

IN THE CIRCUIT COURT OF PLATTE COUNTY, MISSOURI

BERMEEKA MITCHELL,
PLAINTIFF,

v.

P.O. BLAYNE NEWTON
Badge # 5852
Please serve at:
KCMO PD
1125 Locust
Kansas City, Missouri 65106

DEFENDANT.

CASE NO.:

DIVISON:

JURY TRIAL DEMANDED

PETITION FOR DAMAGES

COMES NOW Plaintiff, Bermeeka Mitchell and for her Petition for Damages against Defendant, state as follows:

GENERAL ALLEGATIONS

1. Plaintiff is a resident of Lansing, Leavenworth County, Kansas, 66043.
2. Defendant Newton is an individual who at all times relevant was a police officer of the Kansas City, Missouri Police Department.
3. Although working an off-duty assignment for Walmart, he was wearing a KCPD uniform, was driving a KCPD patrol car, and put forth an image of a KCPD officer.

4. Defendant's acts and or omissions were done both individually and within the course and scope of his employment and or agency as an employee of Defendant Kansas City, and who is subject to relevant state statutes, state regulation and KCPD policies and guidelines.

5. A Citizens Complaint was filed by the Plaintiff with the Community Complaints Office of KCPD, which was investigated by their Internal Affairs Unit. Plaintiff's claim of the use excessive force by Defendant was sustained, and he was allegedly disciplined by KCPD (Exhibit A).

JURISDICTION AND VENUE

6. This Court has jurisdiction over this case pursuant to §478.070 RSMo.

7. Venue is proper in this Court pursuant to §508.010 and §478.461.1 RSMo., in that the allegations giving rise to Plaintiff's claims occurred in Kansas City, Platte County, Missouri and the damages incurred by the Plaintiff are in excess of \$25,000.00

FACTUAL ALLEGATIONS

8. On September 11, 2022, at approximately 4:30 p.m. Defendant was working in an "off-duty" assignment at Wal-Mart, located at 8551 N. Boardwalk Ave., Kansas City, Platte County, Mo. 64154.

9. In the parking lot of this business, Plaintiff began streaming on Facebook Live the arrest of another, unknown, unrelated person, by other officers of KCPD.

10. As this individual was escorted inside the building, Plaintiff continued to her

Live streaming of them.

11. Plaintiff was informed by an individual in plain clothes, that she was not allowed to film while on Wal-Mart property.

12. Plaintiff informed this unknown individual that she was going to continue to record, and she proceeded to walk further inside the store.

13. This unknown individual informed Plaintiff that she must leave the store and if she did not, that she would be arrested for Trespassing.

14. At no time did this unknown individual in plain clothes inform Plaintiff that he was a store employee.

15. This unknown individual allegedly motioned for Defendant to arrest Plaintiff for Trespassing.

16. Defendant confronted Plaintiff to effect an arrest.

17. During the arrest Plaintiff attempted to comply with Defendant, however, Defendant grabbed and twisted both her arms in a forceful manner.

18. Defendant then placed the heel of his boot on Plaintiff's foot and grinded it down on top of her foot, as he was twisting and jerking her arms and wrists behind her back.

19. Defendant very tightly placed handcuffs on Plaintiff's wrists, leaving visible marks.

20. Defendant pinched a nerve in Plaintiff's shoulder in an effort to render her helpless, while yelling "stop resisting arrest."

21. Plaintiff did not resist arrest.

22. Plaintiff did not assault Defendant.

23. Defendant has no legal basis to arrest Plaintiff.

24. As a result of this assault, battery, false arrest, Plaintiff was detained in a private room, where she was informed by Defendant that she would not be charged with Trespassing and Resisting Arrest if she agreed to "not make a scene" upon exiting the property.

25. Defendant's assault of Plaintiff was the direct cause injuries to her foot, back, shoulders, wrists, and arms.

26. Plaintiff sustained emotional distress.

27. Plaintiff is traumatized by this assault, battery, and false imprisonment by Defendant.

CLAIMS FOR RELIEF

COMES NOW, Plaintiff, and hereby states that she has a good faith basis to believe that Defendant's acts and or omissions were done both individually and or within the course and scope of his employment and or agency, as an employee of KCPD, and who is subject to relevant state statutes, state regulation and KCPD policies and guidelines. Pursuant to Missouri Supreme Court Rule 55.10, Plaintiff pleads each of these counts, whether done individually and or in the scope of his employment or agency as an employee of KCPD, in the alternative as follows:

COUNT I ASSAULT

- 28. Plaintiff incorporates by reference each and every allegation set forth in the Factual Allegations as set forth above.
- 29. Defendant intended to put Plaintiff in apprehension of bodily harm by aggressively advancing toward Plaintiff without justification or legal authority.
- 30. Plaintiff was terrified when she saw Defendant advance upon her and order her to turn around and place her hands behind her back.
- 31. Plaintiff sustained emotional distress.
- 32. Plaintiff is entitled to an award of damages in such sum as would be fair, reasonable, and just under the circumstances.

33. Defendant's conduct demonstrated a conscious disregard for the safety of the Plaintiff. The Defendant deliberately harmed Plaintiff when Plaintiff clearly presented no danger to Defendant.

COUNT II BATTERY

34. Plaintiff incorporates by reference each and every allegation set forth in the Factual Allegations as set forth above.

35. Defendant purposefully and intentionally grabbed and twisted Plaintiff's arms behind her back.

36. Defendant was not lawfully allowed to use force against Plaintiff and further the use of force was far more force than was necessary, and thus, used an unreasonable application of force, because using excessive force or any force was not lawful or necessary under the circumstances.

37. Defendant's conduct was intentional and demonstrated a deliberate indifference to Plaintiff's safety and wellbeing.

38. Plaintiff sustained injuries to foot, shoulder, back, wrist and arms.

39. Plaintiff sustained emotional distress.

40. Plaintiff is entitled to an award of damages in such sum as would be fair, reasonable, and just under the circumstances.

41. Defendant's conduct demonstrated a conscious disregard for the safety of the Plaintiff. The Defendant deliberately harmed Plaintiff when Plaintiff clearly presented no danger to Defendant.

COUNT III FALSE IMPRISONMENT

42. Plaintiff incorporates by reference each and every allegation set forth in the Factual Allegations as set forth above.

43. Defendants purposely and intentionally restrained Plaintiff against Plaintiff's will.

44. Defendant was without legal justification in detaining Plaintiff and thus Defendant's actions were unlawful.

45. Defendant's conduct was intentional and demonstrated a deliberate indifference to the Plaintiff's safety and wellbeing.

46. As a result of being unlawfully imprisoned by Defendant, Plaintiff suffered severe emotional distress.

WHEREFORE, Plaintiff pray that the Court enter judgment against Defendant individually and in favor of Plaintiff award damages to fairly and adequately compensate her for the fair and reasonable, actual, compensatory, and punitive damages and losses she has sustained, as a direct and proximate cause of the defendant's separate acts described in this petition, the plaintiff has suffered or will continue to suffer the following reasonably foreseeable past, present, and future injuries that include, but are not limited to: physical injury, physical pain, diminished enjoyment of life; emotional pain; including the reasonable cost of past and future

medical care and for her costs incurred and expended herein, for the reasonable attorneys' fees, and for such further relief as the Court deems fair, proper and just.

Respectfully submitted,

/s/ John Anthony Picerno

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