

**UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF FLORIDA**

Tampa Division

Case No.:

HERIBERTO ALEJANDRO SANCHEZ-MAYEN,

Plaintiff,

v.

CITY OF ST. PETERSBURG, a Municipal
Entity, Officer MICHAEL THACKER of the
St. Petersburg Police Department, in his
individual capacity, and Officer SARAH
GADDIS of the St. Petersburg Police
Department, in her individual capacity,

Defendants.

COMPLAINT AND DEMAND FOR JURY TRIAL

Plaintiff Heriberto Alejandro Sanchez-Mayen (“Mayen”) hereby sues Defendants the City of St. Petersburg, a municipal entity, officer Michael Thacker of the St. Petersburg Police Department, in his individual capacity, and officer Sarah Gaddis of the St. Petersburg Police Department, in her individual capacity.

JURISDICTION AND VENUE

1. This is an action for damages in excess of the required minimal jurisdictional limit of \$75,000.00 (Seventy-Five Thousand Dollars), exclusive of costs, attorneys’ fees and interest, and is otherwise within the jurisdiction of this court.

2. This Court has jurisdiction over the federal claims herein pursuant to 28 U.S.C. §§ 1331 and 1343. Plaintiff brings this action pursuant to 42 U.S.C. § 1983. This Court has supplemental jurisdiction over the state law claims pursuant to 28 U.S.C. § 1367. The federal and

state law claims arise out of a common nucleus of operative facts, and the same evidence will establish both the federal and state law claims.

3. Venue is proper in this district pursuant to 28 U.S.C. 1391(b) because a substantial part of the events or omissions giving rise to the claims brought herein occurred in this district.

4. Attorneys' fees and costs are sought pursuant to 42 U.S.C. § 1988.

5. Plaintiff has complied with all conditions precedent to the filing of this lawsuit.

THE PARTIES

6. Plaintiff Mayen is a resident of Florida, over the age of 18, and is otherwise *sui juris*.

7. Defendant the City of St. Petersburg is a Florida municipality incorporated pursuant to the laws of the State of Florida which, among its other functions, operates and maintains a law enforcement agency known as the St. Petersburg Police Department ("SPPD"). Defendant the City of St. Petersburg receives federal funds. Defendant the City of St. Petersburg, by and through its officials and employees, is under a duty to conduct its policing activities in a lawful manner so as to preserve the peace of the City of St. Petersburg and to preserve for its citizens the rights, privileges and immunities guaranteed and secured to them by the constitutions and the laws of the United States and the State of Florida. Defendant the City of St. Petersburg does not have immunity for violating the civil rights of citizens, and it has waived sovereign immunity for the negligent acts, omissions, or intentional torts of its employees arising out of and in the course and scope of their employment complained of herein pursuant to Florida Statute § 768.28.

8. Defendant Michael Thacker, who is sued in his individual capacity, was, at all times material, a police officer with the SPPD and was, at all times material, acting under the color of state law and within the course and scope of his employment, pursuant to the statutes, ordinances,

regulations, orders, policies, procedures, customs and usages of the State of Florida, the City of St. Petersburg, and/or the SPPD. Upon information and belief, Defendant Michael Thacker is a citizen of Florida, and is a resident of Pinellas County, Florida.

9. Defendant Sarah Gaddis, who is sued in her individual capacity, was, at all times material, a police officer with the SPPD and was, at all times material, acting under the color of state law and within the course and scope of her employment, pursuant to the statutes, ordinances, regulations, orders, policies, procedures, customs and usages of the State of Florida, the City of St. Petersburg, and/or the SPPD. Upon information and belief, Defendant Sarah Gaddis is a citizen of Florida, and is a resident of Pinellas County, Florida.

FACTUAL ALLEGATIONS

10. On June 8, 2023, at approximately 10:27 a.m., Plaintiff Mayen was unlawfully detained and placed under arrest by Defendant Sarah Gaddis of the St. Petersburg Police Department for trespassing in the area of 200-Blk 15th St. N, St. Petersburg, FL 33705. This was a warrantless arrest.

11. At approximately 10:30 a.m., Defendant Michael Thacker arrived at the scene of the arrest in a St. Petersburg Police Department prisoner transport van to transport Plaintiff Mayen to the Pinellas County jail.

12. Upon his arrival, Defendant Michael Thacker restrained Plaintiff Mayen in handcuffs at the front of his body using a metal belly chain—completely restricting the use of his arms—and placed him inside the rear compartment of the St. Petersburg Police Department's prisoner transport van P0927, bearing Florida license plate number XH5156 (the "Transport Van"). Because another arrestee was also being transported in the Transport Van at the same time, Defendant Michael Thacker placed Plaintiff Mayen in a separate compartment of the Transport

Van out of view from the other arrestee and directly behind the rear door of the van, the furthest point from the bulkhead that separated the driver's compartment from the prisoner compartment.

13. While chaining Plaintiff Mayen at the scene of the arrest, Defendant Michael Thacker stated to Plaintiff Mayen that "people like you" should be charged with felonies. Other officers present at the scene agreed.

14. The separate compartment of the Transport Van that Defendant Michael Thacker placed Plaintiff Mayen in contained no seatbelts and nowhere to anchor or tether the handcuffs to.

15. After placing Plaintiff Mayen in the most dangerous possible circumstance—unrestrained without a seatbelt, completely untethered or anchored, in the furthest back position of the Transport Van, and chained to himself so that he was unable to protect his body—Defendant Michael Thacker proceeded to drive the Transport Van in a reckless manner and at an unsafe rate of speed, when suddenly and without warning, he aggressively and deliberately engaged in a hard stop for an alleged red traffic light.

16. Notably, however—just three seconds prior to Defendant Michael Thacker's sudden, aggressive, and deliberate hard stop of the Transport Van's breaks—the other arrestee, who was stationed in a separate prisoner compartment within the Van, had repeatedly kicked the Transport Van's inner wall four times.

17. Plaintiff Mayen had absolutely no warning of the impending stop, and thus Defendant Michael Thacker's sudden, aggressive, and deliberate hard stop caused Plaintiff Mayen to be thrust forward, whereupon Plaintiff Mayen, without any means to protect himself whatsoever, violently struck his head against the metal partition located at the bulkhead of the Transport Van's prisoner compartment in which he was placed.

18. At the time Plaintiff Mayen was thrust forward and caused to violently strike the metal partition at the bulkhead of the Transport Van's prisoner compartment without the ability to protect himself, Defendant Michael Thacker did not have the Transport Van's live stream camera system enabled for the prisoner compartment in which Plaintiff Mayen was stationed. According to Defendant Michael Thacker, however, the loud crash of Plaintiff Mayen striking his head against the bulkhead of the Transport Van caused Defendant Michael Thacker to attempt to view the live stream camera feed, whereupon Defendant Michael Thacker then realized that the camera system was not turned on for the prisoner compartment in which Plaintiff Mayen was stationed. Upon realizing that the live stream camera system was not turned on for the prisoner compartment in which Plaintiff Mayen was stationed, Defendant Michael Thacker then turned it on.

19. After Defendant Michael Thacker turned on the live stream camera system for the passenger compartment in which Plaintiff Mayen was stationed, he observed that Plaintiff Mayen was no longer sitting on the metal bench in the back of the prisoner compartment where he was initially placed following his arrest. Instead, Plaintiff Mayen was now lying face down, motionless, on the floor of the prisoner compartment at the bulkhead of the Transport Van.

20. Despite observing that Plaintiff Mayen was now lying face down, motionless, on the floor, all the way at the front of the Transport Van's prisoner compartment, Defendant Michael Thacker neglected to pull over and evaluate Plaintiff Mayen, as he was required to do pursuant to the St. Petersburg Police Department's General Order No. III-10, entitled "Transporting and Booking Prisoners."

21. Rather than pull over to evaluate Plaintiff Mayen, Defendant Michael Thacker continued to drive the Transport Van to the Pinellas County jail.

22. Upon arriving at the new intake sally port of the Pinellas County jail, Defendant Michael Thacker opened the rear doors of the Transport Van's prisoner compartment in which Plaintiff Mayen was stationed, and he observed that Plaintiff Mayen was lying face down, motionless, unconscious, and unresponsive at the very front of the Transport Van's prisoner compartment.

23. Defendant Michael Thacker then climbed inside the Transport Van's prisoner compartment where Plaintiff Mayen was stationed, and he repeatedly ordered Plaintiff Mayen to "wake up." But Plaintiff Mayen did not move; he remained completely motionless, unconscious and unresponsive. Frustrated with Plaintiff Mayen's unresponsiveness, Defendant Michael Thacker then proceeded to aggressively pull Plaintiff Mayen's left shoulder off the floor of the Transport Van and shake him in an attempt to make him "wake up." But once again, Plaintiff Mayen remained completely motionless, unconscious, and unresponsive.

24. After realizing that Plaintiff Mayen was not going to "wake up," Defendant Michael Thacker then proceeded to drag Plaintiff Mayen's injured and limp body out of the Transport Van by his legs while Plaintiff Mayen remained face down with his head dragging across the floor of the Transport Van. In the course of dragging Plaintiff Mayen's injured and limp body out of the Transport Van—while knowing that Plaintiff Mayen was handcuffed to his own body, unconscious and unresponsive—Defendant Michael Thacker caused Plaintiff Mayen to violently strike his head on the bumper of the Transport Van, then again on the rear door of the Transport Van, and finally—*a third time*—on the concrete ground.

25. Once Defendant Michael Thacker dragged Plaintiff Mayen out of the Transport Van and onto the concrete ground, Defendant Michael Thacker then continued to drag Plaintiff Mayen's limp body across the concrete ground away from the rear doors of the Transport Van. Thereafter,

Defendant Michael Thacker continued to demand that Plaintiff Mayen “wake up,” as he proceeded to perform an aggressive sternum rub on Plaintiff Mayen’s chest. Plaintiff Mayen, however, still remained completely motionless, unconscious and unresponsive. Shortly thereafter, Plaintiff Mayen was attended to by medical personnel, and was eventually transported to a local hospital via ambulance.

26. As a result of this incident, Plaintiff Mayen sustained serious injuries, including but not limited to, permanent and severe injuries to his cervical spine, which rendered him a quadriplegic and resulted in the amputation of both of his legs above the knee.

27. Notwithstanding this severe and tragic incident, Plaintiff Mayen should have never even been arrested nor prosecuted by Defendant Sarah Gaddis in the first place. There was no probable cause to arrest Plaintiff Mayen for any crime. To be sure, on February 22, 2024, the County Court of the Sixth Judicial Circuit in and for Pinellas County, Florida dismissed the criminal trespassing charge against Plaintiff Mayen that gave rise to his arrest and found that “[t]he property at issue [] d[id] not have any ‘No Trespassing’ signs at the corners of the boundaries of the land, nor d[id] it have signs placed not more than 500 feet along the boundaries of the land,” and thus “the clear and unambiguous reading of the statutes require this Court to dismiss the Notice to Appear issued to [Mayen].”¹

¹ Exhibit A, Order Grant. Mot. to Dismiss, at 5, *State of Florida v. Heriberto A. Sanchez-Mayen*, No. 23-09240-MM-G (Cnty. Ct. 6th Jud. Cir. Pinellas Cnty., Fla., Feb. 22, 2024).

CAUSES OF ACTION

COUNT I

**42 U.S.C. § 1983 CLAIM AGAINST MICHAEL THACKER – DELIBERATE
INDIFFERENCE TOWARDS AN EXCESSIVE RISK TO HEALTH AND SAFETY**

28. Plaintiff Mayen re-alleges and re-incorporates paragraphs 1 through 27 as if fully stated herein.

29. This claim is brought against Defendant Michael Thacker in his individual capacity for the deprivation of Plaintiff Mayen's Fourth and Fourteenth Amendment rights in violation of 42 U.S.C. § 1983.

30. At all times material, Plaintiff Mayen had a clearly established right to be free objectively serious risks to his health and safety.

31. A reasonable officer in Defendant Michael Thacker's position would have known that these constitutional rights were clearly established at the time the wrongful conduct occurred and that such conduct, as described below, violated these constitutional rights.

32. At all times material, Defendant Michael Thacker's actions in driving recklessly at a high rate of speed and then suddenly, without warning, aggressively and deliberately performing a hard stop—all while knowing that Plaintiff Mayen was handcuffed to his own body, unrestrained without a seatbelt, in the back of the Transport Van, completely untethered or anchored—posed an objectively serious risk of harm to Plaintiff Mayen's health and safety.

33. At all times material, Defendant Michael Thacker was aware that Plaintiff Mayen was handcuffed in the back of the Transport Van, was not wearing a seatbelt, and was completely untethered or anchored because Defendant Michael Thacker is the officer who handcuffed Plaintiff Mayen to his own body via the use of a belly chain and placed him in the back of the Transport Van, which he knew contained no seatbelts and no place to tether or anchor Plaintiff Mayen to.

34. After placing Plaintiff Mayen in the back of the Transport Van, handcuffed to his own body via a belly chain, without a seatbelt to restrain him and completely untethered or anchored, Defendant Michael Thacker proceeded to drive recklessly, at a high rate of speed and then suddenly, without warning, deliberately performed a hard stop, which caused Plaintiff Mayen to be thrust forward from the back of the Transport Van, whereupon Plaintiff Mayen's head violently and awkwardly struck the metal partition at the front of the Transport Van's prisoner compartment in which he was placed.

35. At all times material, Defendant Michael Thacker knew that driving the Transport Van in a reckless manner while Plaintiff Mayen was unrestrained, without a seatbelt, completely untethered or anchored in the Van's prisoner compartment and handcuffed to his own body, without the ability to protect himself, posed a substantial risk of serious harm to Plaintiff Mayen's health and safety due to a substantially similar incident that occurred roughly two years prior. Specifically, upon information and belief, on June 10, 2021, Defendant Michael Thacker was driving a police transport van with an intoxicated, unrestrained and handcuffed arrestee in the van's prisoner compartment when he "suddenly appl[ied] his brakes" for "heavy traffic," and caused the arrestee to fall face first onto the floor of the van fracturing facial bones and incurring other injuries.

36. Despite knowing that Plaintiff Mayen was seated in the back of the Transport Van, handcuffed at the front of his body via a metal belly chain, unrestrained without a seatbelt, and completely untethered or anchored and, despite also knowing, based on a substantially similar prior incident, that driving the Transport Van in a reckless manner with an unrestrained and handcuffed arrestee posed an objectively serious risk of harm to Plaintiff Mayen's health and safety, Defendant Michael Thacker proceeded to drive the Transport Van in a reckless manner,

demonstrating deliberate indifference and a conscious disregard for the substantial risk of serious harm to Plaintiff Mayen's health and safety.

37. As a direct and proximate result of Defendant Michael Thacker's deliberate indifference and conscious disregard for the substantial risk of serious harm to Plaintiff Mayen's health and safety, Plaintiff Mayen suffered severe and permanent injuries, which rendered him a quadriplegic and resulted in the amputation of both of his legs above the knee. He experienced pain and suffering therefrom, suffered physical handicap, disability, disfigurement, mental anguish, loss of wages and earning capacity in the future, inconvenience, and loss of capacity for the enjoyment of life. All of these injuries are permanent and continuing in nature.

38. As a further direct and proximate result of the injuries sustained due to the aforementioned constitutional violations of Defendant Michael Thacker, Plaintiff Mayen has incurred significant medical expenses in the past and will continue to incur such expenses in the future.

39. WHEREFORE, Plaintiff Mayen demands judgment against Defendant Michael Thacker for compensatory damages, punitive damages, plus any applicable interest, as well as attorneys' fees and costs, and such other and further relief as the Court deems appropriate.

COUNT II

42 U.S.C. § 1983 CLAIM AGAINST MICHAEL THACKER – DELIBERATE INDIFFERENCE TO SERIOUS MEDICAL NEEDS

40. Plaintiff Mayen re-alleges and re-incorporates paragraphs 1 through 27 as if fully stated herein.

41. This claim is brought against Defendant Michael Thacker in his individual capacity for the deprivation of Plaintiff Mayen's Fourth and Fourteenth Amendment rights in violation of 42 U.S.C. § 1983.

42. At all times material, Plaintiff Mayen had a clearly established right to receive medical treatment for his objectively serious medical condition.

43. A reasonable officer in Defendant Michael Thacker's position would have known that these constitutional rights were clearly established at the time the wrongful conduct occurred and that such conduct, as described below, violated these constitutional rights.

44. After Defendant Michael Thacker suddenly, and without warning, deliberately performed a hard stop, Plaintiff Mayen was caused to be thrown forward and violently strike his head against the metal partition at the front of the Transport Van's prisoner compartment in which he was placed.

45. As a result of Plaintiff Mayen's head awkwardly striking the metal partition inside the Transport Van's prisoner compartment, he sustained severe injuries to his spine that rendered him unconscious.

46. Plaintiff Mayen's severe spinal injury was an objectively serious medical condition that required prompt medical attention. Further, Plaintiff Mayen's spinal injury was so serious that it would have been patently obvious to any lay person that he was in need of immediate medical attention.

47. Upon viewing the Transport Van's live stream camera feed immediately after Plaintiff Mayen's head violently struck the metal partition, Defendant Michael Thacker observed that Plaintiff Mayen was no longer seated on the metal bench in the back of the Van's prisoner compartment. Instead, Defendant observed that Plaintiff Mayen was now lying face down, motionless, on the floor of the Transport Van, all the way at the front of the prisoner compartment near the bulkhead.

48. Pursuant to the St. Petersburg Police Department's General Order No. III-10 Section VI(C)(1)(a), "[i]f the Officer witnesses the prisoner sustain an injury *or* observes the prisoner to be in a position of potential medical distress (*face down, slumped over, not moving*, etc.) they *will* stop the vehicle as soon as it is safe to do so and render aid to the prisoner." (emphasis added).

49. Once Defendant Michael Thacker saw that Plaintiff Mayen was lying face down, motionless, on the floor the Transport Van's prisoner compartment, Defendant Michael Thacker knew or should have known that Plaintiff Mayen was in serious need of medical attention and that a serious risk of harm existed if Plaintiff Mayen was not provided with immediate medical care.

50. But instead of stopping the vehicle and rendering aid to Plaintiff Mayen, as Defendant Michael Thacker was required to do pursuant to the St. Petersburg Police Department's General Order No. III-10, Section VI(C)(1)(a), Defendant Michael Thacker intentionally and/or recklessly delayed the provision of necessary medical treatment to Plaintiff Mayen, and continued to drive the Transport Van to the Pinellas County jail, thereby evidencing his deliberate indifference to Plaintiff Mayen's serious medical needs.

51. Due to Defendant Michael Thacker's deliberate indifference by intentionally and/or recklessly delaying necessary medical treatment for Plaintiff Mayen's objectively serious medical condition, precious minutes went by before Defendant Michael Thacker finally arrived at the Pinellas County jail, where Defendant Michael Thacker then decided to drag Plaintiff Mayen's injured, limp, and unconscious body out of the Transport Van and onto the cement ground without any attempt to stabilize his head or spine whatsoever.

52. As a direct and proximate result of Defendant Michael Thacker's deliberate indifference to Plaintiff Mayen's objectively serious need for medical attention by delaying the

provision of necessary medical treatment for Plaintiff Mayen, Defendant Michael Thacker violated Plaintiff Mayen's Due Process rights under the Fourteenth Amendment and caused Plaintiff Mayen to sustain severe and permanent injuries, which rendered him a quadriplegic and resulted in the amputation of both his legs above the knee. He experienced pain and suffering therefrom, suffered physical handicap, disability, disfigurement, mental anguish, loss of wages and earning capacity in the future, inconvenience, and loss of capacity for the enjoyment of life. All of these injuries are permanent and continuing in nature.

53. As a further direct and proximate result of the injuries sustained due to the aforementioned constitutional violations of Defendant Michael Thacker, Plaintiff Mayen has incurred significant medical and psychiatric care expenses in the past and will continue to incur such expenses in the future.

54. WHEREFORE, Plaintiff Mayen demands judgment against Defendant Michael Thacker for compensatory damages, punitive damages, plus any applicable interest, as well as attorneys' fees and costs, and such other and further relief as the Court deems appropriate.

COUNT III

42 U.S.C. § 1983 CLAIM AGAINST MICHAEL THACKER – EXCESSIVE FORCE

55. Plaintiff Mayen re-alleges and re-incorporates paragraphs 1 through 27 as if fully stated herein.

56. This claim is brought against Defendant Michael Thacker in his individual capacity for the deprivation of Plaintiff Mayen's Fourth and Fourteenth Amendment rights in violation of 42 U.S.C. § 1983.

57. At all times material, Plaintiff Mayen had a clearly established right under the Fourth and Fourteenth Amendments of the United States Constitution to be free from gratuitous

assault and to be free from the excessive use of force, including the right to have officers use only the amount of force that is reasonably necessary.

58. A reasonable officer in Defendant Michael Thacker's position would have known that these constitutional rights were clearly established at the time the wrongful conduct occurred and that such conduct, as described below, violated these constitutional rights.

59. Defendant Michael Thacker violated Plaintiff Mayen's right to be free from the excessive use of force and to be free from gratuitous assault as secured by the Fourth and Fourteenth Amendments of the United States Constitution when he: (1) drove the Transport Van in reckless manner while knowing that Plaintiff Mayen was handcuffed, unrestrained without a seatbelt, and completely untethered or anchored in the prisoner compartment of the Van; and (2) when he dragged Plaintiff Mayen's injured and limp body out of the Transport Van while knowing that Plaintiff Mayen was handcuffed to his own body, unresponsive and unconscious, and caused Plaintiff Mayen to violently strike his head against the bumper of the Transport Van then, *a second time*, against the rear door of the Transport Van and then, *a third time*, against the concrete ground.

60. Defendant Michael Thacker's conduct in: (1) driving recklessly while knowing that Plaintiff Mayen was handcuffed to his own body, unable to protect himself, unrestrained without a seatbelt, and completely untethered or anchored in the back of the Transport Van; and (2) dragging Plaintiff Mayen's injured, limp, and unconscious body out of the Transport Van in such a manner as to cause him to violently strike his head against the Van's bumper, the Van's rear door and the cement ground was intentional, reckless, deliberate, and indicative of Defendant Michael Thacker's callous disregard of and indifference to Plaintiff Mayen and his constitutional rights.

61. At all times material, Defendant Michael Thacker was aware that Plaintiff Mayen had a clearly established constitutional right to be free from the excessive use of force and to be free from gratuitous assault by police officers.

62. Yet, the amount of force used by Defendant Michael Thacker against Plaintiff Mayen was not objectively reasonable. It was excessive and grossly disproportionate to the amount of force necessary because, at the time of the incident, Plaintiff Mayen did not pose an imminent threat. In fact, Plaintiff Mayen could not have posed *any* threat whatsoever because: (1) he was handcuffed to his own body via a metal belly chain; (2) he was stationed in the prisoner compartment of the Transport Van; and (3) he was completely motionless, unconscious and unresponsive when Defendant Michael Thacker decided to drag his injured and limp body out of the Transport Van. Based on these facts, it would have been clear to any reasonable officer, including Defendant Michael Thacker, that Plaintiff Mayen was in no shape to even attempt to physically resist a police officer, nor was he in any shape to cause harm to anyone.

63. As a direct and proximate result of Defendant Michael Thacker's actions as described above, Plaintiff Mayen suffered severe and permanent injuries, which rendered him a quadriplegic and resulted in the amputation of both of his legs above the knee. He experienced pain and suffering therefrom, suffered physical handicap, disability, disfigurement, mental anguish, loss of wages and earning capacity in the future, inconvenience, and loss of capacity for the enjoyment of life. All of these injuries are permanent and continuing in nature.

64. As a further direct and proximate result of the injuries sustained due to the aforementioned constitutional violations by Defendant Michael Thacker, Plaintiff Mayen has incurred significant medical and psychiatric care expenses in the past and will continue to incur such expenses in the future.

65. WHEREFORE, Plaintiff Mayen demands judgment against Defendant Michael Thacker for compensatory damages, punitive damages, plus any applicable interest, as well as attorneys' fees and costs, and such other and further relief as the Court deems appropriate.

COUNT IV

42 U.S.C. § 1983 CLAIM AGAINST SARAH GADDIS – FALSE ARREST

66. Plaintiff Mayen re-alleges and re-incorporates paragraphs 1 through 27 as though fully stated herein.

67. This claim is brought against Defendant Sarah Gaddis in her individual capacity for the violation of Plaintiff Mayen's Fourth Amendment rights in violation of 42 U.S.C. § 1983.

68. The Fourth Amendment of the United States Constitution ensures freedom from unreasonable searches and seizures. Encompassed within the Fourth Amendment is the right to be free from an unreasonable or illegal stop and the right to be free from an arrest unsupported by probable cause.

69. At all times material, Plaintiff Mayen had a clearly established right to be free from an unreasonable or illegal stop and the right to be free from an arrest unsupported by probable cause.

70. A reasonable officer in Defendant Sarah Gaddis' position would have known that these constitutional rights were clearly established at the time the wrongful conduct occurred and that such conduct, as described below, violated these constitutional rights.

71. On June 8, 2023, Defendant Sarah Gaddis arrested Plaintiff Mayen without probable cause or even arguable probable cause, as the City property she accused Plaintiff Mayen of "trespassing" on was not properly "posted land," and Plaintiff Mayen left the property voluntarily when she asked him to.

72. Defendant Sarah Gaddis' actions in falsely detaining and arresting Plaintiff Mayen without probable cause violated Plaintiff Mayen's Fourth Amendment right to be free from unreasonable search and seizure.

73. Defendant Sarah Gaddis' misconduct was objectively unreasonable and was undertaken intentionally, with malice, and knowing disregard for Plaintiff Mayen's clearly established constitutional rights.

74. Defendant Sarah Gaddis then made the conscious decision to force Plaintiff Mayen "go for a ride", instead of issuing him a Notice to Appear (which also would have been unlawful), knowing that she was putting an impaired citizen into a zone of harm by having him chained and put in the back of a prisoner transport van.

75. As a direct and proximate result of Defendant Sarah Gaddis' unlawful search and seizure, Plaintiff Mayen suffered severe and permanent injuries, which rendered him a quadriplegic and resulted in the amputation of both of his legs above the knee. He experienced pain and suffering therefrom, suffered physical handicap, disability, disfigurement, loss of liberty, humiliation, mental anguish, loss of wages and earning capacity in the future, inconvenience, and loss of capacity for the enjoyment of life. All of these injuries are permanent and continuing in nature.

76. As a further direct and proximate result of the injuries sustained due to the aforementioned constitutional violations by Defendant Sarah Gaddis, Plaintiff Mayen has incurred significant medical and psychiatric care expenses in the past and will continue to incur such expenses in the future.

77. WHEREFORE, Plaintiff Mayen demands judgment against Defendant Sarah Gaddis for compensatory damages, punitive damages, plus any applicable interest, as well as attorneys' fees and costs, and such other and further relief as the Court deems appropriate.

COUNT V

**42 U.S.C. § 1983 CLAIM AGAINST DEFENDANT
SARAH GADDIS – MALICIOUS PROSECUTION**

78. Plaintiff Mayen re-alleges and re-incorporates paragraphs 1 through 27 as if fully stated herein.

79. This claim is brought against Defendant Sarah Gaddis, in her individual capacity, pursuant to 42 U.S.C § 1983 for the violation of Plaintiff Mayen's Fourth Amendment rights.

80. A reasonable officer in Defendant Sarah Gaddis' position would have known that these constitutional rights were clearly established at the time the wrongful conduct occurred and that such conduct, as described below, violated these constitutional rights.

81. Defendant Sarah Gaddis was acting under the color of State law when she conducted herself in the manner described below.

- a. Making the conscious decision to conduct a warrantless arrest of Plaintiff Mayen, without probable cause, after he had been sleeping on a piece of cardboard in a public green space that was not "posted land" as defined in the Florida Statutes;
- b. Commencing a judicial proceeding against Plaintiff Mayen when she took him into custody and had him transported to the Pinellas County Jail;
- c. Making the decision to arrest Plaintiff Mayen, take him into custody, and "take him for a ride." She alone was the legal cause of the original proceeding against the Plaintiff, which was without any probable cause whatsoever;

- d. Continuing the judicial proceeding against Plaintiff Mayen by going to the hospital and issuing him a Notice to Appear on the misdemeanor charge of trespassing, even after discovering he had been severely injured during the transport;
- e. Assisting in the continued prosecution of Plaintiff Mayen when, as a witness, she testified on behalf of the State against Plaintiff Mayen, all the while knowing that he had been catastrophically injured;

82. The conduct of Defendant Sarah Gaddis, as reflected in her own body camera footage of her interaction with Plaintiff Mayen, was malicious, especially when she called for transport to take Plaintiff Mayen to jail, putting him in a zone of danger, when she could have issued him a Notice to Appear (also unlawful) and not have taken him into physical custody.

83. As a direct and proximate result of Defendant Sarah Gaddis' initiating and continuing this prosecution, Plaintiff Mayen was subjected to the cruelty of a pending criminal charge over his head while he attempted to recover from the catastrophic injuries described herein. He suffered severe mental and emotional distress, criminal litigation costs and other damages.

84. As a further direct and proximate result of the injuries sustained due to the aforementioned constitutional violations by Defendant Sarah Gaddis, Plaintiff Mayen has incurred significant psychiatric care expenses in the past and will continue to incur such expenses in the future.

85. WHEREFORE, Plaintiff Mayen demands judgment against Defendant Sarah Gaddis for compensatory damages, punitive damages, plus any applicable interest, as well as attorneys' fees and costs, and such other and further relief as the Court deems appropriate.

COUNT VI

42 U.S.C. § 1983 CLAIM AGAINST THE CITY OF ST. PETERSBURG

86. Plaintiff Mayen re-alleges and re-incorporates paragraphs 1 through 27 as though fully stated herein.

87. This action is brought against the City of St. Petersburg for the deprivation of Plaintiff Mayen's clearly established Fourth and Fourteenth Amendment rights in violation of 42 U.S.C. § 1983.

88. At all times material, the employees, agents and/or officers of Defendant the City of St. Petersburg, including Defendants Michael Thacker and Sarah Gaddis, were acting under the color of state law pursuant to the policies, customs or practices of the City of St. Petersburg Police Department.

89. The policies, customs or practices complained of include, but are not limited to, the following:

- a. Failing to adequately train and/or supervise officers regarding when it is appropriate and reasonable to effectuate an arrest;
- b. Failing to adequately train and/or supervise officers regarding what constitutes probable cause;
- c. Failing to adequately train and/or supervise officers regarding the transportation of citizens within their control;
- d. Failing to adequately train and/or supervise officers regarding when it is appropriate and reasonable to use force upon a citizen;
- e. Failing to properly discipline officers who have committed an act or acts of misconduct, such as excessive force;
- f. Failing to adequately train and/or supervise officers regarding the provision of medical attention to arrestees and/or pretrial detainees when put on notice of their need for medical care;

- g. Encouraging and/or allowing an atmosphere of lawlessness and violence in connection with the use of force against citizens;
- h. Encouraging and/or allowing its police officers to conduct warrantless arrests of citizens on City-owned land and other lands within the St. Petersburg city limits that are not “posted land” as defined in the Florida Statutes.

90. The policies, customs or practices identified above constitute deliberate indifference to Plaintiff Mayen’s Fourth and Fourteenth Amendment rights under the United States Constitution.

91. The City of St. Petersburg, via the SPPD, should be on notice of the need to train and supervise its officers on the matters identified above because, upon information and belief, a substantially similar prior incident involving Defendant Michael Thacker occurred on or about June 10, 2021, whereby Defendant Michael Thacker was driving a police transport van with an intoxicated and handcuffed arrestee that was completely unrestrained without a seatbelt in the prisoner compartment, when Defendant Michael Thacker “suddenly appl[ied] his brakes” for “heavy traffic,” and the arrestee was caused to fall face first onto the floor of the van fracturing facial bones and incurring other injuries.

92. Alternatively, the City of St. Petersburg, via the SPPD, should be on notice of the need to train and supervise its officers on the matters identified above because the City of St. Petersburg, via the SPPD, is aware that officers regularly effectuate arrests and regularly transport handcuffed arrestees in the back of police transport vans that lack seatbelts and/or any other type of anchors or restraints, which can cause serious injuries to the arrestees. Additionally, the City of St. Petersburg, via the SPPD, is also aware that its officers regularly engage in the use of force when transporting arrestees. Given the City of St. Petersburg’s awareness of these matters, via the SPPD, the likelihood for a constitutional violation to occur is so high that the need for training would be obvious.

93. The City of St. Petersburg's failure to provide adequate training and supervision on the matters identified above and its failure to institute and enforce adequate procedures and regulations against conduct such as that complained of herein, evidences a deliberate indifference to the constitutional rights of all the citizens and persons who travel through the City of St. Petersburg, including Plaintiff Mayen.

94. The City of St. Petersburg's implementation, execution, allowance, and/or indifference with respect to its policies, customs, or procedures identified above is the moving force that caused the violation of Plaintiff Mayen's constitutional rights.

95. Moreover, the City of St. Petersburg's failures to act were so culpable as to constitute acquiescence to the unlawful conduct of Defendants Michael Thacker and Sarah Gaddis in violation of the Fourth and Fourteenth Amendments.

96. As a direct and proximate result of the above-described actions and/or inactions of the City of St. Petersburg's employees, agents, and/or officers and the City of St. Petersburg Police Department's policies, customs and/or procedures, Plaintiff Mayen suffered severe and permanent injuries, which rendered him a quadriplegic and resulted in the amputation of both of his legs above the knee. He experienced pain and suffering therefrom, suffered physical handicap, disability, disfigurement, mental anguish, loss of wages and earning capacity in the future, inconvenience, and loss of capacity for the enjoyment of life. All of these injuries are permanent and continuing in nature.

97. As a further direct and proximate result of the injuries sustained due to the aforementioned constitutional violations of Defendant the City of St. Petersburg, Plaintiff Mayen has incurred significant medical and psychiatric care expenses in the past and will continue to incur such expenses in the future.

98. WHEREFORE, Plaintiff Mayen demands judgment against Defendant the City of St. Petersburg for compensatory damages, punitive damages, plus any applicable interest, as well as attorneys' fees and costs, and such other and further relief as the Court deems appropriate.

COUNT VII

VICARIOUS LIABILITY AS TO DEFENDANT THE CITY OF ST. PETERSBURG

99. Plaintiff Mayen re-alleges and re-incorporates paragraphs 1 through 27 as though fully stated herein.

100. At all times material, Defendant Michael Thacker was acting in furtherance of the business of the City of St. Petersburg and the St. Petersburg Police Department and within the scope of that business.

101. At all times material, Defendant the City of St. Petersburg owed Plaintiff Mayen a duty to exercise reasonable care in the operation and management of its policing activities, including but not limited to, the safe transportation of arrestees.

102. At all times material, Defendant the City of St. Petersburg was and is vicariously liable for the negligent acts and omissions of its employees, officers, servants, and/or representatives pursuant to the doctrine of *respondeat superior*.

103. On June 8, 2023, Defendant the City of St. Petersburg, by and through its employees, officers, servants, and/or representatives, breached its duty of care to Plaintiff Mayen by committing the following acts and/or omissions, including but not limited to:

- a. Failing to exercise reasonable care in restraining and/or positioning Plaintiff Mayen within the Transport Van;
- b. Failing to operate the Transport Van in a safe and reasonable manner;
- c. Failing to operate the Transport Van in compliance with state and local traffic laws;

- d. Applying the Transport Van's brakes in an abrupt and unnecessary manner;
- e. Failing to maintain a reasonable and proper look out for other vehicles on the roadway;
- f. Failing to keep the Transport Van under proper control;
- g. Operating the Transport Van while distracted;
- h. Operating the Transport Van at an excessive rate of speed in violation of Fla. Stat. § 316.183;
- i. Failing to activate the camera system equipped in the Transport Van upon initiating the transportation of Plaintiff Mayen;
- j. Failing to pull over and stop the Transport Van to evaluate Plaintiff Mayen's medical condition upon realizing that he was lying face down, motionless, on the floor of the Transport Van; and
- k. Failing to timely notify medical personnel of Plaintiff Mayen's serious medical condition so that medical personnel could evaluate him prior to Defendant Michael Thacker dragging Plaintiff Mayen's limp, unconscious and unresponsive body out of the Transport Van.

104. As a direct and proximate result of the above-mentioned negligence and actions and/or omissions alleged, for which Defendant the City of St. Petersburg is vicariously liable, Plaintiff Mayen suffered severe and permanent injuries, which rendered him a quadriplegic and resulted in the amputation of both of his legs above the knee. He experienced pain and suffering therefrom, suffered physical handicap, disability, disfigurement, mental anguish, loss of wages and earning capacity in the future, inconvenience, loss of capacity for the enjoyment of life, and all of the elements of damages allowed under Florida law. All of these injuries are permanent and continuing in nature.

105. As a further direct and proximate result of the injuries sustained due to the aforementioned negligence of Defendant the City of St. Petersburg, Plaintiff Mayen has incurred

significant medical and psychiatric care expenses in the past and will continue to incur such expenses in the future.

106. WHEREFORE, Plaintiff Mayen demands judgment against Defendant the City of St. Petersburg for damages in excess of the minimal jurisdictional limits of this Court, as well as post-judgment interest as allowed by law, costs in bringing this action as allowed by law, and such other and further relief as the Court deems appropriate.

COUNT VIII

NEGLIGENT SUPERVISION AND TRAINING AGAINST THE CITY OF ST. PETERSBURG

107. Plaintiff Mayen re-alleges and re-incorporates paragraphs 1 through 27 as though fully stated herein.

108. At all times material, Defendant Michael Thacker was acting in furtherance of the business of the City of St. Petersburg and the St. Petersburg Police Department and within the scope of that business.

109. The City of St. Petersburg owed a duty to the general public, the citizens of St. Petersburg, Florida, and to Plaintiff Mayen to ensure that its employees, agents and/or officers properly and safely protect and transport all people within the custody of the St. Petersburg Police Department.

110. Further, the City of St. Petersburg owed a duty to the general public, the citizens of St. Petersburg, Florida, and to Plaintiff Mayen to train and supervise its employees, agents and/or officers, including Defendant Michael Thacker, on how to properly and safely protect and transport all people within the custody of the St. Petersburg Police Department as well as when it is appropriate and reasonable to use force on arrestees within the custody of the St. Petersburg Police Department.

111. The City of St. Petersburg, through its agents, employees and/or officers, breached these duties by negligently supervising and training Defendant Michael Thacker in the proper and safe transport of all people within the custody of the St. Petersburg Police Department as well as the use of force on arrestees within the custody of the St. Petersburg Police Department.

112. The City of St. Petersburg, through its employees, agents, and/or officers knew or should have known that Defendant Michael Thacker was not adequately trained on how to properly and safely protect and transport all people within the custody of the St. Petersburg Police Department as well as when it is appropriate and reasonable to use force on arrestees within the custody of the St. Petersburg Police Department, and therefore would engage in behavior that could cause injury to others, including Plaintiff Mayen.

113. As a direct and proximate result of Defendant the City of St. Petersburg's negligence and carelessness, Plaintiff Mayen suffered severe and permanent injuries, which rendered him a quadriplegic and resulted in the amputation of both of his legs above the knee. He experienced pain and suffering therefrom, suffered physical handicap, disability, disfigurement, mental anguish, loss of wages and earning capacity in the future, inconvenience, loss of capacity for the enjoyment of life, and all of the elements of damages allowed under Florida law. All of these injuries are permanent and continuing in nature.

114. As a further direct and proximate result of the injuries sustained due to the aforementioned negligence of Defendant the City of St. Petersburg, Plaintiff Mayen has incurred significant medical and psychiatric care expenses in the past and will continue to incur such expenses in the future.

115. WHEREFORE, Plaintiff Mayen demands judgment against Defendant the City of St. Petersburg for damages in excess of the minimal jurisdictional limits of this Court, as well as

post-judgment interest as allowed by law, costs in bringing this action as allowed by law, and such other and further relief as the Court deems appropriate.

COUNT IX

INTENTIONAL BATTERY AS TO MICHAEL THACKER

116. Plaintiff Mayen re-alleges and re-incorporates paragraphs 1 through 27 as though fully stated herein.

117. On June 8, 2023, Defendant Michael Thacker, intentionally and with wanton, reckless and willful disregard for the rights and/or safety of Plaintiff Mayen, battered, touched, and caused Plaintiff Mayen to be touched, without provocation, when Plaintiff Mayen was handcuffed to his own body and unable to protect himself while in the Transport Van's prisoner compartment.

118. Defendant Michael Thacker committed this act with express intent to cause physical harm and damage to Plaintiff Mayen, and he did so without legal justification, against the will of Plaintiff Mayen, and without Plaintiff Mayen's permission and/or consent.

119. As a direct and proximate cause of the wrongful actions of Defendant Michael Thacker, Plaintiff Mayen suffered severe and permanent injuries, which rendered him a quadriplegic and resulted in the amputation of both of his legs above the knee. He experienced pain and suffering therefrom, suffered physical handicap, disability, disfigurement, mental anguish, loss of wages and earning capacity in the future, inconvenience, loss of capacity for the enjoyment of life, and all of the elements of damages allowed under Florida law. All of these injuries are permanent and continuing in nature.

120. As a further direct and proximate result of the injuries sustained due to the aforementioned intentional battery by Defendant Michael Thacker, Plaintiff Mayen has incurred

significant medical and psychiatric care expenses in the past and will continue to incur such expenses in the future.

121. WHEREFORE, Plaintiff Mayen demands judgment against Defendant Michael Thacker for damages in excess of the minimal jurisdictional limits of this Court, as well as post-judgment interest as allowed by law, costs in bringing this action as allowed by law, and such other and further relief as the Court deems appropriate.

COUNT X

STATE LAW FALSE ARREST/FALSE IMPRISONMENT AGAINST SARAH GADDIS

122. Plaintiff Mayen re-alleges and re-incorporates paragraphs 1 through 27 as if fully stated herein.

123. On June 8, 2023, Defendant Sarah Gaddis, individually, caused the warrantless arrest of Plaintiff Mayen in the absence of probable cause that Plaintiff Mayen had committed any criminal offense.

124. The actions of Defendant Sarah Gaddis, in arresting Plaintiff Mayen without a warrant and without probable cause, were taken in the absence of lawful authority and were committed in bad faith, with malicious purpose or in a manner exhibiting wanton and willful disregard of human rights, safety or property.

125. As a direct and proximate result thereof, Plaintiff Mayen suffered severe and permanent injuries, which rendered him a quadriplegic and resulted in the amputation of both of his legs above the knee. He experienced pain and suffering therefrom, suffered physical handicap, disability, disfigurement, loss of liberty, humiliation, mental anguish, loss of wages and earning capacity in the future, inconvenience, loss of capacity for the enjoyment of life, and all of the

elements of damages allowed under Florida law. All of these injuries are permanent and continuing in nature.

126. As a further direct and proximate result of the injuries sustained due to the aforementioned false arrest/false imprisonment by Defendant Sarah Gaddis, Plaintiff Mayen has incurred significant medical and psychiatric care expenses in the past and will continue to incur such expenses in the future.

127. WHEREFORE, Plaintiff Mayen demands judgment against Defendant Sarah Gaddis for damages in excess of the minimal jurisdictional limits of this Court, post-judgment interest as allowed by law, attorneys' fees and costs in bringing this action as allowed by law, and such other and further relief as the Court deems appropriate.

COUNT XI

STATE LAW MALICIOUS PROSECUTION AGAINST SARAH GADDIS

128. Plaintiff Mayen re-alleges and re-incorporates paragraphs 1 through 27 as if fully stated herein.

129. Defendant Sarah Gaddis, individually, made the conscious decision to conduct a warrantless arrest of Plaintiff Mayen, who had been sleeping on a piece of cardboard in a public green space that was not "posted land" as defined in the Florida Statutes, and commenced a judicial proceeding against him when she took him into custody, and had him transported to the Pinellas County Jail.

130. Defendant Sarah Gaddis was the person that made the decision to arrest Plaintiff Mayen, take him into custody and "take him for a ride." She alone was the legal cause of the original proceeding against Plaintiff Mayen, which was without any probable cause whatsoever.

131. Even after discovering that Plaintiff Mayen had been severely injured during the transport, Defendant Sarah Gaddis initiated judicial proceedings against Plaintiff Mayen by going to the hospital and issuing him a Notice to Appear on the misdemeanor charge of trespassing.²

132. Defendant Sarah Gaddis assisted in the continued prosecution of the Plaintiff Mayen when, as a witness, she testified on behalf of the State against Plaintiff Mayen, knowing all the while that he had been catastrophically injured and had been arrested without probable cause.

133. Plaintiff Mayen was arraigned and had to defend himself from this prosecution, up to and including the dismissal of the judicial proceeding against him.³

134. The conduct of Defendant Sarah Gaddis, as reflected in her own body camera footage of her interaction with Plaintiff Mayen, was malicious, especially when she called for transport to take Plaintiff Mayen to jail, putting him in a zone of danger, when she could have given him a Notice to Appear (also unlawful) and not have taken him into physical custody.

135. As a direct and proximate result of Defendant Sarah Gaddis' initiating and continuing this prosecution, Plaintiff Mayen was subjected to the cruelty of a pending criminal charge over his head while he attempted to recover from the catastrophic injuries described herein, mental and emotional distress, criminal litigation costs and other damages.

136. As a further direct and proximate result of the injuries sustained due to the aforementioned malicious prosecution by Defendant Sarah Gaddis, Plaintiff Mayen has incurred

² See Exhibit B, Notice to Appear/Ordinance Violation, *State of Florida vs. Heriberto A. Sanchez-Mayen*, No. 23-09240-MM-G (Cnty. Ct. 6th Jud. Cir. Pinellas Cnty., Fla., Jul. 10, 2023).

³ See Exhibit A, Order Granting Mot. to Dismiss, *State of Florida vs. Heriberto A. Sanchez-Mayen*, No. 23-09240-MM-G (Cnty. Ct. 6th Jud. Cir. Pinellas Cnty., Fla., Feb. 28, 2024)

significant psychiatric care expenses in the past and will continue to incur such expenses in the future.

WHEREFORE, Plaintiff Mayen demands judgment against Defendant Sarah Gaddis for damages in excess of the minimal jurisdictional limits of this Court, post-judgment interest as allowed by law, attorneys' fees and costs in bringing this action as allowed by law, and such other and further relief as the Court deems appropriate.

DEMAND FOR JURY TRIAL

Plaintiff Mayen demands a jury trial as to all issues so triable.

Dated: March 18, 2024

Respectfully submitted,

By: */s/ Thomas Scolaro*

THOMAS SCOLARO

Fla. Bar No. 178276

ADAM T. ROSE

Fla. Bar No. 123673

EVAN M. ROBINSON

Fla. Bar No. 1031473

DANIEL P. FAHERTY

Fla. Bar. No. 379697

LEESFIELD SCOLARO, P.A.

2350 South Dixie Highway

Miami, Florida 33133

Telephone: 305-854-4900

Facsimile: 305-854-8266

Email: scolaro@leesfield.com

rose@leesfield.com

robinson@leesfield.com

azcuy@leesfield.com

and

TELFER, FAHERTY & ANDERSON, PLLC

815 South Washington Avenue, Suite 201

Titusville, Florida 32780

Telephone: 321-269-6833

Facsimile: 321-383-9970

Email: danfaherty@hotmail.com

cguntner@ctrfa.com

Attorneys for Plaintiff