

**THE UNITED STATES DISTRICT COURT FOR THE
SOUTHERN DISTRICT OF FLORIDA
(MIAMI DIVISION)**

Case No. _____

OMAR KEVON MARQUEZ-OCASIO,	)
	)
Plaintiff,	)
	)
v.	)
	)
SAMARALEE AVECILLAS, individually;	)
JAMES NOLAN, individually; and	)
CITY OF MIAMI BEACH, FLORIDA,	)
	)
Defendants.	)

COMPLAINT AND DEMAND FOR JURY TRIAL

Plaintiff, OMAR KEVON MARQUEZ-OCASIO, sues Defendants SAMARALEE AVECILLAS, JAMES NOLAN, and the CITY OF MIAMI BEACH, FLORIDA, and alleges:

INTRODUCTION

1. This is a civil rights action brought under 42 U.S.C. § 1983 and Florida law arising out of the warrantless arrest and four-day incarceration of a rideshare driver who did nothing more than accept a dispatched trip and drop his passenger at the address she requested.
2. On the evening of December 17, 2024, Plaintiff Omar Kevon Marquez-Ocasio was logged into the Uber Driver application and working in Miami Beach, Florida. He accepted a dispatched trip request, picked up a rider near Lincoln Road Mall, drove her to the destination entered in the application — 336 Collins Avenue — and drove away toward his next dispatched pickup.

3. Unknown to Plaintiff, his passenger, [REDACTED], was the target of a Miami Beach Police Department undercover prostitution operation staged at that address.

4. Minutes after the drop-off, and roughly three blocks away, Plaintiff's vehicle was surrounded by Miami Beach police officers at the 100 block of 5th Street. He was ordered out of his car, handcuffed, and taken to jail. No officer told him why. When he asked, Defendant Sergeant James Nolan told him, in substance, "you look familiar to me, so you're going to jail tonight."

5. Plaintiff was charged with violating section 796.07(2)(d), Florida Statutes. That offense is not committed by transporting a person who happens to be a prostitute. It is committed only by one who directs, takes, or transports a person to a place "with knowledge or reasonable cause to believe that the purpose of such directing, taking, or transporting is prostitution, lewdness, or assignation." Knowledge is an element, not an afterthought.

6. The sworn charging affidavit executed by Defendant Officer Samaralee Avecillas and approved and subscribed by Defendant Sergeant Nolan does not allege a single fact bearing on that element. It describes an undercover negotiation conducted entirely with [REDACTED], by text message and in person, to which Plaintiff was never a party. As to Plaintiff, the affidavit says only that a black Chevrolet Malibu dropped [REDACTED] off, that the driver was identified by Florida driver's license as Plaintiff, and that [REDACTED] told officers Plaintiff "was her friend and he drove her to the date." Nothing more.

7. Worse, the affidavit omitted what Defendants already knew. Plaintiff told the officers at the scene that he was working, that he was logged into the Uber Driver application, and that another rider was waiting on him. One of the officers at the scene took Plaintiff's phone and logged him out of the Uber Driver application at Plaintiff's request so that the waiting rider could be reassigned.

Defendants therefore knew, before they swore out the charging document, that Plaintiff was a rideshare driver on an active shift — and they left that fact out.

8. Defendants also disregarded a contradiction in their own evidence. Their affidavit recites that [REDACTED] told the undercover officer she was traveling from Fort Lauderdale and that "a friend" was driving her, and that she needed to stop at a store along the way. Plaintiff did not drive [REDACTED] from Fort Lauderdale and did not stop at any store with her. He picked her up minutes earlier, in Miami Beach, on a trip dispatched through a smartphone application. Defendants never reconciled the two accounts because they never tried.

9. The consequences were severe. Plaintiff spent approximately four days in custody at the Miami Beach Police Department holding facility and the Turner Guilford Knight Correctional Center. He was required to post bond. His vehicle and personal property were seized and not returned until a county court judge ordered their return nearly four months later. The State prosecuted him through first appearance, arraignment, a formal Information, and a trial setting — subpoenaing six Miami Beach police officers — before entering a nolle prosequi on the morning of trial, February 4, 2025. He lost his ability to earn a living as an Uber driver, and he carries a public arrest record for a prostitution offense he did not commit.

10. This action seeks compensatory damages against all Defendants, punitive damages against the individual Defendants, and attorney's fees and costs under 42 U.S.C. § 1988.

PARTIES

11. Plaintiff OMAR KEVON MARQUEZ-OCASIO is an adult individual and a citizen of the United States who at all material times resided in Broward County, Florida, and is otherwise sui juris.

12. Defendant SAMARALEE AVECILLAS was at all material times a sworn law enforcement officer employed by the Miami Beach Police Department, identified in the charging document by Court ID 002-01174, acting under color of the statutes, ordinances, regulations, customs, and usages of the State of Florida and the City of Miami Beach, and within the course and scope of her employment. She is sued in her individual capacity. Defendant AVECILLAS is the officer who executed the jurat on the Complaint/Arrest Affidavit, swearing that the statement it contained was true and correct.

13. Defendant JAMES NOLAN was at all material times a sworn law enforcement officer holding the rank of Sergeant, employed by the Miami Beach Police Department, identified in the charging document by Court ID 002-00063, acting under color of the statutes, ordinances, regulations, customs, and usages of the State of Florida and the City of Miami Beach, and within the course and scope of his employment. He is sued in his individual capacity. Defendant Nolan is the supervisory officer before whom the Complaint/Arrest Affidavit was sworn and subscribed on December 18, 2024, and who, on information and belief, was present at the scene, directed and approved Plaintiff's arrest, and reviewed and approved the charging document.

14. Defendant CITY OF MIAMI BEACH, FLORIDA is a municipal corporation organized under the laws of the State of Florida and located in Miami-Dade County, Florida, with the capacity to sue and be sued. The City of Miami Beach operates, funds, controls, and is responsible for the policies, customs, practices, training, supervision, and discipline of the Miami Beach Police Department and its officers, including Defendants AVECILLAS and Nolan.

15. On information and belief, additional Miami Beach Police Department personnel participated in the undercover operation, the stop, the detention, the arrest, or the preparation of the charging document, including officers identified in the court file as Jonathan Ruiz (ID 002-

02110), Christopher Maldonado Chavez (ID 002-02030), Makin Pomares (ID 002-00767), Whismick Charles (ID 002-01129), and Bernadette Maher (ID 002-00719), each of whom the State subpoenaed as a witness for trial. Plaintiff reserves the right to amend this Complaint to add such individuals as defendants upon completion of discovery.

JURISDICTION AND VENUE

16. This Court has subject-matter jurisdiction over Plaintiff's federal claims under 28 U.S.C. § 1331, because those claims arise under the Constitution and laws of the United States, specifically the Fourth and Fourteenth Amendments and 42 U.S.C. § 1983.

17. This Court has subject-matter jurisdiction over Plaintiff's civil rights claims under 28 U.S.C. § 1343(a)(3), which confers jurisdiction to redress the deprivation, under color of state law, of any right, privilege, or immunity secured by the Constitution of the United States.

18. This Court has supplemental jurisdiction over Plaintiff's state-law claims under 28 U.S.C. § 1367(a), because those claims are so related to the federal claims that they form part of the same case or controversy under Article III of the United States Constitution. The state-law and federal claims arise from the same arrest, the same charging document, and the same prosecution.

19. Venue is proper in the Southern District of Florida under 28 U.S.C. § 1391(b)(1) and (b)(2), because all Defendants reside in this District and because a substantial part — indeed, all — of the events and omissions giving rise to the claims occurred in Miami Beach, Miami-Dade County, Florida. Assignment to the Miami Division is proper under Local Rule 3.1.

CONDITIONS PRECEDENT

20. All conditions precedent to the bringing of this action have been performed, have occurred, have been excused, or have been waived.

21. On December 22, 2025 — within three years of the accrual of Plaintiff's claims — Plaintiff, through undersigned counsel, presented a written notice of claim to the City of Miami Beach pursuant to section 768.28(6)(a), Florida Statutes, addressed to Mayor Steven Meiner at 1700 Convention Center Drive, Miami Beach, Florida 33139. The notice identified the claimant, the date, time, and location of the incident, the officers involved by name and identification number, the nature of the claims asserted, and the damages sought.

22. Contemporaneously, Plaintiff transmitted copies of that notice to the Florida Department of Financial Services, Division of Risk Management, at 200 East Gaines Street, Tallahassee, Florida 32399, directed to Dwayne Jones, Administrator, South Tort Claims Unit, and to Stephen Hall, Administrator, FCR Claims Unit, by Federal Express Priority Overnight delivery, tracking number 8873 1106 3508, shipped December 22, 2025, for delivery on December 23, 2025.

23. The City of Miami Beach acknowledged receipt of Plaintiff's notice of claim on January 6, 2026.

24. More than 180 days have elapsed since Plaintiff presented his notice of claim. Neither the City of Miami Beach nor the Department of Financial Services made a final disposition of Plaintiff's claim within that period. Under section 768.28(6)(d), Florida Statutes, that failure is deemed a final denial of the claim, and Plaintiff's state-law claims are ripe.

25. This action is commenced within the limitations period applicable to Plaintiff's claims, including section 768.28(14), Florida Statutes, as to the state-law claims.

26. Plaintiff's notice of claim also demanded that the City of Miami Beach preserve all documents, reports, communications, audio recordings, and body-worn camera and other video recordings relating to the incident and to Plaintiff's custody, including all such recordings

generated between December 17, 2024, and December 22, 2024 at the Miami Beach Police Department and the Turner Guilford Knight Correctional Center.

FACTUAL ALLEGATIONS

A. Plaintiff Was Working as a Rideshare Driver.

27. On December 17, 2024, Plaintiff was working as an independent rideshare driver for Uber Technologies, Inc. in Miami-Dade County, Florida. He was logged into the Uber Driver application and available to accept dispatched trips.

28. At approximately 6:00 p.m., Plaintiff received and accepted a trip request through the Uber platform.

29. Plaintiff picked up the rider in the vicinity of Lincoln Road Mall in Miami Beach, Florida.

30. The destination entered in the application was 336 Collins Avenue, Miami Beach, Florida.

31. Plaintiff drove the rider to 336 Collins Avenue, dropped her off, and immediately drove away in order to reach his next dispatched rider.

32. Uber's business records reflect the December 17, 2024, trip and the 336 Collins Avenue destination, and Plaintiff has an open support matter with Uber referencing that trip.

33. Plaintiff had never met the rider before that trip. He did not know her name. He was not her friend.

34. The rider said nothing to Plaintiff about prostitution, sexual services, money, or the purpose of her trip. Plaintiff and the rider had no conversation from which any reasonable person could have inferred such a purpose.

35. Plaintiff received no compensation for the trip other than the fare paid through the Uber platform.

36. Plaintiff did not know, and had no reasonable cause to believe, that the purpose of the trip was prostitution, lewdness, or assignation.

B. The Undercover Operation Targeted [REDACTED], Not Plaintiff.

37. On December 17, 2024, Miami Beach Police Department detectives were conducting an undercover operation directed at online advertisements for prostitution.

38. Detectives made contact with a female who had posted an online advertisement. The telephone number in the advertisement was [REDACTED]. Detectives recognized the female in the photographs as [REDACTED], date of birth [REDACTED].

39. An undercover officer exchanged text messages with [REDACTED] and the undercover officer agreed to meet at 336 Collins Avenue.

40. In those text messages, [REDACTED] stated that she was en route from Fort Lauderdale and that a friend was driving her to the meeting. [REDACTED] later stated that she needed to stop at a store to purchase condoms.

41. Plaintiff did not drive [REDACTED] from Fort Lauderdale. Plaintiff did not stop at any store with [REDACTED]. Plaintiff picked [REDACTED] up minutes before the drop-off, in Miami Beach, pursuant to a trip dispatched through the Uber application.

42. Plaintiff was not a party to, and had no knowledge of, any of the communications between [REDACTED] and the undercover officer. Plaintiff's name, telephone number, and vehicle appear nowhere in those communications.

43. When [REDACTED] arrived at 336 Collins Avenue, she exited from the front passenger side of a black Chevrolet Malibu. Officers observed a brief exchange between [REDACTED] and the driver, after which the vehicle immediately departed the area.

44. No officer overheard, recorded, or documented the content of that brief exchange.

45. [REDACTED] then met the undercover officer in the front lobby of the hotel and offered to exchange sexual services for money. A takedown signal was given and [REDACTED] was taken into custody. [REDACTED] was charged with a felony offense.

46. At no time did any officer observe Plaintiff engage in any negotiation, accept any payment, wait for [REDACTED], return for [REDACTED], or take any other action suggesting knowledge of or participation in any prostitution offense.

C. Defendants Seized and Arrested Plaintiff Without Probable Cause.

47. At approximately 6:15 p.m. on December 17, 2024, Miami Beach Police Department officers, including a Special Enforcement Team, initiated a traffic stop of the black Chevrolet Malibu at the 100 block of 5th Street, Miami Beach, Florida 33139.

48. Multiple officers surrounded Plaintiff's vehicle. Plaintiff was ordered out of his car, detained, and handcuffed.

49. Defendants Avecillas and Nolan participated in the stop, detention, and arrest of Plaintiff. Defendant Nolan, a supervisory sergeant, directed and approved Plaintiff's arrest.

50. No officer informed Plaintiff of the reason for the stop, the detention, or the arrest.

51. Plaintiff asked, repeatedly, what he had done and why he was being stopped and detained. Officers refused to tell him.

52. Defendant Nolan stated to Plaintiff, in substance, "you look familiar to me, so you're going to jail tonight."

53. Plaintiff told the officers at the scene that he was working as an Uber driver, that he was logged into the Uber Driver application, and that another rider was waiting to be picked up.

54. After Plaintiff asked multiple times, an officer at the scene logged Plaintiff out of the Uber Driver application so that Plaintiff's waiting rider could be reassigned to another driver.

55. Defendants therefore knew, at the scene and before any charging document was prepared, that Plaintiff was a rideshare driver working an active shift on the Uber platform when he transported [REDACTED].

56. Plaintiff was identified by means of his Florida driver's license as Omar K. Marquez-Ocasio.

57. No weapon was seized from Plaintiff. No contraband was recovered from Plaintiff or his vehicle. Officers recorded no indication that Plaintiff was under the influence of alcohol or any drug.

58. [REDACTED] told officers that Plaintiff was her friend and that he drove her to the date. [REDACTED] did not tell officers that Plaintiff knew the purpose of the trip, and no officer documented any such statement.

59. Plaintiff was taken into custody, transported to the Miami Beach Police Department holding facility, and then to the Turner Guilford Knight Correctional Center.

60. Plaintiff's vehicle and personal property were seized and impounded incident to the arrest.

D. The Sworn Charging Document Omitted Material Exculpatory Facts.

61. On December 18, 2024, a Complaint/Arrest Affidavit was executed bearing Police Case No. 202400126147 and Jail No. 240168222, charging Plaintiff with one count of violating section 796.07(2)(d), Florida Statutes, a second-degree misdemeanor.

62. Defendant Avecillas signed the affidavit under the certification, "I swear that the above statement is true and correct."

63. Defendant Nolan signed the affidavit as the undersigned authority before whom the affidavit was sworn to and subscribed on December 18, 2024. On information and belief, Defendant Nolan reviewed, approved, and adopted the contents of the affidavit as the supervisor responsible for the arrest, and caused the charge to be filed.

64. Section 796.07(2)(d), Florida Statutes, makes it unlawful "[t]o direct, take, or transport, or to offer or agree to direct, take, or transport, any person to any place, structure, or building, or to any other person, with knowledge or reasonable cause to believe that the purpose of such directing, taking, or transporting is prostitution, lewdness, or assignation."

65. Knowledge or reasonable cause to believe that the purpose of the transportation is prostitution, lewdness, or assignation is an essential element of the offense. Transporting a person who is separately engaged in prostitution, without more, is not a crime under Florida law.

66. The affidavit contains no allegation, and no fact from which it could be inferred, that Plaintiff knew or had reasonable cause to believe that the purpose of the trip was prostitution, lewdness, or assignation.

67. The affidavit's narrative concerns communications and conduct between the undercover officer and [REDACTED] alone. As to Plaintiff, it recites only that [REDACTED] exited a black Chevrolet Malibu, that the vehicle departed, that a traffic stop was conducted, that Plaintiff was identified by his driver's license, and that [REDACTED] said Plaintiff was her friend who drove her to the date.

68. The affidavit omitted material exculpatory facts then known to Defendants, including: (a) that Plaintiff told officers at the scene he was working as an Uber driver and was logged into the Uber Driver application; (b) that an officer at the scene logged Plaintiff out of the Uber Driver

application at Plaintiff's request because another rider was waiting; (c) that the trip was dispatched to Plaintiff through a smartphone application rather than arranged privately; (d) that [REDACTED]'s own account to the undercover officer described a driver bringing her from Fort Lauderdale and stopping at a store, which was irreconcilable with Plaintiff's short dispatched trip within Miami Beach; and (e) that no evidence of any kind connected Plaintiff to [REDACTED]'s advertisement, her negotiations, or her purpose.

69. Defendants made these omissions knowingly and intentionally, or with reckless disregard for the truth.

70. Had the omitted facts been included, the affidavit would not have established probable cause, and no reasonable officer could have believed it did.

71. The affidavit was the sole basis for Plaintiff's booking, for the setting of bond, for his continued detention, and for the State's decision to institute and continue criminal proceedings against him.

72. Neither Defendant conducted any investigation into whether Plaintiff knew the purpose of the trip before swearing to, approving, and filing the charging document. Neither Defendant reviewed available Uber trip records, requested them, or made any inquiry of Uber. Neither Defendant reviewed the body-worn camera recordings of the stop before charging Plaintiff, although the affidavit reflects that body-worn cameras were in use.

E. Plaintiff Was Jailed, Charged, Prosecuted, and Then the Charge Was Abandoned.

73. Plaintiff was booked into custody under Jail No. 240168222 and held at the Turner Guilford Knight Correctional Center.

74. On December 18, 2024, Plaintiff appeared at first appearance and jail arraignment. The Public Defender was appointed, a written plea of not guilty was entered, and bond was set in the amount of \$500.

75. A bond power was issued on December 19, 2024. Plaintiff was released from custody on or about December 21, 2024, after approximately four days in custody. Plaintiff incurred a bond premium and related fees to obtain his release.

76. Plaintiff's criminal case was docketed in the County Court in and for Miami-Dade County, Florida, as Case No. B24028211 (State Case No. 13-2024-MM-028211-0001-01), assigned to the Honorable Marcus Richard Bach Armas.

77. The prosecution proceeded. Plaintiff was arraigned, the State served demands for discovery and for notice of alibi, and the case was set for trial on February 4, 2025.

78. On January 15, 2025, the State issued electronic subpoenas for trial to six Miami Beach Police Department members, including Defendant Avecillas, Jonathan Ruiz, Christopher Maldonado Chavez, Makin Pomares, Whismick Charles, and Bernadette Maher.

79. On January 27, 2025, the State filed an Information against Plaintiff based on the facts sworn to by Defendants.

80. Throughout the pendency of the criminal case, Plaintiff remained subject to the conditions of his bond and was legally obligated to appear in court, restraints on his liberty imposed pursuant to legal process.

81. On February 4, 2025 — the morning trial was scheduled to commence — the State Attorney filed a nolle prosequi, abandoning the charge against Plaintiff. The case was closed the same day and Plaintiff's bond was discharged.

82. The nolle prosequi terminated the criminal proceeding in Plaintiff's favor. It was not the result of any plea, admission, settlement, compromise, restitution, deferred prosecution, diversion, pretrial intervention agreement, or any other arrangement procured by or on behalf of Plaintiff.

83. Plaintiff was never convicted of any offense arising out of the events of December 17, 2024.

84. Plaintiff's seized property was not returned to him upon the dismissal of the charge. Plaintiff was required to move the county court for the return of his personal property, and an order granting the return of that property was not entered until April 9, 2025 — nearly four months after the charge was abandoned.

F. Body-Worn Camera Recordings Exist.

85. The Complaint/Arrest Affidavit reflects that body-worn cameras were in use in connection with Plaintiff's arrest.

86. On information and belief, body-worn camera recordings exist depicting the stop, the detention, Plaintiff's statements that he was working as an Uber driver, Defendant Nolan's statement that Plaintiff looked familiar and would be going to jail, and the officer's act of logging Plaintiff out of the Uber Driver application.

87. Defendant City of Miami Beach was placed on written notice on December 22, 2025, of its obligation to preserve those recordings and all related evidence.

G. The City of Miami Beach Ratified and Enabled Defendant Nolan's Conduct.

88. Defendant Nolan has been the subject of multiple civil actions alleging that he violated the constitutional rights of citizens, including claims of unlawful seizure, false arrest, and the use of unlawful force.

89. Defendant City of Miami Beach has resolved or settled numerous civil rights claims arising out of Defendant Nolan's conduct.

90. Defendant City of Miami Beach had actual knowledge of Defendant Nolan's history of civil rights violations, through the lawsuits filed against him, the settlements it funded, internal affairs complaints, and its own risk management records.

91. Despite that knowledge, Defendant City of Miami Beach did not terminate Defendant Nolan, did not restrict him to administrative or desk duty, did not remove him from field enforcement or vice operations, did not meaningfully retrain him, and did not impose discipline reasonably calculated to prevent repetition of his conduct.

92. By retaining Defendant Nolan in a supervisory field enforcement role with the authority to direct arrests and approve charging documents, and by declining to discipline him, Defendant City of Miami Beach approved and ratified his unconstitutional conduct and the basis for it.

93. On information and belief, Defendant City of Miami Beach maintains a custom or practice, in prostitution-related undercover operations, of arresting persons found in the company of, or transporting, the target of the operation without developing individualized probable cause as to that person's own knowledge or intent, and of charging such persons under section 796.07(2)(d), Florida Statutes, on the basis of transportation alone.

94. On information and belief, Defendant City of Miami Beach fails to train its officers, and in particular officers assigned to vice and undercover prostitution operations, regarding: (a) the knowledge element of section 796.07(2)(d), Florida Statutes; (b) the requirement of individualized probable cause as to each arrestee; and (c) the duty to include known material exculpatory facts in a sworn charging affidavit.

95. The need for such training is obvious. Undercover prostitution operations predictably bring officers into contact with drivers, companions, and bystanders who have no knowledge of the target's activity, and the constitutional consequence of failing to distinguish among them is the arrest of innocent people.

96. These policies, customs, practices, and failures were the moving force behind, and a direct and proximate cause of, the constitutional violations Plaintiff suffered.

H. Damages.

97. As a direct and proximate result of Defendants' conduct, Plaintiff suffered and continues to suffer damages including: loss of liberty and approximately four days of unlawful incarceration; the restraints imposed by bond conditions and compelled court appearances over approximately seven weeks; the cost of his bond premium and related fees; the loss of his vehicle and personal property from December 17, 2024 until April 2025, together with towing, storage, and impound costs; the loss of his employment and earning capacity as a rideshare driver; lost income and lost job opportunities; costs incurred in defending the criminal case and recovering his property; emotional distress; humiliation and extreme embarrassment; anxiety; injury to his reputation, including a publicly accessible arrest record for a prostitution-related offense; and a continuing distrust of law enforcement.

COUNT I

UNREASONABLE SEIZURE AND FALSE ARREST — FOURTH AMENDMENT

42 U.S.C. § 1983

(Against Defendants Avecillas and Nolan)

98. Plaintiff realleges and incorporates by reference paragraphs 1 through 97 as if fully set forth herein.

99. The Fourth Amendment to the United States Constitution, made applicable to the states through the Fourteenth Amendment, secures the right of the people to be free from unreasonable searches and seizures.

100. At all material times, Defendants Avecillas and Nolan acted under color of state law within the meaning of 42 U.S.C. § 1983.

101. Defendants Avecillas and Nolan seized Plaintiff within the meaning of the Fourth Amendment when they stopped his vehicle, surrounded it, ordered him out, handcuffed him, detained him, and arrested him on December 17, 2024.

102. Defendants Avecillas and Nolan arrested Plaintiff without a warrant.

103. Defendants Avecillas and Nolan lacked probable cause to believe that Plaintiff had committed a violation of section 796.07(2)(d), Florida Statutes, or any other criminal offense.

104. The facts known to Defendants at the time of the arrest established, at most, that Plaintiff transported a person who was independently engaged in soliciting prostitution. Those facts established nothing about Plaintiff's knowledge or reasonable cause to believe that the purpose of the trip was prostitution, lewdness, or assignation — the element that distinguishes the offense from lawful conduct.

105. Defendants also lacked arguable probable cause. No reasonable officer in Defendants' position, knowing that Plaintiff had identified himself as a rideshare driver on an active shift and having personally logged him out of the Uber Driver application so his next rider could be reassigned, could have believed there was probable cause to arrest Plaintiff for knowingly transporting a person for the purpose of prostitution.

106. Defendants ignored readily available exculpatory information and declined to conduct even a minimal investigation into the element of knowledge before arresting Plaintiff.

107. Defendant Nolan's statement that Plaintiff looked "familiar" and would therefore "go to jail tonight," together with Defendants' refusal to state any basis for the stop or arrest, demonstrates that the arrest rested on something other than probable cause.

108. Defendant Nolan is additionally liable as a supervisor because he personally participated in and directed Plaintiff's arrest, and because he approved and subscribed the charging document that continued Plaintiff's seizure.

109. At the time of Plaintiff's arrest, it was clearly established that a warrantless arrest without probable cause violates the Fourth Amendment, and that an officer may not arrest a person for an offense containing a knowledge element where no fact known to the officer supports that element. No reasonable officer could have believed the conduct alleged here was lawful.

110. Defendants' conduct was objectively unreasonable, and was undertaken intentionally, willfully, wantonly, maliciously, and with reckless or callous indifference to Plaintiff's federally protected rights, entitling Plaintiff to punitive damages against Defendants Avecillas and Nolan in their individual capacities.

111. As a direct and proximate result of Defendants' unlawful seizure and false arrest, Plaintiff suffered the damages described above.

COUNT II

MALICIOUS PROSECUTION — FOURTH AMENDMENT

42 U.S.C. § 1983

(Against Defendants Avecillas and Nolan)

112. Plaintiff realleges and incorporates by reference paragraphs 1 through 97 as if fully set forth herein.

113. At all material times, Defendants Avecillas and Nolan acted under color of state law within the meaning of 42 U.S.C. § 1983.

114. On December 18, 2024, Defendants Avecillas and Nolan instituted criminal proceedings against Plaintiff by executing, swearing to, subscribing, approving, and causing to be filed a Complaint/Arrest Affidavit charging Plaintiff with violating section 796.07(2)(d), Florida Statutes.

115. Defendants were the legal cause of the criminal proceeding against Plaintiff. The charging affidavit they created was the only evidentiary basis presented to the State Attorney and to the county court, and Defendants knew it would be relied upon in deciding whether to detain, charge, and prosecute Plaintiff.

116. The affidavit contained material misstatements and material omissions, made knowingly or with reckless disregard for the truth, as described above. Setting aside those misstatements and including the omitted facts, the affidavit does not establish probable cause.

117. By omitting the facts establishing that Plaintiff was a rideshare driver executing a dispatched trip, Defendants misled the State Attorney and the court, and Defendants' misconduct was not cured by any independent decision of the prosecutor.

118. Defendants lacked probable cause to institute or to continue the criminal proceeding against Plaintiff at any point.

119. Defendants acted with malice. Malice is demonstrated by, among other things, Defendant Nolan's statement that Plaintiff looked "familiar" and would therefore "go to jail tonight"; Defendants' refusal to tell Plaintiff why he was being detained and arrested; Defendants' deliberate omission from the sworn affidavit of the exculpatory facts they learned at the scene; and

Defendants' failure to undertake any investigation of the knowledge element. Malice may also be inferred from the complete absence of probable cause.

120. As a result of the legal process Defendants set in motion, Plaintiff was seized: he was held in custody for approximately four days, required to post bond, subjected to bond conditions, and compelled to appear in court until February 4, 2025. Each of these restraints was a seizure effected pursuant to legal process and unsupported by probable cause.

121. The criminal proceeding terminated in Plaintiff's favor and without a conviction when the State Attorney entered a nolle prosequi on February 4, 2025.

122. At the time of Defendants' conduct, it was clearly established that a law enforcement officer violates the Fourth Amendment by initiating or continuing a criminal prosecution through a warrant application or charging affidavit that the officer knows contains material falsehoods or that omits material exculpatory facts, where the corrected affidavit would not establish probable cause.

123. Defendants' conduct was intentional, willful, wanton, malicious, and undertaken with reckless or callous indifference to Plaintiff's federally protected rights, entitling Plaintiff to punitive damages against Defendants Avecillas and Nolan in their individual capacities.

124. As a direct and proximate result of Defendants' malicious prosecution of Plaintiff, Plaintiff suffered the damages described above.

COUNT III

MUNICIPAL LIABILITY — 42 U.S.C. § 1983

(Against Defendant City of Miami Beach)

125. Plaintiff realleges and incorporates by reference paragraphs 1 through 97 as if fully set forth herein.

126. Defendant City of Miami Beach is a municipal entity subject to suit under 42 U.S.C. § 1983 for constitutional violations caused by its official policies, customs, or practices, and by its deliberate indifference to the constitutional rights of persons with whom its officers come into contact.

127. Plaintiff suffered violations of his Fourth Amendment rights as alleged in Counts I and II.

Ratification and Failure to Discipline.

128. Defendant City of Miami Beach had actual or constructive knowledge that Defendant Nolan had repeatedly been accused of, sued for, and found to have engaged in conduct violating the constitutional rights of citizens, and the City settled or otherwise resolved multiple such claims.

129. Notwithstanding that knowledge, the City's final policymakers declined to terminate, discipline, retrain, reassign, or restrict Defendant Nolan, and instead continued to entrust him with supervisory field enforcement authority, including the authority to direct arrests and to approve sworn charging documents.

130. The City's decision to retain Defendant Nolan in that role, with knowledge of his history, constituted approval and ratification of his unconstitutional conduct and of the basis for it, and communicated to Defendant Nolan and to other officers that such conduct would be tolerated.

Custom or Practice.

131. Defendant City of Miami Beach maintains a persistent and widespread custom or practice, in prostitution-related undercover operations, of arresting and charging drivers and companions of the operation's target without developing individualized probable cause as to that person's own knowledge or intent.

132. That custom or practice is so settled and permanent as to have the force of law, and the City's final policymakers knew or should have known of it.

Failure to Train and Supervise.

133. Defendant City of Miami Beach failed to adequately train and supervise its officers regarding the knowledge element of section 796.07(2)(d), Florida Statutes, the requirement of individualized probable cause, and the duty to include known material exculpatory facts in a sworn charging affidavit.

134. The need for such training is obvious given the recurring circumstances of undercover prostitution operations, and the City's failure to provide it reflects deliberate indifference to the rights of the persons its officers predictably encounter in those operations.

135. The City's policies, customs, practices, ratification, and failures to train, supervise, and discipline were the moving force behind and a direct and proximate cause of the violations of Plaintiff's Fourth Amendment rights.

136. As a direct and proximate result, Plaintiff suffered the damages described above. Plaintiff does not seek punitive damages against Defendant City of Miami Beach.

COUNT IV

FALSE ARREST AND FALSE IMPRISONMENT UNDER FLORIDA LAW

(Against Defendant City of Miami Beach, and, Pleaded in the Alternative,

Against Defendants Avecillas and Nolan)

137. Plaintiff realleges and incorporates by reference paragraphs 1 through 97 as if fully set forth herein.

138. This Count is pleaded in the alternative as permitted by Federal Rule of Civil Procedure 8(d), in light of section 768.28(9)(a), Florida Statutes.

139. On December 17, 2024, Defendants Avecillas and Nolan intentionally and unlawfully restrained Plaintiff's freedom of movement by stopping, detaining, handcuffing, arresting, and jailing him without lawful authority.

140. The restraint was unreasonable and unwarranted under the circumstances, because Defendants lacked probable cause to believe Plaintiff had committed any criminal offense.

141. Plaintiff was aware of the restraint and did not consent to it.

142. Plaintiff was detained at the Miami Beach Police Department holding facility and at the Turner Guilford Knight Correctional Center for approximately four days, and thereafter remained restrained by bond conditions until February 4, 2025.

143. At all material times, Defendants Avecillas and Nolan were employees of Defendant City of Miami Beach acting within the course and scope of their employment and in furtherance of the City's interests.

144. Accordingly, Defendant City of Miami Beach is liable for the false arrest and false imprisonment of Plaintiff under section 768.28, Florida Statutes, and the doctrine of respondeat superior.

145. In the alternative, and only in the event it is determined that Defendants Avecillas and Nolan acted in bad faith, with malicious purpose, or in a manner exhibiting wanton and willful disregard of Plaintiff's human rights, safety, or property within the meaning of section 768.28(9)(a), Florida Statutes, Plaintiff asserts this Count directly against Defendants Avecillas and Nolan in their individual capacities.

146. As a direct and proximate result, Plaintiff suffered the damages described above.

COUNT V

MALICIOUS PROSECUTION UNDER FLORIDA LAW

(Against Defendant City of Miami Beach, and, Plead in the Alternative,

Against Defendants Avecillas and Nolan)

147. Plaintiff realleges and incorporates by reference paragraphs 1 through 97 as if fully set forth herein.

148. This Count is pleaded in the alternative as permitted by Federal Rule of Civil Procedure 8(d), in light of section 768.28(9)(a), Florida Statutes.

149. An original criminal proceeding was commenced against Plaintiff in the County Court in and for Miami-Dade County, Florida, Case No. B24028211.

150. Defendants Avecillas and Nolan were the legal cause of that proceeding, having executed, sworn to, subscribed, approved, and caused to be filed the charging document upon which the proceeding was based.

151. The criminal proceeding terminated in Plaintiff's favor by the entry of a nolle prosequi on February 4, 2025, which was a bona fide termination and was not the product of any plea, admission, settlement, compromise, restitution, deferred prosecution, diversion, or pretrial intervention agreement.

152. There was no probable cause for the criminal proceeding.

153. Defendants acted with malice in instituting and continuing the criminal proceeding, as evidenced by Defendant Nolan's statement that Plaintiff looked "familiar" and would therefore "go to jail tonight," by Defendants' refusal to state any basis for the arrest, and by Defendants' knowing or reckless omission of exculpatory facts from the sworn charging document. Malice may also be inferred from the absence of probable cause.

154. Plaintiff suffered damage as a result of the criminal proceeding.

155. At all material times, Defendants Avecillas and Nolan were employees of Defendant City of Miami Beach acting within the course and scope of their employment, and Defendant City of Miami Beach is liable under section 768.28, Florida Statutes, and the doctrine of respondeat superior.

156. In the alternative, and only in the event it is determined that Defendants Avecillas and Nolan acted in bad faith, with malicious purpose, or in a manner exhibiting wanton and willful disregard of Plaintiff's human rights, safety, or property within the meaning of section 768.28(9)(a), Florida Statutes, Plaintiff asserts this Count directly against Defendants Avecillas and Nolan in their individual capacities.

157. As a direct and proximate result, Plaintiff suffered the damages described above.

PRAYER FOR RELIEF

WHEREFORE, Plaintiff OMAR KEVON MARQUEZ-OCASIO respectfully requests that this Court enter judgment in his favor and against Defendants, and award the following relief:

- A. Compensatory damages against all Defendants, in an amount to be determined by the jury, for loss of liberty, wrongful incarceration, lost income and earning capacity, out-of-pocket losses including bond premiums and impound and storage costs, emotional distress, humiliation, embarrassment, anxiety, and injury to reputation;
- B. Punitive damages against Defendants Samaralee Avecillas and James Nolan, in their individual capacities, in an amount sufficient to punish and deter their willful, wanton, and malicious conduct; no punitive damages are sought against Defendant City of Miami Beach;
- C. Reasonable attorney's fees and costs pursuant to 42 U.S.C. § 1988(b);
- D. Costs of suit pursuant to 28 U.S.C. § 1920 and Federal Rule of Civil Procedure 54(d);

- E. Prejudgment and post-judgment interest as permitted by law; and
- F. Such other and further relief as this Court deems just and proper.

DEMAND FOR JURY TRIAL

Pursuant to Federal Rule of Civil Procedure 38(b), Plaintiff demands a trial by jury on all issues so triable.

Dated: August 15, 2026.

Respectfully submitted,

/s/ Benjamin M. Kurtz

Benjamin Matthew Kurtz, Esquire

Florida Bar No. 1025933

KURTZ, PETERS & ASSOCIATES LLC

350 Camino Gardens Blvd., Suite 300

Boca Raton, Florida 33432

Ph: (301) 685-3911 Fx: (301) 685-3674

bkurtz@kurtzandpeters.com

AO 440 (Rev. 06/12) Summons in a Civil Action

UNITED STATES DISTRICT COURT
for the
Southern District of Florida
Miami Division

OMAR KEVON MARQUEZ-OCASIO,	)	
	)	
Plaintiff,	)	
	)	
v.	)	Civil Action No. _____
	)	
SAMARALEE AVECILLAS, individually;	)	
JAMES NOLAN, individually; and	)	
CITY OF MIAMI BEACH, FLORIDA,	)	
	)	
Defendants.	)	

SUMMONS IN A CIVIL ACTION

To: *(Defendant's name and address)*

SAMARALEE AVECILLAS
c/o Miami Beach Police Department
1100 Washington Avenue
Miami Beach, Florida 33139

A lawsuit has been filed against you.

Within 21 days after service of this summons on you (not counting the day you received it) — or 60 days if you are the United States or a United States agency, or an officer or employee of the United States described in Fed. R. Civ. P. 12 (a)(2) or (3) — you must serve on the plaintiff an answer to the attached complaint or a motion under Rule 12 of the Federal Rules of Civil Procedure. The answer or motion must be served on the plaintiff or plaintiff's attorney, whose name and address are:

Benjamin Matthew Kurtz, Esquire
Florida Bar No. 1025933
KURTZ, PETERS & ASSOCIATES LLC
350 Camino Gardens Blvd., Suite 300
Boca Raton, Florida 33432
Telephone: (301) 685-3911
bkurtz@kurtzandpeters.com

If you fail to respond, judgment by default will be entered against you for the relief demanded in the complaint. You also must file your answer or motion with the court.

CLERK OF COURT

Date: _____

Signature of Clerk or Deputy Clerk

AO 440 (Rev. 06/12) Summons in a Civil Action (Page 2)

Civil Action No. _____

PROOF OF SERVICE

(This section should not be filed with the court unless required by Fed. R. Civ. P. 4 (l))

This summons for *(name of individual and title, if any)* Samaralee Avecillas
was received by me on (date) _____.

☐ I personally served the summons on the individual at (place) _____
on (date) _____; or

☐ I left the summons at the individual's residence or usual place of abode with (name) _____
_____, a person of suitable age and discretion who resides there,
on (date) _____, and mailed a copy to the individual's last known address; or

☐ I served the summons on (name of individual) _____, who is
designated by law to accept service of process on behalf of (name of organization) _____
_____ on (date) _____; or

☐ I returned the summons unexecuted because _____; or

☐ Other (specify): _____

My fees are \$_____ for travel and \$_____ for services, for a total of \$_____.

I declare under penalty of perjury that this information is true.

Date: _____

Server's signature

Printed name and title

Server's address

Additional information regarding attempted service, etc:

AO 440 (Rev. 06/12) Summons in a Civil Action

UNITED STATES DISTRICT COURT
for the
Southern District of Florida
Miami Division

OMAR KEVON MARQUEZ-OCASIO,	)	
	)	
Plaintiff,	)	
	)	
v.	)	Civil Action No. _____
	)	
SAMARALEE AVECILLAS, individually;	)	
JAMES NOLAN, individually; and	)	
CITY OF MIAMI BEACH, FLORIDA,	)	
	)	
Defendants.	)	

SUMMONS IN A CIVIL ACTION

To: *(Defendant's name and address)*

JAMES NOLAN
c/o Miami Beach Police Department
1100 Washington Avenue
Miami Beach, Florida 33139

A lawsuit has been filed against you.

Within 21 days after service of this summons on you (not counting the day you received it) — or 60 days if you are the United States or a United States agency, or an officer or employee of the United States described in Fed. R. Civ. P. 12 (a)(2) or (3) — you must serve on the plaintiff an answer to the attached complaint or a motion under Rule 12 of the Federal Rules of Civil Procedure. The answer or motion must be served on the plaintiff or plaintiff's attorney, whose name and address are:

Benjamin Matthew Kurtz, Esquire
Florida Bar No. 1025933
KURTZ, PETERS & ASSOCIATES LLC
350 Camino Gardens Blvd., Suite 300
Boca Raton, Florida 33432
Telephone: (301) 685-3911
bkurtz@kurtzandpeters.com

If you fail to respond, judgment by default will be entered against you for the relief demanded in the complaint. You also must file your answer or motion with the court.

CLERK OF COURT

Date: _____

Signature of Clerk or Deputy Clerk

AO 440 (Rev. 06/12) Summons in a Civil Action (Page 2)

Civil Action No. _____

PROOF OF SERVICE

(This section should not be filed with the court unless required by Fed. R. Civ. P. 4 (l))

This summons for *(name of individual and title, if any)* James Nolan
was received by me on (date) _____.

☐ I personally served the summons on the individual at (place) _____
on (date) _____; or

☐ I left the summons at the individual's residence or usual place of abode with (name) _____
_____, a person of suitable age and discretion who resides there,
on (date) _____, and mailed a copy to the individual's last known address; or

☐ I served the summons on (name of individual) _____, who is
designated by law to accept service of process on behalf of (name of organization) _____
_____ on (date) _____; or

☐ I returned the summons unexecuted because _____; or

☐ Other (specify): _____

My fees are \$_____ for travel and \$_____ for services, for a total of \$_____.

I declare under penalty of perjury that this information is true.

Date: _____

Server's signature

Printed name and title

Server's address

Additional information regarding attempted service, etc:

AO 440 (Rev. 06/12) Summons in a Civil Action

UNITED STATES DISTRICT COURT
for the
Southern District of Florida
Miami Division

OMAR KEVON MARQUEZ-OCASIO,	)	
	)	
Plaintiff,	)	
	)	
v.	)	Civil Action No. _____
	)	
SAMARALEE AVECILLAS, individually;	)	
JAMES NOLAN, individually; and	)	
CITY OF MIAMI BEACH, FLORIDA,	)	
	)	
Defendants.	)	

SUMMONS IN A CIVIL ACTION

To: *(Defendant's name and address)*

CITY OF MIAMI BEACH, FLORIDA
c/o Rafael E. Granado, City Clerk
Miami Beach City Hall
1700 Convention Center Drive
Miami Beach, Florida 33139

A lawsuit has been filed against you.

Within 21 days after service of this summons on you (not counting the day you received it) — or 60 days if you are the United States or a United States agency, or an officer or employee of the United States described in Fed. R. Civ. P. 12 (a)(2) or (3) — you must serve on the plaintiff an answer to the attached complaint or a motion under Rule 12 of the Federal Rules of Civil Procedure. The answer or motion must be served on the plaintiff or plaintiff's attorney, whose name and address are:

Benjamin Matthew Kurtz, Esquire
Florida Bar No. 1025933
KURTZ, PETERS & ASSOCIATES LLC
350 Camino Gardens Blvd., Suite 300
Boca Raton, Florida 33432
Telephone: (301) 685-3911
bkurtz@kurtzandpeters.com

If you fail to respond, judgment by default will be entered against you for the relief demanded in the complaint. You also must file your answer or motion with the court.

CLERK OF COURT

Date: _____

Signature of Clerk or Deputy Clerk

AO 440 (Rev. 06/12) Summons in a Civil Action (Page 2)

Civil Action No. _____

PROOF OF SERVICE

(This section should not be filed with the court unless required by Fed. R. Civ. P. 4 (l))

This summons for *(name of individual and title, if any)* City of Miami Beach, Florida
was received by me on (date) _____.

☐ I personally served the summons on the individual at (place) _____
on (date) _____; or

☐ I left the summons at the individual's residence or usual place of abode with (name) _____
_____, a person of suitable age and discretion who resides there,
on (date) _____, and mailed a copy to the individual's last known address; or

☐ I served the summons on (name of individual) _____, who is
designated by law to accept service of process on behalf of (name of organization) _____
_____ on (date) _____; or

☐ I returned the summons unexecuted because _____; or

☐ Other (specify): _____

My fees are \$_____ for travel and \$_____ for services, for a total of \$_____.

I declare under penalty of perjury that this information is true.

Date: _____

Server's signature

Printed name and title

Server's address

Additional information regarding attempted service, etc:

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.) **NOTICE: Attorneys MUST Indicate All Re-filed Cases Below.**

I. (a) PLAINTIFFS

OMAR KEVON MARQUEZ-OCASIO

DEFENDANTS

AVECILLAS, SAMARALEE, individually NOI

(b) County of Residence of First Listed Plaintiff **Broward County, Florida**
(EXCEPT IN U.S. PLAINTIFF CASES)

County of Residence of First Listed Defendant **Miami Dade County, Florida**
(IN U.S. PLAINTIFF CASES ONLY)

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

(c) Attorneys (Firm Name, Address, and Telephone Number)

Attorneys (If Known)

Benjamin Matthew Kurtz, Esquire (Fla. Bar No. 1025933) KURTZ, PE

(d) Check County Where Action Arose: ☒ MIAMI-DADE ☐ MONROE ☐ BROWARD ☐ PALM BEACH ☐ MARTIN ☐ ST. LUCIE ☐ INDIAN RIVER ☐ OKEECHOBEE ☐ HIGHLANDS

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

- ☐ 1 U.S. Government Plaintiff
- ☐ 2 U.S. Government Defendant
- ☒ 3 Federal Question
(U.S. Government Not a Party)
- ☐ 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	PERSONAL INJURY	☐ 625 Drug Related Seizure of Property 21 USC 881	☐ 422 Appeal 28 USC 158	☐ 375 False Claims Act
☐ 120 Marine	☐ 310 Airplane	☐ 690 Other	☐ 423 Withdrawal 28 USC 157	☐ 376 Qui Tam (31 USC 3729(a))
☐ 130 Miller Act	☐ 315 Airplane Product Liability	☐ 365 Personal Injury - Product Liability	INTELLECTUAL PROPERTY RIGHTS	☐ 400 State Reapportionment
☐ 140 Negotiable Instrument	☐ 320 Assault, Libel & Slander	☐ 367 Health Care/ Pharmaceutical Personal Injury Product Liability	☐ 820 Copyrights	☐ 410 Antitrust
☐ 150 Recovery of Overpayment & Enforcement of Judgment	☐ 330 Federal Employers' Liability	☐ 368 Asbestos Personal Injury Product Liability	☐ 830 Patent	☐ 430 Banks and Banking
☐ 151 Medicare Act	☐ 340 Marine	PERSONAL PROPERTY	☐ 835 Patent - Abbreviated New Drug Application	☐ 450 Commerce
☐ 152 Recovery of Defaulted Student Loans (Excl. Veterans)	☐ 345 Marine Product Liability	☐ 370 Other Fraud	☐ 840 Trademark	☐ 460 Deportation
☐ 153 Recovery of Overpayment of Veteran's Benefits	☐ 350 Motor Vehicle	☐ 371 Truth in Lending	☐ 880 Defend Trade Secrets Act of 2016	☐ 470 Racketeer Influenced and Corrupt Organizations
☐ 160 Stockholders' Suits	☐ 355 Motor Vehicle Product Liability	☐ 380 Other Personal Property Damage	LABOR	☐ 480 Consumer Credit (15 USC 1681 or 1692)
☐ 190 Other Contract	☐ 360 Other Personal Injury	☐ 385 Property Damage Product Liability	☐ 710 Fair Labor Standards Acts	☐ 485 Telephone Consumer Protection Act (TCPA)
☐ 195 Contract Product Liability	☐ 362 Personal Injury - Med. Malpractice	PRISONER PETITIONS	☐ 720 Labor/Mgmt. Relations	☐ 490 Cable/Sat TV
☐ 196 Franchise	☐ 440 Other Civil Rights	Habeas Corpus:	☐ 740 Railway Labor Act	☐ 490 Cable/Sat TV
☐ 210 Land Condemnation	☐ 441 Voting	☐ 463 Alien Detainee	☐ 751 Family and Medical Leave Act	☐ 850 Securities/Commodities/Exchange
☐ 220 Foreclosure	☐ 442 Employment	☐ 510 Motions to Vacate Sentence	☐ 790 Other Labor Litigation	☐ 890 Other Statutory Actions
☐ 230 Rent Lease & Ejectment	☐ 443 Housing/Accommodations	☐ 530 General	☐ 791 Employee Retirement Income Security Act	☐ 891 Agricultural Acts
☐ 240 Torts to Land	☐ 445 Amer. w/Disabilities - Employment	☐ 535 Death Penalty	IMMIGRATION	☐ 893 Environmental Matters
☐ 245 Tort Product Liability	☐ 446 Amer. w/Disabilities - Other	☐ 540 Mandamus & Other	☐ 462 Naturalization Application	☐ 895 Freedom of Information Act
☐ 290 All Other Real Property	☐ 448 Education	☐ 550 Civil Rights	☐ 465 Other Immigration Actions	☐ 896 Arbitration
		☐ 555 Prison Condition		☐ 899 Administrative Procedure Act/Review or Appeal of Agency Decision
		☐ 560 Civil Detainee - Conditions of Confinement		☐ 950 Constitutionality of State Statutes

V. ORIGIN

(Place an "X" in One Box Only)

- ☒ 1 Original Proceeding ☐ 2 Removed from State Court ☐ 3 Re-filed (See VI below) ☐ 4 Reinstated or Reopened ☐ 5 Transferred from another district (specify) ☐ 6 Multidistrict Litigation Transfer ☐ 7 Appeal to District Judge from Magistrate Judgment ☐ 8 Multidistrict Litigation - Direct File ☐ 9 Remanded from Appellate Court

VI. RELATED/ RE-FILED CASE(S)

(See instructions): a) Re-filed Case ☐ YES ☐ NO

b) Related Cases ☐ YES ☐ NO

JUDGE:

DOCKET NUMBER:

Cite the U.S. Civil Statute under which you are filing and Write a Brief Statement of Cause (Do not cite jurisdictional statutes unless diversity):
VII. CAUSE OF ACTION 42 U.S.C. § 1983; U.S. Const. amend. IV. Jurisdiction: 28 U.S.C. §§ 1331, 1343(a)(3), and 1367(a). Warrantless arrest.
LENGTH OF TRIAL via 5 days estimated (for both sides to try entire case)

VIII. REQUESTED IN COMPLAINT:

☐ CHECK IF THIS IS A CLASS ACTION UNDER F.R.C.P. 23

DEMAND \$ +75,000.01

CHECK YES only if demanded in complaint:

JURY DEMAND: ☒ Yes ☐ No

ABOVE INFORMATION IS TRUE & CORRECT TO THE BEST OF MY KNOWLEDGE

DATE SIGNATURE OF ATTORNEY OF RECORD

August 15, 2026

/s/ Benjamin Matthew Kurtz

FOR OFFICE USE ONLY : RECEIPT #

AMOUNT

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.C.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; 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. 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. When the petition for removal is granted, check this box.

Refiled (3) Attach copy of Order for Dismissal of Previous case. Also complete VI.

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. (6) Check this box when a multidistrict case is transferred into the district under authority of Title 28 U.S.C. Section 1407. When this box is checked, do not check (5) above.

Appeal to District Judge from Magistrate Judgment. (7) Check this box for an appeal from a magistrate judge's decision.

Remanded from Appellate Court. (8) Check this box if remanded from Appellate Court.

VI. Related/Refiled Cases. This section of the JS 44 is used to reference related pending cases or re-filed cases. Insert the docket numbers and the corresponding judges name for such cases.

VII. 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

VIII. 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 dollar amount (in thousands of dollars) 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.

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