UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF TEXAS
AUSTIN DIVISION

MARKUS GLODEK,

Plaintiff,

v.

CITY OF AUSTIN,
OMER AHMAD AND
PAUL MURRAY,

Defendants.

Case No.: 1:25CV00810 ADA

PLAINTIFF'S ORIGINAL COMPLAINT

Plaintiff Markus Glodek brings this action under 42 U.S.C. § 1983 for fabrication of evidence and defamation against the City of Austin, Officer Omer Ahmad and Officer Paul Murray, alleging as follows:

PARTIES

1. Plaintiff is a resident of San Francisco, California. He resided in Austin, Texas at the time of the events and omissions giving rise to his claims.

2. Upon information and belief, Defendant Omer Ahmad is a police officer with the Austin Police Department (APD). He is sued in his individual capacity for compensatory and punitive damages. At all relevant times, he was acting under color of law as an APD officer. Service may be effected at Austin Police Department, 715 E. 8th Street, Austin, TX 78701.

3. Upon information and belief, Defendant Paul Murray is a police officer with the APD. He is sued in his individual capacity for compensatory and punitive damages. At all relevant times, he was acting under color of law as an APD officer. Service may be effected at Austin Police Department, 715 E. 8th Street, Austin, TX 78701.

4. Defendant City of Austin is a municipality that operates the APD and employed Defendants Ahmad and Murray at all relevant times. Service may be effected by serving its mayor, Kirk Watson, at 301 W 2nd St, Austin, TX 78701, under the authority of Texas Civil Practice and Remedies Code § 17.024(b).

JURISDICTION & VENUE

5. This Court has subject matter jurisdiction under 28 U.S.C. §§ 1331 and 1343, as this action arises under 42 U.S.C. § 1983.

6. This Court has general personal jurisdiction over the City of Austin, which is located in Travis County within the Western District of Texas. Upon information and belief, this Court also has general personal jurisdiction over Defendants Ahmad and Murray, who reside, work, or are otherwise located in Travis County.

7. This Court has specific personal jurisdiction over all Defendants, as Plaintiff's claims arise from conduct by Defendants that occurred in Travis County.

8. Venue is proper in the Western District of Texas under 28 U.S.C. § 1391(b) because a substantial portion of the events and omissions giving rise to Plaintiff's claims occurred in Travis County.

STATEMENT OF FACTS

I. Plaintiff's Arrest, Imprisonment and Prosecution

9. On June 19, 2024, Officers Ahmad and Murray responded to a 911 call placed by Plaintiff's wife. They encountered Plaintiff outside the apartment building in which he and his wife lived together. Plaintiff was peaceful and collaborative and offered to speak with the officers about what had happened.

10. The officers placed Plaintiff in handcuffs almost immediately. He was fully cooperative and complied with all instructions. He directed the officers to the apartment so they could speak with his wife.

11. Officer Ahmad went to Plaintiff's apartment and spoke with Plaintiff's wife. Officer Murray remained outside and interviewed Plaintiff until Officer Ahmad returned.

12. At some point during Plaintiff's conversation with police, either before or after Officer Ahmad had returned from speaking with Plaintiff's wife, Plaintiff was informed that he was being placed under arrest.

13. The officers indicated to Plaintiff that they had to arrest him because the policies under which they operated were, in their words, "really strict". The officers also discussed with one another concerns about "liability."

14. Officer Ahmad transported Plaintiff to Travis County Jail. Officer Murray remained at the scene and conducted an extended follow-up interview with Plaintiff's wife.

15. All interactions between Plaintiff and Officers Murray and Ahmad, as well as all interactions between Plaintiff's wife and Officers Murray and Ahmad, were recorded on police body cameras.

16. Officer Ahmad executed a sworn probable cause affidavit that he and Officer Murray prepared together, with Officer Murray supplying information for inclusion. This affidavit was used to charge Plaintiff with a misdemeanor described therein as "Assault with Injury Family Violence."

17. The affidavit states that Plaintiff "did admit to hitting" his wife, that he "said that she never used force against him" and that "both parties confirmed Markus was the only one being physical."

18. These statements in the affidavit are false. Plaintiff did not tell the officers that he hit his wife, did not "admit" to doing so, did not say that she never used force against him, and did not say that he was the only one being physical. The body cam footage reflects what Plaintiff actually said, which is inconsistent with some of the statements attributed to him in the affidavit. Among other things, Plaintiff told the officers that he did not hurt his wife.

19. The affidavit also states that Plaintiff's wife "said she fell to the ground," that she "said she developed a headache due to the arguing," and that she "had a complaint of pain due to Markus physically assaulting" her.

20. Upon information and belief, these statements are false or misleading due to material omissions. Plaintiff's wife did not tell the officers that she fell to the ground. Both she and Plaintiff independently told the officers that her headache was due to a cold. She tried to

convey to police that she did not experience pain other than from that headache. At one point, she tried to clarify to police that "hit" was not an accurate description of what had occurred. The body cam footage captures a full account of what she actually said.

21. The affidavit completely omits Plaintiff's account of events that he gave to the officers.

22. The affidavit does correctly state that Plaintiff's wife "was not observed to have physical injury".

23. Plaintiff was imprisoned for three days. At some point, he was taken to a judicial proceeding that he now understands to have been a magistration. Plaintiff had, prior to the magistration, repeatedly requested opportunity to contact an attorney but was not given such opportunity, so he had to participate in the magistration without counsel to assist him. The probable cause affidavit was not presented to Plaintiff either prior to or during the proceeding. Because he was not aware of the affidavit's existence or contents, Plaintiff could not alert the magistrate that it contained false and misleading statements and material omissions. It was therefore not possible for Plaintiff to request that the affidavit be scrutinized, compared to the body cam footage, and corrected before being used to charge him.

24. The magistrate informed Plaintiff that an Emergency Protective Order (EPO) was being imposed and gave Plaintiff an oral summary of the order. Plaintiff was told to sign the order but was not given an opportunity to review or read it, and was not provided with a copy.

25. Plaintiff's prosecution lasted more than nine months, from June 2024 through the end of March 2025. For the first five weeks, the EPO barred him from coming within 200 yards of his home.

26. Two days after Plaintiff's arrest, his wife visited the Travis County Attorney's Office and spoke in person with a staff member. She explained that she had sustained no physical injuries as a result of the incident and asked the staff member to observe that she had no visible injuries.

27. On July 5, 2024, Plaintiff's wife executed an affidavit of non-prosecution, which Plaintiff's attorneys submitted to the prosecutor assigned to the case approximately ten days later. In the affidavit, she stated in relevant part:

> "During this incident I did not sustain any injuries and I did not experience any pain whatsoever as a result of the incident. Markus did not physically hurt me. I was surprised that Markus was arrested, and I objected to Markus' arrest. I did not intend for Markus to be arrested when I called for police assistance and I specifically asked the officers on-scene not to arrest him. I fear that my account of what happened was partly misinterpreted by the Austin police."

She also stated in the affidavit:

> "It is my wish that all charges in relation to this matter be dismissed, all protective orders and bond conditions that prevent him from coming home be rescinded, and that no further action be taken."

28. On or about July 19, 2024, Plaintiff's wife spoke with the prosecutor assigned to the case. She explained that she had not sustained any injuries or experienced any pain as a result of the incident, clarified again that the headache mentioned in the arrest affidavit was due to a cold, and expressed her wish that the case be dismissed. The prosecutor indicated that she was inclined to dismiss the charges but stated that she first needed to review evidence.

29. Throughout the prosecution, Plaintiff's wife continued to reach out to her point of contact at the Travis County Attorney's Office, the same staff member she had initially spoken with in person, to reiterate that she had not sustained any injury or experienced any pain as a result of the incident.

30. Plaintiff's attorneys requested discovery, including body cam videos, on or about June 26, 2024. One such video was made available to them sometime between November 18 and December 5, 2024. This video documented only a portion of the interactions between Plaintiff and his wife and the Defendant officers. Plaintiff was informed that two additional videos existed but that his attorneys were unable to access them due to technical issues. As of February 11, 2025, these videos had not yet been received.

31. On February 13, 2025, Plaintiff's wife emailed her contact at the Travis County Attorney's Office to ask whether she could view the body cam footage of her own interactions with police. In response to that inquiry, the Travis County Attorney's Office indicated that the remaining videos had now been made available to Plaintiff's attorneys, who shortly thereafter confirmed receipt. These videos now showed all interactions between Plaintiff and the officers, as well as all interactions between Plaintiff's wife and the officers.

32. The first pretrial conference following disclosure of the full body cam footage was scheduled for March 31, 2025. Plaintiff understood that the videos would be discussed at that conference by his attorneys and the prosecutor. The charges against Plaintiff were dismissed on that day.

II. The City of Austin's Policies and Customs

33. The City of Austin, acting through the APD, has policies and customs that direct officers responding to incidents involving suspected family violence to omit, with reckless disregard for the truth, information from probable cause affidavits that any reasonable person would know a magistrate would wish to have brought to their attention, thereby violating the rights of arrestees under the Due Process Clause of the Fourteenth Amendment.

34. Section 418.2.2 of the Austin Police Department General Orders (hereinafter, the "General Orders") provides as follows:

> "418.2.2 ARREST PC AFFIDAVITS FOR FAMILY VIOLENCE RELATED ASSAULTS
>
> (a) Arrest affidavits for family violence assaults shall be limited to information that is necessary to establish probable cause. Officers shall refrain from copying and pasting their incident report into the arrest affidavit. It is not necessary to include the primary aggressor's account of events within the arrest affidavit, unless such inclusion is necessary to establish probable cause."

The term "primary aggressor" is defined in Section 418.1.1 of the General Orders as

> "[t]he person who appears to be the most significant aggressor rather than the first aggressor. In identifying the primary aggressor an officer shall consider:
>
> (a) The intent of the law to protect victims of family violence from continuing abuse,
> (b) The threats creating fear of physical injury,
> (c) The history of family violence between the persons involved, and
> (d) Whether either person acted in self-defense."

35. Section 418.2.2(a) requires that affidavits "shall be limited" to information necessary to "establish" probable cause. This language directs police officers to omit from affidavits any information that would tend to negate the existence of probable cause, as well as any other information not strictly necessary to establish it — and it does so without exception,

even where a reasonable person would know that a magistrate would wish to have such information brought to their attention, and where omission would constitute reckless disregard for the truth. As such, the policy directs APD officers, whenever the information it requires them to omit is material, to violate the constitutional due process rights of arrestees.

36. Section 418.2.2(a) also states that "[i]t is not necessary to include the primary aggressor's account of events within the arrest affidavit, unless such inclusion is necessary to establish probable cause." This clause misinstructs officers that, once a person has been labeled a "primary aggressor," the officer may, unless it supports probable cause, completely omit that person's account from the affidavit. As such, the policy misstates officers' constitutional obligations, which require officers to include in their affidavits information that a reasonable person would know a magistrate would wish to have brought to their attention, or the omission of which would constitute reckless disregard for the truth, regardless of whether the source has been labeled a "primary aggressor." The City of Austin and the APD are deliberately indifferent to the fact that officers trained under the APD's policy will predictably and routinely submit affidavits that conceal material information from magistrates, resulting in violations of the constitutional due process rights of arrestees.

37. The requirement in Section 418.2.2(a) that officers omit information from affidavits applies even where the omitted information would show that statements included in the affidavit are false. Any reasonable person would know that a magistrate would wish to be alerted to the falsity of material statements presented to them, so omissions of this type inevitably constitute reckless disregard for the truth. By instructing officers to exclude information that

does not help establish probable cause — even when that information would have exposed false or misleading statements included in the affidavit — the policy ensures that those statements remain uncorrected and are used to charge arrestees, in violation of their constitutional due process rights.

38. Section 418.2.2(a) instructs officers to determine whose account of events may, according to the APD's policies, be omitted from an affidavit by identifying a "primary aggressor." The policy defines that term to mean "the most significant aggressor," not necessarily the first, and directs officers to consider a set of subjective factors unrelated to whether a person's account is credible, material, or trustworthy. It imposes no obligation on officers to explain to the magistrate how the designation was made or what criteria were used. As a result, the magistrate has no way to assess whether the omission of the person's account was based on considerations such as credibility or materiality and, in fact, has no reason to believe that it was. Because the criteria actually used in making the designation remain unreported and obscure, the determination may in practice be arbitrary or reflect illicit bias. Yet under APD policy, that designation — made without regard to credibility or materiality — will result by default in the arrestee's account being omitted from the affidavit. That affidavit then becomes the basic narrative presented to the magistrate, used to charge the arrestee, and likely to shape the direction of the prosecution and legal process that follows.

39. The APD, by instructing officers through Section 418.2.2(a) to manipulate which information to include in affidavits in ways that will obviously and frequently result in material information being concealed from magistrates, thereby communicates to officers that, in

connection with family violence allegations, it does not place value on officers preparing affidavits that are not misleading. Indeed, Section 418.2.2(a) signals to officers that, in such cases, they are at times expected to produce misleading affidavits, even when this violates the constitutional rights of arrestees. The APD's message through this policy — that officers are expected to sculpt affidavits that omit information that could lessen the likelihood of charges even when such information is material and the affidavit thereby becomes misleading — predictably leads not only to omission, but also to exaggeration and fabrication. The City of Austin and the APD are deliberately indifferent to the fact that this policy will predictably result in a pattern of misleading, exaggerated, and fabricated statements being included in affidavits, and to the resulting violations of the constitutional due process rights of arrestees.

40. By directing officers to omit from affidavits any information that does not help establish probable cause — including facts that would negate it — Section 418.2.2(a) also instructs officers how to assess probable cause in the first place. Officers understand that affidavits must communicate all known material facts that a magistrate needs in order to determine whether or not probable cause existed. Telling officers to always exclude facts that would tend to negate the existence of probable cause from their communication to the magistrate is to instruct them that such facts are not part of the probable cause determination — not for the magistrate, and not for the officer — and should therefore not only be omitted from the affidavit but also be disregarded by the officer in making their initial determination of probable cause at the time of the arrest. As such, the APD's policy misinstructs officers by misconstruing their constitutional obligations, which require officers to assess whether probable cause exists by

considering the totality of facts known to them, including those that cut against probable cause. Section 418.2.2(a) will thus lead to arrests in situations where the totality of known facts does not support the existence of probable cause, in violation of the constitutional rights of arrestees.

41. In fact, there are situations in which APD policies *require* officers to make arrests and file charges even when they correctly believe that the totality of facts known to them does not support probable cause for the charge. Section 418.2.1 of the APD's General Orders reads as follows:

> "418.2.1 ARREST REQUIREMENT FOR ASSAULTIVE OFFENSES
>
> (a) Officers are required to make an arrest for incidents involving family violence when:
>
> 1. An assault has occurred that resulted in a minimum of bodily injury or complaint of pain; or where an officer can articulate facts from which a reasonable person could infer that the victim would have felt pain due to:
>
> (a) The manner in which the suspect made contact with the victim, or
>
> (b) the nature of observable physical marks on the victim's body allegedly caused by the suspect's contact with the victim, and
>
> 2. The suspect is still on-scene; and
>
> 3. The assault meets the definition of "family violence" or "dating violence.""

42. Section 418.2.1 requires arrests in situations where "an assault has occurred," but it provides no guidance as to how officers are meant to determine whether this condition is met. A reasonable officer trying to make sense of the policy will likely conclude that "an assault has occurred" is shorthand for "there is probable cause to arrest for assault", and thus read Section 418.2.1 together with the APD's policies regarding probable cause in Section 418.2.2(a). As a result, the officer will deploy the conception of probable cause communicated by Section

418.2.2(a), under which facts that would tend to negate probable cause are disregarded. The officer will thus interpret the phrase "an assault has occurred" to mean that there exists some basis to infer probable cause, such as the mere fact that an allegation has been made, while disregarding any contrary facts known to them.

43. Section 418.2.1, read together with Section 418.2.2(a), will at times require officers to make arrests and file charges even when the officer believes that the totality of facts known to them does not support probable cause for these charges. Consider for example a situation in which a person who appears uninjured tells an officer that a suspect "hit" them, but also says that it was not a "real" hitting and credibly communicates that they did not feel any pain or sustain any injury. The officer may reasonably conclude — based on the person's own account and their own observations — that no assault with injury occurred, and that the totality of facts known to them does not support probable cause for that charge. Nonetheless, because Section 418.2.2(a) directs the officer to disregard facts that would cut against probable cause when making the probable cause determination, the officer must treat the incident as one in which "an assault has occurred." And because, given that the word "hit" has been used, the officer "can articulate facts from which a reasonable person could infer that the victim would have felt pain due to [...] [t]he manner in which the suspect made contact with the victim," Section 418.2.1(a)(1) requires the officer to make an arrest.

44. The officer is then instructed by Section 418.2.2(a) to omit from the arrest affidavit any facts that do not help establish probable cause. As a result, although the officer knows that the alleged victim did not feel pain, the officer will be required to exclude the facts —

such as the alleged victim's own statements — that form the basis for that knowledge. On the other hand, the officer is instructed to include any "facts from which a reasonable person could infer that the victim would have felt pain" because such facts tend to establish probable cause. The affidavit will therefore present a version of events from which it could be concluded that the victim experienced pain, while omitting the facts that the officer knows show that no pain occurred. The result is an affidavit that supports an "assault with injury" charge. The arrestee will therefore be charged with assault with injury, even though the arresting officer correctly believed that the totality of facts known to them did not support probable cause for that charge, in violation of the arrestee's constitutional rights. This unconstitutional outcome is a direct result of the interplay between Section 418.2.1, which requires arrest, and Section 418.2.2(a), which determines what facts will be included in the affidavit.

45. A policy that requires officers to make arrests and file charges whenever they determine — based on the totality of facts known to them — that probable cause for the charges exists would not be constitutionally objectionable. But the City of Austin's policies do something else. They direct officers to use, in cases that involve allegations of family violence, a modified policy-driven conception of probable cause, one that instructs officers to disregard facts that would cut against probable cause when making their probable cause determination and to omit such facts from their arrest affidavits. Section 418.2.2(a) imposes this altered framework, and Section 418.2.1 then requires arrests based on it.

46. Adopting policies that supplant the constitutional conception of probable cause with a modified conception of the City's own making is not permissible. The Constitution

requires probable cause determinations in connection with warrantless arrests to be purely fact-based undertakings to be made in light of the totality of known circumstances and informed by the officer's experience and judgment. Municipalities may not modify this conception of probable cause for certain categories of arrests based on policy considerations. By instructing officers to apply an altered pre-scripted conception of probable cause for cases involving allegations of family violence — one that is inconsistent with the totality-of-circumstances framework required under the Fourth and Fourteenth Amendments — the City of Austin violates the constitutional rights of arrestees.

47. Through Section 418.2.2(a), the APD communicates to its officers that, in connection with cases involving allegations of family violence, it wants "probable cause" to mean something different from what it means under the U.S. Constitution. The altered framework sends a clear message that, in this category of cases, constitutional standards are secondary to internal policy, which predictably leads to a broader range of constitutional violations. Officers who are compelled to make arrests in situations where they believe that the totality of known facts may not support probable cause will predictably feel pressed to justify such arrests by drafting affidavits that distort the underlying facts. This predictably results in affidavits that are misleading or contain material omissions, exaggerations, or outright falsehoods, in direct violation of the constitutional rights of arrestees.

48. Upon information and belief, the City of Austin does not adequately train, supervise, or discipline APD officers to ensure compliance with their constitutional obligations. By failing to discipline officers who violate these obligations, the City ratifies such misconduct

and signals institutional acceptance. The City of Austin is deliberately indifferent to the constitutional harms that predictably result.

49. Upon information and belief, there are cases in which APD officers have stated that they believed that under the APD's policies they had no choice but to make an arrest in connection with an allegation of family violence, even when they did not believe that the alleged assault had in fact occurred.

50. Section 418 has, upon information and belief, been the grounds for multiple APD disciplinary actions alleging non-compliance by APD officers. The risk of being subjected to such disciplinary action places pressure on officers to follow Section 418 strictly, even when doing so requires them to violate the constitutional rights of arrestees.

51. Upon information and belief, charges relating to family violence are dismissed by the Travis County Attorney's Office at a higher rate than other types of charges.

FIRST CLAIM FOR RELIEF

For Violation of Rights Under 42 U.S.C. § 1983
(Violation of the Fourteenth Amendment Right to Due Process Through Fabrication of Evidence)

Against All Defendants

52. Plaintiff incorporates the above allegations as if fully stated here.

53. Officers Ahmad and Murray fabricated evidence by knowingly including material false and misleading statements in the sworn probable cause affidavit used to charge Plaintiff,

and by omitting material information known to them that would have corrected, contradicted, or contextualized those statements and prevented them from being misleading.

54. In arresting Plaintiff and deciding what statements to include and what information to omit from the arrest affidavit, the choices made by Officers Ahmad and Murray were directed by their conscious attempt to conform their conduct to the policies and customs of the APD, including Section 418 of the General Orders. This is evidenced by the officers' statements to Plaintiff that they had to arrest him because the policies under which they were operating were "really strict," and their discussions among themselves of "liability," which Plaintiff understood as concern about liability for failing to comply with departmental policy. It is further evidenced by the officers' complete omission of Plaintiff's account of events and other material information that would have negated probable cause, in direct alignment with the APD's instructions in Section 418.2.2(a), as well as by the affidavit's use of the conclusory phrase "complaint of pain," which directly copies language from the APD's policy and suggests that the policy was directly consulted during the drafting process.

55. Officers are constitutionally required to include in arrest affidavits any material information that a reasonable person would know a magistrate would wish to have brought to their attention — especially when such information would reveal that a statement already included in the affidavit is false or misleading. But Section 418.2.2(a) tells officers to do the opposite: to omit information unless it helps establish probable cause, even when it would correct a material falsehood or prevent the magistrate from being materially misled. That is exactly what happened here: as directed by the APD's policy, the officers withheld information

that they knew would have exposed material errors and omissions in the affidavit used to charge Plaintiff.

56. As previously described, the APD's policy framework — including Sections 418.2.2(a) and 418.2.1 — not only directs officers to omit material information from affidavits, but also predictably results in affidavits that include misleading statements, exaggerations, or fabrications, as officers attempt to justify arrests that internal policy requires them to make and the APD's written policies communicate to officers that, in cases involving allegations of family violence, affidavits are not expected to be non-misleading. That is what occurred here. The affidavit used to charge Plaintiff contains a number of misleading, conclusory, and false statements which, as indicated by the one-sided nature of the omissions and distortions it presents, are a predictable result of the APD's policies and customs.

57. But for the City of Austin's policies and customs, the false and misleading statements in Plaintiff's arrest affidavit would either not have been included, or would have been accompanied by truthful information that would have exposed them as false or misleading. Had that occurred, these statements could not have been used to charge and prosecute Plaintiff. The City's unconstitutional policies, customs, and training were thus the proximate cause and moving force behind the use of these false and misleading statements in Plaintiff's arrest and prosecution. The City of Austin is therefore, together with the other Defendants, liable under 42 U.S.C. § 1983 for violating Plaintiff's clearly established rights under the Due Process Clause of the Fourteenth Amendment.

58. Upon information and belief, the offense report in Plaintiff's case replicates all or most of the false and misleading statements from the arrest affidavit.

59. These false and misleading statements were used to deprive Plaintiff of liberty and property by imprisoning Plaintiff for several days, imposing an EPO that barred him from his home for over a month, and by prosecuting Plaintiff for over nine months. Had these false and misleading statements not been used against Plaintiff, it is likely that one or more of the following would have occurred: Plaintiff would not have been charged at all, his imprisonment would have been shorter, no EPO would have been imposed or its duration would have been shorter, and at a minimum the duration of his prosecution would have been significantly reduced.

60. The false and misleading statements in the affidavit were of a kind that would almost certainly have influenced a jury's verdict. The false claim that Plaintiff "did admit to hitting" his wife attributes to him a statement that amounts, in both form and content, to a confession. If this fabricated confession, combined with the other false and misleading statements in the affidavit, had been introduced at trial, this would have significantly increased the likelihood that a jury would have falsely convicted Plaintiff.

61. The emotional distress that Plaintiff experienced as a result of his imprisonment and prosecution was significantly exacerbated by the knowledge that the affidavit used to charge him included material falsehoods and statements that were materially misleading. Their inclusion signaled that, from the outset, the legal process instituted against Plaintiff would be fundamentally dishonest. Until the body cam videos were made available, which took nearly eight months, Plaintiff had to live with the likelihood that these statements would go uncorrected,

be replicated in other official documents, and be used at trial to secure a false conviction. He also had to reckon with the possibility that additional fabrications might be introduced. This caused a level of fear and distress that would not have existed had these false and misleading statements not been used against him.

SECOND CLAIM FOR RELIEF

For Violation of Rights Under 42 U.S.C. § 1983
(Defamation Plus Deprivation of the
Fourteenth Amendment Right to Due Process)

Against All Defendants

62. Plaintiff incorporates the above allegations as if fully stated here.

63. Defendant officers knowingly included in their probable cause affidavit the false written statement that Plaintiff "did admit to hitting" his wife. This statement is of a kind that is inherently harmful to reputation and as such constitutes defamation *per se* under general principles of defamation law.

64. Upon information and belief, the defamatory statement was replicated in the offense report that the officer Defendants prepared in connection with Plaintiff's case. The probable cause affidavit was provided to the magistrate and the prosecutor, and the offense report was provided to the prosecutor.

65. The affidavit containing the defamatory statement was published on the Travis County District Clerk's website, where it remains publicly available and downloadable.

Members of the public who search for Plaintiff's name online are easily able to find, access and read the statement.

66. The defamatory statement, both by itself and combined with the other false and misleading assertions in the affidavit, has injured and continues to injure Plaintiff's reputation, causing Plaintiff to incur damages.

67. The defamatory statement was used, together with the other false and misleading assertions in the affidavit, to charge and prosecute Plaintiff, depriving him of liberty and property in violation of his constitutional rights as described above.

68. As explained above, but for the City of Austin's policies and customs, the false and misleading statements in Plaintiff's arrest affidavit — including the false claim that Plaintiff "did admit to hitting" his wife — would either not have been included in the affidavit, or would have been accompanied by truthful information that would have exposed them as false or misleading. Had that occurred, these statements could not have injured Plaintiff's reputation or been used to charge and prosecute him. The City's unconstitutional policies, customs, and training were the proximate cause and moving force behind the publication of these false and misleading statements and the resulting injury to Plaintiff's reputation, and their use in depriving Plaintiff of liberty and property. The City of Austin is therefore, together with the other Defendants, liable under 42 U.S.C. § 1983 for the defamation and the constitutional harms Plaintiff experienced as a result of the publication and use of these false and misleading statements, in violation of his clearly established rights under the Due Process Clause of the Fourteenth Amendment.

ATTORNEY'S FEES

Plaintiff seeks all reasonable and necessary attorney's fees incurred in prosecuting this action pursuant to 42 U.S.C. § 1988.

PRAYER FOR RELIEF

Plaintiff respectfully requests judgment against all Defendants as follows:

a. Awarding general and/or compensatory damages in an amount to be determined at trial for all injuries suffered as a result of Defendants' wrongdoing;

b. Awarding punitive damages against the individual Defendants to the extent permitted by law;

c. Awarding pre-judgment and post-judgment interest at the maximum legal rate;

d. Awarding the costs of suit as incurred in this action and attorneys' fees; and

e. Granting such other and further relief as the Court may deem just and proper.

JURY DEMAND

Plaintiff demands a trial by jury.

Date: May 22, 2025

Respectfully submitted,

Markus Glodek
P.O. Box 210040
San Francisco, CA 94121
Tel.: 737-999-1508
Email: mcgldk.contact@gmail.com

Plaintiff, Pro Se

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF TEXAS
AUSTIN DIVISION

IN RE: COURT DOCKET MANAGEMENT	§
	§
	§
	§
	§
FOR AUSTIN DIVISION	§
	§

MAGISTRATE REFERRAL ORDER

Under Rule 1 of the Local Rules for the Assignment of Duties to United States Magistrate Judges, Appendix C of the Local Court Rules of the United States District Court for the Western District of Texas, **IT IS HEREBY ORDERED** that the Clerk of the Court shall refer all civil matters assigned to the Honorable Alan D Albright to a United States Magistrate Judge for the Austin Division, allocated pursuant to the Clerk of the Court's standard procedure, except the following:

- Cases brought under 28 U.S.C. §§ 2241, 2254, and 2255;
- Cases brought by detainees and prisoners under 42 U.S.C. § 1983 and *Bivens v. Six Unknown Named Agents of Federal Bureau of Narcotics*, 430 U.S. 388 (1971);
- Cases brought under 35 U.S.C. § 1 et seq. (patent cases);
- Cases designated as "830 Patent" and "835 Patent (ANDA)"; and
- Cases that include *ex parte* applications for temporary restraining orders.

IT IS FURTHER ORDERED that the Clerk of the Court shall refer all criminal matters for the Austin Division assigned to the Honorable Alan D Albright to a United States Magistrate Judge for the Austin Division, allocated pursuant to the Clerk of the Court's standard procedure. The matters are referred for disposition of all non-dispositive pretrial matters as provided in 28 U.S.C. § 636(b)(1)(A) and for findings and recommendations on all case-dispositive motions as provided in 28 U.S.C. § 636(b)(1)(B).

SIGNED this 27th day of February, 2025.

ALAN D ALBRIGHT
UNITED STATES DISTRICT JUDGE

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

UNITED STATES DISTRICT COURT

for the

Western District of Texas

Markus Glodek
Plaintiff(s)

v.

City of Austin,
Omer Ahmad and
Paul Murray
Defendant(s)

Civil Action No. 1:25CV00810 ADA

SUMMONS IN A CIVIL ACTION

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

City of Austin
c/o Mayor Kirk Watson
301 W 2nd St
Austin, TX 78701

A lawsuit has been filed against you.

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

Markus Glodek
Pro Se
P.O. Box 210040
San Francisco, CA 94121
Tel.: 737-999-1508
Email: mcgldk.contact@gmail.com

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

CLERK OF COURT, PHILIP J. DEVLIN

Date: 5/28/2025

Signature of Clerk or Deputy Clerk

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

UNITED STATES DISTRICT COURT

for the

Western District of Texas

Markus Glodek
Plaintiff(s)

v.

City of Austin,
Omer Ahmad and
Paul Murray
Defendant(s)

Civil Action No. 1:25CV00810 ADA

SUMMONS IN A CIVIL ACTION

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

Omer Ahmad
c/o Austin Police Department
715 E. 8th Street
Austin, TX 78701

A lawsuit has been filed against you.

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

Markus Glodek
Pro Se
P.O. Box 210040
San Francisco, CA 94121
Tel.: 737-999-1508
Email: mcgldk.contact@gmail.com

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

CLERK OF COURT, PHILIP J. DEVLIN

Date: 5/28/2025

Signature of Clerk or Deputy Clerk

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

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Markus Glodek
Plaintiff(s)

v.

City of Austin,
Omer Ahmad and
Paul Murray
Defendant(s)

Civil Action No. 1:25CV00810 ADP

SUMMONS IN A CIVIL ACTION

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

Paul Murray
c/o Austin Police Department
715 E. 8th Street
Austin, TX 78701

A lawsuit has been filed against you.

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

Markus Glodek
Pro Se
P.O. Box 210040
San Francisco, CA 94121
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CLERK OF COURT, PHILIP J. DEVLIN

Date: 5/28/2025

Signature of Clerk or Deputy Clerk

UNITED STATES DISTRICT COURT

for the

Western District of Texas

Markus Glodek *Plaintiff* v. City of Austin, Omer Ahmad and Paul Murray *Defendant*	)	Civil Action No. 1:25-cv-00810

NOTICE OF A LAWSUIT AND REQUEST TO WAIVE SERVICE OF A SUMMONS

To: Paul Murray

(Name of the defendant or - if the defendant is a corporation, partnership, or association - an officer or agent authorized to receive service)

Why are you getting this?

A lawsuit has been filed against you, or the entity you represent, in this court under the number shown above. A copy of the complaint is attached.

This is not a summons, or an official notice from the court. It is a request that, to avoid expenses, you waive formal service of a summons by signing and returning the enclosed waiver. To avoid these expenses, you must return the signed waiver within 30 days *(give at least 30 days, or at least 60 days if the defendant is outside any judicial district of the United States)* from the date shown below, which is the date this notice was sent. Two copies of the waiver form are enclosed, along with a stamped, self-addressed envelope or other prepaid means for returning one copy. You may keep the other copy.

What happens next?

If you return the signed waiver, I will file it with the court. The action will then proceed as if you had been served on the date the waiver is filed, but no summons will be served on you and you will have 60 days from the date this notice is sent (see the date below) to answer the complaint (or 90 days if this notice is sent to you outside any judicial district of the United States).

If you do not return the signed waiver within the time indicated, I will arrange to have the summons and complaint served on you. And I will ask the court to require you, or the entity you represent, to pay the expenses of making service.

Please read the enclosed statement about the duty to avoid unnecessary expenses.

I certify that this request is being sent to you on the date below.

Date: 06/03/2025

Markus Glodek

Signature of the attorney or unrepresented party

Markus Glodek

Printed name

P.O. Box 210040
San Francisco, CA 94121

Address

mcgldk.contact@gmail.com

E-mail address

737-999-1508

Telephone number

UNITED STATES DISTRICT COURT

for the

Western District of Texas

Markus Glodek
Plaintiff

v.

City of Austin, Omer Ahmad and Paul Murray
Defendant

Civil Action No. 1:25-cv-00810

WAIVER OF THE SERVICE OF SUMMONS

To: Markus Glodek
(Name of the plaintiff's attorney or unrepresented plaintiff)

I have received your request to waive service of a summons in this action along with a copy of the complaint, two copies of this waiver form, and a prepaid means of returning one signed copy of the form to you.

I, or the entity I represent, agree to save the expense of serving a summons and complaint in this case.

I understand that I, or the entity I represent, will keep all defenses or objections to the lawsuit, the court's jurisdiction, and the venue of the action, but that I waive any objections to the absence of a summons or of service.

I also understand that I, or the entity I represent, must file and serve an answer or a motion under Rule 12 within 60 days from 06/03/2025, the date when this request was sent (or 90 days if it was sent outside the United States). If I fail to do so, a default judgment will be entered against me or the entity I represent.

Date: _____

_____
Signature of the attorney or unrepresented party

Paul Murray
Printed name of party waiving service of summons

_____
Printed name

_____
Address

_____
E-mail address

_____
Telephone number

Duty to Avoid Unnecessary Expenses of Serving a Summons

Rule 4 of the Federal Rules of Civil Procedure requires certain defendants to cooperate in saving unnecessary expenses of serving a summons and complaint. A defendant who is located in the United States and who fails to return a signed waiver of service requested by a plaintiff located in the United States will be required to pay the expenses of service, unless the defendant shows good cause for the failure.

"Good cause" does *not* include a belief that the lawsuit is groundless, or that it has been brought in an improper venue, or that the court has no jurisdiction over this matter or over the defendant or the defendant's property.

If the waiver is signed and returned, you can still make these and all other defenses and objections, but you cannot object to the absence of a summons or of service.

If you waive service, then you must, within the time specified on the waiver form, serve an answer or a motion under Rule 12 on the plaintiff and file a copy with the court. By signing and returning the waiver form, you are allowed more time to respond than if a summons had been served.

UNITED STATES DISTRICT COURT

for the

Western District of Texas ☑

Markus Glodek
Plaintiff

v.

City of Austin, Omer Ahmad and Paul Murray
Defendant

Civil Action No. 1:25-cv-00810

WAIVER OF THE SERVICE OF SUMMONS

To: Markus Glodek
(Name of the plaintiff's attorney or unrepresented plaintiff)

I have received your request to waive service of a summons in this action along with a copy of the complaint, two copies of this waiver form, and a prepaid means of returning one signed copy of the form to you.

I, or the entity I represent, agree to save the expense of serving a summons and complaint in this case.

I understand that I, or the entity I represent, will keep all defenses or objections to the lawsuit, the court's jurisdiction, and the venue of the action, but that I waive any objections to the absence of a summons or of service.

I also understand that I, or the entity I represent, must file and serve an answer or a motion under Rule 12 within 60 days from 06/03/2025, the date when this request was sent (or 90 days if it was sent outside the United States). If I fail to do so, a default judgment will be entered against me or the entity I represent.

Date: _____

_____
Signature of the attorney or unrepresented party

Paul Murray
Printed name of party waiving service of summons

_____
Printed name

_____
Address

_____
E-mail address

_____
Telephone number

Duty to Avoid Unnecessary Expenses of Serving a Summons

Rule 4 of the Federal Rules of Civil Procedure requires certain defendants to cooperate in saving unnecessary expenses of serving a summons and complaint. A defendant who is located in the United States and who fails to return a signed waiver of service requested by a plaintiff located in the United States will be required to pay the expenses of service, unless the defendant shows good cause for the failure.

"Good cause" does *not* include a belief that the lawsuit is groundless, or that it has been brought in an improper venue, or that the court has no jurisdiction over this matter or over the defendant or the defendant's property.

If the waiver is signed and returned, you can still make these and all other defenses and objections, but you cannot object to the absence of a summons or of service.

If you waive service, then you must, within the time specified on the waiver form, serve an answer or a motion under Rule 12 on the plaintiff and file a copy with the court. By signing and returning the waiver form, you are allowed more time to respond than if a summons had been served.

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF TEXAS
AUSTIN DIVISION

MARKUS GLODEK,

Plaintiff,

v.

CITY OF AUSTIN,
OMER AHMAD AND
PAUL MURRAY,

Defendants.

Case No.:

1:25-cv-00810

PLAINTIFF'S AMENDED COMPLAINT

Plaintiff Markus Glodek brings this action under 42 U.S.C. § 1983 for fabrication of evidence and defamation against the City of Austin, Officer Omer Ahmad and Officer Paul Murray, alleging as follows:

PARTIES

1. Plaintiff is a resident of San Francisco, California. He resided in Austin, Texas at the time of the events and omissions giving rise to his claims.

2. Upon information and belief, Defendant Omer Ahmad is a police officer with the Austin Police Department (APD). He is sued in his individual capacity for compensatory and punitive damages. At all relevant times, he was acting under color of law as an APD officer. Service may be effected at Austin Police Department, 715 E. 8th Street, Austin, TX 78701.

3. Upon information and belief, Defendant Paul Murray is a police officer with the APD. He is sued in his individual capacity for compensatory and punitive damages. At all relevant times, he was acting under color of law as an APD officer. Service may be effected at Austin Police Department, 715 E. 8th Street, Austin, TX 78701.

4. Defendant City of Austin is a municipality that operates the APD and employed Defendants Ahmad and Murray at all relevant times. Service may be effected by serving its mayor, Kirk Watson, at 301 W 2nd St, Austin, TX 78701, under the authority of Texas Civil Practice and Remedies Code § 17.024(b).

JURISDICTION & VENUE

5. This Court has subject matter jurisdiction under 28 U.S.C. §§ 1331 and 1343, as this action arises under 42 U.S.C. § 1983.

6. This Court has general personal jurisdiction over the City of Austin, which is located in Travis County within the Western District of Texas. Upon information and belief, this Court also has general personal jurisdiction over Defendants Ahmad and Murray, who reside, work, or are otherwise located in Travis County.

7. This Court has specific personal jurisdiction over all Defendants, as Plaintiff's claims arise from conduct by Defendants that occurred in Travis County.

8. Venue is proper in the Western District of Texas under 28 U.S.C. § 1391(b) because a substantial portion of the events and omissions giving rise to Plaintiff's claims occurred in Travis County.

STATEMENT OF FACTS

I. Plaintiff's Arrest, Imprisonment and Prosecution

9. On June 19, 2024, Officers Ahmad and Murray responded to a 911 call placed by Plaintiff's wife. They encountered Plaintiff outside the apartment building in which he and his wife lived together. Plaintiff was peaceful and collaborative and offered to speak with the officers about what had happened.

10. The officers placed Plaintiff in handcuffs almost immediately. He was fully cooperative and complied with all instructions. He directed the officers to the apartment so they could speak with his wife.

11. Officer Ahmad went to Plaintiff's apartment and spoke with Plaintiff's wife. Officer Murray remained outside and interviewed Plaintiff until Officer Ahmad returned.

12. At some point during Plaintiff's conversation with police, either before or after Officer Ahmad had returned from speaking with Plaintiff's wife, Plaintiff was informed that he was being placed under arrest.

13. The officers indicated to Plaintiff that they had to arrest him because the policies under which they operated were, in their words, "really strict". The officers also discussed with one another concerns about "liability."

14. Officer Ahmad transported Plaintiff to Travis County Jail. Officer Murray remained at the scene and conducted an extended follow-up interview with Plaintiff's wife.

15. All interactions between Plaintiff and Officers Murray and Ahmad, as well as all interactions between Plaintiff's wife and Officers Murray and Ahmad, were recorded on police body cameras.

16. Officer Ahmad executed a sworn probable cause affidavit that he and Officer Murray prepared together, with Officer Murray supplying information for inclusion. This affidavit was used to charge Plaintiff with a misdemeanor described therein as "Assault with Injury Family Violence."

17. The affidavit states that Plaintiff "did admit to hitting" his wife, that he "said that she never used force against him" and that "both parties confirmed Markus was the only one being physical."

18. These statements in the affidavit are false. Plaintiff did not tell the officers that he hit his wife, did not "admit" to doing so, did not say that she never used force against him, and did not say that he was the only one being physical. The body cam footage reflects what Plaintiff actually said, which is inconsistent with some of the statements attributed to him in the affidavit. Among other things, Plaintiff told the officers that he did not hurt his wife and that there was no violence from his wife during the incident.

19. The affidavit also states that Plaintiff's wife "said she fell to the ground," that she "said she developed a headache due to the arguing," and that she "had a complaint of pain due to Markus physically assaulting" her.

20. Upon information and belief, these statements are false or misleading due to material omissions. Plaintiff's wife did not tell the officers that she fell to the ground. Both she

and Plaintiff independently told the officers that her headache was due to a cold. She tried to convey to police that she did not experience pain other than from that headache. At one point, she tried to clarify to police that "hit" was not an accurate description of what had occurred. The body cam footage captures a full account of what she actually said.

21. The affidavit completely omits Plaintiff's account of events that he gave to the officers.

22. The affidavit does correctly state that Plaintiff's wife "was not observed to have physical injury".

23. Plaintiff was imprisoned for three days. At some point, he was taken to a judicial proceeding that he now understands to have been a magistration. Plaintiff had, prior to the magistration, repeatedly requested opportunity to contact an attorney but was not given such opportunity, so he had to participate in the magistration without counsel to assist him. The probable cause affidavit was not presented to Plaintiff either prior to or during the proceeding. Because he was not aware of the affidavit's existence or contents, Plaintiff could not alert the magistrate that it contained false and misleading statements and material omissions. It was therefore not possible for Plaintiff to request that the affidavit be scrutinized, compared to the body cam footage, and corrected before being used to charge him.

24. The magistrate informed Plaintiff that an Emergency Protective Order (EPO) was being imposed and gave Plaintiff an oral summary of the order. Plaintiff was told to sign the order but was not given an opportunity to review or read it, and was not provided with a copy.

25. Plaintiff's prosecution lasted more than nine months, from June 2024 through the end of March 2025. For the first five weeks, the EPO barred him from coming within 200 yards of his home.

26. Two days after Plaintiff's arrest, his wife visited the Travis County Attorney's Office and spoke in person with a staff member. She explained that she had sustained no physical injuries as a result of the incident and asked the staff member to observe that she had no visible injuries.

27. On July 5, 2024, Plaintiff's wife executed an affidavit of non-prosecution, which Plaintiff's attorneys submitted to the prosecutor assigned to the case approximately ten days later. In the affidavit, she stated in relevant part:

> "During this incident I did not sustain any injuries and I did not experience any pain whatsoever as a result of the incident. Markus did not physically hurt me. I was surprised that Markus was arrested, and I objected to Markus' arrest. I did not intend for Markus to be arrested when I called for police assistance and I specifically asked the officers on-scene not to arrest him. I fear that my account of what happened was partly misinterpreted by the Austin police."

She also stated in the affidavit:

> "It is my wish that all charges in relation to this matter be dismissed, all protective orders and bond conditions that prevent him from coming home be rescinded, and that no further action be taken."

28. On or about July 19, 2024, Plaintiff's wife spoke with the prosecutor assigned to the case. She explained that she had not sustained any injuries or experienced any pain as a result of the incident, clarified again that the headache mentioned in the arrest affidavit was due to a cold, and expressed her wish that the case be dismissed. The prosecutor indicated that she was inclined to dismiss the charges but stated that she first needed to review evidence.

29. Throughout the prosecution, Plaintiff's wife continued to reach out to her point of contact at the Travis County Attorney's Office, the same staff member she had initially spoken with in person, to reiterate that she had not sustained any injury or experienced any pain as a result of the incident.

30. Plaintiff's attorneys requested discovery, including body cam videos, on or about June 26, 2024. One such video was made available to them sometime between November 18 and December 5, 2024. This video documented only a portion of the interactions between Plaintiff and his wife and the Defendant officers. Plaintiff was informed that two additional videos existed but that his attorneys were unable to access them due to technical issues. As of February 11, 2025, these videos had not yet been received.

31. On February 13, 2025, Plaintiff's wife emailed her contact at the Travis County Attorney's Office to ask whether she could view the body cam footage of her own interactions with police. In response to that inquiry, the Travis County Attorney's Office indicated that the remaining videos had now been made available to Plaintiff's attorneys, who shortly thereafter confirmed receipt. These videos now showed all interactions between Plaintiff and the officers, as well as all interactions between Plaintiff's wife and the officers.

32. The first pretrial conference following disclosure of the full body cam footage was scheduled for March 31, 2025. Plaintiff understood that the videos would be discussed at that conference by his attorneys and the prosecutor. The charges against Plaintiff were dismissed on that day.

II. The City of Austin's Policies and Customs

33. The City of Austin, acting through the APD, has policies and customs that direct officers responding to incidents involving suspected family violence to omit, with reckless disregard for the truth, information from probable cause affidavits that any reasonable person would know a magistrate would wish to have brought to their attention, thereby violating the rights of arrestees under the Due Process Clause of the Fourteenth Amendment.

34. Section 418.2.2 of the Austin Police Department General Orders (hereinafter, the "General Orders") provides as follows:

> "418.2.2 ARREST PC AFFIDAVITS FOR FAMILY VIOLENCE RELATED ASSAULTS
>
> (a) Arrest affidavits for family violence assaults shall be limited to information that is necessary to establish probable cause. Officers shall refrain from copying and pasting their incident report into the arrest affidavit. It is not necessary to include the primary aggressor's account of events within the arrest affidavit, unless such inclusion is necessary to establish probable cause."

The term "primary aggressor" is defined in Section 418.1.1 of the General Orders as

> "[t]he person who appears to be the most significant aggressor rather than the first aggressor. In identifying the primary aggressor an officer shall consider:
>
> (a) The intent of the law to protect victims of family violence from continuing abuse,
> (b) The threats creating fear of physical injury,
> (c) The history of family violence between the persons involved, and
> (d) Whether either person acted in self-defense."

35. Section 418.2.2(a) requires that affidavits "shall be limited" to information necessary to "establish" probable cause. This language directs police officers to omit from affidavits any information that would tend to negate the existence of probable cause, as well as any other information not strictly necessary to establish it — and it does so without exception,

even where a reasonable person would know that a magistrate would wish to have such information brought to their attention, and where omission would constitute reckless disregard for the truth. As such, the policy directs APD officers, whenever the information it requires them to omit is material, to violate the constitutional due process rights of arrestees.

36. Section 418.2.2(a) also states that "[i]t is not necessary to include the primary aggressor's account of events within the arrest affidavit, unless such inclusion is necessary to establish probable cause." This clause misinstructs officers that, once a person has been labeled a "primary aggressor," the officer may, unless it supports probable cause, completely omit that person's account from the affidavit. As such, the policy misstates officers' constitutional obligations, which require officers to include in their affidavits information that a reasonable person would know a magistrate would wish to have brought to their attention, or the omission of which would constitute reckless disregard for the truth, regardless of whether the source has been labeled a "primary aggressor." The City of Austin and the APD are deliberately indifferent to the fact that officers trained under the APD's policy will predictably and routinely submit affidavits that conceal material information from magistrates, resulting in violations of the constitutional due process rights of arrestees.

37. The requirement in Section 418.2.2(a) that officers omit information from affidavits applies even where the omitted information would show that statements included in the affidavit are false. Any reasonable person would know that a magistrate would wish to be alerted to the falsity of material statements presented to them, so omissions of this type inevitably constitute reckless disregard for the truth. By instructing officers to exclude information that

does not help establish probable cause — even when that information would have exposed false or misleading statements included in the affidavit — the policy ensures that those statements remain uncorrected and are used to charge arrestees, in violation of their constitutional due process rights.

38. Section 418.2.2(a) instructs officers to determine whose account of events may, according to the APD's policies, be omitted from an affidavit by identifying a "primary aggressor." The policy defines that term to mean "the most significant aggressor," not necessarily the first, and directs officers to consider a set of subjective factors unrelated to whether a person's account is credible, material, or trustworthy. It imposes no obligation on officers to explain to the magistrate how the designation was made or what criteria were used. As a result, the magistrate has no way to assess whether the omission of the person's account was based on considerations such as credibility or materiality and, in fact, has no reason to believe that it was. Because the criteria actually used in making the designation remain unreported and obscure, the determination may in practice be arbitrary or reflect illicit bias. Yet under APD policy, that designation — made without regard to credibility or materiality — will result by default in the arrestee's account being omitted from the affidavit. That affidavit then becomes the basic narrative presented to the magistrate, used to charge the arrestee, and likely to shape the direction of the prosecution and legal process that follows.

39. The APD, by instructing officers through Section 418.2.2(a) to manipulate which information to include in affidavits in ways that will obviously and frequently result in material information being concealed from magistrates, thereby communicates to officers that, in

connection with family violence allegations, it does not place value on officers preparing affidavits that are not misleading. Indeed, Section 418.2.2(a) signals to officers that, in such cases, they are at times expected to produce misleading affidavits, even when this violates the constitutional rights of arrestees. The APD's message through this policy — that officers are expected to sculpt affidavits that omit information that could lessen the likelihood of charges even when such information is material and the affidavit thereby becomes misleading — predictably leads not only to omission, but also to exaggeration and fabrication. The City of Austin and the APD are deliberately indifferent to the fact that this policy will predictably result in a pattern of misleading, exaggerated, and fabricated statements being included in affidavits, and to the resulting violations of the constitutional due process rights of arrestees.

40. By directing officers to omit from affidavits any information that does not help establish probable cause — including facts that would negate it — Section 418.2.2(a) also instructs officers how to assess probable cause in the first place. Officers understand that affidavits must communicate all known material facts that a magistrate needs in order to determine whether or not probable cause existed. Telling officers to always exclude facts that would tend to negate the existence of probable cause from their communication to the magistrate is to instruct them that such facts are not part of the probable cause determination — not for the magistrate, and not for the officer — and should therefore not only be omitted from the affidavit but also be disregarded by the officer in making their initial determination of probable cause at the time of the arrest. As such, the APD's policy misinstructs officers by misconstruing their constitutional obligations, which require officers to assess whether probable cause exists by

considering the totality of facts known to them, including those that cut against probable cause. Section 418.2.2(a) will thus lead to arrests in situations where the totality of known facts does not support the existence of probable cause, in violation of the constitutional rights of arrestees.

41. In fact, there are situations in which APD policies *require* officers to make arrests and file charges even when they correctly believe that the totality of facts known to them does not support probable cause for the charge. Section 418.2.1 of the APD's General Orders reads as follows:

> "418.2.1 ARREST REQUIREMENT FOR ASSAULTIVE OFFENSES
>
> (a) Officers are required to make an arrest for incidents involving family violence when:
>
> 1. An assault has occurred that resulted in a minimum of bodily injury or complaint of pain; or where an officer can articulate facts from which a reasonable person could infer that the victim would have felt pain due to:
>
> (a) The manner in which the suspect made contact with the victim, or
>
> (b) the nature of observable physical marks on the victim's body allegedly caused by the suspect's contact with the victim, and
>
> 2. The suspect is still on-scene; and
>
> 3. The assault meets the definition of "family violence" or "dating violence.""

42. Section 418.2.1 requires arrests in situations where "an assault has occurred," but it provides no guidance as to how officers are meant to determine whether this condition is met. A reasonable officer trying to make sense of the policy will likely conclude that "an assault has occurred" is shorthand for "there is probable cause to arrest for assault", and thus read Section 418.2.1 together with the APD's policies regarding probable cause in Section 418.2.2(a). As a result, the officer will deploy the conception of probable cause communicated by Section

418.2.2(a), under which facts that would tend to negate probable cause are disregarded. The officer will thus interpret the phrase "an assault has occurred" to mean that there exists some basis to infer probable cause, such as the mere fact that an allegation has been made, while disregarding any contrary facts known to them.

43. Section 418.2.1, read together with Section 418.2.2(a), will at times require officers to make arrests and file charges even when the officer believes that the totality of facts known to them does not support probable cause for these charges. Consider for example a situation in which a person who appears uninjured tells an officer that a suspect "hit" them, but also says that it was not a "real" hitting and credibly communicates that they did not feel any pain or sustain any injury. The officer may reasonably conclude — based on the person's own account and their own observations — that no assault with injury occurred, and that the totality of facts known to them does not support probable cause for that charge. Nonetheless, because Section 418.2.2(a) directs the officer to disregard facts that would cut against probable cause when making the probable cause determination, the officer must treat the incident as one in which "an assault has occurred." And because, given that the word "hit" has been used, the officer "can articulate facts from which a reasonable person could infer that the victim would have felt pain due to [...] [t]he manner in which the suspect made contact with the victim," Section 418.2.1(a)(1) requires the officer to make an arrest.

44. The officer is then instructed by Section 418.2.2(a) to omit from the arrest affidavit any facts that do not help establish probable cause. As a result, although the officer knows that the alleged victim did not feel pain, the officer will be required to exclude the facts —

such as the alleged victim's own statements — that form the basis for that knowledge. On the other hand, the officer is instructed to include any "facts from which a reasonable person could infer that the victim would have felt pain" because such facts tend to establish probable cause. The affidavit will therefore present a version of events from which it could be concluded that the victim experienced pain, while omitting the facts that the officer knows show that no pain occurred. The result is an affidavit that supports an "assault with injury" charge. The arrestee will therefore be charged with assault with injury, even though the arresting officer correctly believed that the totality of facts known to them did not support probable cause for that charge, in violation of the arrestee's constitutional rights. This unconstitutional outcome is a direct result of the interplay between Section 418.2.1, which requires arrest, and Section 418.2.2(a), which determines what facts will be included in the affidavit.

45. A policy that requires officers to make arrests and file charges whenever they determine — based on the totality of facts known to them — that probable cause for the charges exists would not be constitutionally objectionable. But the City of Austin's policies do something else. They direct officers to use, in cases that involve allegations of family violence, a modified policy-driven conception of probable cause, one that instructs officers to disregard facts that would cut against probable cause when making their probable cause determination and to omit such facts from their arrest affidavits. Section 418.2.2(a) imposes this altered framework, and Section 418.2.1 then requires arrests based on it.

46. Adopting policies that supplant the constitutional conception of probable cause with a modified conception of the City's own making is not permissible. The Constitution

requires probable cause determinations in connection with warrantless arrests to be purely fact-based undertakings to be made in light of the totality of known circumstances and informed by the officer's experience and judgment. Municipalities may not modify this conception of probable cause for certain categories of arrests based on policy considerations. By instructing officers to apply an altered pre-scripted conception of probable cause for cases involving allegations of family violence — one that is inconsistent with the totality-of-circumstances framework required under the Fourth and Fourteenth Amendments — the City of Austin violates the constitutional rights of arrestees.

47. Through Section 418.2.2(a), the APD communicates to its officers that, in connection with cases involving allegations of family violence, it wants "probable cause" to mean something different from what it means under the U.S. Constitution. The altered framework sends a clear message that, in this category of cases, constitutional standards are secondary to internal policy, which predictably leads to a broader range of constitutional violations. Officers who are compelled to make arrests in situations where they believe that the totality of known facts may not support probable cause will predictably feel pressed to justify such arrests by drafting affidavits that distort the underlying facts. This predictably results in affidavits that are misleading or contain material omissions, exaggerations, or outright falsehoods, in direct violation of the constitutional rights of arrestees.

48. Upon information and belief, the City of Austin does not adequately train, supervise, or discipline APD officers to ensure compliance with their constitutional obligations. By failing to discipline officers who violate these obligations, the City ratifies such misconduct

and signals institutional acceptance. The City of Austin is deliberately indifferent to the constitutional harms that predictably result.

49. Upon information and belief, there are cases in which APD officers have stated that they believed that under the APD's policies they had no choice but to make an arrest in connection with an allegation of family violence, even when they did not believe that the alleged assault had in fact occurred.

50. Section 418 has, upon information and belief, been the grounds for multiple APD disciplinary actions alleging non-compliance by APD officers. The risk of being subjected to such disciplinary action places pressure on officers to follow Section 418 strictly, even when doing so requires them to violate the constitutional rights of arrestees.

51. Upon information and belief, charges relating to family violence are dismissed by the Travis County Attorney's Office at a higher rate than other types of charges.

FIRST CLAIM FOR RELIEF

For Violation of Rights Under 42 U.S.C. § 1983
(Violation of the Fourteenth Amendment Right to Due Process Through Fabrication of Evidence)

Against All Defendants

52. Plaintiff incorporates the above allegations as if fully stated here.

53. Officers Ahmad and Murray fabricated evidence by knowingly including material false and misleading statements in the sworn probable cause affidavit used to charge Plaintiff,

and by omitting material information known to them that would have corrected, contradicted, or contextualized those statements and prevented them from being misleading.

54. In arresting Plaintiff and deciding what statements to include and what information to omit from the arrest affidavit, the choices made by Officers Ahmad and Murray were directed by their conscious attempt to conform their conduct to the policies and customs of the APD, including Section 418 of the General Orders. This is evidenced by the officers' statements to Plaintiff that they had to arrest him because the policies under which they were operating were "really strict," and their discussions among themselves of "liability," which Plaintiff understood as concern about liability for failing to comply with departmental policy. It is further evidenced by the officers' complete omission of Plaintiff's account of events and other material information that would have negated probable cause, in direct alignment with the APD's instructions in Section 418.2.2(a), as well as by the affidavit's use of the conclusory phrase "complaint of pain," which directly copies language from the APD's policy and suggests that the policy was directly consulted during the drafting process.

55. Officers are constitutionally required to include in arrest affidavits any material information that a reasonable person would know a magistrate would wish to have brought to their attention — especially when such information would reveal that a statement already included in the affidavit is false or misleading. But Section 418.2.2(a) tells officers to do the opposite: to omit information unless it helps establish probable cause, even when it would correct a material falsehood or prevent the magistrate from being materially misled. That is exactly what happened here: as directed by the APD's policy, the officers withheld information

that they knew would have exposed material errors and omissions in the affidavit used to charge Plaintiff.

56. As previously described, the APD's policy framework — including Sections 418.2.2(a) and 418.2.1 — not only directs officers to omit material information from affidavits, but also predictably results in affidavits that include misleading statements, exaggerations, or fabrications, as officers attempt to justify arrests that internal policy requires them to make and the APD's written policies communicate to officers that, in cases involving allegations of family violence, affidavits are not expected to be non-misleading. That is what occurred here. The affidavit used to charge Plaintiff contains a number of misleading, conclusory, and false statements which, as indicated by the one-sided nature of the omissions and distortions it presents, are a predictable result of the APD's policies and customs.

57. But for the City of Austin's policies and customs, the false and misleading statements in Plaintiff's arrest affidavit would either not have been included, or would have been accompanied by truthful information that would have exposed them as false or misleading. Had that occurred, these statements could not have been used to charge and prosecute Plaintiff. The City's unconstitutional policies, customs, and training were thus the proximate cause and moving force behind the use of these false and misleading statements in Plaintiff's arrest and prosecution. The City of Austin is therefore, together with the other Defendants, liable under 42 U.S.C. § 1983 for violating Plaintiff's clearly established rights under the Due Process Clause of the Fourteenth Amendment.

58. Upon information and belief, the offense report in Plaintiff's case replicates all or most of the false and misleading statements from the arrest affidavit.

59. These false and misleading statements were used to deprive Plaintiff of liberty and property by imprisoning Plaintiff for several days, imposing an EPO that barred him from his home for over a month, and by prosecuting Plaintiff for over nine months. Had these false and misleading statements not been used against Plaintiff, it is likely that one or more of the following would have occurred: Plaintiff would not have been charged at all, his imprisonment would have been shorter, no EPO would have been imposed or its duration would have been shorter, and at a minimum the duration of his prosecution would have been significantly reduced.

60. The false and misleading statements in the affidavit were of a kind that would almost certainly have influenced a jury's verdict. The false claim that Plaintiff "did admit to hitting" his wife attributes to him a statement that amounts, in both form and content, to a confession. If this fabricated confession, combined with the other false and misleading statements in the affidavit, had been introduced at trial, this would have significantly increased the likelihood that a jury would have falsely convicted Plaintiff.

61. The emotional distress that Plaintiff experienced as a result of his imprisonment and prosecution was significantly exacerbated by the knowledge that the affidavit used to charge him included material falsehoods and statements that were materially misleading. Their inclusion signaled that, from the outset, the legal process instituted against Plaintiff would be fundamentally dishonest. Until the body cam videos were made available, which took nearly eight months, Plaintiff had to live with the likelihood that these statements would go uncorrected,

be replicated in other official documents, and be used at trial to secure a false conviction. He also had to reckon with the possibility that additional fabrications might be introduced. This caused a level of fear and distress that would not have existed had these false and misleading statements not been used against him.

SECOND CLAIM FOR RELIEF

For Violation of Rights Under 42 U.S.C. § 1983
(Defamation Plus Deprivation of the
Fourteenth Amendment Right to Due Process)

Against All Defendants

62. Plaintiff incorporates the above allegations as if fully stated here.

63. Defendant officers knowingly included in their probable cause affidavit the false written statement that Plaintiff "did admit to hitting" his wife. This statement is of a kind that is inherently harmful to reputation and as such constitutes defamation *per se* under general principles of defamation law.

64. Upon information and belief, the defamatory statement was replicated in the offense report that the officer Defendants prepared in connection with Plaintiff's case. The probable cause affidavit was provided to the magistrate and the prosecutor, and the offense report was provided to the prosecutor.

65. The affidavit containing the defamatory statement was published on the Travis County District Clerk's website, where it remains publicly available and downloadable.

Members of the public who search for Plaintiff's name online are easily able to find, access and read the statement.

66. The defamatory statement, both by itself and combined with the other false and misleading assertions in the affidavit, has injured and continues to injure Plaintiff's reputation, causing Plaintiff to incur damages.

67. The defamatory statement was used, together with the other false and misleading assertions in the affidavit, to charge and prosecute Plaintiff, depriving him of liberty and property in violation of his constitutional rights as described above.

68. As explained above, but for the City of Austin's policies and customs, the false and misleading statements in Plaintiff's arrest affidavit — including the false claim that Plaintiff "did admit to hitting" his wife — would either not have been included in the affidavit, or would have been accompanied by truthful information that would have exposed them as false or misleading. Had that occurred, these statements could not have injured Plaintiff's reputation or been used to charge and prosecute him. The City's unconstitutional policies, customs, and training were the proximate cause and moving force behind the publication of these false and misleading statements and the resulting injury to Plaintiff's reputation, and their use in depriving Plaintiff of liberty and property. The City of Austin is therefore, together with the other Defendants, liable under 42 U.S.C. § 1983 for the defamation and the constitutional harms Plaintiff experienced as a result of the publication and use of these false and misleading statements, in violation of his clearly established rights under the Due Process Clause of the Fourteenth Amendment.

ATTORNEY'S FEES

Plaintiff seeks all reasonable and necessary attorney's fees incurred in prosecuting this action pursuant to 42 U.S.C. § 1988.

PRAYER FOR RELIEF

Plaintiff respectfully requests judgment against all Defendants as follows:

a. Awarding general and/or compensatory damages in an amount to be determined at trial for all injuries suffered as a result of Defendants' wrongdoing;

b. Awarding punitive damages against the individual Defendants to the extent permitted by law;

c. Awarding pre-judgment and post-judgment interest at the maximum legal rate;

d. Awarding the costs of suit as incurred in this action and attorneys' fees; and

e. Granting such other and further relief as the Court may deem just and proper.

JURY DEMAND

Plaintiff demands a trial by jury.

Date: June 2, 2025

Respectfully submitted,

Markus Glodek
P.O. Box 210040
San Francisco, CA 94121
Tel.: 737-999-1508
Email: mcgldk.contact@gmail.com

Plaintiff, Pro Se

AO 399 (01/09) Waiver of the Service of Summons

UNITED STATES DISTRICT COURT

for the

Western District of Texas

Markus Glodek
Plaintiff

v.

City of Austin, Omer Ahmad, and Paul Murray
Defendant

Civil Action No. 1:25-CV-00810

WAIVER OF THE SERVICE OF SUMMONS

To: Markus Glodek
(Name of the plaintiff's attorney or unrepresented plaintiff)

I have received your request to waive service of a summons in this action along with a copy of the complaint, two copies of this waiver form, and a prepaid means of returning one signed copy of the form to you.

I, or the entity I represent, agree to save the expense of serving a summons and complaint in this case.

I understand that I, or the entity I represent, will keep all defenses or objections to the lawsuit, the court's jurisdiction, and the venue of the action, but that I waive any objections to the absence of a summons or of service.

I also understand that I, or the entity I represent, must file and serve an answer or a motion under Rule 12 within 60 days from 06/11/2025, the date when this request was sent (or 90 days if it was sent outside the United States). If I fail to do so, a default judgment will be entered against me or the entity I represent.

Date: 06/27/2025

/s/Sara Schaefer
Signature of the attorney or unrepresented party

Paul Murray
Printed name of party waiving service of summons

Sara Schaefer- Attorney for Paul Murray
Printed name

City of Austin Law Department
P.O. Box 1546
Austin, TX 78767
Address

sara.schaefer@austintexas.gov
E-mail address

(512) 974-1536
Telephone number

Duty to Avoid Unnecessary Expenses of Serving a Summons

Rule 4 of the Federal Rules of Civil Procedure requires certain defendants to cooperate in saving unnecessary expenses of serving a summons and complaint. A defendant who is located in the United States and who fails to return a signed waiver of service requested by a plaintiff located in the United States will be required to pay the expenses of service, unless the defendant shows good cause for the failure.

"Good cause" does *not* include a belief that the lawsuit is groundless, or that it has been brought in an improper venue, or that the court has no jurisdiction over this matter or over the defendant or the defendant's property.

If the waiver is signed and returned, you can still make these and all other defenses and objections, but you cannot object to the absence of a summons or of service.

If you waive service, then you must, within the time specified on the waiver form, serve an answer or a motion under Rule 12 on the plaintiff and file a copy with the court. By signing and returning the waiver form, you are allowed more time to respond than if a summons had been served.

AO 399 (01/09) Waiver of the Service of Summons

UNITED STATES DISTRICT COURT

for the

Western District of Texas- Austin

FILED
July 16, 2025
CLERK, U.S. DISTRICT COURT
WESTERN DISTRICT OF TEXAS
BY: DM
DEPUTY

Markus Glodek
Plaintiff
v.
City of Austin, Omer Ahmad, Paul Murray
Defendant

Civil Action No. 1:25-CV-00810-ADA

WAIVER OF THE SERVICE OF SUMMONS

To: Markus Glodek
(Name of the plaintiff's attorney or unrepresented plaintiff)

I have received your request to waive service of a summons in this action along with a copy of the complaint, two copies of this waiver form, and a prepaid means of returning one signed copy of the form to you.

I, or the entity I represent, agree to save the expense of serving a summons and complaint in this case.

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I also understand that I, or the entity I represent, must file and serve an answer or a motion under Rule 12 within 60 days from 06/11/2025, the date when this request was sent (or 90 days if it was sent outside the United States). If I fail to do so, a default judgment will be entered against me or the entity I represent.

Date: 07/08/2025

/s/Sara Schaefer
Signature of the attorney or unrepresented party

Omer Ahmad
Printed name of party waiving service of summons

Sara Schaefer
Printed name
City of Austin Law Department
P.O. Box 1546
Austin, Texas 78767
Address

sara.schaefer@austintexas.gov
E-mail address

(512) 974-1536
Telephone number

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"Good cause" does *not* include a belief that the lawsuit is groundless, or that it has been brought in an improper venue, or that the court has no jurisdiction over this matter or over the defendant or the defendant's property.

If the waiver is signed and returned, you can still make these and all other defenses and objections, but you cannot object to the absence of a summons or of service.

If you waive service, then you must, within the time specified on the waiver form, serve an answer or a motion under Rule 12 on the plaintiff and file a copy with the court. By signing and returning the waiver form, you are allowed more time to respond than if a summons had been served.

Print Save As... Reset

AO 399 (01/09) Waiver of the Service of Summons

UNITED STATES DISTRICT COURT

for the

Western District of Texas- Austin

FILED
July 16, 2025
CLERK, U.S. DISTRICT COURT
WESTERN DISTRICT OF TEXAS
BY: DM
DEPUTY

Markus Glodek
Plaintiff

v.

City of Austin, Omer Ahmad, Paul Murray
Defendant

Civil Action No. 1:25-CV-00810-ADA

WAIVER OF THE SERVICE OF SUMMONS

To: Markus Glodek
(Name of the plaintiff's attorney or unrepresented plaintiff)

I have received your request to waive service of a summons in this action along with a copy of the complaint, two copies of this waiver form, and a prepaid means of returning one signed copy of the form to you.

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I also understand that I, or the entity I represent, must file and serve an answer or a motion under Rule 12 within 60 days from 06/11/2025, the date when this request was sent (or 90 days if it was sent outside the United States). If I fail to do so, a default judgment will be entered against me or the entity I represent.

Date: 07/08/2025

/s/Sara Schaefer
Signature of the attorney or unrepresented party

City of Austin
Printed name of party waiving service of summons

Sara Schaefer
Printed name
City of Austin Law Department
P.O. Box 1546
Austin, Texas 78767
Address

sara.schaefer@austintexas.gov
E-mail address

(512) 974-1536
Telephone number

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"Good cause" does *not* include a belief that the lawsuit is groundless, or that it has been brought in an improper venue, or that the court has no jurisdiction over this matter or over the defendant or the defendant's property.

If the waiver is signed and returned, you can still make these and all other defenses and objections, but you cannot object to the absence of a summons or of service.

If you waive service, then you must, within the time specified on the waiver form, serve an answer or a motion under Rule 12 on the plaintiff and file a copy with the court. By signing and returning the waiver form, you are allowed more time to respond than if a summons had been served.

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF TEXAS
AUSTIN DIVISION

Markus Glodek, *Plaintiff,*	§	
v.	§	**CIVIL ACTION NO. 1:25-CV-00810-ADA**
City of Austin, Omer Ahmad and Paul Murray, *Defendants.*	§	

DEFENDANTS' ANSWER AND DEFENSES
TO PLAINTIFF'S AMENDED COMPLAINT

TO THE HONORABLE UNITED STATES DISTRICT COURT:

The Defendants, City of Austin (sometimes hereinafter referred to as "the City" or "COA"), Officer Omer Ahmad, and Officer Paul Murray, file this Answer and Affirmative Defenses to Plaintiffs' Amended Complaint. Pursuant to Rules 8 and 12 of the Federal Rules of Civil Procedure, the Defendants respectfully shows the Court the following:

ORIGINAL ANSWER

Pursuant to Federal Rule of Civil Procedure 8(b), the Defendants respond to each of the specific averments in Plaintiffs' Amended Complaint as set forth below. To the extent that the Defendants do not address a specific averment made by Plaintiff, the Defendants expressly deny that averment.[1]

PARTIES

[1] Paragraph numbers in Defendants' Answer correspond to the paragraphs in Plaintiffs' Amended Complaint.

1. Admitted. However, if evidence is developed that calls the alleged facts into question, Defendants reserve the right to withdraw this admission in that Defendants are without sufficient information to form a belief regarding the residence of Plaintiff.

2. Admitted.

3. Admitted.

4. Admitted.

JURISDICTION & VENUE

5. Admitted.

6. Admitted.

7. Admitted.

8. Admitted.

STATEMENT OF FACTS

I. Plaintiff's Arrest, Imprisonment and Prosecution

9. Admitted.

10. Denied as stated. One officer was present for the initial placement of handcuffs.

11. Admitted.

12. Admitted.

13. Denied as stated. The officers did explain that Plaintiff was being arrested for using physical force against his wife. Otherwise, the allegations of this paragraph state conclusions of law or fact without stating a claim upon which relief can be granted, and for which no response is required as stated. To the extent any response is required, the Defendants deny any allegations asserting fault or liability.

14. Admitted.

15. Admitted.

16. Admitted.

17. Admitted.

18. Denied.

19. Admitted.

20. Denied.

21. Denied.

22. Denied as stated for incompleteness. The allegations of this paragraph state conclusions of law or fact without stating a claim upon which relief can be granted, and for which no response is required as stated. To the extent any response is required, the Defendants deny any allegations asserting fault or liability.

23. Defendants are without sufficient information to admit or deny the allegations of this paragraph and it is noted that the allegations refer to events, actions, and non-parties or others, which are not associated with these Defendants. The allegations of this paragraph state conclusions of law or fact without stating a claim upon which relief can be granted, and for which no response is required as stated. To the extent any response is required, the Defendants deny any allegations asserting fault or liability.

24. Defendants are without sufficient information to admit or deny the allegations of this paragraph and it is noted that the allegations refer to events, actions, and non-parties or others, which are not associated with these Defendants. The allegations of this paragraph state conclusions of law or fact without stating a claim upon which relief can be granted, and for which no response is required as stated. To the extent any response is required, the Defendants deny any allegations asserting fault or liability.

25. Defendants are without sufficient information to admit or deny the allegations of this paragraph and it is noted that the allegations refer to events, actions, and non-parties or others, which are not associated with these Defendants. The allegations of this paragraph state conclusions of law or fact without stating a claim upon which relief can be granted, and for which no response is required as stated. To the extent any response is required, the Defendants deny any allegations asserting fault or liability.

26. Defendants are without sufficient information to admit or deny the allegations of this paragraph and it is noted that the allegations refer to events, actions, and non-parties or others, which are not associated with these Defendants. The allegations of this paragraph state conclusions of law or fact without stating a claim upon which relief can be granted, and for which no response is required as stated. To the extent any response is required, the Defendants deny any allegations asserting fault or liability.

27. Defendants are without sufficient information to admit or deny the allegations of this paragraph and it is noted that the allegations refer to events, actions, and non-parties or others, which are not associated with these Defendants. The allegations of this paragraph state conclusions of law or fact without stating a claim upon which relief can be granted, and for which no response is required as stated. To the extent any response is required, the Defendants deny any allegations asserting fault or liability.

28. Defendants are without sufficient information to admit or deny the allegations of this paragraph and it is noted that the allegations refer to events, actions, and non-parties or others, which are not associated with these Defendants. The allegations of this paragraph state conclusions of law or fact without stating a claim upon which relief can be granted, and for

which no response is required as stated. To the extent any response is required, the Defendants deny any allegations asserting fault or liability.

29. Defendants are without sufficient information to admit or deny the allegations of this paragraph and it is noted that the allegations refer to events, actions, and non-parties or others, which are not associated with these Defendants. The allegations of this paragraph state conclusions of law or fact without stating a claim upon which relief can be granted, and for which no response is required as stated. To the extent any response is required, the Defendants deny any allegations asserting fault or liability.

30. Defendants are without sufficient information to admit or deny the allegations of this paragraph and it is noted that the allegations refer to events, actions, and non-parties or others, which are not associated with these Defendants. The allegations of this paragraph state conclusions of law or fact without stating a claim upon which relief can be granted, and for which no response is required as stated. To the extent any response is required, the Defendants deny any allegations asserting fault or liability.

31. Defendants are without sufficient information to admit or deny the allegations of this paragraph and it is noted that the allegations refer to events, actions, and non-parties or others, which are not associated with these Defendants. The allegations of this paragraph state conclusions of law or fact without stating a claim upon which relief can be granted, and for which no response is required as stated. To the extent any response is required, the Defendants deny any allegations asserting fault or liability.

32. Defendants are without sufficient information to admit or deny the allegations of this paragraph and it is noted that the allegations refer to events, actions, and non-parties or others, which are not associated with these Defendants. The allegations of this paragraph state

conclusions of law or fact without stating a claim upon which relief can be granted, and for which no response is required as stated. To the extent any response is required, the Defendants deny any allegations asserting fault or liability.

II. The City of Austin's Policies and Customs

33. Denied.

34. The allegations of this paragraph state conclusions of law or fact without stating a claim upon which relief can be granted, and for which no response is required as stated. To the extent any response is required, the Defendants deny any allegations asserting fault or liability.

35. Denied. The allegations of this paragraph state conclusions of law or fact without stating a claim upon which relief can be granted, and for which no response is required as stated. To the extent any response is required, the Defendants deny any allegations asserting fault or liability.

36. Denied. The allegations of this paragraph state conclusions of law or fact without stating a claim upon which relief can be granted, and for which no response is required as stated. To the extent any response is required, the Defendants deny any allegations asserting fault or liability.

37. Denied. The allegations of this paragraph state conclusions of law or fact without stating a claim upon which relief can be granted, and for which no response is required as stated. To the extent any response is required, the Defendants deny any allegations asserting fault or liability.

38. Denied. The allegations of this paragraph state conclusions of law or fact without stating a claim upon which relief can be granted, and for which no response is required as stated. To the extent any response is required, the Defendants deny any allegations asserting fault or liability.

39. Denied. The allegations of this paragraph state conclusions of law or fact without stating a claim upon which relief can be granted, and for which no response is required as stated. To the extent any response is required, the Defendants deny any allegations asserting fault or liability.

40. Denied. The allegations of this paragraph state conclusions of law or fact without stating a claim upon which relief can be granted, and for which no response is required as stated. To the extent any response is required, the Defendants deny any allegations asserting fault or liability.

41. Denied. The allegations of this paragraph state conclusions of law or fact without stating a claim upon which relief can be granted, and for which no response is required as stated. To the extent any response is required, the Defendants deny any allegations asserting fault or liability.

42. Denied. The allegations of this paragraph state conclusions of law or fact without stating a claim upon which relief can be granted, and for which no response is required as stated. To the extent any response is required, the Defendants deny any allegations asserting fault or liability.

43. Denied. The allegations of this paragraph state conclusions of law or fact without stating a claim upon which relief can be granted, and for which no response is required as stated. To the extent any response is required, the Defendants deny any allegations asserting fault or liability.

44. Denied. The allegations of this paragraph state conclusions of law or fact without stating a claim upon which relief can be granted, and for which no response is required as stated. To the extent any response is required, the Defendants deny any allegations asserting fault or liability.

45. Denied. The allegations of this paragraph state conclusions of law or fact without stating a claim upon which relief can be granted, and for which no response is required as stated. To the extent any response is required, the Defendants deny any allegations asserting fault or liability.

46. Denied. The allegations of this paragraph state conclusions of law or fact without stating a claim upon which relief can be granted, and for which no response is required as stated. To the extent any response is required, the Defendants deny any allegations asserting fault or liability.

47. Denied. The allegations of this paragraph state conclusions of law or fact without stating a claim upon which relief can be granted, and for which no response is required as stated. To the extent any response is required, the Defendants deny any allegations asserting fault or liability.

48. Denied. The allegations of this paragraph state conclusions of law or fact without stating a claim upon which relief can be granted, and for which no response is required as stated. To the extent any response is required, the Defendants deny any allegations asserting fault or liability.

49. Denied. The allegations of this paragraph state conclusions of law or fact without stating a claim upon which relief can be granted, and for which no response is required as stated. To the extent any response is required, the Defendants deny any allegations asserting fault or liability.

50. Denied. The allegations of this paragraph state conclusions of law or fact without stating a claim upon which relief can be granted, and for which no response is required as stated. To the extent any response is required, the Defendants deny any allegations asserting fault or liability.

51. Denied. The allegations of this paragraph state conclusions of law or fact without stating a claim upon which relief can be granted, and for which no response is required as stated. To the extent any response is required, the Defendants deny any allegations asserting fault or liability.

FIRST CLAIM FOR RELIEF

For Violation of Rights Under 42 U.S.C. § 1983
(Violation of the Fourteenth Amendment Right to Due Process Through Fabrication of Evidence)

Against All Defendants

52. Denied. The allegations of this paragraph state conclusions of law or fact without stating a claim upon which relief can be granted, and for which no response is required as stated. To the extent any response is required, the Defendants deny any allegations asserting fault or liability.

53. Denied.

54. Denied. The allegations of this paragraph state conclusions of law or fact without stating a claim upon which relief can be granted, and for which no response is required as stated. To the extent any response is required, the Defendants deny any allegations asserting fault or liability.

55. Denied. The allegations of this paragraph state conclusions of law or fact without stating a claim upon which relief can be granted, and for which no response is required as stated. To the extent any response is required, the Defendants deny any allegations asserting fault or liability.

56. Denied. The allegations of this paragraph state conclusions of law or fact without stating a claim upon which relief can be granted, and for which no response is required as stated. To the extent any response is required, the Defendants deny any allegations asserting fault or liability.

57. Denied.

58. Denied. The allegations of this paragraph state conclusions of law or fact without stating a claim upon which relief can be granted, and for which no response is required as stated. To the extent any response is required, the Defendants deny any allegations asserting fault or liability.

59. Denied.

60. Denied.

61. Denied. The allegations of this paragraph state conclusions of law or fact without stating a claim upon which relief can be granted, and for which no response is required as stated. To the extent any response is required, the Defendants deny any allegations asserting fault or liability.

SECOND CLAIM FOR RELIEF

For Violation of Rights Under 42 U.S.C. § 1983
(Defamation Plus Deprivation of the
Fourteenth Amendment Right to Due Process)

Against All Defendants

62. Denied. The allegations of this paragraph state conclusions of law or fact without stating a claim upon which relief can be granted, and for which no response is required as stated. To the extent any response is required, the Defendants deny any allegations asserting fault or liability.

63. Denied.

64. Denied.

65. Denied. The allegations of this paragraph state conclusions of law or fact without stating a claim upon which relief can be granted, and for which no response is required as stated. To the extent any response is required, the Defendants deny any allegations asserting fault or liability.

66. Denied. The allegations of this paragraph state conclusions of law or fact without stating a claim upon which relief can be granted, and for which no response is required as stated. To the extent any response is required, the Defendants deny any allegations asserting fault or liability.

67. Denied. The allegations of this paragraph state conclusions of law or fact without stating a claim upon which relief can be granted, and for which no response is required as stated. To the extent any response is required, the Defendants deny any allegations asserting fault or liability.

68. Denied. The allegations of this paragraph state conclusions of law or fact without stating a claim upon which relief can be granted, and for which no response is required as stated. To the extent any response is required, the Defendants deny any allegations asserting fault or liability.

ATTORNEY'S FEES

Denied.

PRAYER FOR RELIEF

Denied. All of the demands, including subparts a.,b.,c.,d.,e., are denied.

JURY DEMAND

Agreed.

AFFIRMATIVE DEFENSES & IMMUNITIES

1. Defendants deny any deprivation under color of statute, ordinance, custom, or abuses of any rights, privileges, or immunities secured to the Plaintiff by the United States Constitution, state law, or 42 U.S.C. § 1983, et seq.

2. Defendant Officers hereby invoke the doctrine of Qualified Immunity and Official Immunity. Defendant Officers discharged their obligations and public duties in good faith, and would show their actions were objectively reasonable in light of the law and the information possessed at that time.

3. The incident in question and the alleged resulting harm to Plaintiff, if any, were caused or contributed to by Plaintiff's own conduct. Pleading further and in the alternative, Plaintiff's injuries and damages were caused in whole or in part by the conduct of other persons or entities who are not currently parties to this lawsuit. Pleading further, alternatively, and by way of affirmative defense, to the extent applicable and subject to being withdrawn, Defendants would show that at the time and on the occasion in question, Plaintiff failed to use any degree of care or caution that a person of ordinary prudence would have used under the same or similar circumstances, and that such failure was a producing cause or the sole proximate cause of the incident and alleged damages that arise therefrom.

4. Defendants invoke the comparative responsibility provisions of the Texas Civil Practice & Remedies Code.

5. Defendants further plead that, in the unlikely event of being found to be liable, such liability must be reduced by the percentage of the causation found to have resulted from the acts or omissions of other persons.

6. Defendants plead legal justification for each and every action taken.

7. Defendants assert the limitations and protections of Chapters 41 & 101 of the Texas Civil Practice & Remedies Code, and the due process clause of the United States Constitution.

8. Defendants reserve the right to assert additional affirmative defenses throughout the development of this case.

9. To the extent Defendants did not address a specific averment made by Plaintiff, Defendants expressly deny all such averments.

10. Defendants assert the affirmative defense that Plaintiff failed to mitigate damages, if any, and assert this failure to mitigate as both an affirmative defense and as a reduction in the alleged damage amount, if any, due Plaintiff.

11. Defendants assert the affirmative defense of statute of limitations as to all claims outside the applicable limitations period(s), both statutory and administrative, if any.

12. To the extent Defendants did not address a specific averment made by Plaintiff in the Amended Complaint, Defendants expressly deny all such averments.

13. Defendants reserve the right to assert additional affirmative defenses as may be applicable throughout the development of the case, including immunity, estoppel, illegality, laches, waiver, or any other matter which may constitute an avoidance or affirmative defense.

14. Defendants assert that punitive damages are not available and would be contrary to the protections of the United States Constitution by allowing a jury or fact finder standardless discretion.

15. Plaintiff has failed to state a cause of action against these defendants and the lawsuit should be dismissed against them, individually.

16. Defendant City of Austin asserts the affirmative defense of governmental immunity as a municipal corporation entitled to immunity while acting in the performance of its governmental

functions, absent express waiver.

17. Defendant City of Austin asserts the affirmative defense of governmental immunity since its employees are entitled to qualified/official immunity for actions taken in the course and scope of their employment, absent express waiver.

18. As a political subdivision, Defendant City of Austin denies that it can be liable for exemplary/punitive damages under 42 U.S.C. § 1983.

19. If appropriate, and subject to withdrawal, Defendant[s] assert that Plaintiff's claim should be dismissed, with all attorney's fees, other expenses and costs of this action taxed against Plaintiff. Plaintiff's claims are without substantial justification, frivolous, groundless in fact and law, meritless, unnecessary, and vexatious.

DEFENDANTS' PRAYER

Defendants pray that all relief requested by Plaintiff be denied, that the Court dismiss this case with prejudice, and that the Court award Defendants' costs and attorney's fees, and any additional relief to which Defendants may be entitled under law or equity.

RESPECTFULLY SUBMITTED,

DEBORAH THOMAS, CITY ATTORNEY
SARA SCHAEFER, ACTING CHIEF, LITIGATION

/s/ Monte L. Barton Jr.
MONTE L. BARTON JR.
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LEGAL COUNSEL FOR DEFENDANTS

CERTIFICATE OF SERVICE

I certify that on the 11th day of August 2025, I served a copy of *Defendants' Answer and Affirmative Defenses to Plaintiff's Amended Complaint* on all parties in compliance with the Federal Rules of Civil Procedure.

Via CM/ECF and EMail:
Markus Glodek
P.O. Box 210040
San Francisco, Ca 94121
Telephone: (737) 999-1508
Email: Mcgldk.contact@gmail.com

PRO SE PLAINTIFF

/s/ Monte L. Barton Jr.
Monte L. Barton Jr.

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF TEXAS
AUSTIN DIVISION

MARKUS GLODEK,	§	
	§	
Plaintiff,	§	
	§	
v.	§	**CIVIL NO. A-25-CV-810-ADA-ML**
	§	
CITY OF AUSTIN, OMER AHMAD, and PAUL MURRAY,	§	
	§	
Defendants.	§	

DOCKET CONTROL ORDER PURSUANT TO RULES 16(b) AND 26(f)

The above-styled matter is before the Court.[1] **IT IS HEREBY ORDERED** that the parties confer pursuant to Federal Rule of Civil Procedure 26(f) and file with the Court, on or before **October 10, 2025, both a joint proposed scheduling and discovery plan reflecting the Rule 26(f) criteria AND a completed version of the Court's standard Scheduling Order.**[2] The parties or their counsel shall confer, complete and prepare the form with all dates (including the final pretrial conference, jury selection, and trial dates), obtain the appropriate signatures, and file the proposed scheduling order. If there are no disputes, the Court will enter the proposed scheduling order without the need for an initial pretrial conference.

During the Rule 26(f) meeting, the parties or their counsel shall discuss the nature and basis of their claims and defenses, the possibilities for prompt settlement or resolution of the case, and the scope and type of discovery, including electronic discovery. The parties

[1] This case has been referred to the undersigned in accordance with District Judge Alan D Albright's Magistrate Referral Order, dated February 27, 2025. Consistent with his procedures, the undersigned enters this Order.
[2] An example Scheduling Order may be found at Appendix A. Although the undersigned will enter the scheduling order, the final pretrial conference, jury selection, and jury trial will take place before District Judge Alan D Albright, unless the parties consent under 28 U.S.C. § 636(c).

shall also arrange for the disclosures required by Rule 26(a)(1) and develop their joint proposed scheduling/discovery plan. These are the minimum requirements for the meeting. The parties are encouraged to have a comprehensive discussion and are required to approach the meeting cooperatively and in good faith. The discussion of claims and defenses shall be a substantive, meaningful discussion. In addressing settlement or early resolution of the case, the parties are required to explore the feasibility of ADR between themselves as well. If the parties elect not to participate in an early ADR effort, the Court may nonetheless require a settlement conference shortly before trial.

In addressing the Rule 26(a)(1) disclosures, the parties shall discuss the appropriate timing, form, scope, or requirement of the initial disclosures, keeping in mind that Rule 26(a)(1) contemplates that disclosures will be made by the date of the Rule 16(b) initial scheduling conference and will include at least the categories of information listed in the rule. Rule 26 affords the parties flexibility in the scope, form, and timing of disclosures under both Rule 26(a)(1) (initial disclosures) and Rule 26(a)(2) (expert witness disclosures), but the parties' agreement on disclosures is subject to approval by the undersigned. In their discussion of disclosures, counsel shall address issues of relevance in detail, with each party identifying what it needs and why. The discussion shall include the sequence and timing of follow-up discovery, including whether that discovery should be conducted informally or formally and whether it should be conducted in phases so as to prepare for filing of particular motions or settlement discussions.

In addressing electronic discovery, the parties shall discuss what electronic sources each party will search, difficulty of retrieval, preservation of records, the form of production (electronic or hard-copy, format of production, inclusion of meta-data, etc.), cost of

production and which party will bear the cost, privilege/waiver issues, and any other electronic discovery issues present in the case. Before engaging in the Rule 26 discussion, the parties should determine who is most familiar with the client's computer system, what electronic records the client maintains, how the client's electronic records are stored, the difficulty/ease of retrieving various records, the existence and terms of the client's document retention/destruction policy, and whether the client has placed a "litigation hold" preventing destruction of potentially relevant records.

The undersigned recognizes Judge Albright typically resolves any discovery disputes through an email practice. Because those discovery disputes have already been referred to the undersigned by District Judge Alan D Albright's Magistrate Referral Order, the undersigned directs the parties to follow typical motion practice prescribed by the Local and Federal Rules of Civil Procedure to bring any discovery disputes before the Court.

The Court would also like to relay the following to the parties:

(1) The Court has recently faced a spate of discovery objections that do not track the 2015 amendments to the Federal Rules. Please remember that boilerplate objections are unacceptable.

(2) Speaking objections during depositions are improper. Other than to evaluate privilege issues, counsel should not confer with a witness while a question is pending. Counsel may confer with witnesses during breaks in a deposition without waiving any otherwise applicable privilege.

(3) Parties shall promptly notify the Court if they reach a settlement in a case and request to stay any deadlines.

SIGNED August 12, 2025.

MARK LANE
UNITED STATES MAGISTRATE JUDGE

APPENDIX A

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF TEXAS
AUSTIN DIVISION

Plaintiffs,	§	
	§	Case No.
v.	§	
	§	**Jury Trial Demanded**
Defendants.	§	

JOINT PROPOSED SCHEDULING ORDER

Pursuant to Rule 16, Federal Rules of Civil Procedure, the Court **ORDERS** that the following schedule will govern deadlines up to and including the trial of this matter:

Date	Event
	Discovery commences on all issues.
	All motions to amend pleadings or to add parties shall be filed on or before this date.
	Fact Discovery Deadline. Any discovery requests must be propounded so that the responses are due by this date.
	The parties asserting claims for relief shall submit a written offer of settlement to opposing parties on or before this date. All offers of settlement are to be private, not filed, and the Court is not to be advised of the same. The parties are further ORDERED to retain the written offers of settlement and responses as the Court will use these in assessing attorney's fees and court costs at the conclusion of trial.
	Parties with burden of proof to designate Expert Witnesses and provide their expert witness reports, to include all information required by Rule 26(a)(2)(B).
	Each opposing party shall respond, in writing, to the written offer of settlement made by the parties asserting claims for relief by this date. All offers of settlement are to be private, not filed, and the Court is not to be advised of the same. The parties are further ORDERED to retain the written offers of settlement and responses as the Court will use these in assessing attorney's fees and court costs at the conclusion of trial.
	Parties shall designate Rebuttal Expert Witnesses on issues for which the parties do not bear the burden of proof, and provide their expert witness reports, to include all information required by Rule 26(a)(2)(B).
	Expert Discovery Deadline. Expert discovery must be completed by this date.

	Any objection to the reliability of an expert's proposed testimony under Federal Rule of Evidence 702 shall be made by motion, specifically stating the basis for the objection and identifying the objectionable testimony, not later than 14 days of receipt of the written report of the expert's proposed testimony or not later than 14 days of the expert's deposition, if a deposition is taken, whichever is later. **The failure to strictly comply with this paragraph will be deemed a waiver of any objection that could have been made pursuant to Federal Rule of Evidence 702**
	All dispositive motions shall be filed and served on all other parties on or before this date and shall be limited to 20 pages. Responses shall be filed and served on all other parties not later than 14 days after the service of the motion and shall be limited to 20 pages. Any replies shall be filed and served on all other parties not later than 7 days after the service of the response and shall be limited to 10 pages, but the Court need not wait for the reply before ruling on the motion. Each party shall complete and file the "Notice Concerning Reference to United States Magistrate Judge"
	By this date the parties shall meet and confer to determine pre-trial deadlines, including, *inter alia*, exchange of exhibit lists, designations of and objections to deposition testimony, and exchange of demonstratives.
	By this date the parties shall exchange a proposed jury charge and questions for the jury. By this date the parties will also exchange draft Motions in Limine to determine which may be agreed.
	By this date the parties shall exchange any objections to the proposed jury charge, with supporting explanation and citation of controlling law.
	By this date the parties shall also submit to the Court their Motions in Limine.
	By this date the parties will submit to the Court their Joint Pre-Trial Order, including the identification of issues to be tried, identification of witnesses, trial schedule provisions, and all other pertinent information. By this date the parties will also submit to the Court their oppositions to Motions in Limine.
[This date should be a **Friday**, no less than 90 days after the dispositive motion deadline.]	Final Pre-Trial Conference. The parties shall provide to the Court an agreed jury charge with supported objections of each party, and proposed questions for the jury, at the final Pre-Trial Conference.
[This date should be the week before trial.]	The Court will attempt to schedule Jury Selection on a day during the week of _____. Otherwise, Jury Selection shall begin at 9:00 a.m. on, _____.
[This date should be 1-2 months after the Final Pretrial Conference date, **during the 1st or 3rd week of the month**.]	Jury Trial Commences at 9:00 a.m. on Monday, _____.

SIGNED _____,

_____
MARK LANE
UNITED STATES MAGISTRATE JUDGE

AGREED:

By: _____ By: _____

Attorneys for Plaintiffs Attorneys for Defendants