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## JURY DEMAND

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3. Plaintiff, a 16-year-old minor child at the time of the events averred herein brings this matter through her parents Michael and Jennifer Johnson (“parents”) as parents and next friends.

4. Plaintiff avers that the individually named defendant, Deputy Daniel Wilkey (“Wilkey”), acted as a deputy sheriff, agent, and law enforcement officer employed by the County and was at all times relevant to this matter acting under color of law and under color of his office with the County.

5. Plaintiff avers that the individually named defendant, Deputy Tyler McRae (“McRae”), acted as a deputy sheriff, agent, and law enforcement officer employed by the County and was at all times relevant to this matter acting under color of law and under color of his office with the County.

6. Plaintiff maintains that the individual Defendants committed these violations, further set forth herein, as a result of policies, customs, practices, and/or procedures of the County.

7. In addition, Plaintiff avers that individual Defendants’ acts and omissions subjected Plaintiff to mental anguish, humiliation, and emotional distress.

**Jurisdiction and Venue:**

8. This is an action to redress the deprivation of rights secured to Plaintiff by the Fourth, and Fourteenth Amendments to the United States Constitution and for violations of Tennessee law. Thus, as to the § 1983 claims, this Court is vested with original jurisdiction pursuant to the authority stated in Haywood v. Drown, 556 U.S. 729, 731 (2009) and Poling v. Goins, 713 S.W.2d 305, 306 (Tenn. 1986). This Court is vested with original jurisdiction over Plaintiff’s state claims pursuant to TENN. CODE ANN. § 16-10-101, et seq.

9. Venue is proper in this Court pursuant to TENN. CODE ANN. § 20-4-102. All acts complained of occurred within Hamilton County.

- a. Plaintiff and parents are residents of Hamilton County, Tennessee.
- b. To the best of Plaintiff's knowledge, the individual Defendants are residents of Hamilton County, Tennessee, or in the alternative, perform their livelihood as employees of the County within Hamilton County, Tennessee.
- c. The County is a political sub-division of the State of Tennessee.

**The Parties:**

10. At all times relevant to this cause of action, Plaintiff was a citizen of the United States and a resident and a citizen of the State of Tennessee.

11. At all times relevant to this cause of action, the County was a political sub-division of the State of Tennessee organized and existing under the laws of the State of Tennessee.

- a. The County finances its law enforcement department identified and averred as the Hamilton County Sheriff's Department ("sheriff's department") and provides rules and regulations for the operation of the sheriff's department.
- b. The County provides oversight of the hiring, training, discipline, and retention of all personnel in its law enforcement department.

12. At all times relevant to this cause of action, the County is responsible for the creation and maintenance of its sheriff's department, which is a law enforcement agency created under Tennessee state law and regulated by the laws of the State of Tennessee as to:

- a. The safe and humane treatment of all persons taken into and held in the custody of its sheriff's deputies and to not treat such person with unnecessary rigor.
- b. The training and certification of its law enforcement employees.
- c. The safety of persons detained or otherwise within the custody of its individual deputies<sup>1</sup> and agents.
- d. To properly and promptly investigate claims of misconduct by its officers and to ensure that officers who pose a risk of harm to the Plaintiff in particular and the public as a whole are not performing law enforcement duties.
- e. To properly screen and vet anyone who applies for employment with the sheriff's department and to not hire any applicant who has a history of violent and/or criminal behavior.

13. Plaintiff brings this action against the County.

14. At all times relevant to this cause of action, the County employed the individual Defendants who in turn were appointed by the sheriff as sheriff's deputies. The individual Defendants acted under the color of their office and under the color of law, statute, ordinance, regulation, custom, or usage of the County. In addition:

- a. At all times relevant to this cause of action, the individual Defendants acted in their official capacities as employees for the County as defined under TENN. CODE ANN. § 29-20-102.

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<sup>1</sup> Hereinbefore and after the terms, "officers" and "deputies" are used interchangeably to refer to all of the County's law enforcement and correctional employees.

- b. At all times relevant to this cause of action, the individual Defendants acted by virtue of or under the color of their offices as a deputy sheriff pursuant to TENN. CODE ANN. § 8-8-302.
- c. At all times relevant to this cause of action, the individual Defendants used the authority of their respective offices to assist one another, and thus acted as equals.
- d. Plaintiff brings this action against the individual Defendants in their individual and official capacities.

**Factual Basis:**

**Individual Defendants:**

15. On or about April 18, 2019, Plaintiff was one of six minors occupying a motor vehicle driven by another minor identified as A.M.

16. The vehicle A.M. operated had factory installed windows, and were not tinted in any manner to violate Tennessee law.

17. The weather was cold, and there was a torrential rainfall.

18. Wilkey followed the minors for miles before he conducted a traffic stop of the vehicle on the false claim that the vehicle's window tint violated Tennessee state law.

19. McRae arrived at about the same time.

20. Plaintiff was seated in the rear seat of the vehicle and behind the male front seat passenger known as P.S.

21. A.M. stopped the vehicle near the entrance of a trailer park.

22. A.M. asked Wilkey the reason for the traffic stop, and Wilkey replied the window tint was illegal.

23. A.M. replied that the tint was “factory,” and Wilkey told A.M. to produce a receipt for the tint. A.M. retorted that no receipt existed because the tint was factory.

24. Wilkey then told A.M., “well then it smells like weed,” and he removed A.M. from the vehicle and away from Plaintiff’s view.

25. McRae told all the remaining occupants of the vehicle, including Plaintiff, to place their cell phones on the floorboard and to place their hands on their laps.

26. Plaintiff asked to call her mother, but McRae refused the request and stated he would not allow Plaintiff or any other occupant to use their cell phones because “you could be calling some of your guy friends to beat our [butts].”

27. McRae ordered the front seat passenger known as P.S. to exit the vehicle and out of Plaintiff’s view. That left the Plaintiff and the other three female minors known as C.P.S., M.R.S., and A.O.K. as the only remaining occupants of the vehicle, and they were in the rear seat.

28. McRae repeatedly told the remaining occupants of the vehicle, all female minors including Plaintiff “face front,” “hands on laps,” and not to “look around.”

29. Wilkey and McRae removed the female minors from the right rear door.

30. Wilkey removed A.O.K. first, and Wilkey groped A.O.K. A.O.K. had a look of terror on her face as Wilkey groped and fondled her.

31. While Wilkey conducted his criminal actions against A.O.K., A.O.K. asked of Plaintiff, “he’s not supposed to do this, is he?”

32. Plaintiff replied “no,” and Wilkey told Plaintiff to “shut the f@#k up,” and said to Plaintiff, “you don’t know your rights.”

33. Wilkey, while chastising Plaintiff, continued to grope and fondle A.O.K., and Plaintiff never saw A.O.K. in such fear ever in the past. A.O.K. and Plaintiff were at the time life-long friends.

34. At this point, Plaintiff felt that Wilkey and McRae were not real police officers, that they were in fact fake cops and that she and the other females were going to be sex trafficked.

35. Now it was Plaintiff's turn.

36. Wilkey told Plaintiff to back out of the vehicle with her back toward Wilkey.

37. Plaintiff was in a state of terror and fear, but kept telling herself if A.O.K. could get through it, so could she.

38. Plaintiff struggled to exit the vehicle as Wilkey demanded, while trying to keep her hands "visible" as Wilkey ordered while not falling down.

39. When Plaintiff finally exited the vehicle, Wilkey ordered Plaintiff to place her hands "wider" on the vehicle.

40. Wilkey, while behind Plaintiff, grabbed Plaintiff by her hips and pulled her toward Wilkey and against Wilkey's duty belt.

41. While pulling her further backward, Wilkey told Plaintiff to "come back more with your hips," and to "spread your legs more." While telling Plaintiff to spread her legs more, Wilkey had his hand between her inner things and pushed from side to side.

42. Wilkey then groped Plaintiff's inner thighs in a "search," and while "searching" Plaintiff groped and pressed her vagina, rubbed and pressed her abdomen, squeezed and cupped her breasts with his hands, squeezed her buttocks, and with his thumbs went up into the "crack" of Plaintiff's buttocks.

43. Wilkey removed M.R.S. from the vehicle, and Plaintiff saw Wilkey grope M.R.S. in a "search."

44. Plaintiff saw Wilkey allow P.S. leave on foot.

45. Wilkey finished "searching" the other minor females, but could not clearly see what was happening to them.

46. Wilkey then ordered the Plaintiff and the other minor females from back into the vehicle. A.M. was out of Plaintiff's sight. Wilkey then told the girls that he was a preacher, and "you kids are going to Hell." Wilkey told A.O.K. that she was a "piece of sh@t" and that A.O.K.'s father was a "heroin addict," that A.O.K. was going "nowhere," and that A.O.K. would "never amount to anything."

47. Wilkey departed with A.M., and soon thereafter, McRae left the remaining minor females, alone on the side of the road in the pouring rain.

48. A few days later, Plaintiff and A.O.K. arrived at the Dayton Pike Annex to speak with someone to make a formal complaint against Wilkey and McRae, but were told (only over an intercom speaker) that they could make an appointment.

49. Plaintiff and A.O.K. made an appointment and returned on the set date, but were told by a female to leave because the internal affairs investigator was "out on a call."

50. Plaintiff and A.O.K. never heard back from anyone at the sheriff's office despite leaving her contact information with the person who made the initial appointment.

51. As of the date of this Complaint, no one from the Sheriff's Department has reached out to Plaintiff or her parents to take Plaintiff's complaint.

52. On May 16, 2019, Deputy Rice and Deputy Lockhart went to Soddy Daisy High School and conducted an interview of Plaintiff in regard to an investigation of an internal affairs



complaint made by Joleen Lemons, the legal guardian of A.M. The complaint was about the events partially described herein and what the individual Defendants did to A.M.

53. Deputy Rice and Deputy Lockhart also interviewed A.O.K., M.R.S., and P.S.

54. At no time did anyone from the Sheriff's Department notify Plaintiff's parents either before or after that anyone was going to interview the Plaintiff.

55. Rather than interview the Plaintiff about Plaintiff's complaint against Wilkey and McRae, Deputy Rice and Deputy Lockhart made a very brief inquiry of Plaintiff that lasted about 5-10 minutes and focused mostly on what Plaintiff did not see.

56. When Plaintiff began to describe Wilkey's abusive language, Deputy Rice stopped Plaintiff and warned Plaintiff that "this was a criminal investigation," and if Plaintiff did not tell the truth she would have "criminal charges as well."

57. Deputy Rice and Deputy Lockhart video recorded the interview.

58. Deputy Rice and Deputy Lockhart never obtained permission from Plaintiff's parents to conduct an interview of Plaintiff in any manner.

59. Deputy Rice and Deputy Lockhart never mirandized Plaintiff.

60. Deputy Rice and Deputy Lockhart characterized Plaintiff's and the other minors' description of the actions of Wilkey and McRae as follows: "Detective Rice had them describe the way they were each searched. Their descriptions of the searches did not sound inappropriate in nature."

61. As a partial result of the interviews, Deputy Rice charged A.M. with making a false report. That charge was eventually dismissed upon motion of the State of Tennessee.

62. Tenn. Code Ann. § 37-1-115 required McRae and Wilkey, upon taking the minors into custody, to release the minors within a reasonable time into the custody of their parents or guardians to the court unless other grounds existed under Tenn. Code Ann. § 37-1-114.

63. No lawful grounds existed that allowed the individual Defendants to detain the Plaintiff and the other minors for nearly one hour in the cold rain, force them to remain seated and “face front,” “hands on laps,” and not to “look around” while Wilkey “searched” the girls.

**County:**

*The Plaintiff's attempts to file a complaint*

64. Plaintiff incorporates her prior averments in regard to the lack of any response to her attempts to file an internal affairs complaint.

*Rodney Terrell*

65. The County failed to suspend or terminate county corrections officer Rodney Terrell (“Terrell”) after Terrell unlawfully used a Taser on Nancy Mason (“Mason”) while in the custody of the Sheriff in March 2015.

66. In an effort to cover-up his unreasonable use of force on Mason, Terrell wrote a use of force report wherein he falsely claimed a justified use of the Taser on Mason, which 3 of Terrell’s supervisors holding the ranks of Lieutenant, Captain, and Administration approved and endorsed as Terrell having “followed Policy/Training.”

67. However, the County then reopened the investigation as to Terrell’s use of force on Mason, and merely reprimanded Terrell.

68. Despite a finding by the Sheriff’s own Internal Affairs investigation that Terrell used excessive force on Mason and that the force caused Mason to suffer a serious fractured arm, the Sheriff merely stated the following in regard to the incident:

“Policy needs review & better clarification made. It appears the employees involved had no malicious intent, but training & policies need to be addressed with each employee involved.”

69. Despite a finding by the Sheriff’s own Internal Affairs investigation that Terrell used excessive force on Mason and that the force caused Mason to suffer a serious fractured arm, the County did not suspend or terminate Terrell. Rather, sometime later, the County actually promoted Terrell to the rank of Lieutenant.

*Daniel Hendrix*

70. On August 15, 2015, the late Deputy Daniel Hendrix (“Hendrix”) savagely assaulted a fully handcuffed and shackled prisoner identified as Leslie Hayes (“Hayes”) at the Silverdale Complex.

71. This assault was captured in its entirety on video.

72. Hendrix then lied to Sheriff’s Department investigators about his assault upon Hayes and lied when he brought false felony criminal charges against Hayes, which were later dismissed.

73. Although criminal charges were brought against Hendrix, they were eventually dropped based upon a false claim that County authorities did not know the whereabouts of Hayes to prosecute Hendrix despite the fact the County knew Hayes was held in the Sequatchie County Jail. County authorities could have easily transported Hayes to Hamilton County to allow her to testify against Hendrix but refused or failed to do so.

74. Subsequent to the state’s dismissal of the criminal charges against him, the county returned Hendrix to his full duties as a Deputy.

75. On March 29, 2017, Hendrix was shot and killed by law enforcement after Hendrix became violent with two female Chattanooga Police officers while celebrating Hendrix's birthday.

76. Upon Chattanooga Police law enforcement's arrival, Hendrix drew his County issued gun, became agitated and refused commands to drop the weapon, whereupon law enforcement shot and killed Hendrix.

77. Despite the full knowledge of Hendrix's propensity to use extreme violence against citizens in general, the County allowed Hendrix to return to full duty with the full use and benefit of his county issued gun.

Edmond Blake Kilpatrick

78. Edmond Blake Kilpatrick ("Kilpatrick") was hired by the County sometime in 2009 as a deputy sheriff. At the present time, he is a detective with the sheriff's department.

79. Prior to his employment by the County, Kilpatrick was a defendant in an Order of Protection petition filed by Sylvana Johnson ("Johnson") in Meigs County, Tennessee under case number OP370. This Petition was at the time the County employed Kilpatrick, a public record and readily available to anyone.

80. In the petition, Johnson claimed that Kilpatrick forced his way into her residence, attacked a person she named "Matt," as well as herself.

81. Forced entry into a residence to commit a crime therein constitutes the state felony of aggravated burglary.

82. Kilpatrick stands accused of killing Christopher Sexton in U.S. District Court Case No. 1:18-cv-17.

83. Kilpatrick also stands accused of beating Charles Toney, Jr. (“Toney”), which was recorded by a bystander.

84. In this recording, while Toney was handcuffed and on the ground, Kilpatrick is beating and pummeling Toney without any lawful and believable justification.

85. This video recorded beating happened on December 3, 2018.

86. The recording was “viral” on “YouTube,” and was the focus of much media exposure to the command staff of the County’s sheriff’s department.

87. It was not until on or about December 19, 2018, that the County, through its sheriff’s department, placed Kilpatrick on suspension (with pay) pending further investigations by federal authorities.

88. Although the office of the District Attorney General for Hamilton County referred the Kilpatrick matter to federal authorities some days prior to December 19, 2018, the suspension happened almost immediately after much pressure from two Hamilton County Commissioners, the local chapter of the NAACP, and local grass-roots protests.

*Sheriff Jim Hammond and Wilkey*

89. The sheriff of the County is Jim Hammond (“Hammond”).

90. In 2012, when addressing civic leaders about black gang members Hammond said the following: “We need to run them out of town, put them in jail or send them to the funeral home.”

91. In response to the conduct of Kilpatrick, and in response to a video recorded beating, strip search, and anal cavity search of a handcuffed James Mitchell (that happened on July 10, 2019) by Deputy Daniel Wilkey and Deputy Bobby Brewer, Hammond stated he stood

by his deputies, that the same deputies were “seasoned” officers, “good” officers, and that he stood by their “ability and training.”

- a. Hammond further stated publicly that he reviewed video of the incident with Mitchell and Menifee and stated, “I, Jim Hammond did not see a body cavity search.” Hammond also stated that his deputies followed procedure citing James Mitchell was combative and his deputies had already found marijuana in his pocket when they felt something in his pants, not knowing if it was a weapon or narcotics.

92. Hammond made these public comments before any meaningful investigation by his own IAD and before any IAD reports of any investigation of the Mitchell / Menifee affair.

93. Despite Wilkey’s questionable killing of an unarmed man by gunshot to the head while Wilkey worked for the Rhea County Sheriff, Hammond approved the hire of Wilkey as a deputy for the County. To be sure, on February 22, 2017, Rhea County Government settled a wrongful death lawsuit in the US District Court (Case No. 1:15-cv-256) in *Gardner v. Rhea County, Tennessee* wherein Wilkey was a defendant.

- a. Based upon information and belief, Wilkey left his employment with the Rhea County Sheriff sometime in 2017 and was not employed as a law enforcement officer for about 6 to 8 months.

94. The County hired Wilkey sometime in February 2018, and within a short period of time, Wilkey racked up at least 8 internal affairs complaints. The County cleared Wilkey of any wrongdoing in two of the complaints, but there is no indication of the result of any investigation of the remaining 6 complaints.

95. Wilkey has since been indicted by the Hamilton County Grand Jury on 44 criminal counts ranging from rape and stalking to sexual battery and reckless endangerment. The rape charges arise from the Mitchell/Meniffee affair.

- a. The hiring of Wilkey as a deputy was tantamount to unleashing a monster upon the citizens of Hamilton County and upon the Plaintiff.**

*Criminal charges against A.M.*

96. The “investigation” of A.M.’s complaint was conducted in such a manner as to retaliate against A.M. and to keep her quiet, and by filing a felony charge against A.M. was to send a signal to the other minor victims to not pursue any legal action against Wilkey and McRae.

*McRae’s public comments*

97. Wilkey and McRae are defendants in other civil actions that arose from the same April 18, 2019 traffic stop that involved Plaintiff.

98. WTVC Channel 9 reported on the lawsuits filed by the female minors against Wilkey and McRae.

99. McRae, in response to WTVC’s report (in facebook) stated that the female minors’ claims have been “proven” as not true by stating: “The way the female is stating she was searched is not true and ***that has already been proven.***”

*Deputy Jordan Long*

100. Deputy Jordan Long (“Long”) was a police officer with the City of Collegedale Police Department.

101. On January 12, 2019, Long unlawfully and without any justification nearly threw Matthew Gilmore into the path of oncoming vehicular traffic, at night, during heavy rain, and which carried a significant risk of death or serious bodily harm to Mr. Gilmore.

102. Despite Long's history of unlawful violence against Mr. Gilmore, Hammond approved the hire of Long as a deputy for the County.

103. Consequently, by setting the example through Terrell, Hendrix, Kilpatrick, Hammond, Wilkey, Long, and A.M., the County created an environment that allowed the individual Defendants to believe that abusive behavior would not be properly monitored, investigated, nor punished and was tantamount to a policy of the County. This failure constitutes deliberate indifference by the County and was the direct and proximate cause of Plaintiff's damages, and suffering and mental injuries.

**Count One:**  
**Violation of Civil Rights Under**  
**Color of Law 42 U.S.C. §1983 –**  
**Failure to Protect and Render Aid**

104. Plaintiff incorporates all the prior averments in the previous paragraphs as if fully set forth herein.

105. Wilkey and McRae had non-delegable duties to intervene and prevent his fellow defendant from fondling and groping the minor Plaintiff. No reasonable law enforcement officer would have acted in this manner.

106. Wilkey and McRae had non-delegable duties to report the misconduct of their fellow defendant to the command staff of the County's sheriff's department. Neither Wilkey nor McRae ever made such a report.

107. Once the Plaintiff was in the joint custody of Wilkey and McRae there existed a special relationship between the Plaintiff, and Wilkey, McRae and the County.



108. Once Plaintiff was in the custody of Wilkey and McRae, they had an affirmative duty to protect Plaintiff from molestation from one another and to report the misconduct of their fellow co-defendant to those charged with the oversight of officer conduct. Neither Wilkey nor McRae ever made such a report.

109. The County had a non-delegable duty to ensure that it properly trained officers to intervene when fellow officers acted as Wilkey and McRae did in this matter.

110. The failure of Wilkey and McRae to intervene and stop the other in his actions as set forth herein and their failure to report the misconduct of their fellow officer constituted a joint effort in which they participated as equals.

111. The County's continued employment of Terrell and Hendrix and the County's failure to discipline Terrell and Hendrix in any meaningful manner, created an atmosphere that other County employees, including Wilkey and McRae, could act in a similar manner, and thus not be punished in any significant way.

112. The County's promotion of Terrell to lieutenant after his unnecessary use of force against Nancy Mason created an atmosphere that other County employees, including Wilkey and McRae, could act in a similar manner, and thus not be punished in any significant way.

113. The County's employment of Kilpatrick despite his history of violence against women during the commission of at least one felony, the continued display of violence in the unnecessary killing of Christopher Sexton, the promotion of Kilpatrick to a detective position, and the delayed suspension of Kilpatrick despite overwhelming video evidence of Kilpatrick's propensity to use violence against a helpless and handcuffed arrestee created an atmosphere that other County employees, including Wilkey and McRae, could act in a similar manner, and thus not be punished in any significant way. Although the events involving Kilpatrick occurred close

in time to or after the events between Wilkey, McRae, and Plaintiff, Plaintiff submits they reflect the same atmosphere that exists to this day.

114. The County's employment of Wilkey despite his history of lethal violence against an unarmed person, and the lack of any resolution of 6 internal affairs complaints, created an atmosphere that other County employees, including Wilkey and McRae, could act in a similar manner, and thus not be punished in any significant way. The hiring of Wilkey as a deputy was tantamount to unleashing a monster upon the citizens of Hamilton County and upon the Plaintiff.

115. The County's employment of Long despite his history of violence against unarmed Matthew Gilmore created an atmosphere that other County employees, including Wilkey and McRae could act in a similar manner, and thus not be punished in any significant way. The County's employment of Long was either with the full knowledge of the Collegedale incident, and thus condoned by the County, or was a product of a slipshod vetting process before hiring Long. Either way, the County's employment of Long constituted a message to other County employees, including Wilkey and McRae, that no matter your conduct, you can become employed with the County as a deputy sheriff. Although the events involving Long occurred close in time to or after the events between Wilkey, McRae, and Plaintiff, Plaintiff submits they reflect the same atmosphere that exists to this day.

116. Hammond's comments created an atmosphere that other County employees, including Wilkey and McRae, could act as they did in this instance, and thus not be punished in any significant way. Although Hammonds' comments occurred close in time to or after the events between Wilkey, McRae and Plaintiff, Plaintiff submits they reflect the same atmosphere that exists to this day.

117. McRae's public comments about having been cleared despite the lack of any meaningful internal investigation reflects his confidence that the County would not take any action against him or Wilkey.

118. The "investigation" of A.M.'s complaint and the subsequent retaliatory felony charge of false report created an atmosphere that other County employees, including Wilkey and McRae, could act as they did in this instance, and thus not be punished in any significant way.

119. The failure of the County to pursue the Plaintiff's and A.O.K.'s IAD complaint was evidence that the County would not properly supervise and investigate claims of misconduct against its deputies and constituted a policy of the County.

120. Wilkey and McRae acted under color of law and their negligence and intentional acts along with the deliberate indifference of the County deprived the Plaintiff of her rights secured to her under the Fourteenth Amendment to United States Constitution to be free from injury and/or harm while in the custody of Wilkey, McRae and the County.

121. Plaintiff sues the County, and sues Wilkey, and McRae in their official and individual capacities under this Count.

**Count Two:**  
**Violation of Civil Rights Under**  
**Color of Law 42 U.S.C. §1983 –**  
**Unreasonable Seizure**

122. Plaintiff incorporates all the prior averments in the previous paragraphs as if fully set forth herein.

123. Wilkey and McRae had a non-delegable duty to refrain from seizing Plaintiff without probable cause.

124. Wilkey had no lawful basis seize Plaintiff nor any lawful basis to grope and sexually molest the Plaintiff. No reasonable law enforcement officer would have acted in this manner.

125. Once the Plaintiff was in the joint custody of Wilkey and McRae there existed a special relationship between the Plaintiff, Wilkey, McRae, and the County.

126. Once Plaintiff was in the custody of Wilkey and McRae, they had an affirmative duty to protect Plaintiff from molestation from one another and to report the misconduct of their fellow co-defendant to those charged with the oversight of officer conduct. Neither Wilkey nor McRae ever made such a report.

127. The County had a non-delegable duty to ensure that it properly trained officers to intervene when fellow officers acted as Wilkey and McRae did in this matter.

128. The failure of Wilkey and McRae to intervene and stop the other in his actions as set forth herein and their failure to report the misconduct of their fellow officers constituted a joint effort in which they participated as equals.

129. The County's continued employment of Terrell and Hendrix and the County's failure to discipline Terrell and Hendrix in any meaningful manner, created an atmosphere that other County employees, including Wilkey and McRae, could act in a similar manner, and thus not be punished in any significant way.

130. The County's promotion of Terrell to lieutenant after his unnecessary use of force against Nancy Mason created an atmosphere that other County employees, including Wilkey and McRae, could act in a similar manner, and thus not be punished in any significant way.

131. The County's employment of Kilpatrick despite his history of violence against women during the commission of at least one felony, the continued display of violence in the

unnecessary killing of Christopher Sexton, the promotion of Kilpatrick to a detective position, and the delayed suspension of Kilpatrick despite overwhelming video evidence of Kilpatrick's propensity to use violence against a helpless and handcuffed arrestee created an atmosphere that other County employees, including Wilkey and McRae, could act in a similar manner, and thus not be punished in any significant way.

132. The County's employment of Wilkey despite his history of lethal violence against an unarmed person created an atmosphere that other County employees, including Wilkey and McRae, could act in a similar manner, and thus not be punished in any significant way. The hiring of Wilkey as a deputy was tantamount to unleashing a monster upon the citizens of Hamilton County and upon the Plaintiff.

133. Hammond's comments created an atmosphere that other County employees, including Wilkey and McRae, could act as they have in this instance, and thus not be punished in any significant way.

134. McRae's public comments about having been cleared despite the lack of any meaningful internal investigation reflects his confidence that the County would not take any action against him or Wilkey.

135. The "investigation" of A.M.'s complaint and the subsequent retaliatory felony charge of false report created an atmosphere that other County employees, including Wilkey and McRae, could act as they have in this instance, and thus not be punished in any significant way.

136. The failures of the County set forth in previous paragraphs constituted deliberate indifference on the part of the County, created an environment that allowed the misconduct of Wilkey and McRae against the Plaintiff, constituted a policy of the County, and was the direct

and proximate cause of Plaintiff's mental anguish, needless suffering, and loss of enjoyment of life.

137. The County hired Kilpatrick despite Kilpatrick's 2006 history of extreme violence. The County's employment of Kilpatrick was either with the full knowledge of the Meigs County incident, and thus condoned by the County, or was a product of a slipshod vetting process before hiring Kilpatrick. Either way, the County's employment of Kilpatrick constituted a message to other County employees, including Wilkey and McRae, that no matter your conduct, you can become employed with the County as a deputy sheriff.

138. The failures of the County in regard to Kilpatrick's employment created an environment that allowed the misconduct of Wilkey and McRae against the Plaintiff, constituted a policy of the County, and was the direct and proximate cause of Plaintiff's mental anguish, needless suffering, and loss of enjoyment of life.

139. The County's employment of Long despite his history of violence against unarmed Matthew Gilmore created an atmosphere that other County employees, including Wilkey and McRae could act in a similar manner, and thus not be punished in any significant way. The County's employment of Long was either with the full knowledge of the Collegedale incident, and thus condoned by the County, or was a product of a slipshod vetting process before hiring Long. Either way, the County's employment of Long constituted a message to other County employees, including Wilkey and McRae, that no matter your conduct, you can become employed with the County as a deputy sheriff. Although the events involving Long occurred close in time to or after the events between Wilkey, McRae, and Plaintiff, Plaintiff submits they reflect the same atmosphere that exists to this day.

140. The failure of the County to pursue the Plaintiff's A.O.K.'s IAD complaint, was evidence that the County would not properly supervise and investigate claims of misconduct against its deputies and constituted a policy of the County.

141. Wilkey and McRae acted under color of law and their negligence and intentional acts along with the deliberate indifference of the County deprived the Plaintiff of her rights secured to her under the Fourth Amendment to United States Constitution to be free from unreasonable seizures.

142. Plaintiff sues the County, Wilkey and McRae in their official and individual capacities under this Count.

**Count Three:**  
**Violation of Civil Rights Under**  
**Color of Law 42 U.S.C. §1983 –**  
**Unreasonable Search**

143. Plaintiff incorporates all the prior averments in the previous paragraphs as if fully set forth herein.

144. Wilkey had a non-delegable duty to refrain from searching the Plaintiff without probable cause by touching her genitals and breasts in such a manner as to constitutes a criminal sexual battery. No reasonable law enforcement officer would have acted in this manner.

145. Wilkey had no lawful basis to fondle and grope the Plaintiff. McRae had no lawful basis to participate as an equal with Wilkey by merely standing by and watching as Wilkey fondled and groped the Plaintiff. McRae had no lawful basis to guard the minors as they remained seated in the vehicle in order to prevent them from recording or witnessing clearly the events.

146. The County's continued employment of Terrell and Hendrix and the County's failure to discipline Terrell and Hendrix in any meaningful manner, created an atmosphere that

other County employees, including Wilkey and McRae, could act in a similar manner, and thus not be punished in any significant way.

147. The County's promotion of Terrell to lieutenant after his unnecessary use of force against Nancy Mason created an atmosphere that other County employees, including Wilkey and McRae, could act in a similar manner, and thus not be punished in any significant way.

148. The County's employment of Kilpatrick despite his history of violence against women during the commission of at least one felony, the continued display of violence in the unnecessary killing of Christopher Sexton, the promotion of Kilpatrick to a detective position, and the delayed suspension of Kilpatrick despite overwhelming video evidence of Kilpatrick's propensity to use violence against a helpless and handcuffed arrestee created an atmosphere that other County employees, including Wilkey and McRae, could act in a similar manner, and thus not be punished in any significant way.

149. The County's employment of Wilkey despite his history of lethal violence against an unarmed person created an atmosphere that other County employees, including Wilkey and McRae, could act in a similar manner, and thus not be punished in any significant way. The hiring of Wilkey as a deputy was tantamount to unleashing a monster upon the citizens of Hamilton County and upon the Plaintiff.

150. Hammond's comments created an atmosphere that other County employees, including Wilkey and McRae, could act as they have in this instance, and thus not be punished in any significant way.

151. McRae's public comments about having been cleared despite the lack of any meaningful internal investigation reflects his confidence that the County would not take any action against him or Wilkey.



152. The “investigation” of A.M.’s complaint and the subsequent retaliatory felony charge of false report created an atmosphere that other County employees, including Wilkey and McRae, could act as they have in this instance, and thus not be punished in any significant way.

153. The failures of the County set forth in previous paragraphs constituted deliberate indifference on the part of the County, created an environment that allowed the misconduct of Wilkey and McRae against the Plaintiff, constituted a policy of the County, and was the direct and proximate cause of Plaintiff’s mental anguish, needless suffering, and loss of enjoyment of life.

154. The County hired Kilpatrick despite Kilpatrick’s 2006 history of extreme violence. The County’s employment of Kilpatrick was either with the full knowledge of the Meigs County incident, and thus condoned by the County, or was a product of a slipshod vetting process before hiring Kilpatrick. Either way, the County’s employment of Kilpatrick constituted a message to other County employees, including Wilkey and McRae, that no matter your conduct, you can become employed with the County as a deputy sheriff.

155. The failures of the County in regard to Kilpatrick’s employment created an environment that allowed the misconduct of Wilkey and McRae against the Plaintiff, constituted a policy of the County, and was the direct and proximate cause of Plaintiff’s mental anguish, needless suffering, and loss of enjoyment of life.

156. The County’s employment of Long despite his history of violence against unarmed Matthew Gilmore created an atmosphere that other County employees, including Wilkey and McRae could act in a similar manner, and thus not be punished in any significant way. The County’s employment of Long was either with the full knowledge of the Collegedale incident, and thus condoned by the County, or was a product of a slipshod vetting process

before hiring Long. Either way, the County's employment of Long constituted a message to other County employees, including Wilkey and McRae, that no matter your conduct, you can become employed with the County as a deputy sheriff. Although the events involving Long occurred close in time to or after the events between Wilkey, McRae, and Plaintiff, Plaintiff submits they reflect the same atmosphere that exists to this day.

157. The failure of the County to pursue the Plaintiff's A.O.K.'s IAD complaint, was evidence that the County would not properly supervise and investigate claims of misconduct against its deputies and constituted a policy of the County.

158. The individual Defendants acted under color of law and their negligence and intentional acts along with the deliberate indifference of the County deprived the Plaintiff of her rights secured to her under the Fourth Amendment to United States Constitution to be free from unreasonable searches.

159. Plaintiff sues the County and the individual Defendants in their official and individual capacities under this Count.

**Count Four:**  
**Negligence**

160. Plaintiff incorporates all the prior averments in the previous paragraphs as if fully set forth herein.

161. As stated previously, the individual Defendants, at the time of the events averred in this Complaint acted under the color of their offices as deputy sheriffs for the County.

162. TENN. CODE ANN. § 8-8-302, allows anyone incurring any wrong, injury, loss, damage or expense resulting from any act or failure to act on the part of any deputy appointed by the sheriff to bring suit against the County.

163. The Tennessee Constitution, article 1, section 13, prohibits the treatment of Plaintiff upon arrest and confinement with unnecessary rigor. Consequently, the individual Defendants had an affirmative and non-delegable duty to not treat the Plaintiff in the manner averred in this Complaint.

164. The individual Defendants' failures to protect Plaintiff from one another, to not grope and fondle the Plaintiff, to not seize Plaintiff without probable cause, and to not search Plaintiff in the manner described herein, were the direct and proximate cause of Plaintiff's mental anguish, needless suffering, and loss of enjoyment of life.

165. The County, as stated in this Complaint had an affirmative duty to properly supervise, discipline, and train its deputies to not use act as averred herein, to report fellow deputy misconduct, and to not hire persons as deputies with easily discoverable histories of violence.

166. The failures of the County were the direct and proximate cause of Plaintiff's mental anguish, needless suffering, and loss of enjoyment of life.

167. Plaintiff sues the County and the individual Defendants in their individual and official capacities under this Count.

**Count Five:**

**Battery – Both Individual Defendants**

168. Plaintiff incorporates all the prior averments in the previous paragraphs as if fully set forth herein.

169. The individual Defendants' concerted acts and omissions as averred in this Complaint were not based on any lawful execution of their duties as law enforcement officers. Rather, the individual defendants acted in concert to inflict physical and mental harm upon Plaintiff.

170. The individual Defendants' conduct was the direct and proximate cause of Plaintiff's mental anguish, needless suffering, and loss of enjoyment of life.

171. Plaintiff sues the individual Defendants in their individual capacities under this Count.

**Count Six:**  
**Assault – Both Individual Defendants**

172. Plaintiff incorporates all the prior averments in the previous paragraphs as if fully set forth herein.

173. The individual Defendants' acts and omissions as averred in this Complaint were not based on any lawful execution of their duties as law enforcement officers. Rather, the individual Defendants acted in concert to inflict physical harm upon Plaintiff.

174. The individual Defendants' conduct was the direct and proximate cause of Plaintiff's mental anguish and mental, needless suffering, and loss of enjoyment of life.

175. Plaintiff sues the individual Defendants in their individual capacities under this Count.

**Count Seven:**  
**Intentional Infliction  
of Emotional Distress –  
Both Individual Defendants**

176. Plaintiff incorporates all the prior averments in the previous paragraphs as if fully set forth herein.

177. At the time of the events averred in this Complaint, a special relationship existed between the individual Defendants and Plaintiff.

178. Despite their full knowledge of the pain and harm their actions caused Plaintiff during their physical encounter with the Plaintiff, the individual Defendants continued in their actions.

179. No reasonable deputy would have acted in this manner toward the Plaintiff.

180. As a direct and proximate cause of the individual Defendants' conduct, Plaintiff has suffered mental injury.

181. Plaintiff sues the individual Defendants in their individual capacities under this Count.

**WHEREFORE**, the Plaintiff demands judgment against the Defendants both joint and several and requests the following relief:

A. The omissions of the County constituted willful and wanton indifference to and with deliberate disregard for the constitutional civil rights of the Plaintiff. Thus, the Plaintiff is entitled to actual damages, and attorney fees pursuant to 42 U.S.C. §1988.

B. The individual defendants committed their acts against Plaintiff with actual malice toward the Plaintiff and with willful and wanton indifference to and with deliberate disregard for the constitutional civil rights of the Plaintiff. Thus, Plaintiff is entitled to punitive damages, actual damages, and attorney fees pursuant to 42. U.S.C. §1988.

C. The Court to enter judgment against the Defendants and to award Plaintiff compensatory damages in the amount of ONE MILLION DOLLARS (\$1,000,000).

D. The Court to enter judgment against the individual Defendants and to award Plaintiff punitive damages in the amount of TEN MILLION DOLLARS (\$10,000,000).

E. That the Court award costs, and discretionary costs.

F. Any other relief the Court may deem fit and proper.

- G. Any other relief the Court may deem fit and proper pursuant to 42 U.S.C. § 1988,  
and
- H. Allow a jury trial on all issues.

Respectfully submitted,

By: 

**ROBIN RUBEN FLORES**

**TENN. BPR #20751**

**GA. STATE BAR #200745**

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