

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF FLORIDA**

LORNE BATTISTE, LAURA WINTER,
RICKY HAMBLIN and LUIS CARDONA

CASE NO.

Magistrate Judge:

Plaintiffs,

v.

BROWARD SHERIFF KENNETH C. JENNE, II,
in his official capacity as Sheriff of Broward County,
BROWARD SHERIFF CAPTAIN JOHN BROOKS, Individually,
BROWARD CHIEF RON REFFETT, Individually,
BROWARD SHERIFF DEPUTY GREGORY GOODWEIN, Individually,
BROWARD SHERIFF DEPUTY MARIO BARCELO, Individually,
BROWARD SHERIFF DEPUTY MELVIN WILKIN, Individually,
BROWARD SHERIFF DEPUTIES JOHN DOE NO.1 & 2, Individually,
CITY OF MIAMI, MIAMI POLICE CHIEF JOHN TIMONEY, Individually,
DEPUTY MIAMI CHIEF FRANK FERNANDEZ, Individually,
MIAMI MAJOR ADAM BURDEN, Individually,
MIAMI-DADE COUNTY LIEUTENANT JACK SOLOMAN, Individually,
and MIAMI-DADE COUNTY LIEUTENANT ROBERT BROWN, individually,

Defendants.

COMPLAINT
INTRODUCTION

1. This is a civil rights action on behalf of union activists whose rights under the First and Fourth Amendments were violated while peacefully expressing themselves during the Free Trade Area of the Americas (“FTAA”) summit in Miami in November 2003. Plaintiffs acted lawfully, yet as they were simply walking out of the downtown area, they were trapped and arrested after dutifully following the dispersal orders of various officers from the different police agencies assembled by the City of Miami to provide security. Plaintiffs were arrested and falsely charged with disorderly conduct for doing *exactly* what the police ordered them to do.

2. This action for money damages is brought pursuant to 42 U.S.C. Sections 1983 and 1988, the First, Fourth and Fourteenth Amendments to the United States Constitution, and under the laws of the State of Florida, against the City of Miami, the Sheriff of Broward County, and individual police officers.

3. It is alleged that the individual police officer defendants made an unreasonable seizure of plaintiffs and violated their right of free expression. It is further alleged that these constitutional violations and torts were committed as a result of policies, practices and customs of the City of Miami and the Broward Sheriff's Office.

JURISDICTION AND VENUE

4. This action arises under the constitution and laws of the United States, particularly the First, Fourth, and Fourteenth Amendments to the United States Constitution.

5. The jurisdiction of this Court is invoked pursuant to 28 U.S.C. Sections 1331 and 1343, and on the supplemental jurisdiction of this court to entertain claims arising under state law pursuant to 28 U.S.C. Section 1367.

6. Venue is proper in this district because it is where the events complained of occurred.

7. All conditions precedent to the maintenance of this action have been performed or have occurred prior to its institution including those set forth in Florida Statute Chapter 768.

PARTIES

8. Plaintiff, LORNE BATTISTE ("BATTISTE"), was at all times relevant to this complaint a citizen of the United States and a resident of Miami, Florida. BATTISTE was employed as a staff representative of the American Federation of State, County and Municipal Employees ("AFSCME") Florida Council 79, AFSCME Local 1363, and Miami-Dade County General Employees Local Union

199.

9. Plaintiff, LAURA WINTER (“WINTER”), was at all times relevant to this complaint a citizen of the United States and a resident of Pittsburgh, Pennsylvania. WINTER was employed as an administrative assistant at the international headquarters of the United Steelworkers of America (“USWA”), and is a member of USWA Local Union 3657 in Pittsburgh, Pennsylvania.

10. Plaintiff, RICKY HAMBLIN (“HAMBLIN”), was at all times relevant to this complaint a citizen of the United States and a resident of Eagan, Minnesota. HAMBLIN was employed as a hydraulic maintenance worker with USWA Local Union 7263 in St. Paul, Minnesota.

11. Plaintiff, LUIS CARDONA (“CARDONA”), was at all times relevant to this complaint a resident of Chicago, Illinois. CARDONA is a labor rights activist who was associated with the USWA during the FTAA summit. CARDONA is presently employed with a cleaning company in Chicago.

12. Defendant, CITY OF MIAMI, is a political subdivision of the State of Florida, a Florida municipal corporation.

13. Defendant KENNETH C. JENNE II is the Sheriff of Broward County. Said Defendant is responsible, as Sheriff, for the conduct of the deputies in his employ and ensuring that his deputies and agents obey the laws of the State of Florida and the United States. Defendant JENNE is being sued in his official capacity as Sheriff of Broward County and therefore, said Defendant is synonymous with the Broward County Sheriff’s Office (“BSO”).

14. Defendant police officers CHIEF JOHN TIMONEY, DEPUTY CHIEF FRANK FERNANDEZ and MAJOR ADAM BURDEN were at all times relevant to this complaint duly appointed and acting as officers of the City of Miami Police Department, acting under color of law,

to wit, under color of statutes, ordinances, regulations, policies, customs and usages of the State of Florida and/or the City of Miami Police Department. Defendant TIMONEY is the chief of police of the City of Miami Police Department and as such, is responsible for the policies and practice of the Miami Police Department and is the policy maker for the City of Miami Police Department with regard to police matters. Defendant TIMONEY was responsible for the design, preparation and execution of the security policy that was employed during the FTAA summit. Defendant FERNANDEZ is the deputy chief of the Miami Police Department and was designated Incident Commander of the Miami police force during the FTAA summit. Defendant BURDEN is a major in the Miami Police Department who was designated the coordinator of all Miami police department ground forces outside the immediate downtown core area near the FTAA venues.

15. Defendant police officers CAPTAIN JOHN BROOKS, CHIEF RON REFFETT, GREGORY GOODWEIN, MARIO BARCELO, MELVIN WILKEN and JOHN DOE NO. 1 and 2 were at all times relevant to this complaint duly appointed and acting as officers of the Broward Sheriff's Office, acting under color of law, to wit, under color of statutes, ordinances, regulations, policies, customs and usages of the State of Florida and/or the Broward Sheriff's Department. Defendant BROOKS was the Overall Operations Commander of the BSO force and had final decision making authority for the Broward Sheriff's officers who participated in the FTAA security force. Defendant BROOKS is a former assistant chief of the Miami Police Department and is familiar with the organization and operation of the Miami Police Department. Defendant REFFET was the "ECHO" Field Force Commander, the leader of a squad of field force officers. Defendants GOODWEIN, BARCELO, and WILKEN were part of a BSO field force response team. Defendant police officers JOHN DOE NO. 1 and 2 are individuals employed as a deputy sheriffs of the Broward

Sheriff's Office whose identities are not now known to PLAINTIFFS.

16. Defendant police officers LT. ROBERT BROWN and LT. JACK SOLOMAN were at all times relevant to this complaint duly appointed and acting as officers of the Miami-Dade County Police Department, acting under color of law, to wit, under color of statutes, ordinances, regulations, policies, customs and usages of the State of Florida and/or the Miami-Dade County Police Department. Defendants BROWN and SOLOMAN are lieutenants in the Miami-Dade County police department and were responsible for the supervision of Miami-Dade County field officers under their command during the FTAA summit.

17. At all material times, and in all of their acts described hereto, Defendants were acting under color of state law and color of their authority as public officials and public employees. At all times, Defendants were engaged in conduct that was the proximate cause of the violations of Plaintiffs' federally protected rights, as more particularized herein.

STATEMENT OF FACTS

A. Thursday, November 20, 2003:

18. PLAINTIFFS arrived into downtown Miami on Thursday, November 20, 2003, to peacefully express their views on the FTAA summit, an international conference comprised of trade ministers from thirty-four countries.

19. At noon, PLAINTIFFS joined other union members and labor activists for a rally sponsored by the AFL-CIO at the Bayfront Park Amphitheater, a public park located adjacent to the venue of the summit, the Hotel Intercontinental. Many different speakers addressed the crowd and the rally went on without incident.

20. After the rally, PLAINTIFFS joined the crowd of union members, retirees and students

for a permitted march through downtown Miami. The march was lively, high-spirited and incident free. PLAINTIFFS peacefully participated in the rally and march.

21. At the conclusion of the march, PLAINTIFFS along with other union members returned to the Bayfront Park Amphitheater to listen to more speeches and music.

22. Shortly after, a skirmish broke out between police and protestors on Biscayne Boulevard, one to two blocks south of the amphitheater where PLAINTIFFS were. This incident took place as many people were leaving the amphitheater and walking onto Biscayne Boulevard. PLAINTIFFS were in or near the amphitheater when the disturbance down the boulevard broke out and were not part of the group of protestors who were engaged in the confrontation with the police.

23. In response to the disturbance, the Miami Police Department reacted with an unreasonable use of force. Defendants FERNANDEZ and BURDEN, under the command and direction of Defendant TIMONEY, issued orders to move the crowd and everyone else – whether peaceful demonstrators, bystanders, mere observers, or reporters – away from the amphitheater, off Biscayne Boulevard and out of downtown Miami.

24. The City of Miami Police Department with the assistance of the Broward Sheriff's Office and other agencies attempted to clear the area by moving *everyone* in the downtown area north up Biscayne Boulevard.

25. Acting together, officers under the command of Defendants MIAMI CHIEF TIMONEY, FERNANDEZ, BURDEN and BSO CAPTAIN BROOKS, formed a line, three officers deep, spanning the width of the boulevard from east to west, and in that formation, marched north up Biscayne Boulevard. Defendants TIMONEY, FERNANDEZ, BURDEN and BROOKS were positioned behind the line and issued directions and orders while marching with the officers.

26. Defendant CHIEF TIMONEY was present on the scene on a bicycle and on foot and participated directly in the enforcement action. Defendant Miami Supervising Officers FERNANDEZ and BURDEN and BSO CAPTAIN BROOKS supervised officer movement and issued commands and encouragement to the officers. Acting together, they led the deployment of the officers as the force moved up the boulevard and ultimately to the location where PLAINTIFFS were arrested.

27. The contingent of police forces led by the Miami Police Department moved the crowd north by pushing people with shields and clubs and by shooting people with “less lethal” weapons.

28. The police pursued the crowd north up Biscayne Boulevard and pushed everyone in their way off the boulevard by “flooding” (pushing) them west to N. E. 2nd Avenue.

29. The police and the protestors who were involved in the confrontation south of the amphitheater, moved north towards the separate, unrelated crowd of people who were trying to leave the area near the amphitheater. PLAINTIFFS were part of the crowd near the amphitheater who were merely attempting to leave the downtown area.

30. Seeking to avoid any conflict and in an attempt to find the most expeditious way out of the downtown area, PLAINTIFFS asked police officers which route would be the best way out. PLAINTIFFS left the amphitheater and were directed by Miami police officers to cross Biscayne Boulevard and walk north on the west side of the boulevard. PLAINTIFFS did as they were told.

31. PLAINTIFFS were then directed by Miami police officers to turn off Biscayne Boulevard and walk west on N. E. 4th Street. PLAINTIFFS followed the order.

32. After walking west one block, PLAINTIFFS were directed by Miami police officers to turn right and walk north up N. E. 2nd Avenue. PLAINTIFFS followed the order.

33. As they walked north up N. E. 2nd Avenue past N. E. 4th Street, PLAINTIFFS walked from the “central” zone, under the responsibility of the Miami Police Department, into the “northern” zone, under the responsibility of the Miami-Dade County Police Department. These zones of responsibility had been assigned by the Miami Police Department in furtherance of the city’s FTAA security plan.

34. On N. E. 2nd Avenue between N. E. 6th and 7th streets, Miami-Dade County police officers formed a forty-five degree line to prevent anyone from either walking any further north up N. E. 2nd Avenue, or walking east, back toward Biscayne Boulevard.

35. At that point, on N. E. 2nd Avenue between N. E. 6th and 7th streets, Miami-Dade County police officers under the command and supervision of Defendants LT. SOLOMAN and LT. BROWN ordered PLAINTIFFS to walk west along an old railroad track pathway which connected N. E. 2nd Avenue to N. E. 1st Avenue.

36. PLAINTIFFS, along with a group of approximately 20 other people, followed the order of the Miami-Dade County police officers and walked west onto the pathway toward N. E. 1st Avenue. In following the officers’ orders, PLAINTIFFS acted lawfully and did not commit any criminal offense. PLAINTIFFS followed the directions of the police officers on the scene and walked exactly where the officers ordered them to go.

37. At the end of the pathway on N. E. 1st Avenue, police officers in riot gear from the Broward Sheriff’s Office under the direction and command of Defendant BROOKS had positioned themselves and formed a line which prevented anyone from walking further west.

38. As PLAINTIFFS made their way west on the pathway and were approximately halfway to N. E. 1st Avenue, an order was given for the Broward Sheriff’s officers to march in formation east

toward the PLAINTIFFS. PLAINTIFFS were now caught between the Miami-Dade County police officers who were east of them on N. E. 2nd Avenue, and the oncoming Broward Sheriff's officers who were advancing toward them from the west from N. E. 1st Avenue.

39. Without any legal justification, Defendant REFFETT, the commander of the BSO "ECHO" field force, issued orders to arrest PLAINTIFFS. The Broward Sheriff's officers rushed toward PLAINTIFFS and screamed at them to "get on the ground with your hands over your head."

40. PLAINTIFFS complied with the order to get down, offered no resistance and immediately went to the ground. PLAINTIFFS were placed under arrest by the Broward Sheriff's officers and charged with disorderly conduct.

41. Shortly after the arrests occurred, Defendant LT. BROWN of the Miami-Dade County Police Department went to speak with officers from the Broward Sheriff's Office at the scene about the arrests. After that conversation, however, PLAINTIFFS remained in custody and were taken to jail.

42. Defendants FERNANDEZ, BURDEN, BROOKS, REFFETT, BROWN, and SOLOMAN were either present at the scene of PLAINTIFFS' arrests or came upon the scene shortly thereafter, were made aware of the factual circumstances surrounding the arrests, and did nothing to prevent the arrests from taking place.

43. PLAINTIFFS' arrests were filmed. The film shows PLAINTIFFS on the pathway and being ordered by the Broward officers to get on the ground. PLAINTIFFS did exactly as they were told but were placed under arrest. *See Exhibit A, attached.*

B. Plaintiff Lorne Battiste

44. BATTISTE attended the AFL-CIO rally and march on November 20, 2003, as a staff

representative of AFSCME Florida Council 79, AFSCME Local 1363, and Miami-Dade County General Employees Local Union 199.

45. BATTISTE was assigned by his union to assist members at the rally and march and was appointed an “AFL-CIO Peacekeeper.” His responsibilities as a peacekeeper were to walk along the rally route and act as a liaison between the marchers and the police.

46. At all times during the march and rally, BATTISTE wore a bright orange and black AFL-CIO vest and an AFL-CIO Peacekeeper identification tag.

47. BATTISTE participated in the rally and march and at all times during the events of November 20, 2003, BATTISTE acted lawfully and peacefully.

48. At the conclusion of the rally and march, BATTISTE left the Bayfront Park amphitheater and attempted to make his way out of the downtown area. Because he is from Miami, BATTISTE helped lead a small group of others who were from out of town and were thus unfamiliar with the area. BATTISTE followed the police orders and directions as to where to walk but was nonetheless trapped and placed under arrest on the railroad pathway near N. E. 1st Avenue, as described above in paragraphs 18 - 43.

49. Upon being ordered to the ground by the Broward Sheriff’s officers, BATTISTE got on his stomach and immediately complied with the officer’s command. Broward Sheriff’s officers got on top of BATTISTE and kned him in the back while twisting both his arms. BATTISTE asked why he was being arrested but received no response. Flex cuffs were strapped tightly on his wrists causing him great pain and after he was dragged to his feet, BATTISTE was placed in a police bus and taken to jail.

50. BATTISTE remained in jail for approximately thirty (30) hours until he was finally able

to bond out the following day.

51. BATTISTE was arrested by Defendant GREGORY GOODWEIN, a police officer employed by Defendant BROWARD SHERIFF'S OFFICE.

52. Defendant GOODWEIN charged Plaintiff BATTISTE in an arrest affidavit with disorderly conduct, in violation of Florida Statute 877.03.

53. Defendant GOODWEIN signed and swore that the facts alleged in the arrest affidavit were true. The narrative section of the arrest affidavit states: "Pursuant to mutual aid agreement subject was given dispersal order by Major Burden, MPD, after given the opportunity to disperse, subject became violent and had to be arrested."

54. Defendant GOODWEIN, however, did not write the narrative portion of the arrest affidavit. The arrest affidavit was written by Defendant Broward Sheriff Officer JOHN DOE NO. 1.

55. Defendant GOODWEIN subsequently testified under oath that he never witnessed BATTISTE commit any act of violence and that the facts alleged in the arrest affidavit "didn't happen."

56. On April 26, 2004, all charges against BATTISTE were dismissed.

C. Plaintiff Laura Winter

57. LAURA WINTER attended the AFL-CIO rally and march on November 20, 2003, as a member of USWA Local Union 3657 in Pittsburgh, Pennsylvania. Because she is bilingual, WINTER was assigned by her union to serve as a Spanish translator for other union members during their activities at the FTAA summit.

58. WINTER participated in the AFL-CIO rally and march on November 20, 2003, and at all

times acted lawfully and peacefully.

59. After the rally and march had concluded, WINTER returned to the Bayfront Park Amphitheater where she translated for other union members who were giving interviews to the media.

60. Once the activities at the amphitheater had finished, WINTER left and attempted to make her way out of the downtown area to return to her hotel.

61. WINTER followed the orders given to her by the police but was nonetheless trapped and placed under arrest on the railroad pathway near N. E. 1st Avenue, as described above in paragraphs 18 - 43.

62. Upon being confronted by the Broward Sheriff's officers who were marching toward her and yelling at her to "get down," WINTER became frightened and sat down on the ground. Broward Sheriff's officers then surrounded WINTER and forced her to lie on her stomach, face down in the grass.

63. WINTER'S arrest was filmed. As the officers surrounded her, Plaintiff WINTER immediately asked, "Can somebody explain what we did?" She then spontaneously exclaimed, "We were sent this way by the police back at the corner." The same film shows another person being arrested near WINTER also making statements explaining that police officers at the corner had told them to walk west along the pathway.

64. No police officer ever conducted an investigation to determine if WINTER'S assertion was true, that in fact, she and the others were directed to walk down the pathway.

65. Broward Sheriff's officers placed flex cuffs behind WINTER'S back and placed her in a police bus where she remained for over two hours before being processed and ultimately taken to jail. WINTER remained in jail for approximately twenty (20) hours until she was finally able to bond

out the following day.

66. WINTER was arrested by Defendant MARIO BARCELO and charged with disorderly conduct, in violation of Florida Statute 877.03.

67. Defendant BARCELO signed an arrest affidavit which states: “Pursuant to mutual aid agreement subject was given dispersal order by Major Burden, MPD, after given the opportunity to disperse, subject became violent and had to be arrested.”

68. On March 18, 2004, all charges against WINTER were dismissed.

D. Plaintiff Ricky Hamblin

69. RICKY HAMBLIN attended the AFL-CIO rally and march on November 20, 2003, as a member of USWA Local Union 7263 in St. Paul, Minnesota and at all times said events acted lawfully and peacefully.

70. During the march and rally, HAMBLIN acted as a marshal and wore a peacekeeper badge.

71. After the rally and march had concluded, HAMBLIN attempted to leave the downtown area and return to his hotel. As he left the area, HAMBLIN assisted a small group of senior citizens who were also attempting to leave the area.

72. HAMBLIN followed the orders given to him by the police but was nonetheless trapped and placed under arrest on the railroad pathway near N. E. 1st Avenue, as described above in paragraphs 18 - 43.

73. As he walked down the pathway, HAMBLIN saw Broward Sheriff’s officers running toward him and pointing “less lethal” weapons directly at him. HAMBLIN immediately went to his knees and lied down on the ground. Broward Sheriff’s officers got on top of HAMBLIN and kned him in the back while twisting both his arms, causing him great pain. The Broward Sheriff’s officers

applied flex cuffs so tightly on his wrists that HAMBLIN temporarily lost all feeling in his hands and wrists. After he was dragged to his feet, HAMBLIN was placed in a police bus and taken to jail. While in custody, HAMBLIN repeatedly requested to use a bathroom but was denied. As a result, HAMBLIN urinated on himself.

74. HAMBLIN remained in jail for approximately twenty-five (25) hours until he was finally able to bond out the following day.

75 HAMBLIN was arrested by Defendant MELVIN WILKIN and charged with disorderly conduct, in violation of Florida Statute 877.03.

76. Defendant WILKEN signed an arrest affidavit which is identical to the arrest affidavit charging BATTISTE and WINTER. That affidavit states: “Pursuant to mutual aid agreement subject was given dispersal order by Major Burden, MPD, after given the opportunity to disperse, subject became violent and had to be arrested.”

77. On March 18, 2004, all charges against HAMBLIN were dismissed.

E. Plaintiff Luis Cardona

78. CARDONA attended the AFL-CIO rally and march on November 20, 2003, as an invited associate of the United Steel Workers of America. CARDONA is a labor activist who resides in Chicago, Illinois.

79. CARDONA participated in the AFL-CIO rally and march on November 20, 2003, and at all times acted lawfully and peacefully.

80. After the rally and march had concluded, CARDONA returned to the Bayfront Park Amphitheater. Once the activities at the amphitheater had finished, CARDONA left with members of the USWA and attempted to make his way out of the downtown area to return to his hotel.

81. CARDONA followed the orders given to him by the police but was nonetheless trapped and placed under arrest on the railroad pathway near N. E. 1st Avenue, as described above in paragraphs 18 - 43.

82. Upon being confronted by the Broward Sheriff's officers who were marching toward him and yelling at him to "get down," CARDONA immediately went to the ground and offered no resistance. Broward Sheriff's officers then surrounded CARDONA and forced him to lie on his stomach, face down. Broward Sheriff's officers got on top of BATTISTE and kned him in the back while twisting both his arms. CARDONA lied passively on the ground and offered no resistance to the police. As CARDONA was lying face down on the ground with the officers on top of and around him, Defendant Broward Sheriff Officer JOHN DOE NO. 2 shocked CARDONA on the back of his leg with a stun gun. CARDONA experienced a severe pain and an electrical shock throughout his entire body. Flex cuffs were strapped tightly on his wrists, causing him great pain. After he was pulled up to his feet, CARDONA was placed in a police bus and taken to jail.

83. CARDONA remained in jail for approximately twenty-four (24) hours until he was finally able to bond out the following day.

84. CARDONA was arrested by Defendant MARIO BARCELO and charged with disorderly conduct, in violation of Florida Statute 877.03.

85. Defendant BARCELO signed an arrest affidavit which is identical to the arrest affidavit charging the other PLAINTIFFS and which states: "Pursuant to mutual aid agreement subject was given dispersal order by Major Burden, MPD, after given the opportunity to disperse, subject became violent and had to be arrested."

86. On March 17, 2004, all charges against CARDONA were dismissed.

F. Miami P.D.'s FTAA Security Plan: Overpowering Police Presence

87. As the law enforcement entity in the host city, the City of Miami Police Department formulated a policy to provide security at the FTAA summit. The City of Miami anticipated that the FTAA summit would attract thousands of protestors and predicted that the demonstrations would be the largest in the city's history.

88. The City of Miami Police Department's security policy involved supplementing the Miami police force by assembling and leading a multi-agency law enforcement force so as to create an overpowering police presence in the downtown area during the FTAA summit.

89. The City's policy was designed to present a massive, omnipresent and overwhelming show of police authority so as to discourage people from coming to the downtown area to demonstrate against the FTAA summit. The central premise of the policy was that by restricting protest, the potential for civil disturbance, violence, arrests, and property damage would be minimized.

90. In furtherance of its policy, the City of Miami Police Department recruited federal, state, county and municipal police departments from throughout south Florida to be part of the security force. Ultimately, the City of Miami Police Department assembled a multi-agency police/security force which involved the participation of nearly forty different law enforcement agencies. Each of the various participating agencies signed some form of contract with the City of Miami which allowed each department to exercise police powers outside its own jurisdiction and within the City of Miami.

91. The City of Miami Police Department's security policy was intended to create an umbrella under which the participating member police agencies acted. This joint security plan required the various agencies to submit to a single plan with the Miami police department assuming the leadership role among the cooperating agencies. The City of Miami in conjunction with the

heads/representatives of the various agencies devised “rules of engagement” which each of the participating agencies was required to follow.

92. The Broward County Sheriff’s Office was a member of the multi-agency security force led by the City of Miami Police Department. The Broward County Sheriff’s Office signed a mutual aid agreement with the City of Miami which read: “The personnel and equipment that are assigned by the assisting agency [BSO] shall be under the immediate command of a supervising officer designated by the agency head of the assisting agency. Such supervising officer shall be under the direct supervision and command of the agency head and or his/her designee of the agency requesting assistance [Miami Police Department].” The Miami city manager, the city attorney and the chief of police, Defendant TIMONEY, signed the contract with Defendant Broward Sheriff JENNE. *See* Exhibit B, attached.

93. The City of Miami Police Department assigned the participating agencies either a specific role or function and/or a geographic area of responsibility. As the leader of the multi-agency security plan, the City of Miami Police Department divided the downtown area into three separate areas and designated them northern, central and southern. This strategy was designed to blanket the downtown area with police officers and create an omnipresent, overpowering police presence. Pursuant to its role as the leader of the multi-agency force and because most of the FTAA activities took place in the city’s core downtown area, the City of Miami Police Department assumed responsibility for the “central” area, that is, the area from NW/NE 4th Street south to the Miami River and from I-95 east to Biscayne Bay.

94. The Miami-Dade County Police Department agreed to cover the “northern” area, that is, the area from I-395 to the north, south to NW/NE 4th Street, and from I-95 east to Biscayne Bay.

95. The Broward Sheriff's Office was assigned to supplement the police effort in both the central and northern command areas. The Broward Sheriff's Office was to provide contingents of field force officers and SWAT teams to be utilized as a reactionary field force to assist with crowd control operations. Police officers from the various other agencies were spread throughout the entire city in each of the three areas.

96. Notwithstanding the intent of the policy to centralize the command authority under the City of Miami Police Department, the Miami Police Department's FTAA security plan did not have an effective communication system which coordinated the movements, maneuvers and actions between and among the numerous police agencies in the downtown area as events unfolded.

97. Defendant MIAMI POLICE CHIEF TIMONEY set the tone for the policy by personally participating in police operations designed to clear the downtown area of demonstrators. After the summit had begun, when asked on the evening of November 19 whether he thought demonstrators would violate the law the next day, Timoney commented, "If they don't do anything by tomorrow night, pardon the expression, but they look like pussies." During the summit Defendant TIMONEY set the example for the officers under his command by illegally detaining and searching the backpack of a person who was walking on the street; running up to another individual who was being taken into police custody, putting his finger in the person's face and yelling, "You're bad. Fuck you!"; and, referring to demonstrators as "punks" and "knuckleheads."

G. Arrests of Plaintiffs: Unjustified and Illegal

98. At no time during the events described above were Plaintiffs violent, a threat to others, or disorderly. PLAINTIFFS did not commit any violation of the law.

99. Defendant police officers did not have a warrant for the arrest of PLAINTIFFS, did not

have probable cause to arrest PLAINTIFFS, and did not have a legal cause or excuse to seize the person of PLAINTIFFS. A reasonable police officer would have known that pursuant to clearly established law, there was no probable cause to arrest PLAINTIFFS.

100. At all times during the events described above, the defendant police agencies and officers were engaged in a joint venture. The individual officers assisted each other in performing the various actions described and lent their physical presence and support and authority of their office to each other during the FTAA summit.

101. As a direct and proximate cause of the said acts of the defendants, PLAINTIFFS suffered the following injuries and damages:

- a. Violation of their constitutional rights under the First, Fourth, and Fourteenth Amendments to the United States Constitution;
- b. Loss of physical liberty;
- c. Physical pain and suffering, emotional trauma and suffering, humiliation, embarrassment and damage to reputation, all of which continue to this day and are likely to continue into the future.

102. The actions of the defendant officers violated the following clearly established and well settled federal constitutional rights of Plaintiffs, of which a reasonable person would have known:

- a. Freedom from the unreasonable seizure of their person;
- b. Freedom of speech, expression and assembly.

COUNT I

(BATTISTE pursuant to 42 U.S.C. §1983 Against Defendant GOODWEIN, Individually)

103. BATTISTE realleges paragraphs 1 through 102, and incorporates them by reference

herein.

104. While Defendant GOODWEIN was acting under color of law as a deputy sheriff for the Broward County Sheriff's Office/Defendant JENNE, he subjected BATTISTE to the deprivation of rights secured to him under the First, Fourth, and Fourteenth Amendments to the United States Constitution.

105. Defendant GOODWEIN unlawfully and without probable cause seized and detained BATTISTE while Plaintiff was walking on a pathway where he was directed to walk by the police, and while Plaintiff was engaged in the lawful exercise of his rights under the First Amendment. Defendant GOODWEIN caused formal proceedings to be instituted based upon said unlawful seizure.

106. The conduct of defendant GOODWEIN violated BATTISTE'S clearly established right to be free from an unreasonable seizure of his person and his right to free expression, as guaranteed by the First, Fourth and Fourteenth Amendments to the Constitution of the United States and for which 42 U.S.C. § 1983 provides a remedy.

COUNT II

(WINTER pursuant to 42 U.S.C. §1983 Against Defendant BARCELO, Individually)

107. WINTER realleges paragraphs 1 through 102, and incorporates them by reference herein.

108. While Defendant BARCELO was acting under color of law as a deputy sheriff for the Broward County Sheriff's Office/Defendant JENNE, he subjected WINTER to the deprivation of rights secured to her under the First, Fourth, and Fourteenth Amendments to the United States Constitution.

109. Defendant BARCELO unlawfully and without probable cause seized and detained WINTER while Plaintiff was walking on a pathway where she was directed to walk by the police, and

while Plaintiff was engaged in the lawful exercise of her rights under the First Amendment. Defendant BARCELO caused formal proceedings to be instituted based upon said unlawful seizure.

110. The conduct of the defendant BARCELO violated WINTER'S clearly established right to be free from unreasonable seizures and detention of her person and her right to free expression, as guaranteed by the First, Fourth and Fourteenth Amendments to the Constitution of the United States for which 42 U.S.C. § 1983 provides a remedy.

COUNT III

_____(HAMBLIN pursuant to 42 U.S.C. § 1983 Against Defendant WILKEN, Individually)

111. HAMBLIN realleges paragraphs 1 through 102, and incorporates them by reference herein.

112. While Defendant WILKEN was acting under color of law as a deputy sheriff for the Broward County Sheriff's Office/Defendant JENNE, he subjected HAMBLIN to the deprivation of rights secured to him under the First, Fourth, and Fourteenth Amendments to the United States Constitution.

113. Defendant WILKEN unlawfully and without probable cause seized and detained HAMBLIN while Plaintiff was walking on a pathway where he was directed to walk by the police, and while Plaintiff was engaged in the lawful exercise of his rights under the First Amendment. Defendant WILKEN caused formal proceedings to be instituted based upon said unlawful seizure.

114. The conduct of the defendant WILKEN violated HAMBLIN'S clearly established right to be free from unreasonable seizures of his person and his right to free expression, as guaranteed by the First, Fourth and Fourteenth Amendments to the Constitution of the United States and for which 42 U.S.C. § 1983 provides a remedy.

COUNT IV

(CARDONA pursuant to 42 U.S.C. §1983 Against Defendant BARCELO, Individually)

115. CARDONA realleges paragraphs 1 through 102, and incorporates them by reference herein.

116. While Defendant BARCELO was acting under color of law as a deputy sheriff for the Broward County Sheriff's Office/Defendant JENNE, he subjected CARDONA to the deprivation of rights secured to him under the First, Fourth, and Fourteenth Amendments to the United States Constitution.

117. Defendant BARCELO unlawfully and without probable cause seized and detains CARDONA while Plaintiff was walking on a pathway where he was directed to walk by the police, and while Plaintiff was engaged in the lawful exercise of his rights under the First Amendment. Defendant BARCELO caused formal proceedings to be instituted based upon said unlawful seizure.

118. The conduct of the defendant BARCELO violated CARDONA'S clearly established right to be free from unreasonable seizures and detention of his person and his right to free expression, as guaranteed by the First, Fourth and Fourteenth Amendments to the Constitution of the United States for which 42 U.S.C. § 1983 provides a remedy.

COUNT V

(CARDONA pursuant to 42 U.S.C. §1983 Against Defendant JOHN DOE NO.2, Individually)

119. CARDONA realleges paragraphs 1 through 102, and incorporates them by reference herein.

120. This cause of action is brought by PLAINTIFF LUIS CARDONA, against Defendant

Broward Sheriff Officer JOHN DOE NO. 2 for the willful, wanton and malicious use of excessive force under color of law that deprived CARDONA of constitutionally protected rights under the Fourth and Fourteenth Amendments to the United States Constitution.

121. PLAINTIFF was unlawfully arrested by Defendant BARCELO while PLAINTIFF was walking on a pathway where he was directed to walk by the police. Upon being arrested PLAINTIFF offered no resistance to the illegal arrest. Nonetheless, without legal cause and with malice, Defendant Broward Sheriff Officer JOHN DOE NO. 2 shocked CARDONA on the back of his leg with a stun gun and used force that was disproportionate to the force necessary to arrest PLAINTIFF, causing PLAINTIFF to experience great pain and causing serious injury.

122. Defendant JOHN DOE NO. 2 while acting in his capacity of a police officer and under color of law, did willfully, intentionally, and maliciously use excessive force on PLAINTIFF.

123. The intentional, willful and wanton acts of Defendant JOHN DOE NO. 2 establishes a claim for punitive damages by PLAINTIFF against Defendant JOHN DOE NO. 2.

COUNT VI

(BATTISTE, WINTER, HAMBLIN and CARDONA for State Tort of
False Arrest against Defendant JENNE)

124. BATTISTE, WINTER, HAMBLIN, and CARDONA reallege paragraphs 1 through 102, and incorporates them by reference herein.

125. This is a cause of action for damages in excess of fifteen thousand dollars, exclusive of costs and attorney's fees.

126. Defendant JENNE is the Sheriff of Broward County and is responsible for the conduct of the deputies in his employ.

127. On November 20, 2003, PLAINTIFFS were arrested by Broward Sheriff's officers who were acting in the course and scope of their duties as deputies employed by Defendant JENNE.

128. Defendants GOODWEIN, BARCELO and WILKEN, acting as deputies of Defendant JENNE, physically deprived PLAINTIFFS of their freedom and liberty and restrained them in their movements both at the scene of the arrest and continuing at the Miami-Dade County jail.

129. The restraint of PLAINTIFFS by Defendants GOODWEIN, BARCELO and WILKEN was unlawful and unreasonable in that it was not based upon lawfully issued process of Court and said Defendants did not have either probable cause to arrest or a valid arrest warrant for PLAINTIFFS.

130. As a result of the actions of Defendants GOODWEIN, BARCELO and WILKEN, for which Defendant JENNE is responsible, PLAINTIFFS suffered damages which include bodily injury and/or physical suffering; inconvenience; physical discomfort; loss of time; mental suffering; embarrassment; humiliation, disgrace and injury to their feelings and reputation; the emotional damage and reputation damage are continuing to this day and are likely to continue in the future.

131. Pursuant to 768.28, Florida Statutes, PLAINTIFFS notified Defendant JENNE/Broward Sheriff's Office of this claim prior to filing this action and said claim was not resolved.

COUNT VII

(BATTISTE, WINTER, HAMBLIN and CARDONA pursuant to 42 U.S.C. §1983
Against Defendant CITY OF MIAMI)

132. PLAINTIFFS repeat and reallege paragraphs 1 through 102, and incorporate them by reference herein.

133. This cause of action is brought by PLAINTIFFS against Defendant CITY OF MIAMI

for deprivation by its officers or agents of PLAINTIFFS' constitutional rights within the meaning of 42 U.S.C. §1983.

134. In furtherance of its FTAA security policy – a policy designed to limit lawful public expression – Defendant CITY OF MIAMI violated PLAINTIFFS' rights under the First, Fourth and Fourteenth Amendments to the United States Constitution. In orchestrating and carrying out such policy, Defendant CITY OF MIAMI acted knowingly, willfully and maliciously, the result being that PLAINTIFFS were arrested without probable cause in retaliation for exercising their rights under the First Amendment.

135. Defendant CITY OF MIAMI had the duty of providing a safe and secure setting in the downtown Miami area during the FTAA summit so that persons such as PLAINTIFFS could lawfully exercise their rights under the First Amendment and be free from unreasonable seizures of their person as guaranteed by the Fourth Amendment. That duty included the training, supervising, controlling and disciplining its police officers, and such duty extended to the officers of the agencies, including the Broward Sheriff's Office, with whom it contracted in furtherance of its security policy during the FTAA summit.

136. Defendant CITY OF MIAMI was deliberately indifferent to and violated PLAINTIFFS' rights under the First, Fourth and Fourteenth Amendments by failing to train, supervise, control and discipline its police officers or agents under its control, including the Broward Sheriff's officers, in the execution of their official duties during the FTAA summit, and, particularly, to ensure that such officers: a) made no arrest without probable cause; b) respected the free speech and assembly rights of persons on the streets of Miami, and c) refrained from using excessive force on persons in downtown Miami during the FTAA. Defendant CITY OF MIAMI'S failure to adequately train,

supervise and control the officers under its command and direction, as specified above, is part of a pattern, practice and custom or omission that is tantamount to a policy of the defendant CITY OF MIAMI.

137. Such failure to train, supervise, control and discipline made it reasonably foreseeable and inevitable that persons such as PLAINTIFFS who were peacefully exercising their rights under the First Amendment and merely attempting to leave the downtown area would be subjected to unlawful seizures, detentions and arrests.

138. The above mentioned actions were not an isolated incident. Defendant CITY OF MIAMI has a history of failing to respect the constitutional rights of large crowds of persons who peacefully demonstrate on the streets of the city of Miami, i.e. Elian Gonzalez incident. Defendant TIMONEY, as the final policy maker for police matters for the City of Miami and for the FTAA operations, was deliberately indifferent to the rights of those protesting FTAA. The practice of arresting people in retaliation or in total disregard for their constitutional rights was condoned, encouraged, permitted and tolerated by Timoney, and thereby caused a policy, custom and practice of unjustified, unreasonable and illegal false arrests by officers under his command perpetrated upon members of the public, including PLAINTIFFS, which violated their First and Fourth Amendment rights.

139. The above described policies, practices, customs, actions and omissions demonstrated a deliberate indifference on the part of Defendant CITY OF MIAMI to the constitutional rights of the public, including PLAINTIFFS, and were the direct and proximate cause of the violation of PLAINTIFFS' rights under the First, Fourth and Fourteenth Amendments to the United States Constitution.

COUNT VIII

(BATTISTE, WINTER, HAMBLIN and CARDONA pursuant to 42 U.S.C. §1983
Against Defendant JENNE, in his Official Capacity)

140. Plaintiffs repeat and reallege paragraphs 1 through 102, and incorporate them by reference herein.

141. This cause of action is brought by PLAINTIFFS against Defendant JENNE/Broward Sheriff's Office for deprivation by its officers or agents of PLAINTIFFS' constitutional rights within the meaning of 42 U.S.C. §1983.

142. Defendants, GOODWEIN, BARCELO, WILKEN, REFFETT, and BROOKS, while acting under color of law as authorized officers and agents of Defendant JENNE, and while arresting PLAINTIFFS in furtherance of their duties, caused a constitutional deprivation of PLAINTIFFS' rights under the First and Fourth Amendments to the United States Constitution.

143. The constitutional deprivation was caused by Defendant JENNE'S lack of training and supervision in regard to Broward Sheriff's officers arresting persons without probable cause and falsely claiming in arrest affidavits and police reports that such persons committed violations of the law.

144. It was the custom, policy and practice of Defendant JENNE, through the Broward Sheriff's Office, to inadequately train, supervise and discipline officers on the issue of arresting persons without probable cause. It is the custom, policy and practice of Defendant JENNE to fail to take corrective action and discipline officers of the Broward Sheriff's Office who write false allegations in police reports and/or arrest affidavits, and/or charge innocent people with criminal violations.

145. The above described constitutional deprivation of constitutional rights suffered by PLAINTIFFS was not an isolated incident. Defendant JENNE/the Broward Sheriff's Office, has a long-standing, widespread history of failing to properly hire, train, supervise and discipline its officers for unlawful detentions and arrests, and/or for writing false allegations in police reports and/or arrest affidavits.

146. Defendant JENNE has deliberately maintained a written policy for "multiple case clearance," a policy which encourages and promotes the creation and writing of false police reports and/or arrest affidavits.

147. Additionally, Defendant JENNE has created a quota system for arrests and provided bonuses and other incentives for his officers to engage in "multiple case clearance."

148. Defendant JENNE has permitted and tolerated such conduct and thereby caused a pattern and practice of unjustified, unreasonable and illegal false arrests by officers of the Broward Sheriff's Office perpetrated upon members of the public, including PLAINTIFFS, which violated their Fourth Amendment rights.

149. Defendant JENNE has failed to subject officers and supervisors who engage in and/or tolerate such behavior to appropriate supervision, discipline, or retraining, such that it has become the *de facto* policy of the Broward County Sheriff's Office to tolerate such behavior by its officers.

150. As a result of the above described customs, policies and practices, deputy officers of the Broward Sheriff's Office, including defendant officers, believed that their actions would not be properly monitored by supervisory officers and that their misconduct would not be investigated or sanctioned, but would be tolerated.

151. The above described customs, policies and practices demonstrated a deliberate indifference on the part of Defendant JENNE/Broward Sherriff's Office to the constitutional rights of persons such as PLAINTIFFS, and were the direct and proximate cause of the violation of PLAINTIFFS' rights alleged herein.

COUNT IX

(BATTISTE, WINTER, HAMBLIN and CARDONA - Conspiracy to Interfere with Civil Rights
In Violation of 42 U.S.C. §1983 - Against Defendants
GOODWEIN, BARCELO, WILKEN, BROOKS, REFFET and JOHN DOE NO.1)

152. Plaintiffs repeat and reallege paragraphs 1 through 102, and incorporate them by reference herein.

153. This cause of action is brought by PLAINTIFFS against Defendants GOODWEIN, BARCELO, WILKEN , BROOKS, REFFETT and JOHN DOE NO. 1 for conspiracy to interfere with PLAINTIFFS' constitutional rights to be free from an unlawful seizure of their person by police officers, as guaranteed by the Fourth and Fourteenth Amendments to the United States Constitution.

154. Defendants GOODWEIN, BARCELO, WILKEN, BROOKS, REFFETT and JOHN DOE NO. 1 entered into an agreement for the purpose of depriving PLAINTIFFS of their constitutionally protected rights by falsely arresting PLAINTIFFS with disorderly conduct and causing criminal charges to be wrongly brought against PLAINTIFFS. Such actions were taken while said Defendants were acting under the color of law as police officers employed by the Broward Sheriff's Office.

155. After falsely arresting PLAINTIFFS for disorderly conduct, Defendants GOODWEIN, BARCELO, and WILKEN subsequently signed and swore to factual allegations in arrest affidavits that they knew not to be true. The factual narratives of such affidavits were written by Defendant JOHN DOE NO. 1. Defendant supervising officers BROOKS and REFFETT knew or had reason to

know that the allegations supporting the arrest affidavits of PLAINTIFFS were false and took no action to intervene and prevent such false charge from being made.

156. Each of the Defendants, GOODWEIN, BARCELO, WILKEN, BROOKS, REFFETT and DOE NO. 1, had knowledge of the nature and scope of the agreement.

157. The acts of Defendants GOODWEIN, BARCELO, WILKEN, BROOKS, REFFETT and DOE NO. 1 were part of an on-going practice of the co-conspirators to falsely arrest individuals with full knowledge that their actions would be exonerated by Defendant JENNE.

158. The acts of Defendants GOODWEIN, BARCELO, WILKEN, BROOKS, REFFETT and DOE NO. 1 were carried out for the very purpose of depriving PLAINTIFFS of their rights against unreasonable searches and seizures and their right to free expression.

159. As a direct and proximate consequence of the conspiracy of Defendants GOODWEIN, BARCELO, WILKEN, BROOKS REFFETT and DOE NO. 1, PLAINTIFFS sustained physical injury, humiliation, emotional distress, and pain and suffering.

160. The intentional, willful and wanton acts of Defendants GOODWEIN, BARCELO, WILKEN, BROOKS, REFFETT and DOE NO. 1 establish a claim for punitive damages by PLAINTIFFS against Defendants GOODWEIN, BARCELO, WILKEN, BROOKS, REFFETT and DOE NO. 1.

COUNT X

(BATTISTE, WINTER, HAMBLIN and CARDONA pursuant to 42 U.S.C. §1983, For Failure to Intervene, Against FERNANDEZ, BURDEN, BROOKS, REFFETT, SOLOMAN and BROWN, Individually)

161. Plaintiffs repeat and reallege paragraphs 1 through 102, and incorporate them by

reference herein.

162. This cause of action is brought by PLAINTIFFS against Defendants FERNANDEZ, BURDEN, BROOKS, REFFETT, SOLOMAN and BROWN for deprivation of PLAINTIFFS' constitutional rights within the meaning of 42 U.S.C. §1983.

163. At the time and place alleged herein, Defendants FERNANDEZ, BURDEN, BROOKS, REFFETT, SOLOMAN and BROWN were either present at the scene of or in the immediate area of the false and illegal arrest of PLAINTIFFS, and immediately after the arrests, became aware of the factual circumstances surrounding the arrests.

164. At said date and location, Defendants FERNANDEZ, BURDEN, BROOKS, REFFETT, SOLOMAN and BROWN had ample and reasonably sufficient time and opportunity to intervene and prevent the illegal arrest, and were required to do so as police officers under the laws of the State of Florida and the Constitution of the United States.

165. At said date and location, in deliberate indifference to the constitutional rights and liberty of PLAINTIFFS, Defendants FERNANDEZ, BURDEN, BROOKS, REFFETT, SOLOMAN and BROWNE intentionally and deliberately refrained from so intervening.

166. As a result of their deliberate indifference and their failure to intervene, defendant police officers from the Broward Sheriff's Office unlawfully arrested PLAINTIFFS based on false evidence in violation of PLAINTIFFS' rights under the First, Fourth and Fourteenth Amendments to the United States Constitution.

167. Thereafter, said defendants failed to prevent PLAINTIFFS from being taken to jail and failed to come forward and notify the State Attorney that the criminal prosecution of PLAINTIFFS was without legal cause.

COUNT XI

(BATTISTE, WINTER, HAMBLIN and CARDONA pursuant to 42 U.S.C. §1983

Against Defendant Supervisors TIMONEY, FERNANDEZ, BURDEN, BROOKS, and
REFFETT, Individually)

168. Plaintiffs repeat and reallege paragraphs 1 through 102, and incorporate them by reference herein.

169. This cause of action is brought by PLAINTIFFS against Defendant Police Supervisors TIMONEY, FERNANDEZ, BURDEN, BROOKS, and REFFETT for the deprivation of PLAINTIFFS' constitutional rights within the meaning of 42 U.S.C. §1983.

170. Defendant TIMONEY is the Chief of Police for the Defendant CITY OF MIAMI and as such is responsible for the implementation and promulgation of official police policies for the City of Miami Police Department, and was responsible for the design and implementation of the security policy for the FTAA summit. Further, Defendant TIMONEY is responsible for the implementation of training to maintain an effective police force that is capable and prepared to protect those individuals who choose to exercise their rights under the First Amendment at large public demonstrations such as the FTAA summit

171. Defendant TIMONEY was deliberately indifferent to this responsibility in that he failed to establish a unified command center which provided direct, immediate and effective communication among the various and several police forces present within the jurisdiction of the City of Miami. In particular, Defendant TIMONEY failed to devise and execute a coordinated plan among the various and several police agencies assembled by the city of Miami for the safe and

orderly exit of people from the downtown area. Further, despite being on notice of a reasonable likelihood that there may be civil disturbances in the downtown area necessitating arrests, Defendant TIMONEY failed to adequately plan for and provide a safe route of egress from the downtown area for people who were peacefully and lawfully exercising their First Amendment rights.

172. Further, in derogation of his supervisory responsibility, Defendant TIMONEY failed to adequately train and prepare officers of the Miami Police Department and other officers and agents under the command and direction of the city of Miami, including Broward Sheriff's officers, to manage and handle the public demonstrations which occurred during the FTAA summit.

173. As a result of such deliberate indifference, there was a complete lack of communication, coordination and preparedness among the various police officers in downtown Miami on the afternoon of November 20. Once a disturbance erupted, without adequate communication and a coordinated plan, and without adequate training and supervision, the police on the street acted randomly, capriciously and unlawfully in their attempt to restore order. Defendant Supervisors FERNANDEZ, BURDEN, BROOKS, and REFFETT failed to control and supervise their subordinate officers on the scene. As a result, it was inevitable that persons such as PLAINTIFFS who were doing nothing more than walking away and following police orders would be illegally detained and falsely arrested.

174. As chiefs, commanders and high ranking officers, Defendants TIMONEY, FERNANDEZ, BURDEN, BROOKS, and REFFETT were acting pursuant to their supervisory authority on the day of PLAINTIFFS' illegal arrests. Defendants TIMONEY, FERNANDEZ, BURDEN, BROOKS, and REFFETT were either present at or in the immediate vicinity of the scene of such arrests. As such, said supervisors became aware of and were put on notice of the factual

circumstances of the false arrests of PLAINTIFFS by defendant police officers from the Broward Sheriff's Office.

175. Notwithstanding this knowledge, Defendants TIMONEY, FERNANDEZ, BURDEN, BROOKS, and REFFETT encouraged and facilitated such conduct, and deliberately overlooked and ratified the misconduct by failing to discipline the officers and by approving false and misleading police reports.

176. As supervisors, Defendants TIMONEY, FERNANDEZ, BURDEN, BROOKS, and REFFETT took such actions pursuant to a deliberate plan to minimize protest and punish persons such as PLAINTIFFS who were exercising their rights under the First Amendment. This goal was accomplished, in the case of PLAINTIFFS, by cutting off their route of egress, falsely stating they were violent, and falsely arresting them.

177. As a direct and proximate result of the above described unconstitutional actions of Defendants TIMONEY, FERNANDEZ, BURDEN, BROOKS, and REFFETT, PLAINTIFFS' rights under the First, Fourth and Fourteenth Amendments to the United States Constitution were violated.

DEMAND FOR JURY TRIAL

PLAINTIFFS hereby demand a jury trial as to all issues triable by a jury.

WHEREFORE, PLAINTIFFS respectfully request this Court to award:

- A. Reasonable and appropriate compensatory damages.
- B. Punitive damages against Defendants BROOKS, REFFETT, GOODWEIN, WILKEN, BARCELO, and JOHN DOES NO. 1 and 2.
- C. Plaintiffs' costs, expenses and reasonable attorneys' fees pursuant to 42 U.S.C.

§ 1988.

D. Such other and further relief as this Court deems necessary and proper.

Date:

Respectfully submitted,

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