

**UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF NEW YORK**

ANTHONY HALL,

Plaintiff,

-against-

THE CITY OF ROCHESTER, a municipal entity,  
ADAM GORMAN, NICHOLAS ADAMS, JOHN  
DOES NOS. 1-10,

Defendants.

**COMPLAINT**

**JURY TRIAL DEMANDED**

**CASE NO.: 22-cv-6452**

**I. PRELIMINARY STATEMENT**

Plaintiff ANTHONY HALL, complaining of the defendants, respectfully alleges, upon information and belief, as follows:

1. Plaintiff Anthony Hall is a City employee and the Manager of Violence Prevention, a department that operates under the Office of Mayor Malik Evans. Mr. Hall is also director of Pathways to Peace, a City agency that reaches into targeted neighborhoods to engage youth, diffuse potentially violent situations, and connect them to available resources and services. In addition to being a City employee, Mr. Hall has long been a leading community organizer calling for police accountability and reform. Mr. Hall is also well known to the police.

2. On June 18, 2022, Defendant Rochester Police Department Officer ADAM GORMAN unlawfully seized, falsely arrested, assaulted, battered and used excessive force against the Mr. Hall.

3. When GORMAN approached Mr. Hall, he misperceived Mr. Hall's conduct as disrespectful when Mr. Hall did not immediately display the level of deference and subservience that GORMAN subjectively expected. After Mr. Hall was falsely arrested and placed in the back

of a police vehicle, GORMAN (who is white) made racist comments to Mr. Hall (who is Black), specifically, he asked Mr. Hall if he was “raised to obey the police”.

4. Thereafter, GORMAN and his supervisor, NICHOLAS ADAMS, fabricated police paperwork to initiate the malicious prosecution of Mr. Hall for allegedly committing the criminal violation of Obstruction of Governmental Administration. But clear video evidence demonstrated that Mr. Hall never “physically interfered” with GORMAN or any other police officer, a required element of that crime. All the false charges were eventually dismissed.

5. Following the incident, Mr. Hall exercised his First Amendment right to complain about the incident in a Facebook post, in which he noted that the City and RPD had failed to adequately supervise and discipline GORMAN, despite his long history of misconduct. In response, the City doubled down on the indignity from the incident by unlawfully retaliating against Mr. Hall and taking adverse employment action against him in the form of an Office Of Public Integrity investigation. OPI recommended that Mr. Hall be disciplined for making the Facebook post—in other words, OPI recommended that Mr. Hall be disciplined for exercising his protected First Amendment right to complain about a matter of vital public concern: police brutality, racism, and the RPD’s failure to supervise and discipline GORMAN.

6. GORMAN’s misconduct in this incident was in fact a result of City and the RPD’s failure to adequately supervise and discipline him in response to numerous prior incidents where he falsely arrested and used excessive force against citizens. Upon information and belief, many of these prior incidents involved circumstances similar to this case, where GORMAN lost his temper and used excessive force in response to a perceived disrespectful response by a person of color.

7. This lawsuit seeks to hold the CITY liable for GORMAN's misconduct, as further detailed below, under the federal civil rights statute, 42 U.S.C. § 1983, and *Monell v. Dept. Of Social Services*, 436 U.S. 658 (1978). The unlawful actions of GORMAN, as documented in this lawsuit, resulted from affirmative or *de facto* municipal policies, practices and customs to violate the constitutional rights of arrestees, and from deliberate indifference by policy-making officials, acting on behalf of the CITY of Rochester, to such violations.

8. The grounds for this action arise out of these wrongful, unlawful, and improper acts of these defendants, including, without limitation, false arrest, excessive force and First Amendment retaliation.

## II. PARTIES

9. Plaintiff ANTHONY HALL is a citizen of the United States and resident of the County of Monroe, State of New York.

10. Defendant CITY OF ROCHESTER ("CITY") is a municipal entity created and authorized under the laws of the State of New York and is a resident of the Western District of New York.

11. Defendant CITY is authorized by law to maintain a police department, which acts as its agent in the area of law enforcement and for which it is ultimately responsible. Defendant CITY assumes the risks incidental to the maintenance of a police force and the employment of police officers as said risks attach to the public consumers of the services provided by the Rochester Police Department.

12. Defendants Rochester Police Department ("RPD") POLICE OFFICER ("P.O.") ADAM GORMAN ("GORMAN"), LIEUTENANT ("LT") NICHOLAS ADAMS ("ADAMS"), and JOHN DOES NOS. 1-10 ("John Does", the names and number of whom are currently unknown) are and were at all times relevant herein, officers, employees and agents of the

Defendant CITY and the RPD. The Defendant RPD Officers are being sued in their individual and official capacities.

13. At all times relevant herein, the individual Defendant RPD Officers were acting under color of state law in the course and scope of their duties and functions as agents, servants, employees and officers of the Defendant CITY, and otherwise performed and engaged in conduct incidental to the performance of their lawful functions in the course of their duties. They were acting for and on behalf of the RPD at all times relevant herein, with the power and authority vested in them as officers, agents and employees of the RPD and incidental to the lawful pursuit of their duties as officers, employees and agents of the RPD.

14. The individual Defendant Police Officers' acts hereafter complained of were carried out intentionally, recklessly, with malice, and in gross disregard of plaintiff's rights.

15. At all relevant times, the individual defendants were engaged in joint ventures, assisting each other in performing the various actions described herein and lending their physical presence in support and the authority of their offices to one another.

### III. JURISDICTION AND CONDITIONS PRECEDENT

16. This Court has federal-question jurisdiction pursuant to 28 U.S.C. §§ 1331 and 1343 over claims arising out of violations of the United States Constitution and 42 U.S.C. § 1983.

17. Pursuant to 28 U.S.C. § 1391(b), venue is proper in the Western District of New York, the judicial district where the claims arose and in which the Defendants conduct business

### IV. STATEMENT OF FACTS

#### A. Facts common to all causes of action

18. Plaintiff Anthony Hall is Manager of the City's Violence Prevention programs and is the director of Pathways to Peace, an agency of the City of Rochester that provides support and

nonviolent alternatives for youth who are resorting to violence to settle disputes or becoming involved in gangs and drugs.

19. According to the City's website, "Pathways to Peace helps youth and families by collaborating with community resources including schools, employers, health professionals, *law enforcement agencies* and other service providers."

20. On June 18, 2022 at approximately 1:15 a.m., Mr. Hall was inside of the S&T Lounge at 330 North St, Rochester, NY 14605, when there was apparently a shooting incident that occurred outside of the Lounge.

21. Mr. Hall exited the lounge, walked past GORMAN and his partner, and had a conversation with RPD Investigator Trevor Powell.

22. After speaking with Investigator Powell, Mr. Hall turned around to go back inside the Lounge.

23. Suddenly, without justification, GORMAN yelled at Mr. Hall and threatened him.

24. At no time did GORMAN attempt to speak with Mr. Hall or find out why he was speaking with Investigator Powell inside of the perimeter of crime scene.

25. Suddenly, without warning or justification, GORMAN seized Mr. Hall, slammed his body against the side of a police car, threw the food he was holding onto the ground, and placed handcuffs upon his wrists in an unreasonably tight manner.

26. GORMAN then placed Mr. Hall in the back of a police vehicle.

27. GORMAN informed Mr. Hall he was under arrest for disorderly conduct.

28. GORMAN lacked reasonable or probable cause to arrest Mr. Hall for disorderly conduct or any other crime.

29. No properly trained police officer would have believed that they had reasonable or probable cause or arrest Mr. Hall for disorderly conduct or any other crime.

30. When Mr. Hall was in the back of GORMAN's police car, GORMAN asked him if he was "raised to obey the police."

31. When Mr. Hall was in the back of GORMAN's police car, GORMAN indicated through his words and actions that he had arrested and used force against Mr. Hall because he felt that Mr. Hall had "disrespected" him by not immediately complying with his orders.

32. GORMAN being the subject of the alleged "disrespect" from Mr. Hall did not provide him with reasonable or probable cause to seize and arrest Mr. Hall for disorderly conduct or any other crime.

33. GORMAN being the subject of the alleged "disrespect" from Mr. Hall did not provide him with legal justification to use any force whatsoever against Mr. Hall.

34. Thereafter, upon information and belief, GORMAN informed ADAMS that he had arrested Mr. Hall for "disorderly conduct."

35. Upon information and belief, ADAMS instructed GORMAN not to charge Mr. Hall with disorderly conduct.

36. Upon information and belief, ADAMS directed GORMAN to instead charge Mr. Hall with Obstruction of Governmental Administration, PL 195.05.

37. At the direction of ADAMS, GORMAN falsely claimed in official RPD paperwork that Mr. Hall had committed the criminal violation of Obstruction of Governmental Administration, PL 195.05.

38. Mr. Hall did not physically interfere with GORMAN in any way, did not commit Obstruction of Governmental Administration, and did not commit any other crime or violation.

39. ADAMS and GORMAN lacked reasonable or probable cause to charge Mr. Hall with Obstruction of Governmental Administration, PL 195.05.

40. Pursuant to the policies, practices and customs of the CITY and the RPD, ADAMS and GORMAN fabricated the account of GORMAN's interaction with Mr. Hall in official police paperwork to initiate the malicious prosecution of Mr. Hall for Obstruction of Governmental Administration.

41. Pursuant to the policies, practices and customs of the CITY and the RPD, ADAMS and GORMAN fabricated the account of GORMAN's interaction with Mr. Hall in official police paperwork to justify GORMAN's unlawful use of force against Mr. Hall.

42. Mr. Hall had to make approximately two appearances in criminal court before all the false charges were dismissed in their entirety on or about July 25, 2022.

43. Notably, after this incident, the Chief's Office conducted an internal investigation and determined that GORMAN used more force than was necessary and required him to undergo eight hours of remedial training in "de-escalation," "defensive tactics", and "verbal tactics".

44. Because of the foregoing, Mr. Hall sustained, *inter alia*, physical pain, physical injuries, mental injuries, emotional distress, embarrassment, humiliation, loss of standing in the community, adverse employment consequences, loss of liberty, and deprivation of his common law and constitutional rights, and seeks compensation in an amount to be determined at trial.

**B. The City and the RPD's history of failing to adequately supervise and discipline GORMAN**

45. Prior to this incident, the City and RPD were aware that GORMAN had repeatedly used excessive force in situations where he felt "disrespected".

46. Prior to this incident, the City and RPD had repeatedly required GORMAN to receive “Additional Training” following incidents where he used excessive force against individuals who he felt had “disrespected” him.

47. On October 30, 2018, GORMAN was required to undergo “additional training” regarding the legal requirements to arrest for Obstruction of Governmental Administration, PL 195.05, after he falsely arrested an individual for allegedly committing that crime on October 22, 2018. GORMAN apparently arrested the individual and charged him with OGA because the individual did not obey his orders and instead fled from him. The Monroe County District Attorney dismissed all the charges against that defendant, CR # 18-261063, because GORMAN lacked objective facts to seize the individual or charge him with OGA.

48. In his January 9, 2019 performance evaluation for the period July 5, 2018 to December 31, 2018, Sergeant Agustin Gonzalez stated that, “Officer Gorman has been involved in many uses of force. Even though all of his uses of force have been justified, I would like him to learn to have more patience in dealing with difficult subjects.”

49. On September 5 and September 11, 2019, GORMAN underwent “additional training” regarding “de-escalation” because Sergeant Agustin Gonzalez again raised concerns about several avoidable “lower level use of force” incidents. Gonzales required GORMAN to undergo additional training because his prior conversations with GORMAN regarding his use of inappropriate and excessive amounts of force had not worked.

50. Unfortunately, the September 5 and 11, 2019 de-escalation trainings did not work either; shortly after the training, the RPD found that GORMAN had used excessive force against handcuffed arrestees in two separate incidents on November 18 and 28, 2019.

51. In the November 18, 2019 incident, GORMAN struck a handcuffed arrestee three times with his knee when the arrestee refused to immediately get into the back seat of a police vehicle. GORMAN claimed he delivered the three knee strikes “for pain compliance”. When GORMAN delivered the three knee strikes, there were two other RPD officers on scene with GORMAN to help control and gain compliance from the handcuffed arrestee.

52. In the November 28, 2019 incident, GORMAN pepper sprayed a handcuffed arrestee because the arrestee did not immediately display the level of deference and subservience that GORMAN subjectively expected from the arrestee.

53. On December 10, 2019, GORMAN was given a “memorandum of record” in reference to the two excessive force incidents on November 18 and 28, 2019.

54. On March 10, 2020, GORMAN was required to undergo “additional training” because of the two incidents where he used excessive force against handcuffed arrestees on November 18, 2019 and November 28, 2019.

55. Similarly, in his January 16, 2020 evaluation for the year 2019, Sergeant Agustin Gonzalez stated that, “In some instances, Officer Gorman is having a difficult time in following RPD’s use of force matrix. On at least two occasions, Officer Gorman has used a higher level of force than necessary. The force wasn’t excessive but it was inappropriate.” This is a distinction without a difference and shows the culture of never holding an officer accountable for using excessive force.

56. GORMAN’s repeated use of excessive force was the inevitable consequence of the City and RPD encouraging him and other officers to use excessive force.

57. GORMAN was never appropriately disciplined regarding his apparent anger issues, inappropriate use of force and unnecessary escalation of situations, where he obviously lost his temper and used force without justification.

58. Instead, by failing to adequately supervise and discipline GORMAN, the City and the RPD tacitly encouraged GORMAN to continue engaging in the exact same behavior, whereby he unnecessarily escalated situations with citizens, falsely arrested them for crimes they did not commit, and unnecessarily used force against them.

**C. City and the RPD's history of failing to adequately supervise and discipline its bad officers previously resulted in Mr. Hall being falsely arrested and subjected to excessive force.**

59. Mr. Hall has previously been a victim of police abuse.

60. On May 27, 2018, at approximately 1:30 a.m., Mr. Hall was walking east on Monroe Avenue in the vicinity of Meigs Street with his friends Craig Puritt and Shamell Killings.

61. Mr. Hall was walking with Mr. Killings, in front of Mr. Puritt, eastbound on Monroe Avenue.

62. Mr. Hall turned around to see where Mr. Puritt was, and saw he was being assaulted by RPD Officer Michael Stephens.

63. When Mr. Hall approached the vicinity of where Stephens was assaulting Mr. Puritt, he had his cell phone in his hand to take pictures and/or video record the interaction.

64. When Mr. Hall approached the vicinity of where Stephens was assaulting Mr. Puritt, he maintained a respectful distance and never interfered with Stephens in any way.

65. Suddenly, without cause or legal justification, Stephens struck Mr. Hall in the hand, removed his cell phone, and attempted to put the phone in a trash can.

66. Stephens immediately punched Mr. Hall in the face, and struck him in the head with his baton, without cause or legal justification.

67. Stephens and other officers then physically seized Mr. Hall, pulled his arms behind his back, and applied handcuffs to his wrists in an unreasonably tight manner.

68. As Mr. Hall was being handcuffed, Stephens pepper sprayed him in the face from close range, without cause or legal justification.

69. Stephens arrested Mr. Hall and charged him with Obstruction of Governmental Administration.

70. Mr. Hall did not physically interfere with Stephens in any way, did not commit Obstruction of Governmental Administration, and did not commit any other crime or violation.

71. Pursuant to the policies, practices and customs of the CITY and the RPD, Stephens fabricated his account of his interaction with Mr. Hall in official police paperwork to initiate the malicious prosecution of Mr. Hall for Obstruction of Governmental Administration.

72. Pursuant to the policies, practices and customs of the CITY and the RPD, Stephens fabricated his account of his interaction with Mr. Hall in official police paperwork to justify his unlawful use of force against Mr. Hall.

73. After approximately two appearances in criminal court, all charges were dismissed at the request of the Monroe County District Attorney's Office.

74. Lieutenant Laszlo Tordai, Commanding Officer of the RPD's Professional Standard's Section concluded that, "The investigation revealed that the evidence does not support any justification for the arrest of Hall, especially for the charge of Obstructing Government Administration, which requires some form of physical interference to the investigation. The evidence supports that Hall's actions did not constitute any interference of the officers, nor did

Hall's actions warrant an arrest for any offense. Though Hall was initially in close proximity to the arrest of his friend, Puritt, it is clear that Hall's presence was not one of interference but as an onlooker who was concerned for a friend."

75. The Professional Standards Section also concluded that Stephens falsely claimed that his OC container malfunctioned, and he did not pepper spray Mr. Hall.

76. The Professional Standards Section concluded that, "As Hall is just standing on the sidewalk, a respectful distance from any arrest or police action, and appearing to do nothing more than attempting to video the incident on his phone, Officer Stephens snatches Hall's phone out of his hands, and puts [it in] a garbage receptacle without providing an explanation." Then when Mr. Hall objects, "Stephens then order Hall to put his hands behind his back."

77. The Professional Standards Section concluded that Stephens unnecessarily struck Mr. Hall in the head with his baton.

78. The Professional Standards Section and Chief Cimenelli also concluded that Sergeant Bryant Johnson failed to supervise Stephens at the scene, and substantiated Mr. Hall's allegations that Johnson failed to supervise Stephens at the scene.

79. At the time of the incident, Mr. Hall worked as a Gang Specialist for the CITY 's Department of Recreation.

80. As a result of that incident, Mr. Hall was placed on desk duty and subjected to a formal investigation at his job.

**D. The CITY and RPD's policy and practice of failing to supervise and discipline bad officers is demonstrated by the failure to adequately discipline Michael Stephens after he brutally beat Dudley Scott on August 21, 2014, as he was handcuffed—fracturing his orbital socket and blinding him in his right eye.**

81. The CITY 's policy and custom of failing to discipline officers who make false arrests, use excessive force and lie about the reasons for making arrests and using force caused Plaintiffs' constitutional rights to be violated as alleged herein.

82. Like GORMAN, Stephens had a history of using excessive force against handcuffed arrestees.

83. On August 21, 2014, Stephens brutally beat a young man named Dudley Scott for approximately five minutes—after he was handcuffed and helpless and physically detained by two police officers, with a third police officer in close proximity.

84. Stephens struck Mr. Scott at least 11 times and deployed three drive stuns with his Taser—after he was handcuffed and helpless and physically detained by two police officers, with a third police officer in close proximity.

85. Stephens punched Mr. Scott in the face three times after he was handcuffed and helpless and physically detained by two police officers, with a third police officer in close proximity.

86. Stephens fractured Mr. Scott's right orbital socket and blinded him in his right eye when he punched him three times in the face after he was handcuffed and helpless.

87. Stephens utilized at least three knees strikes against Mr. Scott after he was handcuffed and helpless and physically detained by two police officers, with a third police officer in close proximity.

88. When Stephens used force against Mr. Scott, he lacked a reasonable or objective basis to believe that Mr. Scott possessed a weapon or posed a threat to the safety an officer or any other person, since he was handcuffed and there were two other officers at the scene with Stephens.

89. Mr. Scott also did not resist arrest or attempt to flee when Stephens brutally beat him for approximately five minutes after he was handcuffed and detained by three officers.

90. These actions of Stephens resulted in a fractured right eye socket of Mr. Scott which required surgery and caused him to be permanently blind in the right eye.

91. Stephens' repeated strikes to Mr. Scott's head, as he was handcuffed and detained by three police officers, constituted a deadly use of force.

92. After the August 21, 2014 incident, Stephens concocted an implausible story of his interaction with Mr. Scott in official police paperwork to justify the excessive use of strikes to Mr. Scott's head that were otherwise unnecessary.

93. At the time of the August 21, 2014 incident, Stephens was a Defensive Tactic Instructor for the RPD, which involves training recruits and other officers in everything from handcuffing up through the escalation of force chart.

94. Stephens was also a Field Training Officer for the RPD, which involves hands-on training of new officers in the field after they graduate from the police academy.

95. As both a Defensive Tactics Instructor and a Field Training Officer for the RPD, Stephens was a municipal policymaker with respect to the RPD's use of force policies and training.

96. Stephens' use of force against Mr. Scott while he was handcuffed and helpless was both grossly excessive under clearly established law and criminal. Nevertheless, the CITY and the RPD failed to adequately discipline Stephens following the August 21, 2014 incident.

97. After the August 21, 2014 incident, Sergeant Randy Potuck reviewed several drafts of Stephens' Subject Resistance Reports, and repeatedly returned the drafts to Stephens because he allegedly failed to clearly articulate the force used against Mr. Scott.

98. After Stephens submitted an unknown number of drafts, Sergeant Potuck finally signed off on Stephens' Subject Resistance Report on October 6, 2014—more than six weeks after the August 21, 2014 incident.

99. On October 26, 2014, Sergeant Potuck and Lieutenant Ron Malley conducted a “debriefing” with Stephens and “directed” him to familiarize himself with the RPD’s use of force policies, General Order 335.

100. PSS did not begin its investigation until June 2015 and did not issue disciplinary charges until December 28, 2015.

101. Between August 21, 2014—when Stephens brutally attacked and blinded Dudley Scott—and the May 27, 2018 incident where he brutalized Mr. Hall, Mr Puritt and Mr. Killings, upon information and belief, Stephens was never disciplined by the CITY or the RPD.

102. Between August 21, 2014—when Stephens brutally attacked and blinded Dudley Scott—and the May 27, 2018 incident in this case, upon information and belief, Stephens was permitted to remain on active duty as a patrol officer, making arrests and using force against citizens of Rochester.

103. The CITY and the RPD’s failure to discipline Stephens between August 21, 2014 and May 27, 2018 caused Stephens to falsely arrest and use excessive force against Mr. Hall, Mr. Puritt and Mr. Killings on May 27, 2018.

**E. Statements and actions by City officials after RPD Officers killed Daniel Prude demonstrate the City’s deliberate indifference to the RPD’s longstanding, widespread problem of officers using excessive force.**

104. On March 23, 2020, several RPD officers brutally killed Daniel Prude.

105. The CITY and the RPD covered up the death of Daniel Prude by their officers.

106. The CITY and the RPD failed to discipline the officers who killed Daniel Prude.

107. The medical examiner's report, issued on April 22, 2020, concluded that Mr. Prude's death was a homicide, caused by "complications of asphyxia in the setting of physical restraint."

108. Nevertheless, in an official report issued five days later, on April 27, 2020, the RPD's Major Crimes Unit—which investigates homicides—concluded that the involved officers acted appropriately and in accordance with their training. Specifically, on April 27, 2020, Sergeant Flamur Zenelovic issued a report on behalf of the Major Crimes Unit, which concluded:

“Investigator's Houlihan, Benjamin and I conducted a complete review of body worn camera footage, surveillance video footage, as well as the reports and interviews of the involved officers and paramedics. *Based upon the investigation, the officers' actions and conduct displayed when dealing with Prude appear to be appropriate and consistent with their training.*”

109. However, Training Bulletin L-58-15, “Non-Traditional Deadly Physical Force” explains,

“Members of the Rochester Police Department (RPD) may use deadly physical force, as defined by Article 10 of the New York State Penal Law, only when the use of deadly physical force is necessary to defend the member or another person from what the member reasonably believes to be the use or imminent use of deadly physical force.

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“Officers must consider that many techniques or responses can result in unintentional death or serious physical injury in the circumstances under which they are used. For instance:

“1. **Body positions-** Positional asphyxia may occur when the position of a person's body interferes with respiration, resulting in serious injury or death. Prolonged restraint and struggling, particularly when the lungs are being squeezed while empty, can result in exhaustion. This can occur without the subject being aware of it and can lead to sudden death. The risk of positional asphyxia can increase when a person is restrained in the prone position. Current training dictates that once a member believes the scene is

safe, the member would remove a subject from the prone position by placing them on their side, in a seated position on their buttocks, or in a standing position. Bending a subject forward or placing weight on the subject can also have a negative effect on the subject's ability to breathe. Other risk factors that could increase the risk of positional asphyxia include, but are not limited to: obesity, prior cardiac or respiratory problems, and the use of drugs."

110. Thus, the RPD's conclusion that, "*the officers' actions and conduct displayed when dealing with Prude appear to be appropriate and consistent with their training,*" is contradicted by its own written policies.

111. The RPD's conclusion that "*the officers' actions and conduct displayed when dealing with Prude appear to be appropriate and consistent with their training,*" was a result of the internal cover up that began immediately after the incident.

112. The RPD's conclusion that "*the officers' actions and conduct displayed when dealing with Prude appear to be appropriate and consistent with their training,*" was a result of the longstanding and widespread problem of its officers using excessive force.

113. The RPD's conclusion that "*the officers' actions and conduct displayed when dealing with Prude appear to be appropriate and consistent with their training,*" was a result of the CITY and the RPD's deliberate indifference to longstanding and widespread problem of its officers using excessive force.

114. In the wake of RPD officers killing Daniel Prude, City officials have called for systemic reforms in the RPD, which must be "driven by an engaged public to bring systemic reform to the Rochester Police Department, CITY Hall and beyond to remove the pervasive culture of insularity and acceptance from law enforcement." Inter-Departmental Correspondence from James P. Smith, Deputy Mayor, to Lovely A. Warren, Mayor, dated September 14, 2020 re:

Managerial Review of the Death of Daniel Prude, incorporated by reference herein, and available at <https://www.CITY ofrochester.gov/WorkArea/DownloadAsset.aspx?id=21474845191>.

115. Mayor Warren stated that “there are a number of things police officers are doing that they shouldn’t be doing, that they’re not trained to do, and we need to look at that.”

116. Mayor Warren stated that “there are a number of systemic changes that we need to make.”

117. Mayor Warren stated that the CITY and the RPD, “have significant work to do throughout our department and at CITY Hall. To rebuild the trust within our community, the culture of policing in Rochester must change.”

118. The CITY and the RPD’s failure to adequately supervise and discipline GORMAN prior to the June 18, 2022 incident at issue herein was caused by the CITY and RPD’s deliberate indifference to the longstanding and widespread use of excessive force by RPD officers.

119. Mr. Hall’s injuries were caused by the CITY and the RPD’s deliberate indifference to the longstanding and widespread use of excessive force by RPD officers.

120. Further facts demonstrating the CITY and the RPD’s longstanding and widespread policy, pattern and practice of deliberate indifference to RPD officers’ unconstitutional conduct are pleaded below.

**F. The City retaliated against Mr. Hall for exercising his First Amendment right to complain about the incident and the failure of the City and the RPD to adequately supervise and discipline GORMAN for his long history of using excessive force.**

121. After the incident, Mr. Hall complained in a Facebook post that he was falsely arrested and brutalized by GORMAN, who had a long history of misconduct, including making false arrests and using excessive force under similar circumstances where he felt “disrespected”.

122. The First Amendment to the United States Constitution protected Mr. Hall’s right to complain on Facebook about his rights being violated.

123. When Mr. Hall complained about being brutalized by GORMAN, he was doing so as a private citizen speaking about matters of vital public concern—police brutality and racism.

124. In retaliation for making the Facebook post, the City’s Office of Public Integrity initiated a sham investigation against Mr. Hall.

125. The sham investigation concluded with a finding that Mr. Hall had violated the City’s “Social Media Guidelines” by complaining about being falsely arrested and subjected to excessive force by GORMAN in his Facebook post.

126. The OPI investigation recommended that Mr. Hall be disciplined for allegedly violating the City’s “Social Media Guidelines”.

127. The sham investigation and recommendation that Mr. Hall be disciplined constitutes an adverse employment action by the City of Rochester.

128. Decades of Supreme Court and Second Circuit precedent make clear that public employees are protected from retaliation when speaking “as a citizen ... upon matters of public concern.” *Pickering v. Board of Education*, 391 U.S. 563, 568 (1968).

129. The City had no adequate justification for treating Mr. Hall differently than other member of the public who posted on Facebook about being brutalized by a police officer.

V. **CLAIMS FOR RELIEF**

**FIRST CLAIM FOR RELIEF**

**Municipal Liability**

***Pursuant to 42 U.S.C. § 1983 Arising From the City’s Deliberate Indifference and Failure to Discipline RPD Officers Who Use Excessive Force***

**(Against the CITY)**

130. All preceding and subsequent paragraphs are incorporated by reference.

131. For decades, Defendant CITY and the RPD have deliberately and systemically failed to discipline RPD Officers who use force without justification, even when said unlawful use of force is captured on video. Instead, they have created a culture that encourages officers to use excessive force by rewarding and promoting the most violent and abusive officers.

132. The need for said discipline was patently obvious, as numerous RPD officers, including the individually named RPD officers, have repeatedly used force without justification.

133. As part of its policy and practice of deliberately failing to hold bad officers accountable, the CITY and the RPD have admitted in other litigation that it destroyed relevant disciplinary records and use of force reports after it was on notice that said reports were relevant to that litigation; in some instances, individual Professional Standards Section files were destroyed after the plaintiff served specific demands for those files by PSS number.

134. The CITY and RPD have destroyed disciplinary records and use of force reports that are relevant to Plaintiff's claims in this case.

135. The failure of the Defendant CITY and the RPD to maintain standards governing the imposition of discipline when RPD officers use force without justification, even when the force is captured on video, constitutes an unconstitutional municipal policy, practice, and/or custom.

136. By failing to discipline officers who use force without justification—even when the unlawfulness of the force used is demonstrated by clear video evidence—the Defendant CITY and the RPD have demonstrated their deliberate indifference to the constitutional deprivations caused by RPD Officers' repeated use of force without justification and their failure to accurately document use-of-force incidents.

137. CITY and RPD policymakers have known about the widespread practice of RPD officers using force without justification, but have failed to take any affirmative steps to end the practice—like disciplining officers who use excessive force.

138. The decades-long failure of the Defendant CITY and RPD to discipline RPD officers who use excessive force has created a culture within the RPD where officers are encouraged to use excessive force during routine interactions with individuals in the City of Rochester, in violation of the Fourth and Fourteenth Amendments to the United States Constitution.

139. As detailed herein, the decades-long failure of the Defendant CITY and RPD to discipline RPD officers who use excessive force caused GORMAN to use excessive force against Mr. Hall on June 18, 2022.

140. For decades, the City of Rochester has maintained unlawful policies, practices and customs of failing to discipline officers who use excessive force, and instead promoting and encouraging them to use excessive force. That culture of violence led GORMAN to use excessive force against Mr. Hall on June 18, 2022.

141. All of the wrongful acts or omissions complained of herein against Mr. Hall were carried out by the GORMAN pursuant to: (a) formal policies, rules, and procedures of Defendant CITY; (b) actions and decisions by Defendant CITY'S policymaking agents; (c) customs, practices, and usage of the RPD that are so widespread and pervasive as to constitute *de facto* policies accepted, encouraged, condoned, ratified, sanctioned, and/or enforced by policymaking officials; (d) Defendant CITY's deliberate indifference to Plaintiff's rights secured by the Fourth and Fourteenth Amendments of the United States Constitution, as evidenced by the CITY's failures, and the failures of the other policymaking agents, to train, supervise, and

discipline RPD officers, despite full knowledge of the their wrongful acts against Plaintiff and other individuals, as described herein.

**SECOND CLAIM FOR RELIEF**

**Municipal Liability**

***Pursuant to 42 U.S.C. § 1983 Arising From the City’s Unlawful Custom, Practice and policy of Unlawfully Charging Innocent People with “Cover Charges” to Punish “Contempt of Cop” (Against the CITY)***

142. All preceding and subsequent paragraphs are incorporated by reference.

143. For decades, police officers in the City of Rochester have made arrests in the absence of the commission of any crime by the person arrested, motivated by a desire to punish the arrestee for the arrestee’s perceived failure to display the degree of deference or subservience demanded by the arresting officers.<sup>1</sup>

295. The aforementioned customs, policies, usages, practices, procedures and rules of the CITY and the RPD include, but are not limited to, the following unconstitutional practices:

- A. wrongfully arresting individuals without probable cause due to perceived lack of respect for police officer (i.e., “contempt of cop” arrests);
- B. wrongfully arresting persons without probable cause due to perceived lack of respect for the officer; in order to teach a lesson in respect;
- C. wrongfully arresting individuals without probable cause pursuant to the CITY’s unlawful policy, practice and custom of arresting individuals for “loitering” a/k/a for lawfully standing on a public sidewalk.

144. Such arrests are frequently referred to as **“contempt of cop”** arrests.

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<sup>1</sup> See Solomon, Jesse, *Charges dismissed against woman who videotaped police encounter*, CNN (June 27, 2011), <http://www.cnn.com/2011/CRIME/06/27/new.york.police.video/> (last visited Dec. 7, 2014); Morgan Whitaker, *Charges dropped against teens arrested at bus stop*, MSNBC (Dec. 3, 2012), (last visited June 14, 2014). Articles incorporated by reference herein.

145. In order to conceal the illegality of these arrests, the victim of the unlawful arrest is charged with a **“cover charge”**, usually a low-level crime which does not require a complaint, and whose elements can be established, for the purposes of a criminal complaint, by the officer’s own perjured affidavit or testimony.

146. RPD officers have a pattern and practice of charging one or more offenses as their favored cover charges: disorderly conduct, resisting arrest, obstruction of governmental administration and trespass.

147. However, other charges that require no complaint, such as harassment are also used to cover false arrests.

148. The RPD has never undertaken any internal study of contempt of cop arrests or cover charges, and statistics on these practices are not available. However, there is extensive evidence of a widespread practice of false cover charges.

149. Moreover, the Defendant CITY, through former RPD Chief James Sheppard, has admitted that the Defendant CITY and the RPD maintain an unlawful policy of making **“contempt of cop”** arrests and charging the victim of the unlawful arrest with **“cover charges.”** Specifically, Chief Sheppard admitted that the RPD has historically maintained a policy whereby RPD Officers are instructed to issue dispersal orders to individuals lawfully present on public sidewalks, and when the individuals fail to display the degree of deference or subservience demanded by the arresting officer(s), RPD Officers are instructed to arrest the individuals despite the absence of the commission of any crime and to falsely charge them with “cover charges” such as disorderly conduct, obstruction of governmental administration, and as in this case, trespass.

150. *Redd v. City, et al.*, 15-CV-6049-DGL-JWF (W.D.N.Y. 2014) exemplified a quintessential contempt-of-cop/cover charge false arrest. In *Redd*, on November 27, 2013, RPD

Officer Eliud Rodriguez arrested the 16-year-old plaintiff and two of his Edison Tech Varsity Basketball teammates<sup>2</sup> as they waited at the bus stop in downtown Rochester, NY, which was designated by City of Rochester officials and employees as the bus stop for all Rochester City School District sports teams. Officer Rodriguez arrested Mr. Redd and his two teammates in retaliation for their failure to adequately comply with his unlawful order to “move along” when the three student-athletes attempted to explain they were waiting for their school bus. Officer Rodriguez and other RPD officers lied in official police paperwork and charged Mr. Redd and his two teammates with Disorderly Conduct, despite knowing they lacked probable cause to do so. Approximately ten (10) days after the false arrest, the Monroe County District Attorney dropped all of the false criminal charges levied against Mr. Redd and his two teammates.

151. As detailed in the complaint in *Redd v. City, et al.*, in the Summer of 2014, the United States Department of Justice, including the Federal Bureau of Investigation (FBI) and the United States Attorneys’ Office for the Western District of New York, conducted an investigation to determine whether federal criminal charges should be brought against RPD Officer Eliud Rodriguez for his unlawful conduct.

152. Another “contempt of cop” arrest that received national media attention occurred in May 2011, when former RPD Officer Mario “Cowboy” Masic arrested Emily Good. As reported by CNN, after RPD Officers pulled over an African American motorist and began searching his vehicle in front of Ms. Good’s home, Ms. Good began filming the search because she was concerned it was motivated by racial profiling. Ms. Good filmed the encounter from her front yard. When Ms. Good refused Officer Masic’s unlawful order to stop filming, Officer Masic falsely arrested Ms. Good and charged her with Obstruction of Governmental Administration. The

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<sup>2</sup> Mr. Redd received \$30,000 to settle his claims with the City of Rochester, and his two co-arrestees / teammates, Weathers and Carelock, accepted settlements in the amount of \$10,000 prior to filing civil rights lawsuits in court.

Monroe County District Attorney eventually dismissed all charges against Ms. Good, stating that, "Based upon the evidence, we could not make out the elements of the crime charged."<sup>3</sup> Upon information and belief, Ms. Good reached a settlement with the Defendant CITY prior to filing a civil rights lawsuit in court.

153. On December 16, 2015, RPD Officer William Baker assaulted, battered and falsely arrested Shelise Colon when she did not immediately comply with his command to stop filming Baker and RPD Officer Jason Kelly after they unlawfully stopped her boyfriend, Lawrence Barrett, on the sidewalk for no reason and pointed a TASER at him. The City settled the civil lawsuit brought by Colon and Barrett for \$35,000.

154. As detailed above, Mr. Hall and several of his friends were subjected to an unlawful "contempt of cop" arrest on May 27, 2018, at approximately 1:30 a.m., when RPD Officer Michael Stephens assaulted, battered and falsely arrested Mr. Hall and his friends Shamell Killings and Craig Puritt when they were simply walking down the sidewalk on Monroe Avenue in the vicinity of Meigs Street. The City settled the civil lawsuit brought by Hall, Killings and Puritt for \$175,000

155. In another "contempt of cop" incident in June 2020, **Tobias Massey** was also falsely arrested for recording RPD officers violently arresting a man in his front yard. Mr. Massey was woken up by screaming from his front yard, where three RPD officers were on top of a Black man, who was crying that he could not breathe and did not want to die. Mr. Massey went outside to record the event. When the RPD officers noticed he was recording, they chased him into his home, wrestled him down, handcuffed and arrested him. Mr. Massey was taken to the emergency room because of injuries he sustained from the encounter, where the officers gave him an

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<sup>3</sup> See Solomon, Jesse, *Charges dismissed against woman who videotaped police encounter*, CNN (June 27, 2011). Article incorporated by reference herein and available online at: <http://www.cnn.com/2011/CRIME/06/27/new.york.police.video/> (last visited Dec. 7, 2014). Article incorporated by reference herein.

appearance ticket charging him with resisting arrest and obstructing governmental administration for filming the police. After reviewing the video, former Chief SINGLETARY dropped the charges against Mr. Massey. Mr. Massey's civil lawsuit against the three RPD officers is pending. All three officers remain employed by the RPD.

156. On December 18, 2020, New York State Assemblyman Demond Meeks was falsely arrested, subjected to excessive force, and charged with false "cover charges". On that night, a group of approximately 20 protesters held a demonstration to object to the unjust eviction of a single mother and her three children in the middle of the winter during the pandemic. New York State Assemblyman Demond Meeks attended the protest in solidarity; soon after he arrived, he began a Facebook Live recording of the events. Cell phone video shows that immediately after he arrived, two dozen or more RPD officers in riot gear approached the scene. Though Assemblyman Meeks was neither standing on the property nor interfering with the officers' execution of the warrant, officers went directly toward Meeks, informed him he was under arrest, and ordered him to put his hands behind his back. Immediately after Meeks complied, officers repeatedly told him to "stop resisting" even though the video shows he was not resisting in any way.

157. Recently, on July 11, 2022, EMT Lekia Smith was falsely arrested and subjected to excessive force by RPD Investigator Charles LoTempio, in another classic "contempt of cop" incident, which again received national media attention. LoTempio felt disrespected when he attempted to question Smith ambulance bay at Strong Memorial Hospital, and Smith told him that she would speak with him after she escorted her patient inside to receive emergency medical treatment. LoTempio followed Smith inside of the emergency room, violently seized her, slammed her body against the intake desk, placed handcuffs on her wrists, and placed her in the back of his police car. LoTempio then attempted to blame Smith for the incident. Smith was

eventually released from custody without being charged with a crime, but suffered serious physical injuries and has been unable to work for months since the incident.

158. Upon information and belief, Defendant CITY and the RPD have refused calls for disclosure of statistics concerning minor offenses such as the “cover charge” crimes.

159. Upon information and belief, the “contempt of cop” and “cover charge” charges levied most regularly by Rochester Police Officers are disorderly conduct, resisting arrest, obstruction of governmental administration, trespass and harassment.

160. Upon information and belief, “contempt of cop” and “cover charge” charges such as disorderly conduct, resisting arrest, obstruction of governmental administration, trespass and harassment are relatively easy for police to levy in the absence of actual probable cause because they may arise out of nearly any police-civilian interaction.

161. Upon information and belief, pursuant to the City and RPD’s policies, practices and customs, Rochester Police Officers, including but not limited to GORMAN, were trained, instructed and authorized to aggressively approach, stop, and engage citizens on the public sidewalks and streets of Rochester, without reasonable suspicion or probable cause that a crime is occurring, in an effort to deter violence and crime in the City of Rochester.

162. Upon information and belief, pursuant to the City and RPD’s policies, practices and customs, Rochester Police Officers, including but not limited to GORMAN, were trained, instructed and authorized to arrest individuals without probable cause that a crime has occurred or is occurring, when the individual refused to comply with police officers’ orders to “move along.”

163. Upon information and belief, pursuant to the City and RPD’s policies, practices and customs, Rochester Police Officers, including but not limited to GORMAN, were trained, instructed and authorized to arrest individuals without probable cause that a crime has occurred or

is occurring, when the individual refused to comply with police officers' orders to "move along," and to charge them with cover charges such as disorderly conduct, obstruction of governmental administration, and harassment.

164. Upon information and belief, "contempt of cop" and "cover charge" charges such as disorderly conduct, resisting arrest, obstruction of governmental administration, trespass and harassment are relatively easy for police to levy in the absence of actual probable cause because they can be levied solely upon the allegations of the arresting officer(s) without reference to physical evidence or witness observation of criminal acts.

165. Upon information and belief, Defendant CITY has been, and continues to be, aware of the prevalence of the problem of officers of the RPD making baseless "contempt of cop" arrests, and bringing false "cover charges" against the arrestees, but has failed to take action to remedy the problem.

166. Upon information and belief, to date the Defendant CITY has not implemented any particular training, oversight measures or policies designed or intended to curtail the improper use by RPD Officers of so-called "contempt of cop" and "cover charge" charges such as disorderly conduct, resisting arrest, obstruction of governmental administration, trespass and harassment.

167. Upon information and belief, and despite due and repeated notice that RPD Officers have an ongoing custom or practice of charging individuals with crimes and violations such as disorderly conduct, resisting arrest, obstruction of governmental administration, trespass and harassment for personal vindication and/or as pretexts to justify use of force, to date Defendant CITY has not implemented any particular training, oversight measures or policies designed or intended to curtail the improper use by RPD Officers of so-called "contempt of cop" and "cover

charge" charges such as disorderly conduct, resisting arrest, obstruction of governmental administration, trespass and harassment.

168. Upon information and belief, and despite due and repeated notice that RPD Officers have an ongoing custom or practice of charging individuals with crimes and violations such as disorderly conduct, resisting arrest, obstruction of governmental administration, trespass and harassment as pretexts to justify punitive false arrests undertaken in the absence of probable cause, to date Defendant CITY has not implemented any particular training, oversight measures or policies designed or intended to curtail the improper use by RPD Officers of so-called "contempt of cop" and "cover charge" charges such as disorderly conduct, resisting arrest, obstruction of governmental administration, trespass and harassment.

169. Upon information and belief, GORMAN and ADAMS have charged and continue to charge individuals with crimes and violations such as disorderly conduct, resisting arrest, obstruction of governmental administration, trespass and harassment, or fabricating a crime or violation as pretexts to justify punitive false arrests undertaken in the absence of probable cause, to date Defendant CITY has not implemented any particular oversight measures or policies designed or intended to curtail the improper use by RPD Officers of so-called "contempt of cop" and "cover charge" charges such as disorderly conduct, resisting arrest, obstruction of governmental administration, trespass and harassment.

170. Upon information and belief, Defendant ADAMS and other RPD supervisors and officials have approved and continue to approve the practice of RPD Officers' charging individuals with crimes and violations such as disorderly conduct, resisting arrest, obstruction of governmental administration, trespass and harassment, or fabricating a crime or violation, as pretexts to justify punitive false arrests undertaken in the absence of probable cause. Despite due and repeated notice,

to date Defendant CITY has not implemented any particular oversight measures or policies designed or intended to curtail the improper approval by high-ranking RPD Officers of the use by RPD Officers of so-called "contempt of cop" and "cover charge" charges such as disorderly conduct, resisting arrest, obstruction of governmental administration, trespass and harassment.

171. All of the wrongful acts or omissions complained of herein against Mr. Hall were carried out by the GORMAN pursuant to: (a) formal policies, rules, and procedures of Defendant CITY; (b) actions and decisions by Defendant CITY'S policymaking agents; (c) customs, practices, and usage of the RPD that are so widespread and pervasive as to constitute *de facto* policies accepted, encouraged, condoned, ratified, sanctioned, and/or enforced by policymaking officials; (d) Defendant CITY's deliberate indifference to Plaintiff's rights secured by the Fourth and Fourteenth Amendments of the United States Constitution, as evidenced by the CITY's failures, and the failures of the other policymaking agents, to train, supervise, and discipline RPD officers, despite full knowledge of the their wrongful acts against Plaintiff and other individuals, as described herein.

**THIRD CLAIM FOR RELIEF**

***Violation Of Fourth Amendment Rights Under 42 U.S.C. § 1983  
Arising From Warrantless Arrest Without Probable Cause  
(Against GORMAN)***

172. All preceding and subsequent paragraphs are incorporated by reference.

173. The incident that occurred herein was recorded by GORMAN's body worn camera.

174. The videos that caught this incident along with various reports were reviewed by Chief David Smith and Monroe County District Attorney Sandra Doorley.

175. Upon information and belief, both Smith and Doorley determined that GORMAN lacked reasonable or probable cause to arrest Mr. Hall.

176. GORMAN seized, detained, handcuffed and arrested Mr. Hall.

177. This arrest was made in the absence of a warrant.

178. This arrest was made in the absence of probable cause.

179. GORMAN arrested Plaintiffs without having exigent circumstances for doing so.

180. There was no other authority for the arrest of Mr. Hall.

181. Mr. Hall was conscious of his arrests.

182. Mr. Hall did not consent to his arrest.

183. Because of the foregoing, Mr. Hall sustained, *inter alia*, physical pain, physical injuries, mental injuries, emotional distress, embarrassment, humiliation, loss of standing in the community, adverse employment consequences, loss of liberty, and deprivation of his common law and constitutional rights, and seek compensation in an amount to be determined at trial.

184. Defendants committed the foregoing violations of Mr. Hall's rights knowingly, intentionally, willfully, recklessly, and/or with deliberate indifference to Plaintiffs' constitutional rights or to the effect of such misconduct upon Plaintiffs constitutional rights.

185. By reason of the foregoing, the Defendants are liable to Plaintiff, pursuant to 42 U.S.C. § 1983, for compensatory and for punitive damages.

**FOURTH CLAIM FOR RELIEF**  
***Malicious Prosecution Under 42 U.S.C. § 1983***  
**(Against ADAMS and GORMAN)**

186. All preceding and subsequent paragraphs are incorporated by reference.

187. The incident that occurred herein was recorded by GORMAN's body worn camera.

188. The videos that caught this incident along with various reports were reviewed by RPD Chief David Smith and Monroe County District Attorney Sandra Doorley.

189. Upon information and belief, both Smith and Doorley determined that GORMAN lacked reasonable or probable cause to arrest Mr. Hall or charge him with Obstruction of Governmental Administration.

190. After the videos, reports and investigation of this incident were reviewed by Monroe County District Attorney Sandra Doorley, the Monroe County District Attorney's Office dismissed all charges against Mr. Hall.

191. GORMAN and ADAMS, despite knowing that probable cause did not exist to arrest and prosecute Mr. Hall for Obstruction of Governmental Administration or any other crime or violation, acting individually and in concert, fabricated and falsified evidence, which they then forwarded to prosecutors, to cause Mr. Hall to be wrongfully charged with and prosecuted for Obstruction of Governmental Administration.

192. GORMAN and ADAMS lacked probable cause to initiate the prosecution of Mr. Hall and the prosecution of Mr. Hall was procured by fraud, perjury, and the fabrication and suppression of evidence.

193. ADAMS and GORMAN knew or were deliberately and recklessly indifferent to the truth that probable cause did not exist to arrest and prosecute Mr. Hall for Obstruction of Governmental Administration or any other crime or violation.

194. ADAMS and GORMAN's conduct was critical to the continued prosecution of Plaintiffs and they knew, or in the absence of their deliberate and reckless indifference, should have known, that their conduct would cause Mr. Hall's prosecution to continue.

195. After approximately two court appearances, in or about July 25, 2022, the prosecution terminated without a conviction when the Monroe County District Attorney's Office requested that the Court dismiss all charges against Mr. Hall.

196. Defendant Police Officers' actions to deprive Mr. Hall of his liberty without probable cause was in violation of clearly established constitutional law.

197. Defendant Police Officers' actions to deprive Mr. Hall of his liberty without probable cause was in violation of clearly established constitutional law, and no reasonable police officer in 2022 would have believed that the defendants' actions were lawful.

198. As a direct and proximate result of the Defendant Police Officers' actions, Mr. Hall was wrongly prosecuted for approximately five weeks, suffered various collateral consequences such as at his place of employment and in the community, and suffered the other grievous and continuing injuries and damages as set forth herein.

199. Because of the foregoing, Mr. Hall sustained, *inter alia*, physical pain, permanent physical injuries, mental injuries, emotional distress, embarrassment, humiliation, loss of standing in the community, adverse employment consequences, loss of liberty, and deprivation of their common law and constitutional rights, and seek compensation in an amount to be determined at trial.

200. Accordingly, Plaintiff demands judgment against the Defendants in a sum of money to be determined at trial.

201. Defendants committed the foregoing violations of Plaintiff's rights knowingly, intentionally, willfully, recklessly, and/or with deliberate indifference to Plaintiff's constitutional rights or to the effect of such misconduct upon Plaintiffs' constitutional rights.

202. By reason of the foregoing, the Defendants are liable to Plaintiff, pursuant to 42 U.S.C. § 1983, for compensatory and for punitive damages.

**FIFTH CLAIM FOR RELIEF**  
***Violation Of Plaintiff's Fourth Amendment Rights Under***  
***42 U.S.C. § 1983 Arising From Use Of Excessive Force***  
**(Against GORMAN)**

203. All preceding and subsequent paragraphs are incorporated by reference.

204. The incident that occurred herein was recorded by GORMAN's body worn camera and security cameras.

205. The videos that caught this incident along with various reports were reviewed by supervisors in the RPD and the Professional Standards Section of the Rochester Police Department.

206. RPD Chief David Smith and Captain Lucyshyn found that GORMAN required additional remedial training on "de-escalation", "defensive tactics" and "verbal tactics" as a result of the force used against Mr. Hall during this incident.

207. GORMAN used force against Mr. Hall that was unjustified and objectively unreasonable, taking into consideration the facts and circumstances that confronted him.

208. It was objectively unreasonable for GORMAN to use any force whatsoever against Mr. Hall, because Mr. Hall was doing nothing unlawful and was not threatening GORMAN or any other person.

209. It was objectively unreasonable for GORMAN to use force against Mr. Hall solely because he felt disrespected.

210. The types and levels of force GORMAN used against Mr. Hall were in contravention of, or inconsistent with, related RPD policies and/or training.

211. At no point during the incidents described herein did the circumstances necessitate or support the above applications of force utilized by the GORMAN against Mr. Hall.

212. Because of the foregoing, Plaintiffs sustained, *inter alia*, physical pain, physical injuries, mental injuries, emotional distress, embarrassment, humiliation, loss of standing in the

community, adverse employment consequences, loss of liberty, and deprivation of their common law and constitutional rights, and seek compensation in an amount to be determined at trial.

213. GORMAN committed the foregoing violations of Mr. Hall's rights knowingly, intentionally, willfully, recklessly, and/or with deliberate indifference to Plaintiffs' constitutional rights or to the effect of such misconduct upon Mr. Hall's constitutional rights.

214. By reason of the foregoing, the Defendants are liable to Plaintiff, pursuant to 42 U.S.C. § 1983, for compensatory and for punitive damages.

**SIXTH CLAIM FOR RELIEF**  
***Supervisory Liability Under 42 U.S.C. § 1983***  
**(Against ADAMS)**

215. All preceding and subsequent paragraphs are incorporated by reference.

216. ADAMS failed to supervise GORMAN at the scene of the incident.

217. ADAMS personally caused Plaintiff's constitutional injuries by being deliberately or consciously indifferent to the rights of Plaintiffs in failing to properly supervise GORMAN at the scene of the incident.

218. Because of the foregoing, Plaintiff sustained, *inter alia*, physical pain, permanent physical injuries, mental injuries, emotional distress, embarrassment, humiliation, loss of standing in the community, adverse employment consequences, loss of liberty, and deprivation of his common law and constitutional rights, and seeks compensation in an amount to be determined at trial.

219. As a result of the foregoing, Plaintiff demands judgment against Defendants in a sum of money to be determined at trial.

220. Defendants committed the foregoing violations of Plaintiffs' rights knowingly, intentionally, willfully, recklessly, and/or with deliberate indifference to Plaintiffs' constitutional rights or to the effect of such misconduct upon Plaintiffs' constitutional rights.

221. By reason of the foregoing, the Defendants are liable to Plaintiffs, pursuant to 42 U.S.C. § 1983, for compensatory and for punitive damages.

**SEVENTH CLAIM FOR RELIEF**  
***First Amendment Retaliation Under 42 U.S.C. § 1983***

222. All preceding and subsequent paragraphs are incorporated by reference.

223. In committing the acts and omissions complained of herein, Defendants acted under color of state law—individually, in concert, and through a conspiracy—to deprive Plaintiff of the rights protected by the First Amendment to the United States Constitution.

224. Defendants (a) retaliated against Plaintiff for engaging in speech and/or conduct protected by the First Amendment, and (b) imposed restrictions on such protected speech and/or conduct that violated Plaintiff's First Amendment rights, including, but not limited to subjecting Plaintiff to adverse employment action, selectively enforcing laws and regulations against Plaintiff, and in otherwise violating Plaintiff's rights and engaging in the acts and omissions complained of herein.

225. Defendants engaged in those and other acts and omissions complained of herein in retaliation for Plaintiff's protected speech and/or conduct.

226. Defendants engaged in the acts and omissions complained of herein in order to prevent Plaintiff from continuing to engage in such protected speech and/or conduct.

227. Defendants engaged in the acts and omissions complained of herein in order to prevent and/or discourage Plaintiff from engaging in similar protected conduct in the future.

228. The unlawful conduct of the individual defendants was willful, malicious, oppressive, and/or reckless, and was of such a nature that punitive damages should be imposed against them.

229. As a result of the foregoing, Plaintiff suffered injuries and damages.

**WHEREFORE and in light of the foregoing**, Plaintiff respectfully requests that the Court assume jurisdiction and:

[b] Award appropriate compensatory and punitive damages.

[c] Award appropriate declaratory and injunctive relief, including appointing a monitor to oversee necessary reforms of the Defendant CITY 's process for investigating incidents where RPD Officers use force, and implementing measures to ensure that officers who use force without justification are disciplined.

[d] Empanel a jury.

[e] Award attorney's fees and costs.

[f] Award such other and further relief as the Court deems to be in the interest of justice.

Dated: New York, New York  
October 19, 2022

Respectfully Submitted,  
ROTH & ROTH, LLP

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