

VIRGINIA'S  
PERSONAL INJURY  
CIVIL RIGHTS  
LAW FIRM

# Thomas H. Roberts & Associates, P.C.

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Direct Dial: 804-783-2002

Thomas H. Roberts, Esq.  
Andrew T. Bodoh, Esq.  
Jonathan M. Arthur, Esq.

June 4, 2020

**Via Hand**

Hon Edward F. Jewett, Clerk  
Richmond Circuit Court  
400 North Ninth Street  
John Marshall Courts Building  
Richmond, VA 23219

Re: Jonathan M. Arthur v Joh/Jane Doe 1-X  
Case No

Dear Mr. Jewett:

Please file the enclosed complaint with accompanying exhibit CD and issue process for service.

Enclosed:

1. Complaint with accompanying CD
2. Civil Cover Sheet
3. Check for filing fee
4. Service copy of complaint with accompanying CD
5. File copy of 1<sup>st</sup> page of complaint and photocopy of CD to be stamped and emailed to me.

Please do not hesitate to contact our office if you have any questions or concerns. Thank you for your assistance in this matter.

Very truly yours,

Thomas H. Roberts

THR/mts  
Enclosures  
EC - Allen Jackson, Esq. (City Attorney)

Payable to whom: Clerk - City of Richmond Circuit Court  
 Dollar \$: \$ 248.00  
 Write Out Amount: Two Hundred Forty-Eight and 00/100  
 Memo: Filing Fee and Service Fee - Arthur v. Doe  
 Date: 6/4/2020



INSTRUCTIONS: FILL IN THE COLORED BOXES ABOVE  
 SPELL DOLLAR AMOUNTS IN THIS FORMAT:  
 TWO THOUSAND FORTY and no/100 DOLLARS

THIS CHECK HAS A COLORED BACKGROUND AND CONTAINS MULTIPLE SECURITY FEATURES - SEE BACK FOR DETAILS

**THOMAS H. ROBERTS & ASSOCIATES, P.C.**  
 VIRGINIACIVILRIGHTS.COM PERSONALINJURYVA.COM  
 105 SOUTH 1ST STREET (804) 783-2000  
 RICHMOND, VA 23219  
 CLIENT EXPENSE ACCOUNT

BRANCH BANKING & TRUST CO. OF VA  
 68-426

1671

PAY Two Hundred Forty-Eight and 00/100

TO THE ORDER OF  
 Clerk - City of Richmond Circuit Court

DATE	AMOUNT
6/4/2020	\$ 248.00

MEMO: Filing Fee and Service Fee - Arthur v. Doe



*[Signature]*  
 AUTHORIZED SIGNATURE(S)

⑈001671⑈ ⑆051404260⑆5232798175⑈

THOMAS H. ROBERTS & ASSOCIATES, P.C.

1671

Clerk - City of Richmond Circuit Court  
 6/4/2020 \$ 248.00

MEMO: Filing Fee and Service Fee - Arthur v. Doe

COVER SHEET FOR FILING CIVIL ACTIONS

COMMONWEALTH OF VIRGINIA

Case No. ....

(CLERK'S OFFICE USE ONLY)

City of Richmond

Circuit Court

Jonathan M. Arthur

John/Jane Doe 1-X

v./In re:

PLAINTIFF(S)

DEFENDANT(S)

I, the undersigned [ ] plaintiff [ ] defendant [X] attorney for [X] plaintiff [ ] defendant hereby notify the Clerk of Court that I am filing the following civil action. (Please indicate by checking box that most closely identifies the claim being asserted or relief sought.)

GENERAL CIVIL

Subsequent Actions

- [ ] Claim Impleading Third Party Defendant
[ ] Monetary Damages
[ ] No Monetary Damages
[ ] Counterclaim
[ ] Monetary Damages
[ ] No Monetary Damages
[ ] Cross Claim
[ ] Interpleader
[ ] Reinstatement (other than divorce or driving privileges)
[ ] Removal of Case to Federal Court

Business & Contract

- [ ] Attachment
[ ] Confessed Judgment
[ ] Contract Action
[ ] Contract Specific Performance
[ ] Detinue
[ ] Garnishment

Property

- [ ] Annexation
[ ] Condemnation
[ ] Ejectment
[ ] Encumber/Sell Real Estate
[ ] Enforce Vendor's Lien
[ ] Escheatment
[ ] Establish Boundaries
[ ] Landlord/Tenant
[ ] Unlawful Detainer
[ ] Mechanics Lien
[ ] Partition
[ ] Quiet Title
[ ] Termination of Mineral Rights

Tort

- [ ] Asbestos Litigation
[ ] Compromise Settlement
[ ] Intentional Tort
[ ] Medical Malpractice
[ ] Motor Vehicle Tort
[ ] Product Liability
[ ] Wrongful Death
[X] Other General Tort Liability

ADMINISTRATIVE LAW

- [ ] Appeal/Judicial Review of Decision of (select one)
[ ] ABC Board
[ ] Board of Zoning
[ ] Compensation Board
[ ] DMV License Suspension
[ ] Employee Grievance Decision
[ ] Employment Commission
[ ] Local Government
[ ] Marine Resources Commission
[ ] School Board
[ ] Voter Registration
[ ] Other Administrative Appeal

DOMESTIC/FAMILY

- [ ] Adoption
[ ] Adoption - Foreign
[ ] Adult Protection
[ ] Annulment
[ ] Annulment - Counterclaim/Responsive Pleading
[ ] Child Abuse and Neglect - Unfounded Complaint
[ ] Civil Contempt
[ ] Divorce (select one)
[ ] Complaint - Contested\*
[ ] Complaint - Uncontested\*
[ ] Counterclaim/Responsive Pleading
[ ] Reinstatement - Custody/Visitation/Support/Equitable Distribution
[ ] Separate Maintenance
[ ] Separate Maintenance Counterclaim

WRITS

- [ ] Certiorari
[ ] Habeas Corpus
[ ] Mandamus
[ ] Prohibition
[ ] Quo Warranto

PROBATE/WILLS AND TRUSTS

- [ ] Accounting
[ ] Aid and Guidance
[ ] Appointment (select one)
[ ] Guardian/Conservator
[ ] Standby Guardian/Conservator
[ ] Custodian/Successor Custodian (UTMA)
[ ] Trust (select one)
[ ] Impress/Declare/Create
[ ] Reformation
[ ] Will (select one)
[ ] Construe
[ ] Contested

MISCELLANEOUS

- [ ] Amend Death Certificate
[ ] Appointment (select one)
[ ] Church Trustee
[ ] Conservator of Peace
[ ] Marriage Celebrant
[ ] Approval of Transfer of Structured Settlement
[ ] Bond Forfeiture Appeal
[ ] Declaratory Judgment
[ ] Declare Death
[ ] Driving Privileges (select one)
[ ] Reinstatement pursuant to § 46.2-427
[ ] Restoration - Habitual Offender or 3rd Offense
[ ] Expungement
[ ] Firearms Rights - Restoration
[ ] Forfeiture of Property or Money
[ ] Freedom of Information
[ ] Injunction
[ ] Interdiction
[ ] Interrogatory
[ ] Judgment Lien-Bill to Enforce
[ ] Law Enforcement/Public Official Petition
[ ] Name Change
[ ] Referendum Elections
[ ] Sever Order
[ ] Taxes (select one)
[ ] Correct Erroneous State/Local
[ ] Delinquent
[ ] Vehicle Confiscation
[ ] Voting Rights - Restoration
[ ] Other (please specify)

[X] Damages in the amount of \$ 50,000.00 are claimed.

06/04/2020

DATE

Handwritten signature of Thomas H. Roberts

[ ] PLAINTIFF

[ ] DEFENDANT

[X] ATTORNEY FOR

[ ] PLAINTIFF

[ ] DEFENDANT

Thomas H. Roberts, Esq.

PRINT NAME

Thomas H. Roberts & Associates, P.C.

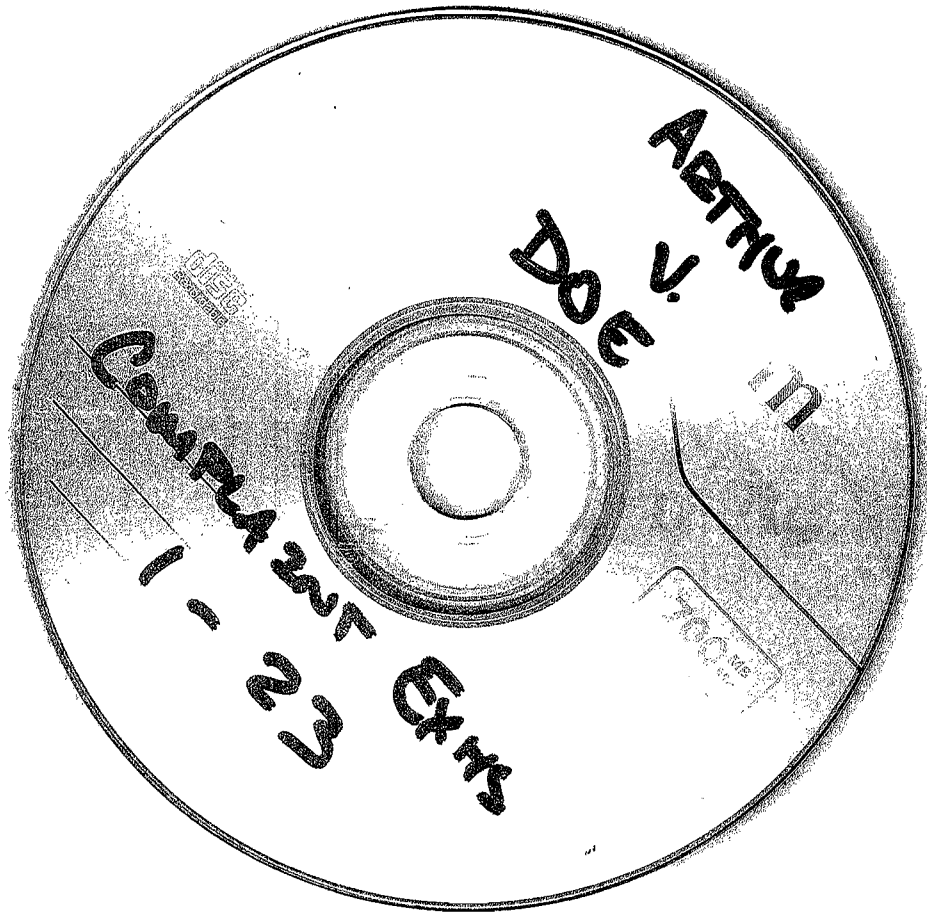
ADDRESS/TELEPHONE NUMBER OF SIGNATOR

105 S. 1st St. Richmond, Va 23219 804-783-2000

tom.roberts@robertslaw.org

EMAIL ADDRESS OF SIGNATOR (OPTIONAL)

\*\*"Contested" divorce means any of the following matters are in dispute: grounds of divorce, spousal support and maintenance, child custody and/or visitation, child support, property distribution or debt allocation. An "Uncontested" divorce is filed on no fault grounds and none of the above issues are in dispute.



ARTHUR

DOE V.

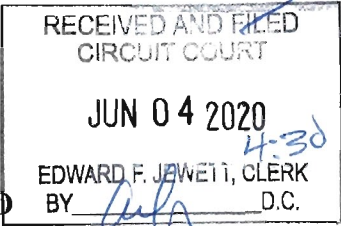
IN

COMPLIANT WITH  
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700 MB



**VIRGINIA:**  
**IN THE CIRCUIT COURT FOR THE CITY OF RICHMOND**

**JONATHAN ARTHUR,** )  
*Plaintiff,* )

v. )

Civil Action No. CL20-2413-3

**JOHN/JANE DOES 1-X** )  
**In Their Personal Capacities.** )

**JURY TRIAL DEMANDED**

Serve: )  
Wherever Found )  
Defendants. )

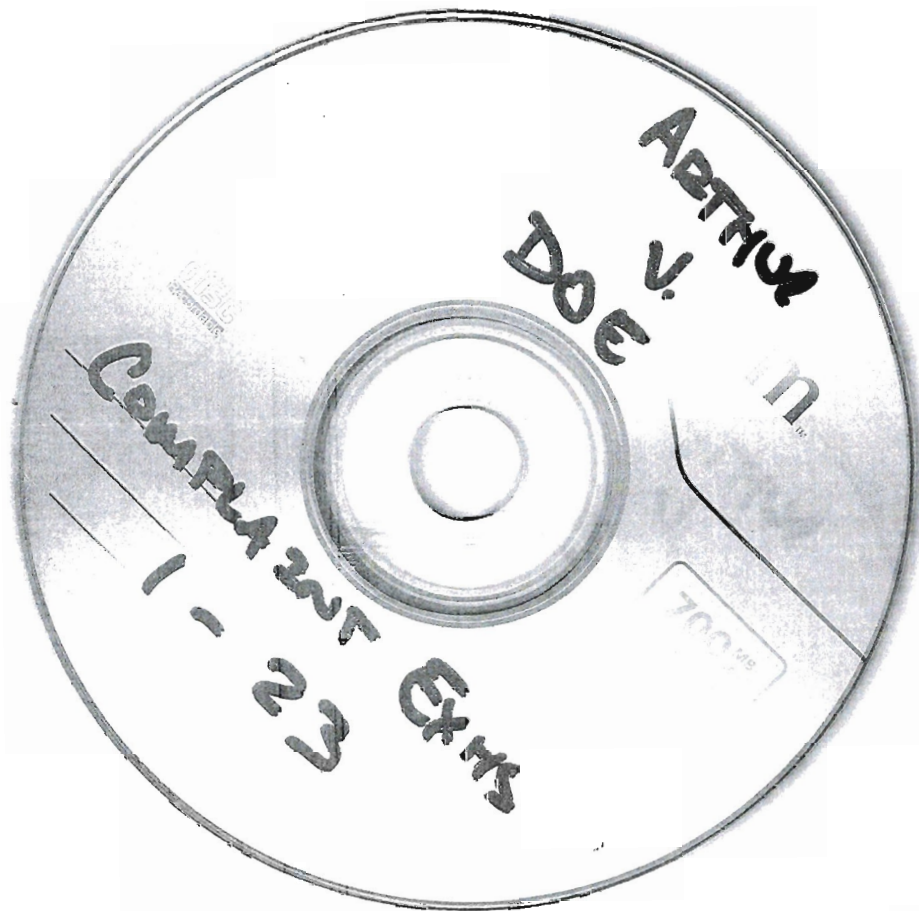
Serve also: )  
Allen L. Jackson, Esq. )  
City of Richmond City Attorney )  
Office of the City Attorney )  
City of Richmond )  
900 E. Broad St. Ste. 400 )  
Richmond, VA 23219 )

**COMPLAINT**

COMES NOW, the Plaintiff, Jonathan Arthur (“Plaintiff” or “Mr. Arthur”), by counsel, and hereby files his Complaint against John/Jane Does 1-X (“the Does”), and in support thereof, Plaintiff states as follows:

**INTRODUCTION**

1. This is an action for a violation of civil rights and conspiracy to violate civil rights protected by the Constitution of the United States, including the First Amendment and the Fourth Amendment made applicable against the states by the Fourteenth Amendment and made civilly actionable pursuant to 42 USC §§ 1983, and 1988, as well as for state-law tort claims of assault and battery in which the plaintiff, Jonathan Arthur, seeks declaratory, compensatory relief as well as punitive and exemplary relief for the Does’ violations of these Constitutional rights and violations under the laws of the Commonwealth of Virginia.



RECEIVED AND FILED  
CIRCUIT COURT  
JUN 04 2020  
EDWARD F. JEWETT, CLERK  
BY *Auth* 4:30 D.C.

**VIRGINIA:**

**IN THE CIRCUIT COURT FOR THE CITY OF RICHMOND**

**JONATHAN ARTHUR,** )  
*Plaintiff,* )

v. )

Civil Action No. \_\_\_\_\_

**JOHN/JANE DOES 1-X** )  
**In Their Personal Capacities.** )

**JURY TRIAL DEMANDED**

Serve: )  
Wherever Found )  
Defendants. )

Serve also: )  
Allen L. Jackson, Esq. )  
City of Richmond City Attorney )  
Office of the City Attorney )  
City of Richmond )  
900 E. Broad St. Ste. 400 )  
Richmond, VA 23219 )

**COMPLAINT**

COMES NOW, the Plaintiff, Jonathan Arthur (“Plaintiff” or “Mr. Arthur”), by counsel, and hereby files his Complaint against John/Jane Does 1-X (“the Does”), and in support thereof, Plaintiff states as follows:

**INTRODUCTION**

1. This is an action for a violation of civil rights and conspiracy to violate civil rights protected by the Constitution of the United States, including the First Amendment and the Fourth Amendment made applicable against the states by the Fourteenth Amendment and made civilly actionable pursuant to 42 USC §§ 1983, and 1988, as well as for state-law tort claims of assault and battery in which the plaintiff, Jonathan Arthur, seeks declaratory, compensatory relief as well as punitive and exemplary relief for the Does’ violations of these Constitutional rights and violations under the laws of the Commonwealth of Virginia.

## **PARTIES**

2. The Plaintiff, Jonathan Arthur, is a citizen of the Commonwealth of Virginia, a resident of the City of Richmond, and a member of the Virginia State Bar.

3. The Plaintiff is currently unaware of the names and identities of defendant Does 1-X, but positively avers that at all times relevant hereto, Does 1-X were citizens of the Commonwealth of Virginia, and employed by the Richmond Virginia Police Department and acting under the color of law. These officers Does 1-X are being sued in their personal capacities.

## **JURISDICTION AND VENUE**

4. This Court has subject matter jurisdiction pursuant to Va. Code § 17.1-513, as the amount in controversy exceeds \$4,500.

5. This Court has personal jurisdiction over the Defendants pursuant to Va. Code § 8.01-328.1(A)(3).

6. Venue is proper in this Court pursuant to Va. Code § 8.01-262 (1),(3), and (4).

## **FACTUAL ALLEGATIONS**

7. A disgusting trend has emerged nationwide where law enforcement officers have engaged in an unprofessional, dangerous, and sometimes deadly, practice of abusing their authority, ignoring the clearly established mandates of the Constitution of these United States unlawfully taking to themselves the role of judge, jury, and executioner.

8. In response to the extra-judicial killings of persons of color by American law enforcement, and in response to the excessive force that such American law enforcement commonly deployed against its citizens, on Monday, June 1, 2020, citizens of Richmond, Virginia initiated a peaceful assembly, in accordance with their rights enshrined in the First



Amendment to the Constitution of the United States, to, *inter alia*, petition the City of Richmond for a redress of grievances.

9. Mr. Arthur was among those that participated in this assembly.<sup>1</sup>

10. The assembly began at Monroe Park, and around 5:00 p.m. the participants moved from there to the Virginia State Capitol, on the corner of Grace street and 9<sup>th</sup> street in Richmond Virginia.

11. The apparent organizers of the assembly demanded that the assembly be non-violent and non-destructive of private personal property to distinguish it from the previous protests of Friday, May 29, and Saturday, May 30, 2020 that saw, *inter alia*, the Richmond Police Precinct vandalized. The assembly of demonstrators were in agreement and complied.

12. Around 5:30 pm on Monday, June 1, 2020, the assembly began its journey along the planned route with a full police escort that Richmond Police Department had provided, along a route that Richmond Police Department had cleared for this purpose.<sup>2</sup> Elements of the Richmond Police Department led the assembly along its route and were also in the midst of the assembly as it moved and were in front of the assembly as it moved along its route.<sup>3</sup>

13. The assembly, with its Richmond Police Department escort, proceeded up Grace Street, to Second Street, down Second Street, up Main Street to Monroe Park, and then up Franklin Street to the General J. E. B. Stuart monument. This movement took approximately an hour, and at no time during this movement was the assembly violent or destructive of public or private property.<sup>4</sup> Along this route, the assembly was chanting, and some of these chants were explicitly anti-police and anti-Richmond Police Department.

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<sup>1</sup> Exhibits 1 and 2.

<sup>2</sup> Exhibit 3, at 5:34 – 6:25; Exhibit 4.

<sup>3</sup> Exhibit 4

<sup>4</sup> Exhibit 3, at 5:34 – 6:25; Exhibit 5.

14. The assembly then congregated around the eastern side of the General J.E.B. Stuart monument to hear speakers discuss the issues of the day.<sup>5</sup> During this gathering around the General J.E.B. Stuart monument, the speakers reiterated that the assembly was to be non-violent and was not to destroy any property (private or public) and the assembly were in agreement and complied. At no time did the assembly turn violent, threaten to turn violent or begin to destroy public or private property, and at no time did this assembly attempt to destroy, deface or harm the General J.E.B. Stuart monument.

15. After approximately half an hour, the assembly, with their Richmond Police Department escorts, proceeded west on Monument Avenue approximately one quarter of a mile to the General Robert E. Lee monument, where it again assembled on the east side of the General Robert E. Lee monument to hear more speakers. The assembly at the General Robert E. Lee monument was peaceful, there were no threats of violence and none of the assembly at the General Robert E. Lee monument was destroying or attempting to destroy or deface any public or private property or the General Robert E. Lee monument.<sup>6</sup>

16. On or around 7:32 pm<sup>7</sup>, prior to the curfew, unprovoked, and without warning given to the assembly, other members of the Richmond Police Department not escorting the assembly to the General Robert E. Lee monument gathered and stormed the assembly gathered at the General Robert E. Lee monument, moving down Monument Avenue from the west and establishing a skirmish line along the western portion of the General Robert E. Lee Memorial

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<sup>5</sup> Exhibits 6-8.

<sup>6</sup> Exhibits 9-11; Exhibit 12, at 0:00 – 1:14.

<sup>7</sup> The City of Richmond was, at this time, under a curfew prohibiting any person from being on “any street, road, alley, avenue, park, or other public place between the hours of 8:00 p.m. to 6:00 a.m. beginning May 31, 2020 and ending on June 3, 2020. See. Commonwealth of Virginia, Office of the Governor, Executive Order Number Sixty-Four (2020).

traffic circle (the “Skirmish Line”).<sup>8</sup> This Skirmish Line was heavily armed, wearing body armor, masks, with AR-style assault weapons and their side-arms trained and pointed on the assembly<sup>9</sup>. Does 1-X were in the RPD Skirmish line.

17. As this Skirmish Line was forming, Richmond Police Department also closed in on the assembly from a separate direction, moving down from the north along Allen Ave with an armored assault vehicle, thereby executing a variation of the classic “L” shaped ambush tactic used in military conflicts around the world.

18. Shocked at the sudden, unprovoked display of aggression by Richmond Police Department, who appeared to have led them into the ambush, the members of the assembly moved from the east side of the General Robert E. Lee memorial to the west side of the Robert E. Lee memorial, maintaining a safe and respectful distance of tens of yards from the Richmond Police skirmish line, and began to object to this excessive show of force, shouting that the assembly was and had been peaceful and that the curfew was not set to be in effect for another half an hour and chanting “hands-up don’t shoot!”.<sup>10</sup>

19. Then, without word or warning, some of the Does in the Richmond Police Department Skirmish Line decided to shoot, and fired tear-gas canisters into the assembly while many of the assembly, particularly those front-dead-center of the Skirmish Line were kneeling with their hands in the air chanting “hands-up don’t shoot”, to undeniably and visibly demonstrate the peaceful nature of the current protest and to show that they were no threat to the officers. This front-dead-center line was the Does’ first target.<sup>11</sup>

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<sup>8</sup> Exhibit 12, at 1:14 – 3:49; Exhibit 13, at 0:00 – 0:12; Exhibit 14, at 0:00 – 3:03; Exhibit 15, at 0:00 – 0:08; Exhibit 16 – 17.

<sup>9</sup> Exhibits 18 – 20.

<sup>10</sup> Exhibit 14, at 0:24-3:08; Exhibit 15, at 0:00-0:08; Exhibit 21, at 0:00-0:05.

<sup>11</sup> Exhibit 12 at 4:08 – 4:56; Exhibit 13, at 0:13 – 0:21; Exhibit 14, at 3:08 – 3:51; Exhibit 15, at 0:08 – 1:15; Exhibit 21, at 0:03 – 0:09.

20. As some of the Does fired tear gas into the peaceful assembly, other Does who were members of the Richmond Police Department Skirmish Line, wearing masks, and fully armed, stormed toward the assembly attacking members of the assembly with OC pepper spray and batons.<sup>12</sup>

21. Confused at the sudden, ferocious assault, and harmed and sickened by the use of the OC pepper-spray and the CS Gas, the assembly disbursed with many of them choosing to flee south down Allen Street, as this was one of the only avenues of escape left open to them by the Richmond Police Department's use of the ambush.

22. As the assembly fled, Does 1-X of the Richmond Police Department initiated a pursuit-by-fire tactic, continuing to both fire CS tear-gas into the assembly fleeing down Allen avenue and using masked Richmond Police Department officers to pursue the assembly down their avenue of retreat assaulting them with OC pepper spray.

23. At no time prior to the ambush was the assembly at the General Robert E. Lee memorial violent. At no time prior to the ambush did the assembly at the General Robert E. Lee memorial commit any property destruction. At no time prior to the ambush was the assembly at the Robert E. Lee memorial attempting to damage, deface, or destroy it.

24. On or around 8:11 p.m., after the ambush, and recognizing the grave illegality of their actions, the Richmond Police Department took to Twitter to begin a disinformation campaign to create a false narrative for the populations of Richmond, Virginia, the United States and the world who were watching, alleging the Richmond Police Department was forced to gas the assembly at the General Robert E. Lee memorial because "some RPD officers in that area were cut off by violent protestors" and that the "gas was necessary to get them to safety."<sup>13</sup>

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<sup>12</sup> Exhibit 12, at 4:46 – 5:01; Exhibit 14, at 3:43 – 4:00; Exhibit 15, at 0:52 – 1:19.

<sup>13</sup>Exhibit 22

25. This tweet was patently false. The assembly at the General Robert E. Lee monument was not violent, let alone an attempt to cut off RPD officers' means of escape or to set the stage for some alleged act of violence planned against RPD officers. In fact, the tear gas was launched upon the arrival of the gray truck with police lights which upon information and belief was the command structure. Pins had been pulled from tear gas cannisters and upon the arrival of the police in the gray truck were hurled into the peaceful assembly.

26. The plaintiff, Mr. Arthur, was present for the assembly's march from the Capitol to the General J.E.B. Stuart monument, and during the movement from the General J.E.B. Stuart monument to the General Robert E. Lee monument. Mr. Arthur was on the front line of the southern flank of the assembly at the General Robert E. Lee monument when the assembly was ambushed and assaulted with tear gas, pepper spray, and batons. Mr. Arthur saw the skirmish line and the officers point their weapons at those assembled, including himself, and saw the officers open fire with tear gas, and charge the assembly firing pepper-spray at them and attacking them with batons.

27. Does and the Richmond Police Department chose to deploy an "L" ambush, and knew or should have known that this is a common military tactical maneuver designed and intended to trap the assembly in a "kill zone" leave the ambushed with only two options, first to be maximally exposed to the assault and the concomitant flanking and enfilading fire that the ambush provides, or second, to counter to such a tactical maneuver by assaulting through the ambush established that is a frontal assault against one of the two legs of the "L" ambush to neutralize one of the fields of fire. In the present case, that would have entailed the assembly either to push west through the Skirmish Line deployed on Monument Avenue or north, up Allen

Street through the area covered by the military assault vehicle and other elements of Richmond Police Department.

28. Notwithstanding the attempt by Does and RPD to inflict the maximum damage to the peaceful assembly caught in the Does and RPD's "kill zone," and notwithstanding Does' and RPD's attempt to incite violent resistance by the assembly to the unprovoked and unlawful ambush by forcing the assembly to assault through the ambush and thus escalating the situation further, (which would have been well within the rights of the assembly under Virginia law) the peaceful demonstrators endured the fire and attempted to escape the unlawful assault by moving east down Monument Avenue and south down Allen Avenue thus choosing to remain in the "kill zone" and weather the interlocking fire deployed by the Does. <sup>14</sup>

29. Mr. Arthur, like many other assembly participants choose to escape south along Allen avenue, where he was again gassed by officers Does of the Richmond Police Department ambush, who were firing tear-gas along the assembly's southern line of retreat as the demonstrators were retreating. <sup>15</sup>

30. The gas fired both at the assembly and fired along the assembly's line of retreat as the assembly was retreating down Allen Ave. caused Mr. Arthur anger, anguish as well as physical harm and discomfort: stinging his lungs, eyes, and face and causing him respiratory distress.

31. Although, at the time of the ambush and the use of force, it was not yet 8:00 p.m., and thus Mr. Arthur had the right to be in public, and to continue to petition the government for a redress of grievances, the assault on the assembly by the Richmond Police Department caused

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<sup>14</sup> Exhibit 12 at 4:46 – 5:46; Exhibit 13, at 0:15 – 0:22; Exhibit 14, at 3:16 – 5:05; Exhibit 15, at 0:34 – 1:37.

<sup>15</sup> Exhibit 14, at 4:04-4:07; Exhibit 15 at 00:59 – 1:03.

Mr. Arthur, like many others, to abandon his exercise of his First Amendment protected activity and to return home chilling his speech.

32. This conduct causing Mr. Arthur to reasonably leave the assembly terminating his exercise of his First Amendment rights to avoid further physical pain and injury, was conduct by defendants that would have deterred a similarly situated person of ordinary firmness from the exercise of their First Amendment rights.

33. The Richmond Police Department and the Mayor's office have subsequently recanted their initial, and false tweet by the Richmond Police Department regarding the necessity of gassing the assembly, now claiming that the officers involved in the Skirmish Line, and the Does acted outside of department protocols and contrary to the directions that these officers were given.<sup>16</sup>

34. Further, the Mayor or Richmond has admitted that the actions violated the rights of those assembled, which included Mr. Arthur.<sup>17</sup>

35. In fact, and upon information and belief, these officers were motivated by actual malice, and against the assembly, and/or desiring to exact revenge on the assembly at the General Robert E. Lee monument for the actions of a separate protest of Friday May 29, 2020, some 72 hours prior, which saw the Richmond Police Department headquarters vandalized, and/or desire to retaliate against the assembly due to the fact that the assembly was protesting police misconduct generally, and the misconduct of the Richmond Police Department, specifically.

36. These officers, Does 1-X, and their use of CS gas and pepper-spray against the peaceful assembly at the General Robert E. Lee monument, who were escorted by and had at all

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<sup>16</sup> Exhibit 22.

<sup>17</sup> Statement by Mayor Levar Stoney, During Apology Speech, June 2, 2020, Noon, City Hall, Richmond Virginia.

times thereto complied with the requests and requirements of their Richmond Police Department escorts, under these circumstances evidence *at least* a callous disregard of the assembly and Mr. Arthur's constitutionally protected rights as a reasonable officer would have understood that using force, such as CS tear gas, and OC Pepper Spray against law-abiding, peaceful demonstrators, for the purpose of either retaliating against them for the actions of previous protestors 72 hours prior, and/or for the purposes of retaliating against the assembly for the content of their first-amendment protected speech, and/or for the purpose of interfering with their First Amendment rights was unconstitutional and unlawful.

37. The exhibits referenced herein are attached in a CD-R and incorporated herein.

### **CLAIMS FOR RELIEF**

#### **COUNT I – PRAYER FOR DECLARATORY RELIEF – VIOLATION OF THE FIRST AMENDMENT FREEDOM OF EXPRESSION AND ASSEMBLY**

38. Plaintiff repeats and re-alleges the allegations set forth in the preceding paragraphs of the Complaint by reference or incorporation as if fully set forth herein.

39. 42 U.S.C. § 1983 provides, in pertinent part, that:

Every person who, under color of any statute, ordinance, regulation, custom, or usage, of any State or Territory or the District of Columbia, subjects, or causes to be subjected, any citizen of the United States or other person within the jurisdiction thereof to the deprivation of any rights, privileges, or immunities secured by the Constitution and laws, shall be liable to the party injured in an action at law, suit in equity, or other proper proceeding for redress...

40. Mr. Arthur is a citizen of the United States and Does 1-X are persons for the purpose of 42 U.S.C. § 1983.

41. At all times relevant hereto, Mr. Arthur was engaged in political speech in a traditional public forum and was exercising his rights and engaging in activities protected by under the First Amendment of the United States Constitution.



42. Does 1-X, at all relevant times herein, were acting under the color of state law.

43. At the time of the events complained of herein, Mr. Arthur had a clearly established constitutional rights under the First and Fourth Amendments of the United States Constitution Fourth, as applied to the States under the Fourteenth Amendment, to be able to peaceably assemble to petition the government for a redress of grievances as well as to express himself by word and deed and to be free from excessive and unlawful use of force.

44. Any reasonable police officer knew or should have known, by virtue of his or her training and experience and the case law and opinions surrounding the First and Fourth Amendments, of these rights at the time of the events complained of herein as they were clearly established at that time and that their conduct violated Mr. Arthur's clearly established First and Fourth Amendment rights. Therefore, Does 1-X are not entitled to qualified immunity.

45. Does 1-X acts, as described herein, were objectively unreasonable in light of the facts and circumstances confronting them and violated Mr. Arthur's clearly established First Amendment rights as Mr. Arthur, and the other persons so assembled at the General Robert E. Lee monument were not violent, and were engaged in no property destruction, were not out past curfew, were cooperating with their Richmond Police Department escort and complying with their lawful orders, and posed no immediate threat to any person or property. Further Does 1-X were heavily armed with military style weapons, where in the company of other, heavily armed Richmond Police Department officers, were supported by military style assault vehicles, and the assembly kept their distance from the Richmond Police Department with many of them on their knees with their hands in the air at the time that the ambush occurred. These facts were evident to Does 1-X as they lined up on the Skirmish line and for the reasons enumerated in the body of this complaint.

46. Does 1-X acts, as described herein, were so severe as to chill a person of ordinary firmness from continuing in such constitutionally protected activities, and indeed such conduct on the part of Does 1-X, in fact chilled Mr. Arthur's speech.

47. Does 1-X suppressed and retaliated against Mr. Arthur's speech because Mr. Arthur, and the assembly at the General Robert E. Lee monument were protesting the Richmond Police Department, Police Brutality, and/or were motivated by a desire to retaliate against someone for a previous protest's vandalism of the Richmond Police Department headquarters and for their present .

48. As the Supreme Court of the United States has opined, "a properly trained officer may reasonably be expected to exercise a higher degree of restraint than the average citizen and thus be less likely to respond belligerently to fighting words" even in the midst of a an assembly whose grievances are directed at their actions. Thus the Does have an affirmative duty above any beyond that of ordinary people not to retaliate against citizens of the Commonwealth for their first amendment protected activity and to exercise restraint in response to words that they may find unpleasant. Additionally the words employed by the Assembly were directed at the Richmond Police Department and not at any specific and individual police officer.

49. Does 1-X's actions were intentionally, willfully and wantonly in gross and reckless disregard of the Plaintiff's rights.

50. Therefore, such actions by Does 1-X violated Mr. Arthur's First Amendment protections and Mr. Arthur is entitled to declaratory relief, compensatory damages, a punitive and exemplary award, costs, and attorneys' fees.

## **COUNT II**

**PRAYER FOR DECLARATORY RELIEF – VIOLATION OF THE FOURTH  
AMENDMENT OF THE CONSTITUTION OF THE UNITED STATES OF AMERICA –  
EXCESSIVE FORCE.**

51. Plaintiff repeats and re-alleges the allegations set forth in the preceding paragraphs of the Complaint by reference or incorporation as if fully set forth herein.

52. 42 U.S.C. § 1983 provides, in pertinent part, that:

Every person who, under color of any statute, ordinance, regulation, custom, or usage, of any State or Territory or the District of Columbia, subjects, or causes to be subjected, any citizen of the United States or other person within the jurisdiction thereof to the deprivation of any rights, privileges, or immunities secured by the Constitution and laws, shall be liable to the party injured in an action at law, suit in equity, or other proper proceeding for redress...

53. Mr. Arthur is a citizen of the United States and Does 1-X are persons for the purpose of 42 U.S.C. § 1983.

54. At all times relevant hereto, Mr. Arthur was engaged in political speech in a traditional public forum and was exercising his rights and engaging in activities protected by under the First Amendment of the United States Constitution.

55. Mr. Arthur, and the assembly at the General Robert E. Lee monument were not violating the laws or engaging in activity dangerous to the public safety. Alternatively, to the extent that any laws were being violated, which is upon information and belief denied, they were minor offenses.

56. Does 1-X, at all relevant times herein, were acting under the color of state law and are persons under 42 USC 1983.

57. At the time of the events complained of herein, Mr. Arthur had a clearly established constitutional right under the Fourth Amendment, as applied to the States under the Fourteenth Amendment, to be secure in his person from unreasonable excessive force from police.

58. At the time of the events complained of herein, Mr. Arthur also had a clearly established constitutional right under the Fourth Amendment to bodily integrity.

59. Any reasonable police officer knew or should have known, by virtue of his or her training and experience and the case law and opinions surrounding the Fourth Amendment, of these rights at the time of the events complained of herein as they were clearly established at that time and that their conduct violated Mr. Arthur's clearly established Fourth Amendment rights.

60. Does 1-X acts, as described herein, including but not limited to the ambush, and the use of tear gas and pepper spray against a peaceful assembly, which included Mr. Arthur, exercising their First Amendment rights, were objectively unreasonable in light of the facts and circumstances confronting them and violated Mr. Arthur's clearly established Fourth Amendment rights as Mr. Arthur, and the other persons so assembled at the General Robert E. Lee monument were not violent, and were engaged in no property destruction, were not out past curfew, were cooperating with their Richmond Police Department escort and complying with their lawful orders, and posed no immediate threat to any person or property. Further Does 1-X were heavily armed with military style weapons, where in the company of other, heavily armed Richmond Police Department officers, were supported by military style assault vehicles, and the assembly kept their distance from the Richmond Police Department with many of them on their knees with their hands in the air at the time that the ambush occurred. These facts were evident to Does 1-X as they lined up on the skirmish line and for the reasons enumerated in the body of this complaint.

61. Does 1-X acts, as described herein, were also malicious, reckless, callous, and deliberately indifferent to Mr. Arthur's constitutional protected rights and physical safety.

62. As Defendants Doe 1-X violated Mr. Arthur's clearly established constitutional rights, they are not entitled to qualified immunity for the conduct complained of herein.

63. Defendant Doe 1-X's acts and/or omissions, as described herein, were intentional, willful, malicious, and done with the callous, sadistic, and gratuitous purpose of inflicting physical and mental harm upon Mr. Arthur, as well as exerting an unlawful display of authority upon Mr. Arthur.

64. Upon information and belief, at the time of these physical attacks on Mr. Arthur, and the assembly at the General Robert E. Lee monument, posed no immediate threat to Does 1-X or any other person.

65. Defendant Does 1-X acted with conscious-shocking and willful indifference to Mr. Arthur right to be free from excessive force and with conscious disregard that his conduct would cause Mr. Arthur physical and mental injury.

66. Does 1-X's actions were intentionally, willfully and wantonly in gross and reckless disregard of the Plaintiff's rights.

67. Therefore, such actions by Does 1-X violated Mr. Arthur's Fourth Amendment protections and Mr. Arthur is entitled to declaratory relief, compensatory damages, a punitive and exemplary award, costs and attorneys' fees

### **COUNT III**

#### **42 U.S.C. § 1983 – SUPPRESSION OF RIGHTS TO FREEDOM OF EXPRESSION AND ASSEMBLY**

68. Plaintiff repeats and re-alleges the allegations set forth in the preceding paragraphs of the Complaint by reference or incorporation as if fully set forth herein.

69. 42 U.S.C. § 1983 provides, in pertinent part, that:

Every person who, under color of any statute, ordinance, regulation, custom, or usage, of any State or Territory or the District of Columbia, subjects, or causes to be subjected, any citizen of the United States or other person within the jurisdiction thereof to the deprivation of any rights, privileges, or immunities secured by the Constitution and laws, shall be liable to the party injured in an action at law, suit in equity, or other proper proceeding for redress...

70. Mr. Arthur is a citizen of the United States and Does 1-X are persons for the purpose of 42 U.S.C. § 1983.

71. At all times relevant hereto, Mr. Arthur was engaged in political speech in a traditional public forum and was exercising his rights and engaging in activities protected by under the First Amendment of the United States Constitution.

72. Does 1-X, at all relevant times herein, were acting under the color of state law.

73. At the time of the events complained of herein, Mr. Arthur had a clearly established constitutional right under the First Amendment of the United States Constitution Fourth, as applied to the States under the Fourteenth Amendment, to be able to peaceably assemble to petition the government for a redress of grievances as well as to express himself by word and deed.

74. Any reasonable police officer knew or should have known, by virtue of his or her training and experience and the case law and opinions surrounding the First Amendment, of these rights at the time of the events complained of herein as they were clearly established at that time and that their conduct violated Mr. Arthur's clearly established First Amendment rights.

75. Does 1-X acts, as described herein, were objectively unreasonable in light of the facts and circumstances confronting them and violated Mr. Arthur's clearly established First Amendment rights as Mr. Arthur, and the other persons so assembled at the General Robert E. Lee monument were not violent, and were engaged in no property destruction, were not out past curfew, were cooperating with their Richmond Police Department escort and complying with

their lawful orders, and posed no immediate threat to Does or any person or property. Further Does 1-X were heavily armed with military style weapons, where in the company of other, heavily armed Richmond Police Department officers, were supported by military style assault vehicles, and the assembly kept their distance from the Richmond Police Department with many of them on their knees with their hands in the air at the time that the ambush occurred. These facts were evident to Does 1-X as they lined up on the skirmish line and for the reasons enumerated in the body of this complaint.

76. Does 1-X acts, as described herein, were so severe as to chill a similarly situated person of ordinary firmness from continuing in such constitutionally protected activities, and indeed such conduct on the part of Does 1-X, in fact chilled Mr. Arthur's speech.

77. Does 1-X suppressed and retaliated against Mr. Arthur's speech because Mr. Arthur, and the assembly at the General Robert E. Lee monument were protesting the Richmond Police Department, Police Brutality, and/or were motivated by a desire to retaliate against someone for the previous protest's vandalism of the Richmond Police Department headquarters.

78. As the Supreme Court of the United States has opined: "a properly trained officer may reasonably be expected to exercise a higher degree of restraint than the average citizen and thus be less likely to respond belligerently to fighting words" even in the midst of a an assembly whose grievances are directed at their actions. Thus the Does have an affirmative duty above any beyond that of ordinary people not to retaliate against citizens of the Commonwealth for their first amendment protected activity and to exercise restraint in response to words that they may find unpleasant.

79. Does 1-X's actions were intentionally, willfully and wantonly in gross and reckless disregard of the Plaintiff's rights.

80. Does 1-X's actions caused damages including emotional distress and physical injury to Mr. Arthur and chilled his First Amendment protected activities.

WHEREFORE, Plaintiff requests declaratory relief, compensatory damages, a punitive and exemplary award, costs, and attorneys' fees

**COUNT IV**  
**42 U.S.C. § 1983 – EXCESSIVE USE OF FORCE**

81. Plaintiff repeats and re-alleges the allegations set forth in the preceding paragraphs of the Complaint by reference or incorporation as if fully set forth herein.

82. 42 U.S.C. § 1983 provides, in pertinent part, that:

Every person who, under color of any statute, ordinance, regulation, custom, or usage, of any State or Territory or the District of Columbia, subjects, or causes to be subjected, any citizen of the United States or other person within the jurisdiction thereof to the deprivation of any rights, privileges, or immunities secured by the Constitution and laws, shall be liable to the party injured in an action at law, suit in equity, or other proper proceeding for redress...

83. Mr. Arthur is a citizen of the United States and Does 1-X are persons for the purpose of 42 U.S.C. § 1983 and was exercising his rights and engaging in activities protected by under the First Amendment of the United States Constitution.

84. At all times relevant hereto, Mr. Arthur was engaged in political speech in a traditional public forum.

85. Mr. Arthur, and the assembly at the General Robert E. Lee monument were not violating the laws or engaging in activity dangerous to the public safety. Alternatively, to the extent that any laws were being violated, which upon information and belief is denied, they were minor offenses.

86. Does 1-X, at all relevant times herein, were acting under the color of state law and are persons under 42 USC 1983.



87. At the time of the events complained of herein, Mr. Arthur had a clearly established constitutional right under the Fourth Amendment, as applied to the States under the Fourteenth Amendment, to be secure in his person from unreasonable excessive force.

88. At the time of the events complained of herein, Mr. Arthur also had a clearly established constitutional right under the Fourth Amendment to bodily integrity.

89. Any reasonable police officer knew or should have known, by virtue of his or her training and experience and the case law and opinions surrounding the Fourth Amendment, of these rights at the time of the events complained of herein as they were clearly established at that time and that their conduct violated Mr. Arthur's clearly established Fourth Amendment rights.

90. Does 1-X acts, as described herein, including but not limited to the ambush, and the use of tear gas and pepper spray against a peaceful assembly exercising their First Amendment rights were objectively unreasonable in light of the facts and circumstances confronting them and violated Mr. Arthur's clearly established Fourth Amendment rights as Mr. Arthur, and the other persons so assembled at the General Robert E. Lee monument were not violent, and were engaged in no property destruction, were not out past curfew, were cooperating with their Richmond Police Department escort and complying with their lawful orders, and posed no immediate threat to Does or any person or property. Further Does 1-X were heavily armed with military style weapons, where in the company of other, heavily armed Richmond Police Department officers, were supported by military style assault vehicles, and the assembly kept their distance from the Richmond Police Department with many of them on their knees with their hands in the air at the time that the ambush occurred. These facts were evident to Does 1-X as they lined up on the Skirmish line and for the reasons enumerated in the body of this complaint.

91. Does 1-X acts, as described herein, were also malicious, reckless, callous, and deliberately indifferent to Mr. Arthur's constitutional protected rights and physical safety.

92. Does 1-X actions were grossly disproportionate to any and all risk facing them or others at that time, in fact it was Does 1-X actions which created the risk.

93. As Defendants Doe 1-X violated Mr. Arthur's clearly established constitutional rights, they are not entitled to qualified immunity for the conduct complained of herein.

94. Defendant Doe 1-X' acts and/or omissions, as described herein, were intentional, willful, malicious, and done with the callous, sadistic, and gratuitous purpose of inflicting physical and mental harm upon Mr. Arthur, as well as exerting an unlawful display of authority upon Mr. Arthur.

95. Upon information and belief, at the time of these physical attacks on Mr. Arthur, and the assembly at the General Robert E. Lee monument, posed no immediate threat to Does or any other person or property.

96. Defendant Does 1-X acted with conscious-shocking and willful indifference to Mr. Arthur right to be free from excessive force and with conscious disregard that his conduct would cause Mr. Arthur physical and mental injury.

97. Does 1-X suppressed and retaliated against Mr. Arthur's speech because Mr. Arthur, and the assembly at the General Robert E. Lee monument were protesting the Richmond Police Department, Police Brutality, and/or were motivated by a desire to retaliate against someone for the previous protest's vandalism of the Richmond Police Department headquarters.

98. Does 1-X have an affirmative duty, above any beyond that of ordinary people not to retaliate against citizens of the Commonwealth for their first amendment protected activity and to exercise restraint in response to words that they may find unpleasant.

99. Does 1-X's actions were intentionally, willfully and wantonly in gross and reckless disregard of the Plaintiff's rights.

100. Does 1-X's actions caused damages including emotional distress and physical injury to Mr. Arthur and chilled his First Amendment protected activities.

101. Therefore, such actions by Does 1-X violated Mr. Arthur's Fourth Amendment protections.

WHEREFORE, Plaintiff requests declaratory relief, compensatory damages, a punitive and exemplary award, costs and attorneys' fees.

**COUNT IV**  
**COMMON-LAW ASSAULT**

102. Plaintiff repeats and realleges the allegations set forth in the preceding paragraphs of the complaint as if fully set forth herein.

103. This is a common law claim for assault under Virginia law.

104. Defendants Does 1-X placed Mr. Arthur in reasonable fear of imminent physical injury through the highly offensive, unlawful, and unwanted touching of his person without lawful justification, excuse, or consent via, *inter alia*, the ambush, lining up at the Skirmish line armed with AR style assault weapons trained on Mr. Arthur and the others assembled at the General Robert E. Lee monument, and subsequently firing on Mr. Arthur and the others assembled at the General Robert E. Lee monument.

105. Defendants Does 1-X had the present ability to carry out a battery against Mr. Arthur, in light of their position as law-enforcement, their position on the Skirmish line, and the fact that they were heavily armed and their aggressive advancement towards him.

106. At no time did Mr. Arthur consent to Defendant Does 1-X's conduct and such actions were done without any lawful justification or excuse.

107. Defendant Does 1-X acted intentionally, maliciously, and recklessly in causing Mr. Arthur to suffer a reasonable fear of imminent physical injury or offensive bodily touching.

108. As a direct and proximate cause of the Defendants' conduct as described herein, Mr. Arthur suffered reasonable apprehension and mental anguish, and had his speech chilled which was protected by the First Amendment to the United States Constitution and the Virginia Constitution.

WHEREFORE, Plaintiff requests full and fair compensation, including punitive and exemplary damages and costs.

**COUNT VI**  
**COMMON LAW BATTERY**

109. Plaintiff repeats and re-alleges the allegations set forth in the preceding paragraphs of the complaint as if fully set forth herein.

110. This is a common-law claim of battery under Virginia law.

111. Defendant Does 1-X acted with the intent to cause harmful or offensive contact with Mr. Arthur and the other persons assembled at the General Robert E. Lee monument and the intended harmful and offensive contact did in fact occur.

112. The Defendants fired tear gas at Mr. Arthur and the assembly, and such Tear Gas irritated Mr. Arthur's eyes, nose, lungs, and face.

113. The Defendants' physical contact with Mr. Arthur was intentional, harmful, and offensive.

114. The Defendants' physical contact with Mr. Arthur was done without consent of lawful justification or excuse.

115. The harmful and offensive physical contact with Mr. Arthur was done maliciously, and/or intentionally, and recklessly in willful and wanton disregard for Mr. Arthur's rights.

116. As a direct and proximate cause of the Defendants' conduct, Mr. Arthur suffered bodily injury, loss of bodily integrity, conscious pain and suffering, and mental anguish.

117. The Defendants are liable to Mr. Arthur for the tort of battery.

WHEREFORE, Plaintiff requests compensatory damages, a punitive and exemplary award, and costs.

### **PRAYER FOR RELIEF**

**WHEREFORE**, the above premises considered, Plaintiff respectfully prays that this Honorable Court:

(A) Enter a Declaratory Judgment declaring that the Defendant's actions violated Mr. Arthur's First Amendment rights enforceable against the state pursuant to the Fourteenth Amendment of the Constitution of the United States as requested in Count I.

(B) Enter a Declaratory Judgment declaring that the Defendant's actions violated Mr. Arthur's Fourth Amendment rights enforceable against the state pursuant to the Fourteenth Amendment of the Constitution of the United States as requested in Count II.

(C) Enter judgment in favor of Plaintiff and against the Defendants on all claims of relief asserted herein.

(D) Award Plaintiff compensatory, punitive and exemplary damages on claims of relief as asserted in counts III-VI in the amount of \$ 50,000.00 or in such sums as the jury may award against the Defendants jointly and severally.

(E) Award Plaintiff reasonable costs and expenses incurred in this litigation, on all counts, including reasonable attorney fees, pursuant to 42 U.S.C. § 1988.


(F) Award Plaintiff pre-judgment and post-judgment interest.

(G) Grant any and all further relief the Court deems necessary, just, and proper.

(H) Plaintiff demands a trial by jury on all issues so triable herein.

**Respectfully submitted,  
Jonathan M. Arthur**

By: \_\_\_\_\_



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