

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF FLORIDA

CASE NO.: 13-62074-CIV-MARRA/MATTHEWMAN

KEVIN BUCKLER and VERONICA
EKANEM,

Plaintiffs,

v.

SCOTT J. ISRAEL, in his official
capacity as Sheriff of Broward
County; GERALD E. WENGERT,
CURTIS ROBERTS, GEOFF BROWN,
NICHOLAS DEGIOVANNI, PAPENS
LAMISERE, and STEVE SANTIAGO,
individually and in their official capacities
as deputy sheriffs for the Broward County
Sheriff's Office,

Defendants.

AMENDED COMPLAINT

Plaintiffs KEVIN BUCKLER and VERONICA EKANEM sue Defendants,
jointly and severally, and allege:

JURISDICTION

1. This is an action for damages in excess of Fifteen thousand
(\$15,000.00) dollars, arising out of one or more violations of State and Federal
laws, detailed below.

2. This action is brought pursuant to 42 U.S.C. §§1983, 1988, the Fourth and Fourteenth Amendments to the United States Constitution, and the tort law of Florida. Jurisdiction is founded on 28 U.S.C. §§1331, 1343, 42 U.S.C. §1988, the constitutional provisions mentioned above, and under the tort law of Florida.

3. It is alleged that the federal violations were committed as a result of the deliberate indifference of all of the Defendants.

4. In connection with the acts, practices and violations alleged below, the Defendants have each, either directly or indirectly, violated the Plaintiffs' constitutional rights.

5. All conditions precedent under Florida law for the filing of this lawsuit have been satisfied. (Exhibits A and B).

6. Each Plaintiff seeks an award of damages for permanent physical, mental and emotional injuries, loss of earning capacity, loss of enjoyment of life, punitive damages, court costs and attorney fees.

PARTIES

7. The Plaintiff KEVIN BUCKLER, at all times material hereto, has been a resident of Broward County, Florida.

8. The Plaintiff VERONICA EKANEM, at all times material hereto, has been a resident of Broward County, Florida.

9. Defendant SCOTT J. ISRAEL is the Sheriff of Broward County. Said Defendant is responsible, as Sheriff, for the conduct of the deputies in his employ and ensuring that his deputies, employees, servants and agents obey the laws of the State of Florida and the United States. Defendant ISRAEL is being sued in his official capacity.

10. Defendants GERALD E. WENGERT, CURTIS ROBERTS, GEOFF BROWN, NICHOLAS DEGIOVANNI, PAPENS LAMISERE and STEVE SANTIAGO are residents of Broward County, Florida, and at all times material hereto, were duly appointed deputy sheriffs with the Broward County Sheriff's Office, acting under color of law, to wit, under color of the statutes, ordinances, regulations, policies, customs and usages of the State of Florida and/or Broward County. Said Defendants are being sued in their individual and official capacities.

11. Defendants WENGERT, ROBERTS and BROWN violated Plaintiff KEVIN BUCKLER's constitutional rights under the Fourth and Fourteenth Amendments to the United States Constitution. It is further alleged that these violations were committed as a result of the deliberate indifference, and the policies and customs of Defendant ISRAEL.

12. Defendants DEGIOVANNI, LAMISERE and SANTIAGO violated VERONICA EKANEM's constitutional rights under the Fourth and Fourteenth

Amendments to the United States Constitution. It is further alleged that these violations were committed as a result of the deliberate indifference, and the policies and custom of Defendant ISRAEL.

13. At all times material hereto, and in all of their acts described herein, Defendants were acting under color of state law and color of their authority as public officials and public employees.

ALLEGATIONS OF FACT

A. REGARDING PLAINTIFF KEVIN BUCKLER

14. On or about March 26, 2010, the Plaintiff KEVIN BUCKLER was falsely arrested and severely beaten by Defendants WENGERT and ROBERTS, deputy sheriffs with the Broward County Sheriff's office.

15. At approximately 12:00 a.m., on March 26, 2010, the Plaintiff was driving home from visiting his friend Brittany Tate at her home in Cooper City, Florida. He stopped to purchase a pack of cigarettes at the BP gas station convenience store at 10295 Stirling Road, Cooper City, Florida. The Plaintiff was driving a 1989 Mercury Grand Marquis.

16. At the time of Plaintiff's arrival at the BP gas station, Defendants WENGERT and BROWN, both deputy sheriffs for the Broward County Sheriff's office, were present at the BP gas station and convenience store. BROWN was off

duty, while WENGERT, a K-9 officer, was on duty. Both Defendants were at the Stirling Palm Plaza to obtain drinks and to socialize, as they were close friends and participants in the cable TV show, "Unleashed: K9 Broward County."

17. Neither Defendant approached nor said anything to the Plaintiff as he got out of his vehicle and entered the store.

18. Defendant WENGERT followed the Plaintiff into the store. WENGERT immediately approached the Plaintiff, asking him several times "Are you eye-fucking me?" Frightened, the Plaintiff responded "No sir. I am getting a pack of cigarettes."

19. Defendant WENGERT then stated: "Do you know me? Do you want to hurt me?" Frightened, the Plaintiff, who had never seen WENGERT before, shook his head, whereupon WENGERT left the store.

20. Neither Defendant WENGERT nor BROWN approached the Plaintiff as he exited the store, got in his vehicle and drove away from the well lit area of the Stirling Palm Plaza.

21. Having decided to make a traffic stop on his "terms," WENGERT signaled for the Plaintiff to pull over onto the swale on Stirling Road, less than a mile from the well lit BP station.

22. Defendant WENGERT falsely claimed that the basis for the traffic stop was that excessively loud music was coming from the Plaintiff's vehicle.

23. Defendant WENGERT approached the Plaintiff's driver's door, and ordered Plaintiff out of his vehicle.

24. As the Plaintiff attempted to exit the vehicle, Defendant WENGERT blocked the driver's door with his body, preventing the Plaintiff from being able to comply with WENGERT's order.

25. Without provocation or justification, Defendant WENGERT pulled open the driver's door, grabbed KEVIN BUCKLER by the collar of his shirt, dragged him out of the vehicle, and smashed his face into the door frame of Plaintiff's vehicle.

26. The Plaintiff immediately fell on his back into the roadway. Again, without provocation or justification, Defendant WENGERT jumped on top of him and repeatedly punched KEVIN BUCKLER in the face with his fists.

27. At the time, Defendant WENGERT was five foot eleven inches tall, weighed approximately 204 pounds, regularly worked out at a gym, and was trained in self-defense.

28. At the time, the Plaintiff KEVIN BUCKLER was twenty one years old, five foot nine inches tall and weighed approximately 150 pounds.

29. At no time, did the Plaintiff initiate or attempt to assault Defendant WENGERT.

30. In an attempt to cover-up the misconduct of WENGERT, Defendant

BROWN falsely claimed that the Plaintiff was playing very loud “dance” music when Plaintiff initially pulled into the BP station, and that he had a “strange look.”

31. To further justify the original traffic stop, WENGERT and BROWN claimed that it had been WENGERT’s intention upon leaving the BP station to immediately stop the Plaintiff’s car for having excessively loud music coming from his vehicle.

32. Despite this known intent, Defendant WENGERT failed to call for a back-up officer prior to making his traffic stop of the Plaintiff, nor did he ask BROWN to accompany him as back up to the traffic stop.

33. Defendant BROWN did not assist Defendant WENGERT as a back-up officer to the traffic stop of the Plaintiff.

34. Defendant CURTIS ROBERTS, a deputy sheriff with the Broward Sheriff’s office who was patrolling in the area, arrived on the scene as the Plaintiff was being beaten by Defendant WENGERT.

35. Defendant ROBERTS falsely claimed that the Plaintiff was resisting arrest, and that he had to assist WENGERT in handcuffing KEVIN BUCKLER by repeatedly punching and kneeling the Plaintiff in his torso area.

36. The Plaintiff was taken by ambulance to Hollywood Regional Memorial Hospital. At the hospital, KEVIN BUCKLER was admitted by unnamed deputies from the Broward County Sheriff’s office under the false name of “Keith

Boone.” Plaintiff’s mother and father were not allowed to see their son until he had been in the hospital for more than 19 hours.

37. While still at the scene, in the ambulance, the Plaintiff attempted to text his friend, Brittany Tate to tell her that he had been beaten. He was unable to see what he was texting her, since his eyes were swollen shut and bloody. The cell phone was taken from him while he was attempting to text her by Defendant WENGERT and/or an unnamed deputy sheriff.

38. During this time, KEVIN BUCKLER’s parents and his friend Brittany Tate were attempting to locate the Plaintiff as he had been expected to go directly home from his visit with Brittany. The drive would normally take about twenty minutes.

39. Brittany Tate had called the Plaintiff’s cell phone but it had gone directly to voice mail. Concerned, Ms. Tate went to Plaintiff’s home where he resided with his parents in Hollywood, Florida.

40. Brittany and KEVIN’s parents were together when Brittany received a call on her cell phone from Plaintiff’s cell phone. Thinking it was the Plaintiff, Ms. Tate immediately answered it, and put it on speaker phone so that Plaintiff’s parents could hear him. The person calling on the Plaintiff’s cell phone was Defendant WENGERT.

41. Unbeknownst to the Plaintiff, at the time, Defendant WENGERT

knew Brittany Tate, as Ms. Tate had babysat his children on a regular basis for almost two years, prior to his divorce, when he had lived in her neighborhood.

42. Defendant WENGERT quickly identified himself to Brittany. WENGERT asked Brittany questions about her relationship with the Plaintiff and whether the Plaintiff was on probation or a drug user. Brittany told him that KEVIN was not a drug user and was not on probation. When she asked where the Plaintiff was, WENGERT laughingly told her that he had taken care of him, describing the beating that he had given the Plaintiff.

43. Defendant WENGERT then told Brittany that he did not have her telephone number anymore, and that he wanted to call her because he loved her. Thereafter, Plaintiff's mother spoke up, and Defendant WENGERT, realizing that someone else was listening to the conversation, ended the call. WENGERT's call to Brittany had lasted twelve minutes.

44. The injuries sustained by the Plaintiff included multiple fractures to his face, required hospitalization for two days and took months to heal. (Exhibit C). The injuries to the Plaintiff include permanent physical injuries, as well as emotional and psychological damages.

45. Defendants WENGERT, and/or ROBERTS and/or BROWN knowingly and intentionally filed false police reports and/or made false statements claiming that the Plaintiff was playing excessively loud music to justify the initial

traffic stop, and falsely claimed that BUCKLER had disobeyed a law enforcement officer, had violently resisted arrest, and had committed a battery on WENGERT.

46. Defendant WENGERT caused a prosecution to be instituted against the Plaintiff on several criminal charges. He filed false police reports and affidavits, charging KEVIN BUCKLER with battery on a law enforcement officer, resisting arrest with violence, disobeying a police officer/fireman, and the traffic infraction of “sound too loud from vehicle.”

47. For the purpose of covering up their actions of excessive force and false arrest, Defendants WENGERT and/or ROBERTS knowingly and intentionally made false reports and/or false claims that the Plaintiff KEVIN BUCKLER had violently resisted arrest and committed a battery on a police officer.

48. Defendants WENGERT and ROBERTS sustained no injuries during their encounter with the Plaintiff KEVIN BUCKLER.

49. The Plaintiff was charged by information with battery on a law enforcement officer and resisting an officer with violence.

50. No information was filed by the Broward County State Attorney’s office for BUCKLER’s purportedly disobeying officer/fireman or the traffic infraction of “sound too loud from vehicle.”

51. As a result of being falsely charged, the Plaintiff was arrested, jailed,

required to post a bond, and forced to incur attorney fees and legal costs associated with the defense of his criminal case.

52. At no time during the events described above had the Plaintiff committed any criminal offenses.

53. Defendant WENGERT had no probable cause to arrest the Plaintiff and no legal cause or excuse to seize the person of the Plaintiff.

54. Defendants WENGERT, ROBERTS, and BROWN acted under color of state law and with malice in instituting and continuing the prosecution, which is implied by the lack of probable cause in the underlying arrest and/or the prosecution, as well as the reckless disregard for the rights and safety of the Plaintiff. Said Defendants made false statements of fact in support of the prosecution. No prosecution of the Plaintiff would have occurred but for the actions of these Defendants.

55. On August 23, 2011, Plaintiff went to trial on charges of battery on law enforcement officer and resisting officer with violence. On August 25, 2011, Plaintiff was acquitted of all charges.

56. The force utilized by Defendants WENGERT and/or ROBERTS against the Plaintiff was excessive, unreasonable, and in violation of federal and state law, as well as accepted police practices within the United States. Said Defendants had "fair warning" that such conduct violated the Plaintiff's

constitutional and state rights.

57. Federal and state law, as well as accepted police practices within the United States provided “fair warning” to Defendants WENGERT, ROBERTS and BROWN that falsifying police reports to cover-up their misconduct by instituting and continuing the prosecution of KEVIN BUCKLER was in violation of the Plaintiff’s constitutional and state rights.

58. The wrongful actions of the Defendants WENGERT and/or ROBERTS and/or BROWN constitute assault, battery, false arrest, false imprisonment, malicious prosecution, intentional affliction of emotional distress, and unlawful search and seizure under the laws of the State of Florida.

59. KEVIN BUCKLER suffered irreparable damages and personal injury in the deprivation of his rights under the Fourth and Fourteenth Amendments of the Constitution of the United States of America.

B. REGARDING PLAINTIFF VERONICA EKANEM

60. On or about April 10, 2011, the Plaintiff VERONICA EKANEM was falsely arrested and severely beaten by Defendants DEGIOVANNI, and/or SANTIAGO and/or LAMISERE, deputy sheriffs with the Broward County Sheriff’s office.

61. At approximately 11:30 p.m., on April 10, 2011, deputies were called to

the residence of Paul Hendrix at 2950 NW 35th Avenue, Lauderdale Lakes, Florida concerning a dispute at a party that was being held at the residence.

62. The Plaintiff VERONICA EKANEM, a guest at the party, had been playing dominoes with the small children in the back of the residence. Upon hearing loud noises at the front of the residence, Plaintiff walked over to see what was happening.

63. When the Plaintiff came out of the house, she observed her friend Dervent Barrett in handcuffs. When the Plaintiff asked the deputies what was happening, she was told to ask Defendant SANTIAGO.

64. As the Plaintiff was speaking with Defendant SANTIAGO, she was approached by three persons from the party. SANTIAGO told EKANEM to walk away from them, which she did, going over to where the children were standing in the driveway.

65. The three persons followed the Plaintiff to where she was standing with the small children, yelling and shouting at her.

66. Suddenly, without provocation or justification, Defendants SANTIAGO and/or DEGIOVANNI and/or LAMISERE grabbed the Plaintiff, handcuffed her behind her back and told her that she was being arrested for disorderly conduct.

67. The Plaintiff responded that she had done nothing wrong and had only

been playing with the small children at the party. In response, Defendants SANTIAGO and/or DEGIOVANNI and/or LAMISERE, without provocation or justification, slammed her face onto the concrete pavement.

68. When the Plaintiff cried out that they were hurting her, Defendants LAMISERE and/or SANTIAGO and/or DEGIOVANNI put his knee on the back of Plaintiff's head and pressed her face down harder, grinding it into the concrete pavement.

69. Said Defendants then lifted the Plaintiff to her feet. Upon seeing the blood running down her face, the Defendants jumped back and dropped the Plaintiff back onto the ground.

70. Said Defendants yelled at her to get up and get in the police vehicle. Due to her injuries and being handcuffed, Plaintiff's attempts to comply with their order failed. The Defendants then dragged the Plaintiff on the ground by her skirt, pulling her bodily into the back of a police vehicle.

71. The Defendants' actions caused the Plaintiff to suffer a closed head injury, multiple cuts and abrasions to her forehead and left side of her face and eye. (Exhibit D).

72. The Plaintiff was taken to the emergency room at Florida Medical Center, where the Defendants handcuffed both of the Plaintiff's wrists to either side of the bed. A nurse brought a basin so that she could spit the blood out of her

mouth. Defendant LAMISERE, who was present, threatened to taser her if she spit out the blood.

73. Fearful for her safety, Plaintiff refused treatment at the hospital. The Plaintiff was then transported to the Broward County main jail for booking.

74. At the booking area, Plaintiff was placed in a cell and a nurse came to assess her condition.

75. On April 11, 2011, Plaintiff went before the magistrate judge, having been charged by Defendant DEGIOVANNI with disorderly conduct and resisting arrest with violence. She was released on her own recognizance.

76. Upon her release, VERONICA EKANEM went to a hospital for her injuries. EKANEM was suffering from a closed head injury, dizziness, blurred vision and severe headache, as well as pain throughout her body from being slammed onto the concrete pavement and dragged on the ground by the Defendants.

77. The injuries to the Plaintiff caused by Defendants SANTIAGO and/or DEGIOVANNI and/or LAMISERE include permanent scarring, the development of recurrent, severe and debilitating migraine headaches and hypertension requiring repeated hospital treatment, as well as emotional and psychological damages.

78. For the purpose of covering up their actions of excessive force and

false arrest, Defendants SANTIAGO and/or DEGIOVANNI and/or LAMISERE, each knowingly and intentionally filed false police reports and/or made false statements, claiming that the Plaintiff had been engaged in disorderly conduct and had violently resisted arrest.

79. Defendants SANTIAGO and/or DEGIOVANNI and/or LAMISERE caused a prosecution to be instituted against the Plaintiff on several criminal charges. They filed false police reports and affidavits, charging VERONICA EKANEM with disorderly conduct and resisting a police officer with violence.

80. Defendants SANTIAGO and/or DEGIOVANNI and/or LAMISERE sustained no injuries during their encounter with the Plaintiff VERONICA EKANEM.

81. As a result of being falsely charged, the Plaintiff was arrested, jailed, forced to incur legal costs and required to make a number of court appearances, with respect to the criminal charges.

82. At no time during the events described above had the Plaintiff committed any criminal offenses.

83. Defendants SANTIAGO and/or DEGIOVANNI and/or LAMISERE had no probable cause to arrest the Plaintiff and no legal cause or excuse to seize the person of the Plaintiff.

84. Defendants SANTIAGO and/or DEGIOVANNI and/or LAMISERE

acted under color of state law and with malice in instituting and continuing the prosecution, which is implied by the lack of probable cause in the underlying arrest and/or the prosecution, as well as the reckless disregard for the rights and safety of the Plaintiff. Said Defendants made false statements of fact in support of the prosecution. No prosecution of the Plaintiff would have occurred but for the actions of these Defendants.

85. The Plaintiff was charged by information with resisting/obstructing without violence and disorderly conduct.

86. On January 31, 2012, following a number of court hearings, a nolle prosequi was entered by the Broward County State Attorney's office as to all criminal charges against the Plaintiff.

87. The force utilized by Defendants SANTIAGO and/or DEGIOVANNI and/or LAMISERE against the Plaintiff was excessive, unreasonable, and in violation of federal and state law, as well as accepted police practices within the United States. Said Defendants had "fair warning" that such conduct violated the Plaintiff's constitutional and state rights.

88. Federal and state law, as well as accepted police practices within the United States provided "fair warning" to Defendants SANTIAGO and/or DEGIOVANNI and/or LAMISERE that falsifying police reports to cover-up their misconduct by instituting and continuing the prosecution of VERONICA

EKANEM was in violation of the Plaintiff's constitutional and state rights.

89. The wrongful actions of the Defendants SANTIAGO and/or DEGIOVANNI and/or LAMISERE constitute assault, battery, false arrest, false imprisonment, malicious prosecution, intentional affliction of emotional distress, and unlawful search and seizure under the laws of the State of Florida.

90. VERONICA EKANEM suffered irreparable damages and personal injury in the deprivation of her rights under the Fourth and Fourteenth Amendments of the Constitution of the United States of America.

C. THE BROWARD COUNTY SHERIFF'S OFFICE

91. Defendant ISRAEL, being sued in his official capacity, is synonymous with the Broward County Sheriff's Office.

92. At all times material hereto, the following persons held the office of Sheriff of Broward County: Edward Stack (1969-1979); Robert A. Butterworth (1979-1982); George A. Brescher (1983-1985); Nick Navarro (1985-1993); Ronald Cochran (1993-September 1997); Susan E. McCampbell (September 1997-December, 1997); Kenneth C. Jenne, II (January, 1998 to September 2007); Al Lamberti (September, 2007 to November, 2012) and Scott Israel (November 2012 to the present).

93. In his capacity as the Sheriff of Broward County, Defendant ISRAEL had a duty to train, supervise, control or otherwise ensure that Defendants

WENGERT, ROBERTS, BROWN, DEGIOVANNI, LAMISERE and SANTIAGO, and other unnamed deputy sheriffs, did not violate the constitutional rights of persons such as KEVIN BUCKLER and VERONICA EKANEM.

94. Defendant ISRAEL has been charged with the responsibility of adopting and implementing rules and regulations for the employees and/or agents of the Broward County Sheriff's office.

95. Defendant ISRAEL abdicated his policymaking and oversight responsibilities, thereby allowing the incidents involving KEVIN BUCKLER and VERONICA EKANEM to occur.

96. Defendant ISRAEL has authorized certain unnamed policymakers to enforce the rules and regulations for the employees and/or agents of said Defendants.

97. The acts of the unnamed policymakers represent an official policy of Defendant ISRAEL, and the policy-making authority for said Defendant has been delegated to these unnamed policymakers.

98. Defendant ISRAEL has maintained a long-standing, widespread history of failure to properly hire, and/or train, and/or supervise, and/or discipline his deputy sheriffs for, among other things, illegal use of force and/or unlawful detention or arrest, even though he had notice of this unlawful conduct by his employees and/or agents.

99. It is Defendant ISRAEL's de facto policy of failing to properly screen and investigate potential applicants which resulted in the improper hiring of individuals, such as Defendants WENGERT and/or ROBERTS and/or BROWN and/or DEGIOVANNI and/or LAMISERE and/or SANTIAGO. This de facto policy is demonstrated by, but not limited to, Defendant ISRAEL's own records which reveal that the Broward Sheriff's office simply went through the motions with respect to proper hiring practices:

A. Defendant ISRAEL's written hiring procedures require, in part, that all applicants submit to a psychological evaluation, polygraph examination, drug screen and background investigation, however no documentation fulfilling these requirements are in the personnel files of Defendants WENGERT and/or ROBERTS and/or BROWN and/or DEGIOVANNI and/or LAMISERE and/or SANTIAGO.

B. Defendant ISRAEL's written hiring procedure requires that all applicants must be Law Enforcement Certified by the State of Florida to be employed as a deputy sheriff. Defendant LAMISERE's personnel records demonstrate that he had been first hired as a BSO cadet, then failed the test for law enforcement certification and was nevertheless immediately promoted to deputy sheriff by Defendant ISRAEL.

100. At all times material hereto, Defendant ISRAEL, as represented by

the acts of his employees and/or agents, permitted and tolerated and caused a pattern and practice of unjustified, unreasonable, and illegal use of force and unlawful seizures and/or arrests against members of the public by deputy sheriffs of the Broward County Sheriff's office. Although such acts were improper, deputy sheriffs involved were not prosecuted, and/or disciplined, and/or subjected to retraining, and some of said incidents were in fact covered up with official claims that their acts were justified and proper.

101. Defendant ISRAEL has maintained a system of review of incidents of abuse of lawful authority such as illegal use of force and unlawful detentions and/or arrests, among other things, by deputy sheriffs, and complaints thereof, which has failed to identify the unlawful use of force and/or seizures by deputy sheriffs, and to subject deputy sheriffs who employed such acts to appropriate discipline, and/or supervision, and/or retraining, to the extent that it has become the de facto policy and custom of Defendant ISRAEL to tolerate such acts by his deputy sheriffs.

102. There existed, at all times material hereto, a de facto policy by Defendant ISRAEL of covering up police misconduct by failing to properly investigate alleged misconduct, and/or by conducting investigations that were intentionally deficient and/or by fabricating evidence to justify the misconduct and/or by covering up the misconduct by listing the problem investigations as

“open,” long after any actual investigation had ceased, thereby attempting to insulate the Broward County Sheriff’s office, and its employees and/or agents from scrutiny by the public.

103. Al Lamberti was the Sheriff of Broward County from October 26, 2007 to November 6, 2012. He had been a member of the Broward Sheriff’s office since April 21, 1978. He had risen through the ranks until he was appointed the Sheriff in October, 2007. As a result of his long and varied history with the Broward County Sheriff’s office, former Sheriff Lamberti knew or should have known that the failure to properly investigate misconduct by his deputy sheriffs would cause constitutional violations such as those suffered by the Plaintiffs KEVIN BUCKLER and VERONICA EKANEM.

104. Defendant ISRAEL had notification that investigations of excessive force, abuse of lawful authority, and other complaints concerning the conduct of their deputy sheriffs had been destroyed and/or purged in order to cover-up the misconduct of their deputy sheriffs. See: *Goad v. Navarro, et al.*, Case No. 86-6563-CIV-ROETTGER; *Hill v. Navarro, et al.*, Case No. 86-6388-CIV-ZLOCH.

105. Defendant ISRAEL has maintained incomplete records with respect to use of force, unlawful seizures, complaints and/or other misconduct by his deputy sheriffs, thereby undermining his ability to properly supervise, control and/or discipline said subordinates, and to prevent the constitutional violations

such as those suffered by the Plaintiffs KEVIN BUCKLER and VERONICA EKANEM.

106. Defendant ISRAEL knew or should have known that, despite a written policy requiring documentation concerning all use of force by Broward County deputy sheriffs, said policy failed to require any meaningful investigation into the reasonableness of the force used by the deputy sheriffs. As a result, said failure caused deputy sheriffs in their employ to believe that their use of excessive and unlawful force would be condoned and accepted practice within the Broward County Sheriff's office.

107. It is the unwritten policy of Defendant ISRAEL not to investigate use of force by his deputy sheriffs if there are criminal charges brought against the person subjected to the use of force. This unwritten policy has existed since at least the tenure of Sheriff Nick Navarro.

108. Defendant ISRAEL knew or should have known that said policy would foreseeably cause deputy sheriffs such as Defendants WENGERT, ROBERTS, BROWN, DEGIOVANNI, LAMISERE and SANTIAGO to falsely arrest and criminally charge persons who they have wrongfully injured, knowing that their excessive and unreasonable use of force would then not be investigated by Defendant ISRAEL.

109. On or about March 26, 2010, Defendant WENGERT wrote a use of

force report. On said date, Defendant WENGERT brought criminal charges of battery on a law enforcement officer, resisting arrest with violence, disobeying a police officer/fireman, and the traffic infraction of “sound too loud from vehicle” against the Plaintiff KEVIN BUCKLER. On or about March 27, 2010, Defendant ROBERTS wrote a use of force report. No investigation into the use of force by WENGERT and/or ROBERTS has ever been done by Defendant ISRAEL.

110. On or about April 10, 2011, Defendant SANTIAGO wrote a use of force report. On said date, Defendant DEGIOVANNI brought criminal charges of resisting police officer with violence and disorderly conduct against the Plaintiff VERONICA EKANEM. No investigation into the use of force by SANTIAGO and/or DEGIOVANNI and/or LAMISERE has ever been done by Defendant ISRAEL.

111. The notice to Defendant ISRAEL of a pattern and/or practice of engaging in unlawful detention and seizures, false arrests and imprisonment, false prosecution, excessive use of force, as evidenced by, but not limited to, incidents involving Jerry Frank Townsend, Anthony Caravella, Frank Lee Smith, Timothy Brown, John Wood, Peter Roussonicolos, Willie Hill and John Goad.

112. The foregoing acts, omissions, policies or customs of Defendant ISRAEL caused deputy sheriffs, including Defendants WENGERT, ROBERTS, BROWN, DEGIOVANNI, LAMISERE and SANTIAGO to believe that acts such

as improper use of force and unlawful seizures, among other things, would not be properly monitored by supervisory officers, would not be investigated or disciplined, but instead would be tolerated, with the foreseeable result that deputy sheriffs, including Defendants WENGERT, ROBERTS, BROWN, DEGIOVANNI, LAMISERE and SANTIAGO, were more likely to use improper force and make unlawful seizures.

113. Defendant ISRAEL's failure to properly train, and/or supervise and/or discipline deputy sheriffs under his command was the proximate cause of the deprivation of the constitutional rights suffered by the Plaintiffs KEVIN BUCKLER and VERONICA EKANEM.

D. DAMAGES

114. The above acts and omissions of Defendants, and each of them, constitute a course of conduct and failure to act, amounting to deliberate indifference to the rights, health, safety and welfare of the Plaintiffs, and those similarly situated, resulting in the deprivation of the Plaintiffs' constitutional rights under state and federal law.

115. As a direct and proximate result of the acts of Defendants ISRAEL and/or WENGERT and/or ROBERTS, and/or BROWN, the Plaintiff KEVIN BUCKLER suffered the following injuries and damages:

- a. Violation of his constitutional rights under the Fourth and Fourteenth

Amendments to the United States Constitution;

- b. Legal expenses;
- c. Loss of his physical liberty;
- d. Loss of earning capacity;
- e. Permanent physical and emotional injuries, humiliation and

embarrassment and damage to his reputation, all of which continue to this day and are likely to continue into the future, and which require the expenditure of money for treatment;

116. As a direct and proximate result of the acts of Defendants ISRAEL and/or DEGIOVANNI and/or LAMISERE and/or SANTIAGO, the Plaintiff VERONICA EKANEM suffered the following injuries and damages:

- a. Violation of her constitutional rights under the Fourth and Fourteenth

Amendments to the United States Constitution;

- b. Legal expenses;
- c. Loss of her physical liberty;
- d. Loss of earning capacity;
- e. Permanent physical and emotional injuries, humiliation and

embarrassment and damage to her reputation, all of which continue to this day and are likely to continue into the future, and which require the expenditure of money for treatment.

COUNT I
ASSAULT AND BATTERY AGAINST KEVIN BUCKLER
BY DEFENDANTS WENGERT AND ROBERTS

117. The Plaintiff KEVIN BUCKLER realleges paragraphs 1 through 7, 9 through 11, 13 through 57, 93, 95, 102, 104, 107 through 108, 111 through 115.

118. The above-mentioned acts constitute an unlawful assault and battery by Defendants WENGERT and/or ROBERTS on the Plaintiff KEVIN BUCKLER.

119. In committing the assault and battery on the Plaintiff, the Defendants WENGERT and/or ROBERTS acted brutally, willfully, maliciously and without any excuse or justification. The Defendants callously and recklessly by their actions disregarded Plaintiff KEVIN BUCKLER's safety and continued life.

120. As a direct and proximate result of the above-described wrongful acts of Defendants WENGERT and/or ROBERTS, the Plaintiff KEVIN BUCKLER suffered physical injuries which necessitated hospital treatment, mental and emotional injuries, and loss of enjoyment of life.

WHEREFORE, the Plaintiff KEVIN BUCKLER demands compensatory and punitive damages against Defendants WENGERT and/or ROBERTS, costs and trial by jury for all issues so triable by right.

COUNT II
ASSAULT AND BATTERY AGAINST VERONICA EKANEM
BY DEFENDANTS DEGIOVANNI, LAMISERE AND SANTIAGO

121. The Plaintiff VERONICA EKANEM realleges paragraphs 1 through 6, 8 through 10, 12 through 13, 60 through 88, 93, 95, 102, 104, 107, 109, 111 through 114, and 116.

122. The above-mentioned acts constitute an unlawful assault and battery by Defendants DEGIOVANNI, and/or LAMISERE, and/or SANTIAGO on VERONICA EKANEM.

123. In committing the assault and battery on the Plaintiff, the Defendants DEGIOVANNI, and/or LAMISERE and/or SANTIAGO, acted brutally, willfully, maliciously and without any excuse or justification. The Defendants callously and recklessly by their actions disregarded Plaintiff VERONICA EKANEM's safety and continued life.

124. As a direct and proximate result of the above-described wrongful acts of Defendants DEGIOVANNI, and/or LAMISERE and/or SANTIAGO, the Plaintiff VERONICA EKANEM suffered physical injuries which necessitated hospital treatment, mental and emotional injuries, and loss of enjoyment of life.

WHEREFORE, the Plaintiff VERONICA EKANEM demands

compensatory and punitive damages against Defendants DEGIOVANNI and/or LAMISERE and/or SANTIAGO, costs and trial by jury for all issues so triable by right.

COUNT III
42 U.S.C. §1983 CLAIM AGAINST DEFENDANTS
WENGERT, ROBERTS AND BROWN

125. The Plaintiff KEVIN BUCKLER realleges paragraphs 1 through 7, 9 through 11, 13 through 57, 59, 93, 95, 102, 104, 107 through 109, 111 through 115, and 117 through 120.

126. While Defendants WENGERT and/or ROBERTS and/or BROWN were acting under color of state and federal law as a deputy sheriffs for the Broward County Sheriff's Office/Defendant ISRAEL, they subjected KEVIN BUCKLER to the deprivation of rights and privileges including the constitutional rights to not be deprived of his liberty and due process of law, and the constitutional right to be free from the use of excessive force against his person and the right to be free from unlawful searches and seizures under the Fourth Amendment and Fourteenth Amendment to the United States Constitution.

127. Defendants WENGERT and/or ROBERTS and/or BROWN acted under color of state law and with malice in aiding and abetting in the initiation and the continuation of the prosecution of the Plaintiff BUCKLER. Said prosecution

was only able to continue as a result of their intentional acts providing false information, false sworn affidavits, false documents, false reports and false evidence to the criminal courts, the prosecutors, BUCKLER's criminal defense counsel and the public.

128. As a direct and proximate cause of the violation of the Plaintiff KEVIN BUCKLER's constitutional rights by said Defendants, said Plaintiff has suffered severe physical, mental and emotional injuries, and loss of enjoyment of life as heretofore alleged.

129. 42 U.S.C. §1983 provides a remedy for violation of these rights.

WHEREFORE, the Plaintiff KEVIN BUCKLER demands compensatory and punitive damages against Defendants WENGERT and ROBERTS and BROWN, attorney fees, costs and trial by jury for all issues so triable by right.

COUNT IV
42 U.S.C. §1983 CLAIM AGAINST DEFENDANTS DEGIOVANNI,
LAMISERE and SANTIAGO

130. The Plaintiff VERONICA EKANEM realleges paragraphs 1 through 6, 8 through 10, 12 through 13, 60 through 88, 90, 93, 95, 102, 104, 107-108, 110 through 114, 116, and 121 through 124.

131. While Defendants DEGIOVANNI and/or LAMISERE and/or SANTIAGO were acting under color of state and federal law as a deputy sheriffs

for the Broward County Sheriff's Office/Defendant ISRAEL, they subjected VERONICA EKANEM to the deprivation of rights and privileges including the constitutional rights to not be deprived of her liberty and due process of law and the constitutional right to be free from the use of excessive force against her person and the right to be free from unlawful searches and seizures under the Fourth Amendment and Fourteenth Amendment to the United States Constitution.

132. Defendants DEGIOVANNI and/or LAMISERE and/or SANTIAGO acted under color of state law and with malice in aiding and abetting the initiation and the continuation of the prosecution. Said prosecution was only able to continue as a result of their intentional acts providing false information, false sworn affidavits, false documents, false reports and false evidence to the criminal courts, the prosecutors, EKANEM's criminal defense counsel, and the public.

133. As a direct and proximate cause of the violation of the Plaintiff VERONICA EKANEM's constitutional rights by said Defendants, said Plaintiff has suffered severe physical, mental and emotional injuries, and loss of enjoyment of life as heretofore alleged.

134. 42 U.S.C. §1983 provides a remedy for violation of these rights.

WHEREFORE, the Plaintiff VERONICA EKANEM demands

compensatory and punitive damages against Defendants DEGIOVANNI and LAMISERE and SANTIAGO, attorney fees, costs and trial by jury for all issues so triable by right.

COUNT V
STATE TORT CLAIM AGAINST DEFENDANT ISRAEL

135. The Plaintiffs KEVIN BUCKLER and VERONICA EKANEM reallege paragraphs 1 through 134.

136. At all times material hereto, Defendant ISRAEL acted by and through his agents, employees and/or deputy sheriffs.

137. At all times material hereto, individuals employed by Defendant ISRAEL acted within the course and scope of their employment with said Defendant.

138. Defendant ISRAEL has a duty to protect others from the result of the negligent hiring and/or supervision and/or retention of his deputy sheriffs, whose negligent or intentional acts, due to their positions as deputy sheriffs, can foreseeably cause injuries to third parties.

139. Defendant ISRAEL knew or should have known that Defendants WENGERT and/or ROBERTS and/or BROWN and/or DEGIOVANNI and/or LAMISERE and/or SANTIAGO were unfit to be hired and/or retained as a deputy sheriffs.

140. It was foreseeable that Defendants WENGERT and/or ROBERTS and/or BROWN and/or DEGIOVANNI and/or LAMISERE and/or SANTIAGO would use their position, employed as a deputy sheriff by Defendant ISRAEL, to injure a third person.

141. Plaintiffs KEVIN BUCKLER and VERONICA EKANEM were placed in the zone of risk created by Defendant ISRAEL's negligence in hiring and/or supervising and/or retaining Defendants WENGERT and/or ROBERTS and/or BROWN and/or DEGIOVANNI and/or LAMISERE and/or SANTIAGO.

142. As a direct and proximate result of the negligence of the agents, employees and/or deputy sheriffs of Defendant ISRAEL, Plaintiffs KEVIN BUCKLER and VERONICA EKANEM sustained injuries, for which said Defendant is vicariously liable as a matter of law.

(A) At all times relevant hereto, Defendants WENGERT and/or ROBERTS and/or BROWN were acting within the scope of their authority and acting as agents of Defendant ISRAEL, pursuant to §768.28, Florida Statutes, rendering Defendant ISRAEL liable in his official capacity.

(B) At all times relevant hereto, Defendants DEGIOVANNI and/or LAMISERE and/or SANTIAGO were acting within the scope of their authority and acting as agents of Defendant ISRAEL, pursuant to §768.28, Florida Statutes, rendering Defendant ISRAEL liable in his official capacity.

(C) Plaintiffs have provided Defendant and the Florida Department of Insurance with notice pursuant to Florida Statute Section 768.28 and has satisfied all conditions precedent to maintaining this action. (Exhibits A and B).

143. As a direct and proximate result of Defendant ISRAEL's negligent hiring and/or supervision and/or retention of Defendants WENGERT and/or ROBERTS and/or BROWN and/or DEGIOVANNI and/or LAMISERE and/or SANTIAGO, Plaintiffs KEVIN BUCKLER and VERONICA EKANEM sustained injuries for which Defendant ISRAEL is liable as a matter of law.

144. As a direct and proximate cause of the acts described above, KEVIN BUCKLER and VERONICA EKANEM has suffered severe physical, mental and emotional injuries, and loss of enjoyment of life as heretofore alleged.

WHEREFORE, the Plaintiffs KEVIN BUCKLER and VERONICA EKANEM demand compensatory damages against Defendant ISRAEL, costs and trial by jury on all issues so triable by right.

COUNT VI
42 U.S.C. §1983 CLAIM AGAINST DEFENDANT SCOTT ISRAEL

145. The Plaintiffs realleges paragraphs 1 through 144.

146. At all times material hereto, Defendant SCOTT ISRAEL was responsible for adopting and implementing the rules and regulations in regard to

hiring, screening, training, supervising, controlling, disciplining and assigning deputies and/or employees to their duties within the Broward County Sheriff's Office.

147. Said Defendant was deliberately indifferent in that he either expressly or impliedly acknowledged and assented to the failure to train and/or supervise and/or control and/or discipline or otherwise screen employees of the Broward County Sheriff's Office including, but not limited to, Defendants WENGERT, ROBERTS, DEGIOVANNI, LAMISERE and SANTIAGO, for dangerous propensities, lack of training and/or skill or other characteristics making said officers and employees unfit to perform their duties.

148. Defendant ISRAEL knew or should have known of the history of widespread abuses existing with respect to the hiring and/or training and/or supervision and/or discipline within the Broward County Sheriff's Office.

149. The conduct of Defendant ISRAEL, in his failure to properly screen, and/or select, and/or train, and/or supervise and/or discipline his deputy sheriffs and/or agents and/or employees, was deliberately indifferent to the constitutional rights of all persons, including the Plaintiffs KEVIN BUCKLER and VERONICA EKANEM.

150. Said Defendant was deliberately indifferent to the rights of the

public, including the Plaintiffs, in that he failed to determine whether members of the Broward County Sheriff's office, including Defendants WENGERT, ROBERTS, BROWN, DEGIOVANNI, LAMISERE and SANTIAGO, posed a threat to the public as a result of their propensity to commit unlawful acts and to engage in violent activity.

151. As a result, deputy sheriffs, such as Defendants WENGERT, ROBERTS, BROWN, DEGIOVANNI, LAMISERE and SANTIAGO were caused and encouraged to believe that members of the public could be subjected to illegal use of force, illegal detention and seizure, and that said illegal conduct would, in fact, be permitted and/or condoned by Defendant ISRAEL.

152. Despite the notice and knowledge of said Defendant as to the dangerous propensities of his deputy sheriffs, said Defendant failed to implement any policies or programs to properly train and/or supervise said officers or otherwise intentionally failed to protect the public, including the Plaintiffs, from this danger.

153. Said Defendant was deliberately indifferent in the selection and/or training and/or supervision and/or retention of Defendants WENGERT, and/or ROBERTS and/or BROWN and/or DEGIOVANNI and/or LAMISERE and/or SANTIAGO as deputy sheriffs of the Broward County Sheriff's office, in

that:

a. He appointed Defendants WENGERT and/or ROBERTS and/or BROWN and/or DEGIOVANNI and/or LAMISERE and/or SANTIAGO as deputy sheriffs when they knew, or, in the exercise of reasonable care, should have known, of the disposition of said officers to engage in such unlawful conduct.

b. Despite the fact that he knew or should have known that this pattern of conduct was being carried out by his agents and employees, Defendants WENGERT and/or ROBERTS and/or BROWN and/or DEGIOVANNI and/or LAMISERE and/or SANTIAGO, Defendant ISRAEL has failed and refused to:

(1) Remove Defendants WENGERT and/or ROBERTS and/or BROWN and/or DEGIOVANNI and/or LAMISERE and/or SANTIAGO;

(2) Take any meaningful disciplinary action against Defendants WENGERT and/or ROBERTS and/or BROWN and/or DEGIOVANNI and/or LAMISERE and/or SANTIAGO;

(3) Provide redress for citizens, such as the Plaintiffs, who have been injured thereby.

154. At all times material hereto, Defendant ISRAEL, through his deliberate indifference, failed to ensure that deputy sheriffs of Broward County Sheriff's Office did not violate the constitutional and statutory rights of citizens of

the State of Florida, including KEVIN BUCKLER and VERONICA EKANEM, while said deputy sheriffs were acting under color of state law for the Broward County Sheriff's Office.

155. The foregoing acts, omissions, policies or customs of Defendant ISRAEL caused deputy sheriffs, including Defendants WENGERT, ROBERTS, BROWN, DEGIOVANNI, LAMISERE and SANTIAGO, to believe that acts such as improper use of force and unlawful seizures, among other things, would not be properly monitored by supervisory officers, would not be investigated or sanctioned, but instead would be tolerated, with the foreseeable result that officers, including Defendants WENGERT and/or ROBERTS and/or BROWN and/or DEGIOVANNI and/or LAMISERE and/or SANTIAGO, were more likely to use improper force and make unlawful seizures.

156. At all times material hereto, Defendant ISRAEL permitted and tolerated the above described acts and thereby caused a pattern and practice of unjustified and unreasonable use of force, and unjustified, unreasonable and illegal false arrests, detentions and/or prosecutions by deputy sheriffs of the Broward County Sheriff's Office against members of the public, including KEVIN BUCKLER and VERONICA EKANEM, which violated their Fourth and Fourteenth Amendment rights.

157. The Plaintiffs KEVIN BUCKLER and VERONICA EKANEM have been victims of said abuses of lawful authority, and said illegal acts were the foreseeable result of the previously described acts, omissions, policies or customs of said Defendant.

158. The above acts and omissions of said Defendants constitute a course of conduct and failure to act amounting to deliberate indifference to the rights, health, safety and welfare of KEVIN BUCKLER and VERONICA EKANEM and those similarly situated, resulting in the deprivation of BUCKLER's and EKANEM's constitutional rights under state and federal law.

159. As a direct and proximate result of the acts described above, in violation of the United States Constitution, the Plaintiff KEVIN BUCKLER has suffered severe physical, mental and emotional injuries and loss of enjoyment of life as heretofore alleged.

160. As a direct and proximate result of the acts described above, in violation of the United States Constitution, the Plaintiff VERONICA EKANEM has suffered severe physical, mental and emotional injuries and loss of enjoyment of life as heretofore alleged.

161. The deliberate indifference of these Defendants violated the constitutional rights of all persons, including the Plaintiffs, for which 42 U.S.C.

§1983 provides a remedy.

WHEREFORE, the Plaintiffs demand compensatory damages against Defendant ISRAEL. The Plaintiffs also seek attorney fees, costs and trial by jury for all issues so triable by right.

DATED this 23rd day of April, 2014.

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