

Kyle R. May
Andrew N. Hart
MAY, RAMMELL & WELLS, CHTD.
216 W. Whitman/ P.O. Box 370
Pocatello, Idaho 83204-0370
Telephone: (208) 233-0132
Facsimile: (208) 234-2961
Idaho State Bar No.: 9819
Idaho State Bar No.: 10714
kyle@mrwlaw.net
andrew@mrwlaw.net

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF IDAHO

SALVADOR SERRATO; and NANCY
SERRATO a.k.a. NANCY VALENZUELA,

Plaintiffs,

vs.

CITY OF IDAHO FALLS; IDAHO FALLS
POLICE DEPARTMENT; CHIEF BRYCE
JOHNSON; ANTHONY OVERBY; DARIN
MOULTON; DUSTIN HOWELL; JOSE
ABREO; KEVIN GOMS; MONICA SMITH;
TYLER MORITSCH; and JOHN AND
JANE DOES I-XX,

Defendants.

CASE NO.: 4:23-cv-00179

**COMPLAINT AND DEMAND FOR
JURY TRIAL**

COMES NOW Plaintiffs Salvador Serrato and Nancy Serrato, by and through their attorneys of record, Kyle May and Andrew N. Hart of May, Rammell and Wells, Chtd. and hereby file this *Complaint and Demand for Jury Trial* against Defendants as follows:

JURISDICTION AND PARTIES

1. This Court has jurisdiction over this action under the laws of the State of Idaho and the United States, including 42 U.S.C. §§1983 and 1988.

2. At all times relevant to this matter, Plaintiffs Salvador Serrato (“Salvador”) and Nancy Serrato (“Nancy”) were residents of the State of Idaho.
3. Plaintiffs were improperly arrested in Idaho, and subjected to inappropriate treatment, including discrimination, while they were physically located in Idaho.
4. Defendants City of Idaho Falls (“Idaho Falls”) and Idaho Falls Police Department were and are a political subdivision of the State of Idaho.
5. To the best of Plaintiffs’ knowledge and belief, at all times relevant to this action Defendants Anthony Overby, Darin Moulton, Dustin Howell, Jose Abreo, Kevin Goms, Monica Smith, Tyler Moritsch (collectively the “Officer Defendants”) and John and Jane Does I-XX were residents of Bonneville County, State of Idaho.
6. Upon information and belief, the Officer Defendants and John and Jane Does I-XX were employed by Idaho Falls and the Idaho Falls Police Department at all times relevant.
7. Anthony Overby is sued in his individual and official capacity, pursuant to 42 U.S.C. §1983.
8. Darin Moulton is sued in his individual and official capacity, pursuant to 42 U.S.C. §1983.
9. Dustin Howell is sued in his individual and official capacity, pursuant to 42 U.S.C. §1983.
10. Jose Abreo is sued in his individual and official capacity, pursuant to 42 U.S.C. §1983.
11. Kevin Goms is sued in his individual and official capacity, pursuant to 42 U.S.C. §1983.

12. Monica Smith is sued in her individual and official capacity, pursuant to 42 U.S.C. §1983.
13. Tyler Moritsch is sued in his individual and official capacity, pursuant to 42 U.S.C. §1983.
14. Defendants John and Jane Does I-XX are sued in their individual capacities and consist of individuals who subjected Plaintiffs to the wrongful arrest and other illegal and inappropriate actions arising out of, or associated with, the wrongful arrest; whose full names are not known at this time.
15. To the best of Plaintiffs' knowledge and belief, at all times relevant to this action Defendant Chief Bryce Johnson was a resident of the State of Idaho.
16. Chief Bryce Johnson is being sued in his official and individual capacity as Chief of the Idaho Falls Police Department.
17. This action is brought pursuant to 42 U.S.C. § 1983 and 1988.
18. Plaintiffs are entitled to attorney fees and costs pursuant to 42 U.S.C. §1988.
19. Venue is appropriate in the District Court of Idaho as all Defendants reside in the State of Idaho and the acts giving rise to the complaint, in this case, occurred in Idaho.

FACTS

20. The preceding paragraphs are fully incorporated herein by this reference.
21. Nancy and Salvador are/were husband and wife.
22. On or around the evening of April 19, 2021, Plaintiffs, Nancy and Salvador, were having a discussion on a public sidewalk on 17th Street in Idaho Falls.

23. Officer Anthony Overby (“Officer Overby”) claims to have been dispatched to the location where Nancy and Salvador were speaking, after allegedly receiving a report of a domestic battery occurring near the location where Nancy and Salvador were talking.
24. When Officer Overby arrived at the scene, he saw nothing to indicate that either Nancy or Salvador were committing a crime or that either was in danger.
25. Rather, he saw Nancy and Salvador calmly talking to one another near the sidewalk.
26. As he exited his vehicle, Officer Overby immediately ordered both Nancy and Salvador to get onto the ground.
27. This command constituted an arrest.
28. Said arrest was unlawful as it was not supported by a warrant or probable cause.
29. Both Nancy and Salvador were visibly confused by Officer Overby’s unwarranted aggression.
30. Neither Nancy nor Salvador provided any resistance to Officer Overby’s unlawful commands or indicated any threat or aggression towards him.
31. Salvador attempted to comply with what he thought Officer Overby was commanding him to do and walked to where Officer Overby had motioned him to go.
32. It was readily apparent to Officer Overby that Salvador did not speak English due to Salvador’s confusion, inability to communicate, and his statements in Spanish.
33. Within a few seconds of his arrest, Officer Overby, and the other Officer Defendants discovered that Salvador did not speak English.

34. As Salvador calmly moved to where Officer Overby had directed him, Officer Overby drew his weapon and pointed it at Salvador.
35. Again, Officer Overby commanded both Nancy and Salvador to the ground despite having no indication that either had committed a crime.
36. Nancy asked Officer Overby multiple times to explain what was going on and what he was doing there.
37. Officer Overby continued to shout commands; throughout this interaction, Salvador acted calmly and did not resist arrest.
38. Around this time the other Officer Defendants arrived and witnessed the unlawful arrest.
39. Nancy again told Officer Overby that nothing illegal was happening and that Salvador did not have a weapon.
40. Upon hearing this, Officer Overby took approximately three steps towards Nancy and violently threw her to the ground for no apparent reason.
41. Nancy stood up and again tried to explain that nothing illegal was happening.
42. Again, Officer Overby stepped towards Nancy and threw her to the ground a second time.
43. Officer Monica Smith (“Officer Smith”) then unlawfully grabbed and restrained Nancy despite the fact that she had committed no crime.
44. Salvador stood with his hands in the air while Officer Overby pointed his weapon at him.
45. Even when he witnessed Officer Overby and Officer Smith illegally batter Nancy he did not resist or act aggressively.

46. Officer Overby then grabbed Salvador, while he complicitly held his hands above his head, and threw him to the ground face first.
47. Several other of the Defendants then jumped on Salvador causing him to injure his face and shoulder.
48. The injuries that Salvador sustained from being unlawfully arrested have caused serious injuries to his shoulder which will require future surgery.
49. Without any probable cause to support the arrest, both Nancy and Salvador were handcuffed.
50. During the ordeal, the Officer Defendants were insulting and disdainful to both Nancy and Salvador.
51. During their subsequent conversation with Nancy and Salvador, the Officer Defendants learned that no domestic abuse had occurred and/or that Salvador and Nancy were not the individuals who were reported as being engaged in a domestic dispute, if said report was accurate to begin with.
52. Both Salvador and Nancy provided similar stories about what had happened prior to Officer Overby's arrival and both denied any physical violence.
53. Both told Defendant Officers that no crime had occurred.
54. Both Nancy and Salvador remained handcuffed for the entire questioning, even though Nancy had not even been accused of a crime at this point.
55. When Defendant Officers learned that Salvador was an undocumented alien, they refused to believe either him or Nancy.

56. They discussed amongst themselves their disbelief that no domestic violence had occurred and expressly admitted their belief that both Nancy and Salvador were lying to protect Salvador from immigration consequences.
57. Rather they chose to believe the person who had initially reported domestic violence over both Nancy and Salvador.
58. Upon information and belief, the alleged reporting witness was neither hispanic nor an undocumented alien.
59. Defendant Officers also looked over Nancy and found no physical evidence of a physical altercation.
60. As a product of their illegal arrest, Defendants searched Salvador's wallet and found what they claim was an illegal substance.
61. They initially claimed it looked like cocaine, but later claimed that it presumptively tested positive as methamphetamine.
62. However, none of Defendant Officers' vest cams or dash cams show any officer conducting a field test prior to charging Salvador with felony possession.
63. At all times, Salvador denied that he had any drugs in his wallet.
64. Later lab results failed to confirm that the substance was methamphetamines or cocaine.
65. Despite no probable cause that Salvador had committed any crime, he was maliciously charged with: Possession of a Controlled Substance (I.C. § 37-2732(c)(1)); Domestic Battery (I.C. § 18-918(3)(b)); and Resisting and Obstructing Officers (I.C. § 18-705).
66. All of these charges were later dismissed.

67. Nancy was not charged with any crime despite being unlawfully seized, thrown to the ground, and handcuffed for approximately half an hour.
68. Defendants' actions violated Plaintiffs' constitutional rights pursuant to the Fourth, Fifth and Fourteenth Amendments of the United States Constitution.
69. As a result of Defendants' actions, both Plaintiffs were damaged by having their persons and property arrested and/or seized without probable cause.
70. The Defendant Officers were acting in accordance with, and pursuant to, the policies and customs of the City of Idaho Falls and the Idaho Falls Police Department when they violated Plaintiffs' constitutional rights.
71. Idaho Falls, Idaho Falls Police Department, and Chief Bryce Johnson (the "Supervising Defendants") failed to implement a policy or training that would address the probable constitutional harm that would occur in Idaho Falls when the city's police force is not properly trained to abstain from executing an unconstitutional arrest.
72. The Supervising Defendants' actions violated Plaintiffs' civil rights through their policies and practices including, but not limited to failure to train and/or allowing procedures that allow an officer to arrest a person without any probable cause that a crime has occurred; allow other officers to continue and participate in an arrest without any probable cause; allow officers to attack and harm bystanders to an arrest; allow other officers to watch such an unwarranted attack and fail to take preventative action; allow officers to discriminate against people based upon race, national origin, or immigration status; and allows officers to charge a person with

a crime after an investigation has dispelled any probable cause that could have existed, in order to cover up the misconduct of fellow officers.

73. As a result of the Defendants' actions, Plaintiffs have been damaged.

74. Pursuant to 42 U.S.C. §1988, Plaintiffs are entitled to attorney fees and costs associated with the violation and deprivation of their civil rights, and any and all damages associated therewith.

FIRST CAUSE OF ACTION

(Fourth Amendment Violations Against all Defendants)

75. The preceding paragraphs are fully incorporated herein by this reference.

76. The Fourth Amendment of the United States Constitution guarantees Plaintiffs the right to be secure in their person and property and protects them from unreasonable searches and seizures.

77. The Supervising Defendants are political subdivisions of the state of Idaho and the Defendant Officers are sued in their individual and official capacities; all Defendants are a "person" as that term is used in 42 U.S.C. § 1983.

78. At all times relevant, the Defendants acted pursuant of their official power and authority granted to them under the color of state law.

79. Defendant Officers arrested Plaintiffs pursuant to their authority granted to them under the color of state law.

80. Plaintiffs' arrest and/or seizure was unlawful as Defendants did not have probable cause, or even reasonable suspicion, to justify the unwarranted seizure of Plaintiffs.

81. By arresting and/or seizing Plaintiffs without a warrant, probable cause, or reasonable suspicion the Officer Defendants violated Plaintiffs' Fourth Amendment Rights to be free of unreasonable searches and seizures.

82. Nancy was never charged with any crime, and Salvadore's criminal charges were later dismissed.

83. Defendants are liable to Plaintiffs for their damages.

84. The violation of Plaintiffs' constitutional rights are attributable to the policies, practices, and or decisions of the Supervisor Defendants.

85. Said policies, practices, and or decisions include, but are not limited to, a deliberate indifference or failure to train Idaho Falls police officers to abstain from engaging in unreasonable and unconstitutional arrests, a deliberate failure to supervise or discipline officers who have engaged in unconstitutional arrests, and a deliberate indifferent failure to adopt policies necessary to prevent its officers from engaging in unconstitutional arrests.

86. Plaintiffs are entitled to attorney fees and costs for the maintenance of this action pursuant to 42 U.S.C. §1988.

SECOND CAUSE OF ACTION

(Fourth Amendment Violations Against All Defendants)

87. The preceding paragraphs are fully incorporated herein by this reference.

88. The Fourth Amendment of the United States Constitution guarantees Plaintiffs the right to be secure in their person and property and protects them from unreasonable searches and seizures.

89. The Supervising Defendants are political subdivisions of the state of Idaho and the Defendant Officers are sued in their individual and official capacities; all Defendants are a “person” as that term is used in 42 U.S.C. § 1983.

90. At all times relevant, the Defendants acted pursuant of their official power and authority granted to them under the color of state law.

91. Defendant Officers arrested Plaintiffs pursuant to their authority granted to them under the color of state law.

92. This arrest and/or seizure was unconstitutional as it was not justified by probable cause and/or reasonable suspicion, any force used to arrest Plaintiffs was excessive and a violation of the Fourth Amendment.

93. Even if the arrest had been lawful, the amount of force the Officer Defendants used to arrest Plaintiffs was excessive and unreasonable.

94. Officer Overby approached Nancy twice to violently throw her to the ground.

95. Officer Smith then grabbed and restrained Nancy without justification or cause.

96. The other Defendant Officers participated in this unreasonable and excessive force by condoning Nancy being handcuffed and restrained for approximately half an hour despite the fact that she was not even accused of committing a crime.

97. Officer Overby drew his weapon on Salvador without any justification.

98. While Salvador held his hands in the air and was holding still, Officer Overby grabbed him and threw him to the ground.

99. The other Defendant Officers jumped on Salvador’s back to handcuff him and injured his arm and his face.

100. This excessive force violated Plaintiffs' constitutional rights and has caused both any unnecessary amount of pain and suffering.

101. Defendants are liable to Plaintiffs for their damages.

102. The violation of Plaintiffs' constitutional rights are attributable to the policies, practices, and or decisions of the Supervisor Defendants

103. Said policies, practices, and or decisions include, but are not limited to, a deliberate indifference or failure to train Idaho Falls officers on the proper amount of force to use while conducting an arrest, a deliberate indifference or failure to train Idaho Falls officers on the proper amount of force to use on bystanders, a deliberate indifference or failure to train Idaho Falls officers on the proper amount of force to use while conducting an arrest on a person who does not understand English, a deliberate failure to supervise or discipline officers who have engaged in a pattern of excessive force, and a deliberately indifferent failure to adopt policies necessary to prevent its officers from using excessive and unreasonable force to arrest someone who does not understand English.

104. Plaintiffs are entitled to attorney fees and costs for the maintenance of this action pursuant to 42 U.S.C. §1988.

THIRD CAUSE OF ACTION

(Malicious Prosecution Against all Defendants)

105. The preceding paragraphs are fully incorporated herein by this reference.

106. The Fourth Amendment of the United States Constitution guarantees Plaintiffs the right to be secure in their person and property and protects them from unreasonable searches and seizures.

107. The Fourteenth Amendment of the United States Constitution guarantees Plaintiffs' the right to be free from the deprivation of his/her life, liberty, or property without due process of law.

108. Defendants prosecuted Salvador with malice as evidenced by the fact that there was no probable cause for his arrest or prosecution at the time of his arrest.

109. Defendants arrested and prosecuted Salvador for the purpose of denying him his constitutional rights; Specifically, his/her constitutional rights guaranteed by the Fourth and Fourteenth Amendments.

110. Defendants also arrested and prosecuted Salvador for the purpose of justifying and hiding Officer Overby's and the other Officer Defendants' unconstitutional conduct.

111. These charges were later all dismissed in Plaintiff's favor.

112. Defendants' unconstitutional acts and omissions were the proximate cause of Salvador's damages, including the time he spent in jail and his legal fees and costs.

113. At all times relevant, the Defendants acted pursuant to their official power and authority granted to them under the color of state law.

114. Defendants are liable to Salvador for his damages.

115. The violation of Salvador's constitutional rights are attributable to the policies, practices, and or decisions of the Supervisor Defendants.

116. Said policies, practices, and or decisions include, but are not limited to, a deliberate indifference or failure to train officers on when to arrest or prosecute a person, free of malice, a deliberate failure to supervise or discipline officers who have engaged in a pattern of malicious prosecution, and a deliberately indifferent failure to adopt policies necessary to prevent its officers from engaging in malicious prosecution.

117. Plaintiffs are entitled to attorney fees and costs for the maintenance of this action pursuant to 42 U.S.C. §1988.

FOURTH CAUSE OF ACTION

(Failure to Train Against the Supervisor Defendants)

118. The preceding paragraphs are realleged and fully incorporated herein by this reference.

119. The United States Constitution guarantees the right to be free from unreasonable searches and seizures.

120. The Fourth and Fourteenth Amendment of the United States Constitution guarantees the right to be free from the deprivation of life, liberty, or property without due process of law.

121. The Supervisor Defendants employed the Officer Defendants at all times relevant.

122. The Supervisor Defendants are responsible for the training supervision and formulation of policies or practices related to the conduct of the Officer Defendants.

123. The Supervisor Defendants failed to provide their officers with adequate training regarding, but not limited to: the necessity of probable cause for an arrest; the necessity of reasonable suspicion for a seizure; the use of force on individuals who are bystanders or who don't understand English; and to abstain from prosecuting suspects without probable cause.

124. The Supervisor Defendants failed to properly train and supervise the Officer Defendants so as to prevent them from violating Savador's constitutional rights.

125. The Supervisor Defendants failed to protect Plaintiffs from the Officer Defendants' unconstitutional conduct.

126. It was reasonably foreseeable that the Supervisor Defendants' failure to properly train and supervise the Officer Defendants' would result in harm, including, but not limited to, the deprivation of Plaintiffs' constitutional rights.

127. The Supervisor Defendants' deliberate indifferent training was the moving force, and direct cause, of Plaintiffs' constitutional violations.

128. Accordingly, the Supervisor Defendants' actions were also in violation of the Fourth and Fourteenth Amendments and caused Plaintiffs' damages.

FIFTH CAUSE OF ACTION

(Lack of Policy or Unconstitutional Policy and Practice Against Supervisor Defendants)

129. The preceding paragraphs are realleged and fully incorporated herein by this reference.

130. The United States Constitution guarantees the right to be free from unreasonable searches and seizures.

131. The Fourth and Fourteenth Amendment of the United States Constitution guarantees Plaintiffs the right to be free from the deprivation of his/her life, liberty, or property without due process of law.

132. Supervisor Defendants employed the Officer Defendants at all times relevant.

133. The Supervisor Defendants are responsible for the training supervision and formulation of policies or practices related to the conduct of the Officer Defendants.

134. The Supervisor Defendants' were deliberately indifferent in their failure to implement or change policies regarding, but not limited to: the necessity of probable

cause for an arrest; the necessity of reasonable suspicion for a seizure; the use of force on bystanders to an arrest; the use of force in restraining an individual who does not understand English, and to abstain from prosecuting suspects without probable cause.

135. The Supervisor Defendants failed to implement or change policies or customs so as to prevent the Defendant Officers from violating Plaintiffs' constitutional rights.

136. The Supervisor Defendants failed to protect Plaintiffs from the Officer Defendants' unconstitutional conduct.

137. It was reasonably foreseeable that the Supervisor Defendants' failure to properly implement or change policies or customs sufficient to protect people's constitutional rights would result in harm, including, but not limited to, the deprivation of Plaintiffs' constitutional rights.

138. The Supervisor Defendants' failure to implement or change policies or customs was the moving force, and direct cause, of Plaintiffs' constitutional violations.

139. Accordingly, the Supervisor Defendants' actions were also in violation of the Fourth and Fourteenth Amendments and caused Plaintiffs' damages.

SIXTH CAUSE OF ACTION

(Failure to Intervene Against All Defendant Officers)

140. The preceding paragraphs are realleged and fully incorporated herein by this reference.

141. The United States Constitution guarantees the right to be free from unreasonable searches and seizures.

142. The Fourth and Fourteenth Amendment of the United States Constitution guarantees Plaintiffs the right to be free from the deprivation of his/her life, liberty, or property without due process of law.

143. The Officer Defendants had an obligation to intervene to prevent other law enforcement officers from infringing upon the constitutional rights of other citizens, when they have reason to know of said violations have occurred, or said violations are done in their presence.

144. Though Officer Overby was the first on the scene, the other Officer Defendants arrived in time to witness his and the other Defendants' unconstitutional conduct.

145. All of the Defendant Officers were made aware of the circumstances surrounding Plaintiffs' arrest, including the fact that it was unconstitutional and not justified by probable cause.

146. Defendant Officers also observed or were made aware that excessive force was being used to seize Plaintiffs.

147. Any of the Defendant Officers could have intervened to stop the other Defendant Officers from violating Plaintiffs' constitutional rights but failed to do so.

SEVENTH CAUSE OF ACTION

(Fourteenth Amendment Violations Against all Defendants)

148. The preceding paragraphs are fully incorporated herein by this reference.

149. The Fourteenth Amendment of the United States Constitution protects Plaintiffs from the deprivation of their life, liberty, or property without due process, and guarantees them equal protection of the law.

150. Officer Defendants immediately learned that Nancy and Salvador were Hispanic, and that Salvador was an undocumented alien from Mexico who did not speak English.
151. Officer Defendants did not believe Nancy and Salvador's explanation that no domestic battery had occurred because they were Hispanic and Salvador was an undocumented alien from Mexico who did not speak English and thereby violated their Fourteenth Amendment right to equal protection of the law.
152. Officer Defendants disregarded both Salvador and Nancy's story, which was largely the same, as well as the fact that Nancy did not show any signs of violence.
153. Officer Defendants said that they believed Nancy was lying and trying to protect Salvador because he was an undocumented alien.
154. Officer Defendants acted under the color of state law, as well as the policies and customs of the other named Defendants.
155. The failure of the Supervisor Defendants to implement an adequate policy or training for its employees who are faced with such a situation caused Plaintiffs' constitutional injuries.
156. This decision/policy caused Plaintiffs' constitutional harm.
157. This decision/policy was made with deliberate indifference to the fact that Plaintiffs' constitutional rights were violated.
158. Defendants' are liable for Plaintiffs' constitutional injuries.
159. Defendants' conduct proximately caused the violation of Plaintiffs' Fourteenth Amendment rights.

160. Plaintiffs are entitled to attorney fees and costs for the maintenance of this action pursuant to 42 U.S.C. §1988.

WHEREFORE, Plaintiff respectfully prays for judgment against Defendants as follows:

1. For recovery of all special and general damages sustained as a direct and proximate result of the illegal actions, violations of constitutional duties, and any other wrongful acts of the Defendants, in a sum exceeding \$10,000;
2. For the recovery of all reasonable costs and attorney's fees pursuant to Federal law, including, but not limited to, 42 U.S.C. § 1988 and 15 U.S.C. § 1681 *et seq.*;
3. For any and all further relief the Court deems just and equitable;
4. Plaintiffs demand a trial by jury in this matter.

DATED this 18th day of April, 2023.

MAY, RAMMELL & WELLS, CHTD.
Attorneys for the Plaintiffs

/s/ Kyle R. May
KYLE R.. MAY

JS 44 (Rev. 04/21)

CIVIL COVER SHEET

The JS 44 civil cover sheet and the information contained herein neither replace nor supplement the filing and service of pleadings or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. (SEE INSTRUCTIONS ON NEXT PAGE OF THIS FORM.)

I. (a) PLAINTIFFS

Salvador Serrato, Nancy Serrato aka Nancy Valenzuela

(b) County of Residence of First Listed Plaintiff Bonneville
(EXCEPT IN U.S. PLAINTIFF CASES)

(c) Attorneys (Firm Name, Address, and Telephone Number)
May, Rammell & Wells, Chtd.

DEFENDANTS

City of Idaho Falls, Idaho Falls Police Department, Chief
Brvce Johnson. Anthony Overbv. Darin Moulton. Dustin
County of Residence of First Listed Defendant Bonneville
(IN U.S. PLAINTIFF CASES ONLY)

NOTE: IN LAND CONDEMNATION CASES, USE THE LOCATION OF
THE TRACT OF LAND INVOLVED.

Attorneys (If Known)

II. BASIS OF JURISDICTION (Place an "X" in One Box Only)

- ☐ 1 U.S. Government Plaintiff
- ☒ 3 Federal Question (U.S. Government Not a Party)
- ☐ 2 U.S. Government Defendant
- ☐ 4 Diversity (Indicate Citizenship of Parties in Item III)

III. CITIZENSHIP OF PRINCIPAL PARTIES (Place an "X" in One Box for Plaintiff and One Box for Defendant)

- | | PTF | DEF | | PTF | DEF |
|---|----------------------------|----------------------------|---|----------------------------|----------------------------|
| Citizen of This State | ☐ 1 | ☐ 1 | Incorporated or Principal Place of Business In This State | ☐ 4 | ☐ 4 |
| Citizen of Another State | ☐ 2 | ☐ 2 | Incorporated and Principal Place of Business In Another State | ☐ 5 | ☐ 5 |
| Citizen or Subject of a Foreign Country | ☐ 3 | ☐ 3 | Foreign Nation | ☐ 6 | ☐ 6 |

IV. NATURE OF SUIT (Place an "X" in One Box Only)Click here for: [Nature of Suit Code Descriptions.](#)

CONTRACT	TORTS	FORFEITURE/PENALTY	BANKRUPTCY	OTHER STATUTES	
☐ 110 Insurance ☐ 120 Marine ☐ 130 Miller Act ☐ 140 Negotiable Instrument ☐ 150 Recovery of Overpayment & Enforcement of Judgment ☐ 151 Medicare Act ☐ 152 Recovery of Defaulted Student Loans (Excludes Veterans) ☐ 153 Recovery of Overpayment of Veteran's Benefits ☐ 160 Stockholders' Suits ☐ 190 Other Contract ☐ 195 Contract Product Liability ☐ 196 Franchise	PERSONAL INJURY ☐ 310 Airplane ☐ 315 Airplane Product Liability ☐ 320 Assault, Libel & Slander ☐ 330 Federal Employers' Liability ☐ 340 Marine ☐ 345 Marine Product Liability ☐ 350 Motor Vehicle ☐ 355 Motor Vehicle Product Liability ☐ 360 Other Personal Injury ☐ 362 Personal Injury - Medical Malpractice	PERSONAL INJURY ☐ 365 Personal Injury - Product Liability ☐ 367 Health Care/Pharmaceutical Personal Injury Product Liability ☐ 368 Asbestos Personal Injury Product Liability LABOR ☐ 370 Other Fraud ☐ 371 Truth in Lending ☐ 380 Other Personal Property Damage ☐ 385 Property Damage Product Liability	☐ 625 Drug Related Seizure of Property 21 USC 881 ☐ 690 Other ☐ 710 Fair Labor Standards Act ☐ 720 Labor/Management Relations ☐ 740 Railway Labor Act ☐ 751 Family and Medical Leave Act ☐ 790 Other Labor Litigation ☐ 791 Employee Retirement Income Security Act IMMIGRATION ☐ 462 Naturalization Application ☐ 465 Other Immigration Actions	☐ 422 Appeal 28 USC 158 ☐ 423 Withdrawal 28 USC 157 INTELLECTUAL PROPERTY RIGHTS ☐ 820 Copyrights ☐ 830 Patent ☐ 835 Patent - Abbreviated New Drug Application ☐ 840 Trademark ☐ 880 Defend Trade Secrets Act of 2016 SOCIAL SECURITY ☐ 861 HIA (1395ff) ☐ 862 Black Lung (923) ☐ 863 DIWC/DIWW (405(g)) ☐ 864 SSID Title XVI ☐ 865 RSI (405(g)) FEDERAL TAX SUITS ☐ 870 Taxes (U.S. Plaintiff or Defendant) ☐ 871 IRS—Third Party 26 USC 7609	☐ 375 False Claims Act ☐ 376 Qui Tam (31 USC 3729(a)) ☐ 400 State Reapportionment ☐ 410 Antitrust ☐ 430 Banks and Banking ☐ 450 Commerce ☐ 460 Deportation ☐ 470 Racketeer Influenced and Corrupt Organizations ☐ 480 Consumer Credit (15 USC 1681 or 1692) ☐ 485 Telephone Consumer Protection Act ☐ 490 Cable/Sat TV ☐ 850 Securities/Commodities/Exchange ☐ 890 Other Statutory Actions ☐ 891 Agricultural Acts ☐ 893 Environmental Matters ☐ 895 Freedom of Information Act ☐ 896 Arbitration ☐ 899 Administrative Procedure Act/Review or Appeal of Agency Decision ☐ 950 Constitutionality of State Statutes
REAL PROPERTY ☐ 210 Land Condemnation ☐ 220 Foreclosure ☐ 230 Rent Lease & Ejectment ☐ 240 Torts to Land ☐ 245 Tort Product Liability ☐ 290 All Other Real Property	CIVIL RIGHTS ☒ 440 Other Civil Rights ☐ 441 Voting ☐ 442 Employment ☐ 443 Housing/Accommodations ☐ 445 Amer. w/Disabilities - Employment ☐ 446 Amer. w/Disabilities - Other ☐ 448 Education	PRISONER PETITIONS Habeas Corpus: ☐ 463 Alien Detainee ☐ 510 Motions to Vacate Sentence ☐ 530 General ☐ 535 Death Penalty Other: ☐ 540 Mandamus & Other ☐ 550 Civil Rights ☐ 555 Prison Condition ☐ 560 Civil Detainee - Conditions of Confinement			

V. ORIGIN (Place an "X" in One Box Only)

- ☒ 1 Original Proceeding
- ☐ 2 Removed from State Court
- ☐ 3 Remanded from Appellate Court
- ☐ 4 Reinstated or Reopened
- ☐ 5 Transferred from Another District (specify)
- ☐ 6 Multidistrict Litigation - Transfer
- ☐ 8 Multidistrict Litigation - Direct File

VI. CAUSE OF ACTION

Cite the U.S. Civil Statute under which you are filing (Do not cite jurisdictional statutes unless diversity):

42 U.S.C. §§1983 and 1988

Brief description of cause:
Civil Right Violation

VII. REQUESTED IN COMPLAINT:

☐ CHECK IF THIS IS A CLASS ACTION UNDER RULE 23, F.R.Cv.P.

DEMAND \$

CHECK YES only if demanded in complaint:

JURY DEMAND: ☒ Yes ☐ No**VIII. RELATED CASE(S) IF ANY**

(See instructions):

JUDGE

DOCKET NUMBER

DATE

SIGNATURE OF ATTORNEY OF RECORD

4-18-2023

FOR OFFICE USE ONLY

RECEIPT #

AMOUNT

APPLYING IFP

JUDGE

MAG. JUDGE

INSTRUCTIONS FOR ATTORNEYS COMPLETING CIVIL COVER SHEET FORM JS 44**Authority For Civil Cover Sheet**

The JS 44 civil cover sheet and the information contained herein neither replaces nor supplements the filings and service of pleading or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. Consequently, a civil cover sheet is submitted to the Clerk of Court for each civil complaint filed. The attorney filing a case should complete the form as follows:

- I.(a) Plaintiffs-Defendants.** Enter names (last, first, middle initial) of plaintiff and defendant. If the plaintiff or defendant is a government agency, use only the full name or standard abbreviations. If the plaintiff or defendant is an official within a government agency, identify first the agency and then the official, giving both name and title.
- (b) County of Residence.** For each civil case filed, except U.S. plaintiff cases, enter the name of the county where the first listed plaintiff resides at the time of filing. In U.S. plaintiff cases, enter the name of the county in which the first listed defendant resides at the time of filing. (NOTE: In land condemnation cases, the county of residence of the "defendant" is the location of the tract of land involved.)
- (c) Attorneys.** Enter the firm name, address, telephone number, and attorney of record. If there are several attorneys, list them on an attachment, noting in this section "(see attachment)".
- II. Jurisdiction.** The basis of jurisdiction is set forth under Rule 8(a), F.R.Cv.P., which requires that jurisdictions be shown in pleadings. Place an "X" in one of the boxes. If there is more than one basis of jurisdiction, precedence is given in the order shown below.
 United States plaintiff. (1) Jurisdiction based on 28 U.S.C. 1345 and 1348. Suits by agencies and officers of the United States are included here.
 United States defendant. (2) When the plaintiff is suing the United States, its officers or agencies, place an "X" in this box.
 Federal question. (3) This refers to suits under 28 U.S.C. 1331, where jurisdiction arises under the Constitution of the United States, an amendment to the Constitution, an act of Congress or a treaty of the United States. In cases where the U.S. is a party, the U.S. plaintiff or defendant code takes precedence, and box 1 or 2 should be marked.
 Diversity of citizenship. (4) This refers to suits under 28 U.S.C. 1332, where parties are citizens of different states. When Box 4 is checked, the citizenship of the different parties must be checked. (See Section III below; **NOTE: federal question actions take precedence over diversity cases.**)
- III. Residence (citizenship) of Principal Parties.** This section of the JS 44 is to be completed if diversity of citizenship was indicated above. Mark this section for each principal party.
- IV. Nature of Suit.** Place an "X" in the appropriate box. If there are multiple nature of suit codes associated with the case, pick the nature of suit code that is most applicable. Click here for: [Nature of Suit Code Descriptions](#).
- V. Origin.** Place an "X" in one of the seven boxes.
 Original Proceedings. (1) Cases which originate in the United States district courts.
 Removed from State Court. (2) Proceedings initiated in state courts may be removed to the district courts under Title 28 U.S.C., Section 1441.
 Remanded from Appellate Court. (3) Check this box for cases remanded to the district court for further action. Use the date of remand as the filing date.
 Reinstated or Reopened. (4) Check this box for cases reinstated or reopened in the district court. Use the reopening date as the filing date.
 Transferred from Another District. (5) For cases transferred under Title 28 U.S.C. Section 1404(a). Do not use this for within district transfers or multidistrict litigation transfers.
 Multidistrict Litigation – Transfer. (6) Check this box when a multidistrict case is transferred into the district under authority of Title 28 U.S.C. Section 1407.
 Multidistrict Litigation – Direct File. (8) Check this box when a multidistrict case is filed in the same district as the Master MDL docket.
PLEASE NOTE THAT THERE IS NOT AN ORIGIN CODE 7. Origin Code 7 was used for historical records and is no longer relevant due to changes in statute.
- VI. Cause of Action.** Report the civil statute directly related to the cause of action and give a brief description of the cause. **Do not cite jurisdictional statutes unless diversity.** Example: U.S. Civil Statute: 47 USC 553 Brief Description: Unauthorized reception of cable service.
- VII. Requested in Complaint.** Class Action. Place an "X" in this box if you are filing a class action under Rule 23, F.R.Cv.P.
 Demand. In this space enter the actual dollar amount being demanded or indicate other demand, such as a preliminary injunction.
 Jury Demand. Check the appropriate box to indicate whether or not a jury is being demanded.
- VIII. Related Cases.** This section of the JS 44 is used to reference related pending cases, if any. If there are related pending cases, insert the docket numbers and the corresponding judge names for such cases.

Date and Attorney Signature. Date and sign the civil cover sheet.