

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF KENTUCKY  
FRANKFORT DIVISION  
CASE NO. 3:05CV18JMH

**ELECTRONICALLY FILED**

TINA MICHELLE BLACK, MAUREEN O.  
MITCHELL, BRITTNEY CREECH, JEFFREY  
CURTIS, WEDNY HOCKENSMITH, DEIDRA WASH,  
REBECCA HAGAN, KAREN GAMBLE, ANGELA  
NESSELRODE, PENNY TILLET, TOMMY CUMMINS,  
JILLIAN BAKER, SANDRA MCCLEAVE, ANGELA  
LEAR, LINDA EPLING, JOE FARLER, JIMMY HAMMONDS,  
DAVANIKA BARBER, NATALIE ELIZABETH MCCLEAVE,  
TONY RAY MCCLEAVE, JAMES DION BIXLER, JONATHAN  
COX, TAMMY LAURINE COOPER, NATASHA MARIE  
HUNTER, PATRICIA TIPTON, JULIE ANN CORNN, DARREN  
DEAN HOCKENSMITH, ALPHA LEMAY, TIMOTHY LEE  
GREEN, TERESA HENDREN, SARA HODGKIN, DEREK  
HARVEY, WILLIAM MILLS, APRIL ENGLER, JENNIFER  
RENEER, KIMBERLIE SIMMONS, TIM CHILDERS, AUDREY  
CUNNINGHAM, MELISSA PICKETT, AND STEPHEN WISE

PLAINTIFFS

V.

FRANKLIN COUNTY, KENTUCKY

SERVE: Hon. Robert Roach  
Franklin County Judge Executive  
313 West Main Street  
Frankfort, Kentucky 40601

AND

FRANKLIN COUNTY CORRECTIONAL COMPLEX

SERVE: James Kemper, Jr. (Former Jailer)  
Jailer/Director  
400 Coffee Tree Road  
Frankfort, Kentucky 40601

Ted Hammermeister (Current Jailer)  
Jailer/Director  
400 Coffee Tree Road  
Frankfort, Kentucky 40601

AND

JAMES KEMPER, JR. and TED HAMMERMEISTER,  
INDIVIDUALLY, AND IN HIS CAPACITY AS DIRECTOR  
OF FRANKLIN COUNTY CORRECTIONAL COMPLEX

SERVE: James Kemper, Jr.  
Jailer/Director  
400 Coffee Tree Road  
Frankfort, Kentucky 40601

Ted Hammermeister  
Jailer/Director  
400 Coffee Tree Road  
Frankfort, Kentucky 40601

DEFENDANTS

**PLAINTIFFS' SECOND AMENDED COMPLAINT**

Tina Michelle Black, Maureen O. Mitchell, Brittney Creech, Jeffrey Curtis, Wendy Hockensmith, Deidra Wash, Rebecca Hagan, Karen Gamble, Angela Nesselrode, Penny Tillett, Tommy Cummins, Jillian Baker, Sandra McCleave, Angela Lear, Linda Epling, Joe Farler, Jimmy Hammonds, Davanika Barber, Natalie Elizabeth McCleave, Tony Ray McCleave, James Dion Bixler, Jonathan Cox, Tammy Laurine Cooper, Natasha Marie Hunter, Patricia Tipton, Julie Ann Cornn, Darren Dean Hockensmith, Alpha LeMay, Timothy Lee Green, Teresa Hendren, Sara Hodgkin, Derek Harvey, William Mills, April Engler, Jennifer Reneer, Kimberlie Simmons, Tim Childers, Audrey Cunningham, Melissa Pickett and Stephen Wise, Plaintiffs, file this action complaining of the egregious and unjustifiable conduct of the Defendants named in the caption above. As more specifically set forth below, Plaintiffs, after arrests for minor offenses, were unlawfully and unjustifiably strip-searched by Defendants. It is the purpose of this action to recover the actual damages Plaintiffs sustained as a result of Defendants' conduct, as well as any punitive damages to which Plaintiffs are entitled, and to insure that no citizen is

ever again victimized by the blatant and malicious violation of constitutional and common law rights that were endured by Plaintiffs.

## **II. JURISDICTION AND VENUE**

2. Plaintiffs seek damages from Defendants under the Civil Rights Act of 1871, 42 U.S.C. Sec. 1983, for gross and unconscionable violations of the rights, privileges and immunities guaranteed them by the Fourth, Fifth, Eighth, Ninth and Fourteenth Amendments to the Constitution of the United States. Accordingly, this Court has jurisdiction of this case pursuant to the provisions of 28 U.S.C. Sec. 1331 and 1343. Plaintiffs also seek declaratory and injunctive relief, as well as damages under the pendant jurisdiction of this Court for negligence, gross negligence and intentional infliction of emotional distress. As Franklin County, Kentucky, is the location of all Defendant parties to this action and the location of all acts pertinent to this suit, venue is proper in this Court.

## **III. PARTIES**

3. Tina Michelle Black, Maureen O. Mitchell, and Brittney Creech, all named in the original Complaint filed for record herein, are three of the Plaintiffs named herein, and any and all information contained in the original Complaint filed for record herein with respect to said Plaintiffs is hereby incorporated and reiterated, the same as if fully set forth in this First Amended Complaint.

4. Plaintiff, Jeffrey Curtis, is an adult male, who is a resident of Frankfort, Franklin County, Kentucky.

5. Plaintiff, Wendy Hockensmith, is an adult female, who is a resident of Frankfort, Franklin County, Kentucky.

6. Plaintiff, Deidra Wash, is an adult female, who is a resident of Frankfort, Franklin County, Kentucky.

7. Plaintiff, Rebecca Hagan, is an adult female, who is a resident of Lawrenceburg, Anderson County, Kentucky.

8. Plaintiff Karen Gamble, is an adult female, who is a resident of Lawrenceburg, Anderson County, Kentucky.

9. Plaintiff, Angela Nesselrode, is an adult female, who is a resident of Frankfort, Franklin County, Kentucky.

10. Plaintiff, Penny Tillett, is an adult female, who is a resident of Frankfort, Franklin County, Kentucky.

11. Plaintiff, Tommy Cummins, is an adult male, who is a resident of Frankfort, Franklin County, Kentucky.

12. Plaintiff, Jillian Baker, is an adult female, who is a resident of Frankfort, Franklin County, Kentucky.

13. Plaintiff, Sandra McCleese, is an adult female, who is a resident of Frankfort, Franklin County, Kentucky.

14. Plaintiff, Angela Lear, is an adult female, who is a resident of Frankfort, Franklin County, Kentucky.

15. Plaintiff, Linda Epling, is an adult female, who is a resident of Frankfort, Franklin County, Kentucky.

16. Plaintiff, Joe Farler, is an adult male, who is a resident of Lexington, Fayette County, Kentucky.

17. Plaintiff, Jimmy Hammonds, is an adult male, who is a resident of Frankfort, Franklin County, Kentucky.

18. Plaintiff, Davanika Barber, is an adult female, who is a resident of Jefferson County, Kentucky.

19. Plaintiff, Patricia Tipton, is an adult female, who is a resident of Franklin County, Kentucky.

20. Plaintiff, Natalie Elizabeth McCleave, is an adult female, who is a resident of Franklin County, Kentucky.

21. Plaintiff, Tony Ray McCleave, is an adult male, who is a resident of Franklin County, Kentucky.

22. Plaintiff, James Don Bixler, is an adult male, who is a resident of Franklin County, Kentucky.

23. Plaintiff, Jonathan Cox, is an adult male, who is a resident of Franklin County, Kentucky.

24. Plaintiff, Tammy Laurine Cooper, is an adult female, who is a resident of Anderson County, Kentucky.

25. Plaintiff, Natasha Marie Hunter, is an adult female, who is a resident of Franklin County, Kentucky.

26. Plaintiff, Julie Ann Cornn, is an adult female, who is a resident of Franklin County, Kentucky.

27. Plaintiff, Darren Dean Hockensmith, is an adult male, who is a resident of Franklin County, Kentucky.

28. Plaintiff, Alpha LeMay, is an adult female, who is a resident of Franklin County, Kentucky.

29. Plaintiff, Timothy Lee Green, is an adult male, who is a resident of Franklin County, Kentucky.

30. Plaintiff, Teresa Hendren, is an adult female, who is a resident of Franklin County, Kentucky.

31. Plaintiff, Sara Hodgkin, is an adult female, who is a resident of Franklin County, Kentucky.

32. Plaintiff, Derek Harvey, is an adult male, who is a resident of Mercer County, Kentucky.

33. Plaintiff, Williams Mills, is an adult male, who is a resident of Franklin County, Kentucky.

34. Plaintiff, April Engler, is an adult female, who is a resident of Lincoln County, Kentucky.

35. Plaintiff, Jennifer Reneer, is an adult female, who is a resident of Franklin County, Kentucky.

36. Plaintiff, Kimberlie Simmons, is an adult female, who is a resident of Franklin County, Kentucky.

37. Plaintiff, Tim Childers, is an adult male, who is a resident of Franklin County, Kentucky.

38. Plaintiff, Audrey Cunningham, is an adult female, who is a resident of Franklin County, Kentucky.

39. Plaintiff, Melissa Pickett, is an adult female, who is a resident of Franklin County, Kentucky.

40. Plaintiff, Stephen Wise, is an adult male, who is a resident of Franklin County, Kentucky.

41. Defendant, Franklin County, at all times mentioned herein, employed, was responsible for the establishment of policies either formally or by custom for, and was responsible for the employment, training, supervision and conduct of, the officers and employees of the Franklin County Correctional Complex.

42. Defendant, Franklin County Correctional Complex, at all times mentioned herein, employed, was responsible for the establishment of policies either formally or by custom for, and was responsible for the employment, training, supervision and conduct of the officers and employees of the Franklin County Correctional Complex.

43. Defendant, James Kemper, Jr., was Director of the Franklin County Correctional Complex at the time of the acts complained of, and as such established policies formally or by custom for, and was responsible for the employment, training, supervision and conduct of the officers and employees of the Franklin County Correctional Complex. Ted Hammermeister is the current Director of the Franklin County Correctional Complex.

#### **IV. CLASS ACTION**

44. This action is brought, pursuant to FRCP 23, and other applicable law, by Plaintiffs on behalf of themselves and all other persons similarly situated whose joinder in this action is impracticable because the class is so numerous that joinder of all members is impracticable.

45. There are questions of law and fact common to the class, all as set forth hereinbelow.

46. The claims of the representative parties are typical of the claims of the class.

47. The representative parties will fairly and adequately protect the interests of the class.

**V. NATURE OF DEFENDANTS' CONDUCT**

48. Defendants, individually and in conspiracy with one another, engaged in the conduct described below under color of the law of the Commonwealth of Kentucky and Franklin County. The individual Defendants named above knowingly participated or acquiesced in, contributed to, encouraged, implicitly authorized or approved of the conduct described below individually and in their official capacities with Franklin County and/or the Franklin County Correctional Complex. The offenses described below resulted from the failure of Defendants to employ qualified persons for positions of authority, and/or to properly or conscientiously train and supervise the conduct of such persons after their employment, and/or to promulgate appropriate operating policies and procedures either formally or by custom to protect the constitutional rights of the citizens of the Commonwealth of Kentucky, including Plaintiffs. Defendants' conduct was intentional or grossly negligent, indicated active malice toward Plaintiffs or a total and reckless disregard for and indifference to each of their constitutional and common law rights, and justifies an award of punitive damages in addition to the actual damages which the Plaintiffs are entitled to recover.

**VI. FACTS**



49. There are questions of law and fact common to the class. Plaintiffs reiterate each and every allegation contained in the original Complaint filed herein, and more specifically, those allegations contained in numerical paragraphs 14, 15, and 16.

50. With respect to the facts, on January 28, 2005, Jeffrey Curtis, was arrested in Franklin County, Kentucky, after having been found in contempt of court by the Franklin District Court for failure to pay fines, and failure to attend classes at Kentucky Alternatives Program. Plaintiff was then transported to the Franklin County Correctional Complex where he was subjected to a strip search when there was no reasonable cause to believe that he was carrying or concealing weapons or contraband. Specifically, Plaintiff was required by a Franklin County Correctional Complex employee to remove all of his clothing, so that a visual inspection of his person could be accomplished. Plaintiff Curtis was not strip searched initially when brought into the jail, but was strip searched several days after his initial incarceration.

51. Plaintiff, Wendy Hockensmith, on June 28, 2004, was arrested in Franklin County, Kentucky, and charged with improper use of electronic equipment, which charge was ultimately dismissed. After Plaintiff was taken into custody by police, she was transported to the Franklin County Correctional Complex where she was subjected to a strip search when there was no reasonable cause to believe that she was carrying or concealing weapons or contraband. Specifically, Plaintiff was required by a Franklin County Correctional Complex employee to remove all of her clothing, so that a visual inspection of her person could be accomplished. Plaintiff Hockensmith was required to spread her legs, stoop, and cough vigorously, all under the direct visual observation of a jail employee.

52. Plaintiff, Deidra Wash, was charged with driving under the influence of alcohol, third offense, in Franklin County, Kentucky. Plaintiff was incarcerated in the Franklin County

Correctional Complex. Initially, Plaintiff was not strip searched. It was not until several days later, on or about February 8, 2005, after having been taken to Court for a hearing on her case, that Plaintiff was strip searched by the jail official, having been required to remove all of her clothing under the visual inspection of a jail employee. At the time when Plaintiff was strip searched, there was no reasonable cause to believe she was carrying or concealing weapons or contraband.

53. Plaintiff, Rebecca Hagan, on March 27, 2004, was charged with possession of drug paraphernalia, operating a motor vehicle under the influence of intoxicants, and possession of marijuana, in Anderson County, Kentucky. Those charges are still pending. Plaintiff Hagan was taken into custody by Lawrenceburg Police, and later transported to the Franklin County Correctional Complex where she was subjected to a strip search when there as no reasonable cause to believe that she was carrying or concealing weapons or contraband. Specifically, Plaintiff was required by a Franklin County Correctional Complex employee to remove all of her clothing, so that a visual inspection of her person could be accomplished. Plaintiff Hagan was required to spread her legs, stoop, and cough vigorously, all under the direct visual observation of a jail employee.

54. Plaintiff, Karen Gamble, was charged in Anderson County, Kentucky, with Assault IV. As a result of a plea agreement entered by her with the Commonwealth of Kentucky, Plaintiff was required to serve 2 days in the Franklin County Correctional Complex. Plaintiff reported for service of her sentence on October 27, 2004, at 6:00 p.m. at the Franklin County Correctional Complex. After arrival, Plaintiff was instructed to go into a room where there was a shower, a shelf unit with clothes and bins of flip flops. Plaintiff was told by a jail employee to strip off al of her clothing, including all under garments. Plaintiff asked, but was

refused, to be allowed to wear her under garments. Plaintiff was made to stand in front of the jail employee naked, raise her arms, then bend over and shake her hands through her hair. Plaintiff was made to open her mouth and raise her tongue. After this, Plaintiff was instructed to turn around, facing away from the guard, bend over and spread her buttocks open for the guard to see inside her rectal area. There was no reasonable cause to believe that Plaintiff was carrying or concealing weapons or contraband.

55. That Plaintiff, Angela Nesselrode, was charged in Clark County, Kentucky, and transported from Clark County jail to Franklin County Correctional Complex on March 7, 2005, on charges of contempt of court for failure to appear, and failure to pay fines. Plaintiff was not initially strip searched upon her arrival at the jail. She was, however, on March 8, 2005, strip searched by a jail employee. On March 10, 2005, she was moved to general population, at which time she was informed that jail policy is to strip search all female prisoners who are moved to the general population. Thus, again on March 10, 2005, Plaintiff Nesselrode was subjected to a strip search when there was no reasonable cause to believe that she was carrying or concealing weapons or contraband. Specifically, Plaintiff was required by a Franklin County Correctional Complex employee to remove all of her clothing, so that a visual inspection of her person could be accomplished. Plaintiff Nesselrode was required to spread her legs, stoop, and cough vigorously, all under the direct visual observation of a jail employee on each of the two (2) occasions when she was strip searched.

56. Plaintiff, Penny Tillett, was arrested on March 6, 2004, for theft by deception and contempt of court in Franklin County, Kentucky. On March 8, 2004, Plaintiff Tillett had a hearing in Franklin District Court. Later on March 8, 2004, when Plaintiff was back at the jail, she was informed that she was being moved to back to the general population, and that she

needed to shower in advance of the move. The female officer who was moving her made Plaintiff strip off all of her clothing, including all under garments. Plaintiff had to stand in front of the jail employee naked, raise her arms, lift her breasts so that the guard could see under them, then turn around, facing away from the guard, bend over and cough. There was no reasonable cause to believe that Plaintiff was carrying or concealing weapons or contraband.

57. Plaintiff, Tommy Cummins, was arrested in Franklin County, Kentucky, in May of 2004, on contempt for failure to pay fines. Plaintiff Cummins was taken into custody by police. Plaintiff was later transported to the Franklin County Correctional Complex where he was subjected to a strip search when there was no reasonable cause to believe that he was carrying or concealing weapons or contraband. Specifically, Plaintiff was required by a Franklin County Correctional Complex employee to remove all of his clothing, so that a visual inspection of his person could be accomplished.

58. Plaintiff, Jillian Baker, was arrested on March 19, 2005, in Franklin County, Kentucky, on charges of failure to appear and failure to pay fines. She was taken into custody, and taken to the Franklin County Correctional Complex, but was never placed into the general population. Nevertheless, Plaintiff was subjected to a strip search when there was no reasonable cause to believe that she was carrying or concealing weapons or contraband. Specifically, Plaintiff was required by a Franklin County Correctional employee to remove all of her clothing, so that a visual inspection of her person could be accomplished. Plaintiff Baker advised the jail officer that she was wearing a tampon, but was still required to bend over naked before the guard. Further, the Plaintiff was required to lift her breasts in order that the guard could see under them.

59. Plaintiff, Sandra McCleave, was arrested August 2003 for extortion and in November of 2003 for theft by deception. Plaintiff was transported to the Franklin County Correctional Complex on each such occasion where she was subjected to a strip search when there was no reasonable cause to believe that she was carrying or concealing weapons or contraband. Specifically, Plaintiff was required by a Franklin County Correctional Complex employee to remove all of her clothing, so that a visual inspection of her person could be accomplished, all under the direct visual observation of a jail employee.

60. Plaintiff, Angela Lear, was charged with possession of a forged instrument, two (2) counts, in March of 2003, in Franklin County, Kentucky, one of said charges having been later dismissed and the other Plaintiff having been found not guilty. The Plaintiff was taken into custody and transported to the Franklin County Correctional Complex where she was subjected to a strip search when there was no reasonable cause to believe that she was carrying or concealing weapons or contraband. Specifically, Plaintiff was required by a Franklin County Correctional Complex employee to remove all of her clothing, lift her breasts in the presence of the jail officer, turn around and bend over so that a visual inspection of her person could be accomplished.

61. Plaintiff, Linda Epling, was charged with a violation of her probation conditions when she failed to maintain automobile insurance for a period of time. Plaintiff Epling was taken into custody in Shelby County, Kentucky, and taken to the Shelby County Jail, where she was held for 1 and ½ days. Plaintiff was never strip searched by the Shelby County Jail. Plaintiff was then transported to the Franklin County Correctional Complex, where, upon her arrival she was subjected to a strip search when there was no reasonable cause to believe that she was carrying or concealing weapons or contraband. Specifically, Plaintiff was required by a

Franklin County Correctional Complex employee to remove all of her clothing, so that a visual inspection of her person could be accomplished. Plaintiff Epling was required to spread her legs, stoop, and cough vigorously, all under the direct visual observation of a jail employee.

62. Plaintiff, Joe Farler, was arrested on charges of contempt of court and/or Alcohol Intoxication in May of 2004. Plaintiff was taken to the Franklin County Correctional Complex where he was required to serve 60 days. During Plaintiff's time in the Franklin County Correctional Complex, he was searched on 4 different occasions. On the first such occasion, Plaintiff was hesitant to remove his clothing as directed. Plaintiff asked the jail guard whether or not such searches were legal in light of the fact that there had been previous litigation about illegal strip searches. The Plaintiff was informed by the guard that the jail personnel has the right to "strip search anybody we want, anytime we want to." Plaintiff Farler was subjected to a strip search when there was no reasonable cause to believe that he was carrying or concealing weapons or contraband.

63. Plaintiff, Jimmy Hammonds, was arrested in Franklin County, Kentucky, in March of 2003, on charges of contempt for failing to attend domestic violence classes. Plaintiff Hammonds was taken into custody and was later transported to the Franklin County Correctional Complex where he was subjected to a strip search when there was no reasonable cause to believe that he was carrying or concealing weapons or contraband. Specifically, Plaintiff was required by a Franklin County Correctional Complex employee to remove all of his clothing, so that a visual inspection of his person could be accomplished. Plaintiff Hammonds was required to bend over, cough all while a jail employee shined a light into the Plaintiff's rectal area.

64. Plaintiff, Davanika Barber, was arrested in Franklin County, Kentucky, in January of 2005, for speeding and driving on a suspended license. Said Plaintiff was taken into custody

and later taken to the Franklin County Correctional Complex where she spent several hours in a booking area, and was not strip searched during this period of time. However, after a court appearance, (wherein she was sentenced to serve 10 days in jail, such sentence to be served on weekends), the Plaintiff was strip searched every single time she reported to the jail for service of her sentence. At the time of each strip search Plaintiff was forced to endure, there was no reasonable cause to believe that she was carrying or concealing weapons or contraband.

65. Plaintiff, Natalie Elizabeth McCleave, was arrested in Franklin County, Kentucky, on charges of unlawful transaction with a minor as a result of truancy. Plaintiff McCleave was taken into custody and later transported to the Franklin County Correctional Complex where she was subjected to a strip search when there was no reasonable cause to believe that she was carrying or concealing weapons or contraband. Specifically, Plaintiff was required by a Franklin County Correctional Complex employee to remove all of her clothing, so that a visual inspection of her person could be accomplished.

66. Plaintiff, Tony Ray McCleave, was arrested in Franklin County, Kentucky, on charges of unlawful transaction with a minor as a result of truancy. Plaintiff McCleave was taken into custody and was later transported to the Franklin County Correctional Complex where he was subjected to a strip search when there was no reasonable cause to believe that he was carrying or concealing weapons or contraband. Specifically, Plaintiff was required by a Franklin County Correctional Complex employee to remove all of his clothing, so that a visual inspection of his person could be accomplished.

67. Plaintiff, James Dion Bixler, was arrested in Franklin County, Kentucky, in November, 2004, for operating a motor vehicle while his operator's license was suspended. Plaintiff Bixler was taken into custody and was later transported to the Franklin County

Correctional Complex where he was subjected to a strip search when there was no reasonable cause to believe that he was carrying or concealing weapons or contraband. Specifically, Plaintiff was required by a Franklin County Correctional Complex employee to remove all of his clothing, so that a visual inspection of his person could be accomplished.

68. Plaintiff, Jonathan Cox, was arrested in Franklin County, Kentucky, in December of 2004, for operating a motor vehicle while his operator's license was suspended. Plaintiff Bixler was taken into custody and was later transported to the Franklin County Correctional Complex where he was subjected to a strip search when there was no reasonable cause to believe that he was carrying or concealing weapons or contraband. Specifically, Plaintiff was required by a Franklin County Correctional Complex employee to remove all of his clothing, so that a visual inspection of his person could be accomplished.

69. Plaintiff, Tammy Laurine Cooper, was arrested in Anderson County, Kentucky, for contempt of court on underlying convictions of driving on a suspended operator's license, and operating a motor vehicle under the influence of alcohol. Plaintiff Cooper was taken into custody and was later transported to the Franklin County Correctional Complex where she was subjected to a strip search when there was no reasonable cause to believe that she was carrying or concealing weapons or contraband. Specifically, Plaintiff was required by a Franklin County Correctional Complex employee to remove all of her clothing, so that a visual inspection of her person could be accomplished. Moreover, said Plaintiff had numerous court appointments after having been incarcerated, and was strip searched each and every time upon her return from court. Said Plaintiff has now been strip searched more than twenty (20) times since August 25, 2004.

70. Plaintiff, Natasha Marie Hunter, was arrested in Franklin County, Kentucky, in the year 2000 on charges of shoplifting. Said Plaintiff was taken into custody and was later



transported to the Franklin County Correctional Complex where she was subjected to a strip search when there was no reasonable cause to believe that she was carrying or concealing weapons or contraband. Specifically, Plaintiff was required by a Franklin County Correctional Complex employee to remove all of her clothing, so that a visual inspection of her person could be accomplished.

71. Plaintiff, Patricia Tipton, was arrested in 2001 in Franklin County, Kentucky for operating a motor vehicle under the influence of alcohol. Plaintiff Tipton was taken into custody and was later transported to the Franklin County Correctional Complex where she was subjected to a strip search when there was no reasonable cause to believe that she was carrying or concealing weapons or contraband. Specifically, Plaintiff was required by a Franklin County Correctional Complex employee to remove all of her clothing, so that a visual inspection of her person could be accomplished.

Further, said Plaintiff is currently serving a misdemeanor sentence in the said Franklin County Correctional Complex, where she was placed in lockdown for 30 days. Upon being released from lockdown, said Plaintiff was strip searched when there was no reasonable cause to believe that she was carrying or concealing weapons or contraband. Specifically, Plaintiff was required by a Franklin County Correctional Complex employee to remove all of her clothing, so that a visual inspection of her person could be accomplished.

72. Plaintiff, Julie Ann Cornn, was arrested in Franklin County on June 16, 2004, for theft by unlawful taking (misdemeanor). Said Plaintiff was taken into custody and was later transported to the Franklin County Correctional Complex where she was subjected to a strip search when there was no reasonable cause to believe that she was carrying or concealing weapons or contraband. Specifically, Plaintiff was required by a Franklin County Correctional

Complex employee to remove all of her clothing, so that a visual inspection of her person could be accomplished.

73. Plaintiff, Darren Dean Hockensmith, was arrested in Franklin County in April of 2005, for contempt of court as a result of his failure to pay child support. Said Plaintiff was taken into custody and was later transported to the Franklin County Correctional Complex where he was subjected to a strip search when there was no reasonable cause to believe that he was carrying or concealing weapons or contraband. Specifically, Plaintiff was required by a Franklin County Correctional Complex employee to remove all of his clothing, so that a visual inspection of his person could be accomplished.

74. Plaintiffs, Alpha LeMay, Timothy Lee Green, Teresa Hendren, Sara Hodgkin, Derek Harvey, William Mills, April Engler, Jennifer Reneer, Kimberlie Simmons, Tim Childers, Audrey Cunningham, Melissa Pickett, and Stephen Wise, individually and separately, were arrested in Franklin County during the time frame at issue in this case, and each was arrested on a minor or misdemeanor, non-violent offense, but Defendants and their representatives strip searched and/or body cavity searched each of these individual plaintiffs.

75. In 1979, the United States Supreme Court held that a pretrial detainee has the right not to be searched unless the reasonableness of such search is established by “balancing...the need for the particular search against the invasion of personal rights that the search entails. On April 18, 1989, the Sixth Circuit Court of Appeals issued its opinion in *Masters v. Crouch*, 872 F.2d 1248 (6<sup>th</sup> Cir. 1989), *cert. denied*, 493 U.S. 977, 110 S.Ct. 503 (1989), in which it held:

It was clearly established on October 21, 1986, that a pretrial detainee has the right not to be searched unless the reasonableness of such search is established by “a balancing of the need for the particular search against the invasion of personal

rights that the search entails.” (Citations omitted). It was equally clearly established that a person charged only with a traffic violation or nonviolent minor offense may not be subjected to a search unless there are reasonable grounds for believing that the particular person might be carrying or concealing weapons or other contraband.

*Id.* at 1257 (emphasis in original). *Masters* specifically involved the strip-search of a person arrested for a nonviolent minor offense by the Jefferson County Department of Corrections. In this case, Plaintiffs were arrested for nonviolent minor offenses. Neither their behavior nor their appearance gave Defendants any reasonable grounds for believing that they might be carrying or concealing weapons or other contraband. Under such circumstances, Defendants’ requirement that Plaintiffs expose the most private part of their physical person for a visual inspection was unconscionable, was an illegal strip-search by any definition, and was a flagrant violation of the balancing of *Bell v. Wolfish, supra*.

## **VII. CAUSES OF ACTION**

### **A. Count I**

76. Paragraphs 1-75 above are incorporated herein by reference and made this Paragraph 76.

77. Plaintiffs’ search, described above, was part of a continuing pattern of misconduct and is the result of statutes, ordinances, regulations, policies, procedures, customs and practices of the Commonwealth of Kentucky and Franklin County, either written or unwritten, that are systematically applied whenever an arrestee is admitted to the Franklin County Correctional Complex. A judgment was recently entered against the Defendants for similar misconduct and the Defendants continue to perform illegal strip-searches. Such practices constitute an arbitrary use of government power, and evince a total, intentional and unreasonable disregard for the

constitutional and common law rights of the citizens of Kentucky, including Plaintiffs and the wholesale violations of those rights likely to result from the systematic pursuit of such practices.

78. As the result of the foregoing, Plaintiffs, through Defendants' intentional or grossly negligent conduct, were deprived without due process of law of the following rights, privileges and immunities guaranteed to each of them by the Constitution of the United States in violation of the Civil Rights Act of 1871, 42 U.S.C. Sec. 1983:

- (a) Their right to be secure in their persons against unreasonable searches and seizures under the Fourth and Fourteenth Amendments;
- (b) Their right to privacy in their persons against unreasonable intrusions under the Fourth, Fifth, Ninth and Fourteenth Amendments;
- (c) Their right to the equal protection of the law secured by the Fourteenth Amendment; and
- (d) Their right not to be subjected to cruel and unusual punishment under the Eighth and Fourteenth Amendments.

79. Moreover, given the pre-existing law that clearly prohibited Defendants' conduct and the recent entry of a judgment against these same Defendants for this same conduct, Defendants search of Plaintiffs was intentional, wanton and malicious, and was indicative of Defendants' total and reckless disregard of, indifference to the rights of, and risk of harm to, Plaintiffs.

***B. Count II***

80. Paragraphs 1-79 above are incorporated herein by reference and made this Paragraph 80.

81. By virtue of the foregoing, Defendants intentionally and unjustifiably inflicted upon Plaintiffs severe mental and emotional distress.

***C. Count III***

82. Paragraphs 1-81 above are incorporated herein by reference and made this Paragraph 82.

83. By virtue of the foregoing, Defendants were negligent, and grossly negligent, all to the damage of Plaintiffs.

**VIII. DAMAGES**

84. Paragraphs 1-83 above are incorporated herein by reference and made this Paragraph 84.

85. Plaintiffs were unjustifiably and unconstitutionally searched in a manner that generated tremendous and overwhelming embarrassment, humiliation and mental and emotional distress. As a result, Plaintiffs have suffered, and are entitled to recover, actual damages. Furthermore, Defendants' violations of the constitutional and common law rights of Plaintiffs were cruel, malicious, and evinced a total and reckless disregard for and indifference to those rights, entitling Plaintiffs to recover punitive damages from Defendants in order to deter such conduct in the future.

**IX. DECLARATORY JUDGMENT AND PERMANENT INJUNCTION**

86. Paragraphs 1-85 above are incorporated herein by reference and made this Paragraph 86.

87. In addition to the foregoing, Plaintiffs request that this Court issue a declaratory judgment deeming unconstitutional any and all statutes, ordinances, regulations, policies, procedures, customs or practices under which they were forced to expose their genitalia for visual inspection, and further request that this Court permanently enjoin Defendants from following or enforcing such statutes, ordinances, regulations, policies, procedures, customs or usages.

WHEREFORE, Plaintiffs, on behalf of themselves, and all other members of the class, respectfully demand the following relief: (a) trial by jury, (b) for an award of actual and punitive damages, (c) that they be granted the declaratory and injunctive relief requested herein, and (d) that they be awarded their costs, attorneys' fees and all other relief to which they are entitled under law or in equity.

Respectfully submitted,

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