UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF THE DISTRICT OF MARYLAND

ALLAN R. SERGEANT [redacted] Plaintiff, v. ALFIE G. ACOL Officer #4506 c/o Laurel Police Department 811 5th Street Laurel, MD 20707 *in his individual and official capacities* JOHN DOE c/o Laurel Police Department 811 5th Street Laurel, MD 20707 *in his individual and official capacities* RICHARD MCLAUGHLIN Chief of Police Laurel Police Department 811 5th Street Laurel, MD 20707 *in his official capacity* LAUREL POLICE DEPARTMENT 811 5th Street Laurel, MD 20707 CITY OF LAUREL, MARYLAND Laurel Municipal Center 8103 Sandy Spring Road Laurel, MD 20707 Defendants.	Civil Action No. 8:15-cv-02233

COMPLAINT

This is a civil rights action seeking redress for the deprivation of fundamental rights guaranteed, *inter alia*, by the United States Constitution and the Maryland Declaration of Rights. Plaintiff Allan Sergeant, a Black man who had committed no wrong, was subjected to illegal racial profiling and seizure of his person and vehicle, had his pants and underwear pulled down in public and was forced to undergo a visual strip search of his genitals and anal area in public by Laurel Police Department officer Alfie G. Acol, all without just cause or reasonable suspicion.

Officer Acol was assisted by a fellow officer, John Doe, who condoned, ratified and supported this manifestly illegal conduct and failed and refused to intervene to stop Officer Acol's illegal, unconstitutional and outrageous conduct.

It is a basic right of persons in the United States to travel freely without being seized by armed agents of the state without just cause, a right denied to Mr. Sergeant because he is Black and was driving while wearing his hair in dreadlocks

After seizing Mr. Sergeant and depriving him of his liberty, Officer Acol subjected Mr. Sergeant to two illegal frisks and searches, which uncovered no contraband, and thereafter forced Mr. Sergeant to stand in public where Officer Acol stripped him.

Officer Acol pulled Mr. Sergeant's pants and his underwear down to his knees, exposed his genitals and buttocks to public view and subjected him to a visual strip search. This terrifying, intrusive, substantial, and unwarranted invasion of privacy was a repulsive act by Laurel Police Officer Acol of profound humiliation and dehumanization. It was carried out by Officer Acol as a signal and means of subjugation and degradation without any lawful purpose whatsoever.

When Mr. Sergeant complained of this abuse, sought the identity of Acol, and stated his intention to file a complaint, Officers Acol and Doe threatened and retaliated against him by detaining him further without cause and issuing an unsubstantiated warning citation which he was ordered to sign under threat of arrest.

The Laurel Police Department, upon notice of the abusive, repulsive and outrageous conduct of Officer Acol did not terminate him. The LPD issued Officer Acol an award for meritorious service two months after being notified of the misconduct and then elevated Officer Acol to be the public face of a public relations campaign touting the police department's use of body cameras. Body cameras, while useful for documenting interactions with police officers, are not a remedy for an officer's use of the power vested in him by the state, including being armed, to engage in illegal racial profiling, and to strip another human being naked in public, inspect his genital and anal areas, terrify him, and subject him to humiliation, degradation and forced submission, all without just cause. No officer who engages in racial profiling and dehumanization, who holds persons in such disregard and has exercised such an abuse of state authority, should be out on the streets carrying a weapon. The failure to terminate Acol, indeed the subsequent issuance of an award to him, evidences the ratification and institutionalized acceptance of this gross misconduct by the LPD.

NATURE OF ACTION

1. This is an action arising under the United States Constitution and 42 U.S.C. § 1983 ("1983"), Maryland's Declaration of Rights, and Maryland common law.

2. Officer Acol intentionally and maliciously seized Plaintiff without just cause, searched him without just cause, and stripped him in public to expose and search his genital and anal areas without just cause. Officer John Doe observed this unlawful and malicious conduct without interceding.

3. Officers Acol and Doe, both of the Laurel Police Department, then intentionally and maliciously, and with neither probable cause nor reasonable suspicion, issued to Plaintiff an unsubstantiated citation for obstructing traffic. This was done to intimidate Plaintiff so that he would not exercise, or to punish him for exercising, his rights to freedom of speech and freedom to petition the government for redress of grievances, and also in a pretextual attempt to justify their improper conduct *post facto*.

JURISDICTION AND VENUE

4. This Court has jurisdiction to hear this Complaint pursuant to 28 U.S.C. § 1331 (federal question), 28 U.S.C. § 1343(a)(3) and (4) (civil rights jurisdiction), and 28 U.S.C. § 1367 (supplemental jurisdiction)

5. Venue is proper in the United States District Court for the District of Maryland under 28 U.S.C. § 1391(b)(2) because a substantial part of the acts or omissions giving rise to the claims herein occurred in this judicial district.

PARTIES

6. Plaintiff Allan R. SERGEANT *(*"SERGEANT") resides at [redacted].

7. Defendant Officer ALFIE ACOL ("ACOL"), whom Plaintiff sues in his individual and official capacities, is and was at all times relevant to this proceeding an officer of the Laurel (MD) Police Department ("LPD"). ACOL acted at all times relevant herein under color of Maryland law and in his capacities as agent and employee of LPD and the CITY OF LAUREL.

8. Defendant Officer JOHN DOE ("DOE"), whom Plaintiff sues in his individual and official capacities, is and was at all times relevant to this proceeding an officer of LPD. DOE acted at all

times relevant herein under color of Maryland law and in his capacities as agent and employee of LPD and the CITY OF LAUREL. On information and belief, DOE may be LPD Officer Thomas Houck.

9. Defendant RICHARD MCLAUGHLIN ("MCLAUGHLIN"), whom Plaintiff sues in his official capacity, is and was at all times relevant to this proceeding Chief of Police of LPD.

10. Defendant LPD is the local government agency that employs and employed at all times relevant to this proceeding ACOL, DOE, and MCLAUGHLIN, and administers a set of law enforcement policies, practices and customs involving the hiring, training and supervision of its police officers, and covering the use of force and the seizure and search of persons encountered in the course of officers' duties.

11. Defendant CITY OF LAUREL, Maryland, ("City") is the local government that maintains LPD and, through it, employs ACOL, DOE, and MCLAUGHLIN.

FACTS

12. ALLAN SERGEANT immigrated to the United States from Saint Vincent and the Grenadines and has been a legal, permanent resident, living in Washington, DC, since 1990.

13. SERGEANT is a Black man who, on March 9, 2014, wore his hair in dreadlocks.

14. On or around March 9, 2014, at approximately 7:30 p.m., SERGEANT drove his car from the parking area of the Sunoco gas station at 820 Second Street, Laurel, MD, 20707, a short distance across the street and into the parking lot of the CVS at 15100 Baltimore Avenue, Laurel, MD, 20707. SERGEANT saw the lights of a police car flash behind him and pulled his car over in front of the customer entrance of the CVS. There was no lawful basis to stop SERGEANT's vehicle.

15. ALFIE G. ACOL, an officer with the Laurel Police Department, was the driver of the police car.

16. At no time during the events at issue was there probable cause or reasonable suspicion to believe that SERGEANT was committing a crime or even a traffic violation, was in possession of a weapon or of contraband.

17. There was no reasonable suspicion or probable cause or lawful justification to pull over, seize, or detain SERGEANT.

18. SERGEANT was pulled over on the basis of racial profiling, because of his appearance as a Black man wearing dreadlocks.

19. ACOL approached the driver's side window of Plaintiff's car and demanded SERGEANT's driver's license and vehicle registration.

20. SERGEANT asked ACOL why he had been pulled over. ACOL responded that he would tell him only after SERGEANT had surrendered his driver's license and registration.

21. SERGEANT gave ACOL both his driver's license and vehicle registration and remained seated in his vehicle. However, ACOL never told SERGEANT why he had stopped him.

22. ACOL returned to his police cruiser for a period of time. During this period of time, no efforts were made to have SERGEANT leave his car, to inspect the car for weapons or contraband, or for any other purpose.

23. A second police cruiser arrived on/at the scene, driven by an officer of uncertain identity (hereinafter "DOE") but, on information and belief, believed to be LPD Officer Thomas Houck.

24. ACOL then returned to SERGEANT, who had been sitting in his car through this period without incident.

25. SERGEANT continued to ask what he had done wrong.

26. ACOL appeared angry and aggressive. ACOL raised his voice to a yell, drew his face close to SERGEANT's and demanded that he be allowed to search the car. ACOL placed his hand on or near his gun and repeated his demand.

27. SERGEANT feared for his safety and his life.

28. ACOL demanded that SERGEANT exit the vehicle and SERGEANT complied with ACOL's demand.

29. However, at no point during these events did ACOL or anyone else actually search SERGEANT's vehicle. Neither was there ever any justifiable basis for anyone to search the vehicle.

30. Similarly, there was no objectively reasonable suspicion to believe that SERGEANT had contraband or was armed or dangerous or posed a risk to the safety of ACOL or others.

31. ACOL placed SERGEANT's hands on the vehicle and violently kicked SERGEANT's foot, nearly knocking SERGEANT over and causing SERGEANT to spread his legs.

32. ACOL then subjected Sergeant to an unlawful frisk or pat down and touching of his body. ACOL patted down Plaintiff's upper body and lower body, including touching Plaintiff's groin. ACOL reached into SERGEANT's pockets and removed whatever innocuous items he found.

33. While there was no lawful basis to stop and frisk SERGEANT in the first place, the conduct of this unlawful search further established that there was no reason to believe that SERGEANT was in possession of a weapon or contraband.

34. Thereafter ACOL turned SERGEANT around and frisked SERGEANT a second time. Again, this second unlawful stop and frisk found no weapons or contraband. It further confirmed that there was no reason to believe that SERGEANT was in possession of a weapon or contraband.

35. The police at no time undertook efforts to search the vehicle. ACOL had no basis ever for believing that SERGEANT had committed any violation of the law, not even a minor traffic violation, and had no basis ever to believe that he was in possession of a weapon or contraband or any reason to search SERGEANT in any manner whatsoever.

36. DOE witnessed the strip search that followed without intervening.

37. ACOL moved SERGEANT to the rear passenger side of SERGEANT's vehicle and in front of the customer entrance to CVS.

38. The ensuing search and stripping was highly intrusive, humiliating, degrading, abusive, terrifying and traumatizing.

39. ACOL unbuckled SERGEANT's belt.

40. SERGEANT protested and asked why he was doing that.

41. At no time did SERGEANT consent to being searched.

42. ACOL continued.

43. SERGEANT persisted in his verbal protest, using words to the effect of, 'You can't do this,' and, 'What you are doing is wrong.' ACOL responded, in part, by placing his hand on his firearm and telling SERGEANT that he must comply.

44. ACOL undid the button of SERGEANT's pants.

45. ACOL then unzipped SERGEANT's pants.

46. ACOL pulled SERGEANT's pants down.

47. Then ACOL pulled SERGEANT's underwear down to just above his knees, exposing his genital and anal areas to view as well as to the cold.

48. This was a public strip search. It was conducted just outside the entrance to a CVS in a public area exposed to the general view of the public and all of the passers-by saw SERGEANT and his exposed genitals and anal areas.

49. SERGEANT was humiliated by the public strip search that was viewed by, among others, Officer DOE (believed to be Officer HOUCK) who had the opportunity to intervene and chose not to intervene.

50. DOE was under a duty to prevent his fellow law enforcement officer from violating the U.S. Constitution and Maryland Declaration of Rights. DOE had opportunities to intervene and prevent SERGEANT's rights from being violated, but instead facilitated and supported the violations.

51. After some time had passed and after visually inspecting SERGEANT's private areas, ACOL told SERGEANT he could leave. SERGEANT pulled his underwear and pants back up, buttoned his pants, and buckled his belt. ACOL returned Plaintiff's driver's license and vehicle registration.

52. SERGEANT continued to verbally protest his mistreatment and to ask questions of both ACOL and DOE, such as why he had been pulled over and why he had been searched.

53. SERGEANT demanded identification information from the police.

54. ACOL stated that he had no concern about a complaint being filed against him.

55. DOE told SERGEANT to stop asking questions and leave.

56. After SERGEANT stated that he was going to file a complaint, DOE demanded SERGEANT give him his license. SERGEANT again provided his driver's license, this time to DOE.

57. Both DOE and ACOL went to DOE's vehicle. After approximately 10 minutes, ACOL returned and issued SERGEANT a written warning for a municipal violation, for "causing vehicle to obstruct other vehicles passing" and returned SERGEANT's license.

58. ACOL demanded that Plaintiff sign the written violation warning.

59. When SERGEANT refused to sign the warning, ACOL told him that if he did not sign the warning he would issue him a ticket. Then he threatened to arrest SERGEANT if he did not sign the bogus warning document. SERGEANT complied, signed the document and thereupon left the scene.

60. SERGEANT called LPD that night to lodge a complaint. LPD told SERGEANT that SERGEANT could not submit a complaint over the telephone.

61. On March 10, 2014, SERGEANT went to LPD offices at 811 Fifth Street, Laurel, MD, 20707, and stated that he wanted to file a complaint.

62. SERGEANT was provided an official form entitled "Laurel Police Department Complaint Against Police Practices." The form requested certain information on the front and had a directive to read the back, on which was additional legal information including deadlines and citations to the Maryland Code.

63. SERGEANT filled out the complaint form and discussed his complaint with an LPD sergeant, possibly ID #1541, who appeared to take notes during SERGEANT's verbal statement. When SERGEANT informed the sergeant that his complaint was against ACOL, the sergeant indicated a lack of surprise. The sergeant told SERGEANT that ACOL's conduct had been improper.

64. On or about March 14, 2014, SERGEANT received a letter dated March 10, 2014, from "Sgt. J. Perretta" of LPD Internal Affairs Division acknowledging receipt of his complaint and informing him that "Corporal Barry will be in charge of the investigation."

65. On or about March 15, 2014, SERGEANT telephoned and spoke with Corporal Barry and arranged to meet Corporal Barry, believed to be ID #4376.

66. On or about March 20, 2014, SERGEANT returned to LPD offices at 811 Fifth Street, Laurel, MD, 20707, and met with Corporal Barry alone. Corporal Barry made an audio recording and took notes of this meeting. Corporal Barry told SERGEANT it would take approximately three (3) months for the investigation to be completed and that Corporal Barry would inform SERGEANT of the outcome.

67. On or about May 15, 2014, the LPD honored ACOL by issuing him a unit citation award. Thomas Houck, believed to be DOE, received a unit citation at the same time. Chief of Police Richard MCLAUGHLIN referred to the awards as follows: "We concentrate a lot on discipline; this is a form of positive discipline. It's a way for us to say, 'job well done.'"

68. By letter dated June 16, 2014, Sergeant Perretta advised SERGEANT that LPD had conducted a "thorough investigation" of the incident and that "Corporal Barry found Officer Acol in violation of departmental policies and guidelines and found multiple charges SUSTAINED for the incident on 03-09-2014." This letter further stated, "Officer Acol received multiple charges and was disciplined for the incident. Mandatory re-training was also a component of the punishment. This incident is now closed."

69. By November, 2014, however, rather than firing ACOL for his criminal assault against SERGEANT, which demonstrated fundamental unfitness to hold the position of police officer, LPD had elevated ACOL to be the public face of the department's P.R. campaign regarding the use of police body cameras.

70. SERGEANT suffered severe emotional distress as a result of the events of March 9, 2014. The public stripping and searching of an innocent man accused of no crime whatsoever by an officer of the law is nothing less than a complete denial of his human dignity. ACOL's conduct was

invasive, intrusive, humiliating, degrading, dehumanizing, and terrifying. Being stripped naked in public, and subjected to forced inspection of one's genital and anal areas under threat of a weapon, strikes to the very core of one's being, threatening to shatter the frame on which one's emotional fabric is hung.

71. As a consequence of this extreme and outrageous conduct – made all the more outrageous and terrifying because it was perpetrated with the imprimatur of police authority and the powers of the state to arrest and to use deadly force – SERGEANT suffered grievously and severely, resulting in economic and non-economic damages including, but not limited to: depression, loss of interest and ability to engage in day to day activities, fearing to travel, anxiety about whether he would suddenly be stopped, seized and assaulted by police; fearing any future interaction with law enforcement. The trauma and assault, and fear of police, has caused him to consider emigrating from the United States.

72. The misconduct by police officer ACOL was severe and extreme; the harm caused was profound. The forced public stripping and searching could be perpetrated only by a person with actual malice, the act itself signifies degradation and submission and, in this instance, was motivated not only by malice but by racial profiling, because SERGEANT was a Black man wearing dreadlocks in Laurel, MD.

VIOLATION OF CLEARLY ESTABLISHED LAW

73. The public strip search of SERGEANT violated clearly established law and was done with malice. *Illinois v. Lafayette*, 462 U.S. 640, 645 (1983) ("The interests supporting a search incident to arrest would hardly justify disrobing an arrestee on the street . . . ." and here, SERGEANT, was not even under arrest); *Amaechi v. West*, 237 F.3d 356, 364 (4th Cir. 2001) (Fourth Circuit has "repeatedly emphasized the necessity of conducting a strip search in private"); *Logan v. Shealy*, 660 F.2d 1007 (4th

Cir. 1981) ("We think that, as a matter of law, no police officer in this day and time could reasonably believe that conducting a strip search in an area exposed to the general view of persons known to be in the vicinity whether or not any actually viewed the search is [ ] constitutionally valid. . .")(regarding strip search of arrestee in holding cell with blinds open).

74. The failure of DOE to intervene to protect SERGEANT from the plainly unconstitutional strip search violates clearly established law and was also perpetrated with malice. *See Randall v. Prince George's County*, 302 F.3d 188 (4th Cir. 2002) (articulating the standards by which "bystander liability" is established where an officer knows that a fellow officer is violating an individual's constitutional rights, has opportunity to prevent the harm, and chooses not to act).

EXHAUSTION UNDER THE LOCAL GOVERNMENT TORT CLAIMS ACT

75. The Local Government Tort Claims Act ("LGTCA") relates to only a sub-set of the claims advanced by SERGEANT, including non-Constitutional common law claims.

76. With respect to the LGTCA, SERGEANT avers that good cause exists to waive the notice requirement of the LGTCA pursuant to Section 5-304(d) of the LGTCA.

77. SERGEANT, *pro se*, requested information on how to file a complaint from the Laurel Police Department.

78. The desk sergeant provided him with an official form, which SERGEANT completed and which he believed to be timely and sufficient for the advance of all complaints and/or claims arising in connection to the underlying events.

79. The form, entitled "Laurel Police Department Complaint Against Police Practices" ("LPD Complaint Form") is used to provide and receive information from civilians, commonly

unrepresented by counsel, who are advancing claims and complaints against police officers and related governmental entities who employ and/or direct such officers.

80. The form provides legal information, if not advice, to unrepresented persons regarding timelines and obligations for the advance of a "Complaint."

81. The legal information, including specific quotation from the Maryland Code, is one-sided and selective.

82. The form fails to provide notice to complainants of the need to file additional paperwork or notice of claims in order to preserve rights under the Maryland Code, LGTCA, and gives the false impression that the complainant has satisfied all obligations and duties under the Code by completing the form.

83. The LPD Complaint Form, in fact, cites specifically to requirements and obligations imposed on the complainant by the Maryland Code in the advance of complaints against police officers, implicitly suggesting that compliance with the cited provisions is all that is necessary to preserve a complaint against a police officer or regarding police practices. Maryland Code, Public Safety Article, Title 3, Subtitle 1, Section 3-104, Subsection C (1) & (2), is cited, providing notice that a complaint alleging brutality must be filed "<u>within 90 days of the alleged brutality</u>." (emphasis in original). Although not so identified on the LPD Complaint Form, this referenced subsection of the Maryland Code is from the "Law Enforcement Officers' Bill of Rights," a controversial agreement that the State and the LPD have entered into which serves to protect officers who have committed misconduct from investigation and accountability if strict requirements are not satisfied.

84. The Maryland Code is quoted to provide notice of the obligation to have certain complaints sworn before a notary public. The Maryland Code, Public Safety Article, Title 3, Subtitle 1,

Section 3-113(a) is cited, warning the complainant of imprisonment for up to six (6) months for making a false statement.

85. The specific citations of Maryland Code provisions implicitly give the unrepresented civilian the inaccurate impression that all relevant Code provisions establishing timelines or obligations in the context of a police Complaint have been presented. However, the obligations of the LGTCA are omitted.

86. SERGEANT, *pro se*, acting in reliance on the LPD Complaint Form believed that by satisfying the deadlines and providing notice of the information requested on the LPD Complaint Form that he had satisfied all deadlines and obligations in order to advance and preserve his complaint regarding the underlying events.

87. Indeed, SERGEANT, filed his LPD Police Complaint without any delay, on March 10, 2014.

88. On January 13, 2015, counsel for SERGEANT mailed *via* certified mail with return receipt requested the substantive information required by LGTCA Section 5-304 to Robert Manzi, Solicitor, City of Laurel.

89. The notice, to which there was no response from the City Solicitor, was received on January 16, 2015.

90. Good cause for waiver of the notice requirements is established by the fact that the LPD engaged in the provision of legal information and/or advice to SERGEANT, who was acting *pro se,* that left him with the impression that by timely filing the LPD Complaint Form he had preserved his full ability to advance his claims and complaints.

91. Good cause for waiver is additionally, and independently, established where, as here, the corporate authorities of the defendant local government are alleged, on information and belief, to have had actual knowledge of the underlying events within the 180 day period.

92. On information and belief, within the 180 day period, the corporate authorities of the defendant local government possessed knowledge of the substantive information required of which notice must be provided under Section 5-304.

93. By June 16, 2014, still within the 180 day period, the LPD completed its investigation of the underlying incident, sustaining multiple charges against ACOL.

94. On information and belief, corporate authorities were advised of ACOL's violations, including the substantive information required under Section 5-304.

95. A decision was made both to outfit ACOL with a body camera *and* to laud ACOL as an example of a good police officer as the object of a prominent media campaign in which the LPD praised and sought media attention for its use of body cameras. The results of the campaign were prominent, which suggests decision maker knowledge of the underlying events. In November, 2014, Officer ACOL was featured in report in the Daily Record on the LPD's use of body cameras (http://thedailyrecord.com/2014/11/23/police-body-camera-issue-awaits-legislature/). In December, 2014, Chief of Police Richard McLaughlin, was interviewed in a national NBC News-Washington Bureau story on body cameras that focused on Officer Acol's deployment with the camera (http://wwlp.com/2014/12/08/police-body-cameras-how-they-work/). ACOL has been featured in ongoing media reports, including as recently as May, 2015 (http://www.onenewspage.com/video/20150501/2823290/Police-Body-Cams.htm).

96. Absent in the media reports lauding officer ACOL and the LPD's use of body cameras is any presentation of the underlying violations committed by or the charges sustained against ACOL, which highlight the essential question of whether an officer who has used the power vested in him by the state, including being armed, to engage in illegal racial profiling, strip another human being -- a Black man -- naked in public, inspect his genitals, terrorize him and subject him to humiliation, degradation and forced submission, all without just cause, should be on the force at all.

CLAIMS FOR RELIEF

COUNT I
Violation of the Fourth and Fourteenth Amendments – 42 U.S.C. § 1983
Violation of Article 24 of the Maryland Declaration of Rights
Unreasonable Seizure in the Initial Vehicle Stop
(ACOL)

97. The preceding paragraphs 1 through 96 are incorporated herein by reference.

98. The traffic stop was, at its inception, baseless.

99. ACOL had no objectively reasonable basis to believe that SERGEANT had committed any traffic offense.

100. ACOL pulled over SERGEANT because he was a Black man in dreadlocks.

101. The traffic stop was wrongful and constituted a seizure.

102. At all times relevant hereto, SERGEANT had a right clearly established under the Fourth Amendment to the United States Constitution and enforceable against the States through the Due Process Clause of the Fourteenth Amendment to be free from unreasonable searches and seizures. The seizure of SERGEANT while driving violated these rights.

103. At times relevant hereto, SERGEANT had a right clearly established under Article 24 of the Maryland Declaration of Rights to be free from unreasonable searches and seizures. The seizure of SERGEANT while driving violated these rights.

104. On March 9, 2014, Officer ACOL had no articulable facts to support a reasonable suspicion that SERGEANT had engaged, was in the process of engaging, or was about to engage in a violation of the law.

105. ACOL's stopping of SERGEANT's vehicle was an unreasonable seizure.

106. ACOL acted with sufficient malice for punitive damages to issue under Maryland law. ACOL acted with actual malice in the decision to pull over SERGEANT, the vehicular stop was motivated by an improper motive, *i.e.*, racial profiling or race based discrimination.

107. Coextensively, in addition and/or in the alternative, ACOL acted with sufficient state of mind for punitive damages to issue under 42 U.S.C. § 1983. ACOL acted with evil motive or intent or reckless or callous indifference to SERGEANT's federally protected rights.

108. ACOL, who stopped and seized SERGEANT while acting under color of Maryland law, violated SERGEANT's rights under the Fourth Amendment to the U.S. Constitution and is liable to SERGEANT under 42 U.S.C. § 1983, and violated Article 24 of the Maryland Declaration of Rights and is denied governmental immunity and is, additionally, liable to SERGEANT under Maryland common law.

109. SERGEANT suffered damages, including economic and non-economic injuries as a consequence of these violations.

COUNT II
Violation of the Fourth and Fourteenth Amendments – 42 U.S.C. § 1983
Violation of Article 24 of the Maryland Declaration of Rights
Unreasonable Searches in the Two Frisks of SERGEANT
(ACOL)

110. The preceding paragraphs 1 through 96 are incorporated herein by reference.

111. Each of the two frisks or pat downs, including reaching into SERGEANT's pockets, constituted an unreasonable, illegal, and unconstitutional search.

112. On March 9, 2014, ACOL had no articulable facts to support a reasonable suspicion that SERGEANT had or was in the process of or was about to engage in a violation of the law, that SERGEANT was armed or dangerous, or any other basis on which to justify the two frisks of his person.

113. At no time was SERGEANT under arrest.

114. ACOL acted with actual malice in each frisk of SERGEANT, which occurred as part of a vehicular stop and search motivated by an improper motive, *i.e.*, racial profiling or race based discrimination.

115. Coextensively, in addition and/or in the alternative, ACOL acted with sufficient state of mind for punitive damages to issue under 42 U.S.C. § 1983. ACOL acted with evil motive or intent or reckless or callous indifference to SERGEANT's federally protected rights.

116. ACOL, who searched SERGEANT while acting under color of Maryland law, violated SERGEANT's rights under the Fourth Amendment to the U.S. Constitution and is liable to SERGEANT under 42 U.S.C. § 1983, and violated Article 24 of the Maryland Declaration of Rights and is denied governmental immunity and is, additionally, liable to SERGEANT under Maryland common law.

117. SERGEANT suffered damages, including economic and non-economic injuries as a consequence of these violations.

COUNT III
Violation of the Fourth and Fourteenth Amendments – 42 U.S.C. § 1983
Violation of Article 24 of the Maryland Declaration of Rights
Unreasonable Strip Search
(ACOL – direct liability)
(DOE – direct liability and bystander liability for failure to intervene)

118. The preceding paragraphs 1 through 96 are incorporated herein by reference

119. At all times relevant hereto, SERGEANT had the rights to be secure in his person and to be free from unreasonable searches and seizures under the Fourth Amendment to the United States Constitution and enforceable against the States through the Due Process Clause of the Fourteenth Amendment. This right encompasses the right to be free from unreasonable searches of SERGEANT's person.

120. At all times relevant hereto, SERGEANT had a right clearly established under Article 24 of the Maryland Declaration of Rights to be free from unreasonable searches and seizures. This right encompasses the right to be free from unreasonable searches of SERGEANT's person.

121. The public strip search to which SERGEANT was subjected was manifestly unlawful.

122. The public strip search perpetrated by ACOL was demeaning, dehumanizing, undignified, humiliating, and repulsive. There was no basis to search SERGEANT in any manner, let alone to conduct a visual inspection of his anal and genital areas. SERGEANT's expectations of privacy were at an apex, given that he had done nothing to justify even a minor traffic stop. The strip search, performed in public, was extremely intrusive and solely served as a means of subjugation and degradation without any lawful purpose whatsoever. ACOL is liable to SERGEANT for the violation of his clearly established rights to be free of unreasonable searches under the U.S. Constitution and the Maryland Declaration of Rights.

123. Officer DOE observed and was aware of this patent violation of SERGEANT's rights being perpetrated by his fellow officer, ACOL. DOE had a duty to intervene to prevent the harm and stop the violation of SERGEANT's constitutional rights, he had a reasonable opportunity to do so, and he chose not to. On the contrary, his presence as a law enforcement officer afforded protection to ACOL in the event any one might seek to protest or intervene to cause the cessation of this repugnant course of misconduct and abuse of police authority. DOE is responsible as a bystander for his failure to intervene to protect SERGEANT's constitutional rights pursuant to 42 U.S.C. § 1983.

124. DOE's presence at the scene affirmatively protected ACOL from any potential intervention or protests to protect SERGEANT from this public and outrageous action. His physical presence with his police cruiser conveyed official sanction and also conveyed the implicit threat that he would use his state authority, including use of force, were anyone to object and try to save SERGEANT. DOE is also directly liable for the unreasonable strip search as a joint actor, whose presence and conduct facilitated the strip search, rendering him responsible as a principal for the Federal and Maryland Constitutional violations.

125. ACOL and DOE each acted with actual malice in the perpetration of the public strip search, which was motivated by an improper motive, *i.e.*, racial profiling or race based discrimination. DOE would have stepped up to intervene except for the fact that SERGEANT is Black. Coextensively, in addition and/or in the alternative, ACOL and DOE each acted with sufficient state of mind for punitive damages to issue under 42 U.S.C. § 1983. ACOL and DOE acted with evil motive or intent or reckless or callous indifference to SERGEANT's federally protected rights.

126. SERGEANT suffered damages, including economic and non-economic injuries as a consequence of these violations.

COUNT IV
Invasion of Privacy
Intrusion on Seclusion
(ACOL)

127. The preceding paragraphs 1 through 96 are incorporated herein by reference.

128. By perpetrating the public strip search, ACOL intentionally intruded upon SERGEANT's solitude or seclusion or private affairs, specifically the public exposure of the anal and genital areas constituted such an invasion of SERGEANT's right to privacy in his body.

129. This privacy intrusion, the public strip search of SERGEANT, was severe and humiliating, and clearly meets the legal standard of being "highly offensive to a reasonable person."

130. ACOL acted with actual malice in the perpetration of the strip search.

131. SERGEANT suffered damages, including economic and non-economic injuries as a consequence of these violations.

COUNT VII
Intentional Infliction of Emotional Distress
(ACOL)

132. The preceding paragraphs 1 through 96 are incorporated herein by reference.

133. ACOL acted intentionally by subjecting SERGEANT to the humiliating public strip search, conduct that was extreme and outrageous.

134. The public strip search caused SERGEANT to suffer emotional distress that was severe and disabling.

135. ACOL acted with actual malice in the perpetration of the strip search.

COUNT VI
Violation of the First and Fourteenth Amendments – 42 U.S.C. § 1983
Violation of Articles 24 and 40 of the Maryland Declaration of Rights
Retaliation for Protected Speech
(ACOL & DOE)

136. The preceding paragraphs 1 through 96 are incorporated herein by reference.

137. At all times relevant hereto, SERGEANT had the rights of freedom of speech and to petition the government for a redress of his grievances under the First Amendment to the United States Constitution and enforceable against the States through the Due Process Clause of the Fourteenth Amendment. These rights encompass the right to complain to public officials, including to police officers when subjected by a law enforcement officer to unreasonable seizure and search and racial profiling.

138. At all times relevant hereto, SERGEANT had a right clearly established under Articles 24 and 40 of the Maryland Declaration of Rights to exercise his First Amendment rights.

139. After the unreasonable search, Defendants instructed SERGEANT to depart. Only after SERGEANT had demanded an explanation for and continued to protest Defendants' conduct and informed Defendants of SERGEANT's intention to complain of their treatment of him did DOE and ACOL, acting jointly, take SERGEANT's driver's license and registration and issue the written warning ticket.

140. The written warning was pretextual, an attempt to threaten SERGEANT for considering filing a complaint and an attempt to frighten him out of doing so. The warning conveyed, implicitly, the threat that ACOL and DOE could convert the baseless and retaliatory warning to a citation or arrest.

141. ACOL and DOE, who were acting under color of Maryland law, violated SERGEANT's rights under Articles 24 and 40 of the Maryland Declaration of Rights and are liable for damages to SERGEANT under Article 19 of the Maryland Declaration of Rights.

142. ACOL and DOE, who were acting under color of Maryland law, violated SERGEANT's rights under the First Amendment to the United States Constitution and are liable for damages to SERGEANT under 42 U.S.C. §1983.

143. ACOL and DOE each acted with actual malice, with the wrongful intent to dissuade SERGEANT from exercising his right to file a complaint and to threaten him for questioning the officers and protesting the patently unlawful strip search and stating the intention to file a complaint. Coextensively, in addition and/or in the alternative, ACOL and DOE each acted with sufficient state of mind for punitive damages to issue under 42 U.S.C. § 1983. ACOL acted with evil motive or intent or reckless or callous indifference to SERGEANT's federally protected rights.

COUNT VIII
Failure to Train or Supervise – 42 U.S.C. § 1983
Negligent Failure to Train or Supervise – Article 24 of the Maryland Declaration of Rights
(MCLAUGHLIN, LPD, CITY OF LAUREL)

144. The preceding paragraphs 1 through 96 are incorporated herein by reference.

145. The City and LPD are liable pursuant to 42 U.S.C. § 1983 for the failure to train their officers not to engage in traffic stops on the basis of racial profiling.

146. The need for training to eradicate racial profiling in traffic stops is not only generally known, but is required by the Maryland Code, Transportation Article, Title 25, Section 113 (requiring adoption of policy and training against race-based traffic stops by law enforcement officers) due to the prevalence of the practice. Race-based traffic stops are a known course of conduct by law enforcement

having manifest potential for causing constitutional deprivations to persons on the basis of race, in this instance because SERGEANT is Black.

147. The failure to train officers against race-based discrimination in traffic stops was so profound that, as part and parcel of the racial profiling stop of SERGEANT, Officer ACOL did not merely subject SERGEANT to a traffic stop, but to an act of degradation and dehumanization that can only occur if an officer holds a deep rooted racial bias against the people he is to serve, and believes that his conduct has at least the tacit approval of his employer, that approval conveyed in part by the failure to train. Likewise, DOE's failure to intervene reflects that ACOL's racial profiling and extreme misconduct is not aberrational, but part of a culture and institution which tolerates such conduct. The failure to train officers against racial profiling by LPD and the City was a moving force behind the racial profiling, traffic stop and strip search of Mr. SERGEANT.

148. The need for training to prohibit public strip searches is obvious, as the authority granted to police officers to search is subject to limitation without which constitutional violations are certain to occur. Furthermore, there have been many reports in news media of roadside or public strip searches by law enforcement, reflecting use of this tactic in increasing volume nationally.

149. The City and LPD's failure to train constituted deliberate indifference and caused the constitutional violations and injuries complained of herein.

150. ACOL had a reputation for misconduct so pervasive that, when SERGEANT reported that ACOL had been involved in the incident, the sergeant receiving the complaint indicated a lack of surprise. ACOL himself indicated a lack of concern about having a complaint filed against him. MCLAUGHLIN, LPD, and the City are, therefore, liable to SERGEANT under Maryland's common

law torts of negligent failure to train and negligent failure to supervise for all of the state constitutional violations committed by ACOL and DOE alleged herein.

COUNT IX
Respondeat Superior
for Common Law and State Constitutional Claims
(CITY, LPD)

151. The preceding paragraphs 1 through __ are incorporated herein by reference.

152. ACOL and DOE violated the rights guaranteed to SERGEANT under the common law and constitution of the State of Maryland.

153. At all times relevant hereto, ACOL and DOE were officers of LPD, itself a department of the City.

154. The acts of ACOL and DOE alleged in this Complaint were within the scope of their employment as police officers of the LPD.

155. LPD and the City are liable to SERGEANT pursuant to *respondeat superior* for the common law and state constitutional violations committed by ACOL and DOE alleged herein.

PRAYER FOR RELIEF

156. WHEREFORE, Plaintiff Allan R. Sergeant prays for judgment as follows:

a) An award of compensatory damages against ACOL, DOE, the City and LPD in an amount to be determined at trial;

b) An award of punitive damages against Defendants ACOL and DOE in an amount to be determined at trial;

c) An award of Plaintiff's costs and reasonable attorneys' fees in this action pursuant to 42 U.S.C. §§ 1983 and 1988;

d) Appropriate injunctive relief, including the implementation of training protocols to prevent and effectively discipline the conduct complained of herein; and,

e) An order granting such other relief as this Court deems just and proper.

DEMAND FOR JURY TRIAL

Plaintiff requests trial by jury as to all issues in this case.

Dated: July 30, 2015

Respectfully submitted,

/s/ Dennis A. Corkery
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