENTIONAL INFLICTION OF EMOTIONAL DISTRESS

109. Plaintiff restates and reavers the allegations contained in paragraphs one through one hundred and eight as if fully rewritten herein.
110. Defendants Podgorski, Ellis, Wolf and Smith, and each of them, had intent to cause Plaintiff, Somier McLaughlin, severe emotional distress.
111. The acts of Defendants Podgorski, Ellis, Wolf and Smith, and each of them, as alleged herein, were extremely outrageous and intolerable in a civilized society.
112. As a direct and proximate result of said acts of Defendants Podgorski, Ellis, Wolf and Smith, and each of them, Plaintiff, Somier McLaughlin, suffered physical injuries, scarring, great pain of body and mind, humiliation, embarrassment, loss of reputation, severe mental anguish and emotional distress, and was otherwise damaged.
113. As a further direct and proximate result of the acts of Defendants Podgorski, Ellis, Wolf and Smith and each of them, Plaintiff, Somier McLaughlin, has suffered economic damages in an amount to be ascertained, said damages being continuing in nature, including, but not limited to, medical expenses and lost income.

114. The actions of Defendants Podgorski, Ellis, Wolf and Smith, and each of them, were malicious, in bad faith, and wanton and reckless within the meaning of O.R.C.

2744.03(A)(6)(b).

115. The actions of Defendants Podgorski, Ellis, Wolf and Smith, and each of them, were intentional, malicious, willful, oppressive and in deliberate disregard for the rights of the Plaintiff, Somier McLaughlin, so as to entitle Plaintiff to an award of punitive damages and attorney fees in addition to compensatory damages.

XIV. ELEVENTH CAUSE OF ACTION
NEGLIGENT INFLICTION OF EMOTIONAL DISTRESS

116. Plaintiff restates and reavers the allegations contained in paragraphs one through one hundred and fifteen as if fully rewritten herein.

117. At all times herein relevant, Defendants Podgorski, Ellis, Wolf and Smith, and each of them, owed a duty of reasonable care to avoid the infliction of physical injury or emotional distress upon Plaintiff, Somier McLaughlin, and Jane Doe, her minor daughter.

118. The acts of Defendants Podgorski, Ellis, Wolf and Smith, and each of them, were deeply offensive to the ordinary reasonable person.

119. The acts of Defendants Podgorski, Ellis, Wolf and Smith, and each of them, were negligent and a breach of the duty of care owed to Plaintiff, Somier McLaughlin, and Jane Doe.

120. At all times relative herein, Plaintiff, Somier McLaughlin, was in the zone of danger of incurring physical injury and reasonably feared for the physical safety of her person, and the safety of her daughter, Jane Doe.

121. As a direct and proximate result of said acts by Defendants Podgorski, Ellis, Wolf and Smith, and each of them, Plaintiff, Somier McLaughlin, suffered physical injuries,

scarring, great pain of body and mind, humiliation, embarrassment, loss of reputation, severe mental anguish and emotional distress, and was otherwise damaged.

122. As a further direct and proximate result of said acts of the Defendants Podgorski, Ellis, Wolf and Smith, and each of them, Plaintiff, Somier McLaughlin, has suffered economic damages in an amount to be ascertained, said damages being continuing in nature, including, but not limited to, medical expenses and lost income.
123. The actions of Defendants Podgorski, Ellis, Wolf and Smith, and each of them, were malicious, in bad faith, and wanton and reckless within the meaning of O.R.C. 2744.03(A)(6)(b).

XV. TWELFTH CAUSE OF ACTION
MALICIOUS PROSECUTION

124. Plaintiff restates and reavers the allegations contained in paragraphs one through one hundred and twenty-three as if fully rewritten herein.
125. On or about June 8, 2007, Defendants Podgorski, Ellis and Wolf, and each of them, maliciously and without probable cause entered Plaintiff's home, arrested her without probable cause, charged her with crimes including disorderly conduct, resisting arrest, and assault on a police officer without probable cause.
126. On or about July 31, 2007, Plaintiff was indicted by the Summit County Common Pleas Court on the charges of Assault on a Police Officer, Resisting Arrest and Persistent Disorderly Conduct.
127. The aforementioned indictment was based upon the false and misleading information provided by Defendants Podgorski, Ellis and Wolf, and each of them.
128. On or about January 28, 2008, Plaintiff proceeded to a jury trial and was acquitted of all

charges on or about January 30, 2008.

129. As a direct and proximate result of the malicious prosecution of Plaintiff by Defendants Podgorski, Ellis and Wolf, and each of them, Plaintiff suffered injury to her reputation, was humiliated and subject to indignities, suffered great stress of body and mind, was prevented from transacting her business, incurred expenses for legal services on her behalf in the defense of the aforementioned charges and was otherwise damaged.

XVI. THIRTEENTH CAUSE OF ACTION
TRESPASS

130. Plaintiff restates and reavers the allegations contained in paragraphs one through one hundred and twenty-nine as if fully rewritten herein.
131. On or about June 8, 2008, Defendants Podgorski, Ellis, Wolf and Smith unlawfully entered and/or remained on the premises owned and occupied by the Plaintiff, Somier McLaughlin, and her daughter, Jane Doe.
132. Defendants entered the home of the Plaintiff by deception and refused to leave upon the demand of the Plaintiff.
133. As a direct and proximate result of Defendant's trespass onto the Plaintiff's property and into Plaintiff's home, Plaintiff suffered property damage in an amount to be ascertained, including the right to use and enjoyment of her home.
134. As a further direct and proximate result of the Defendant's trespass onto Plaintiff's property and into Plaintiff's home, Plaintiff suffered physical injuries, great pain on body and mind, humiliation, embarrassment, loss of reputation, severe mental anguish and emotional distress, and was otherwise damaged.
135. As a further direct and proximate result of Defendant's trespass onto Plaintiff's property

and into Plaintiff's home, Plaintiff suffered economic damages in an amount to be ascertained, said damages being continuing in nature, including, but not limited to, medical expenses and lost income.

136. The actions of Defendants, Podgorski, Ellis, Wolf and Smith, and each of them, were intentional, malicious, willful, oppressive and in deliberate disregard for the rights of the Plaintiff so as to entitle Plaintiff to an award of punitive damages and attorney fees in addition to compensatory damages.

XVII. DAMAGES

WHEREFORE, Plaintiff respectfully requests judgement against Defendants, jointly and severally, on all causes of action, as follows:

- A. An Award of Two Million Dollars (\$2,000,000.00) in compensatory damages pursuant to each count;
- B. An award of Two Million Dollars (\$2,000,000.00) in punitive damages against each of the individual defendants for the willful and wanton disregard of the rights of Plaintiff.
- C. Costs, interest, reasonable attorney fees, and such other relief as this Court deems just and proper.

Respectfully submitted,

/s/ John J. Spellacy
JOHN J. SPELLACY (0065700)
1540 Leader Building
526 Superior Ave.
Cleveland, Ohio 44114
(216) 241-0520
Attorney for Plaintiff, Somier McLaughlin

/s/ John F. Corrigan

JOHN F. CORRIGAN (0034411)

19885 Detroit Road, #335

Rocky River, Ohio 44116

(440)821-3242

Attorney for Plaintiff, Somier McLaughlin

JURY DEMAND

Plaintiffs hereby demands a trial by jury as to all issues raised in the herein action
comprised of the maximum number of jurors permitted by law.

/s/ John J. Spellacy

JOHN J. SPELLACY (0065700)

JOHN F. CORRIGAN (0034411)

Attorneys for Plaintiff

INSTRUCTIONS FOR SERVICE

Plaintiffs hereby request, pursuant to Local Rule 4.2 that service upon Defendants be made by Certified Mail to the following defendants on this _____ day of June 2008:

Sergeant Mark S. Podgorski
c/o Sagamore Hills Police Department
11551 Valley View Road
Sagamore Hills, Ohio 44067

Detective Kenneth Wolf
c/o Sagamore Hills Police Department
11551 Valley View Road
Sagamore Hills, Ohio 44067

Patrolman Timothy Ellis
c/o Sagamore Hills Police Department
11551 Valley View Road
Sagamore Hills, Ohio 44067

Doug Smith
1222 Hiddenview Street, N.W.
North Canton, Ohio 44720

Township of Sagamore Hills
c/o Jeffrey Snell, Law Director
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