

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF NEW YORK

SHANNON J. BONES, a/k/a SHANNON JOY,

Plaintiff,

COMPLAINT

v.

Civil Action No.: 22-cv-6072

COUNTY OF MONROE,
MONROE COUNTY SHERIFF'S OFFICE,
FAIRPORT CENTRAL SCHOOL DISTRICT,
BRETT PROVENZANO, Individually and as
Superintendent for the FAIRPORT CENTRAL
SCHOOL DISTRICT, PETER D. FORSGREN,
ERICA BELOIS-PACER, DAMON W. BUFFUM,
MARGARET S. CARDONA, JOYCE KOSTYK,
BRIAN MORITZ, and MARY CAITLIN WIGHT,
the afore-named being sued individually, and as
board members of FAIRPORT CENTRAL SCHOOL
DISTRICT, and BENJAMIN HAMELIN, ERICA
HENDERSON and ALISON KENDALL, the afore-
Named being sued individually, and as Sheriff's
Deputies in the employ of Defendant MONROE
COUNTY SHERIFF'S OFFICE and COUNTY OF
MONROE,

Defendants.

Plaintiff Shannon J. Bones a/k/a Shannon Joy, by her attorneys HoganWillig,
PLLC, for her Complaint herein alleges:

NATURE OF THE CASE

1. This is an action to recover damages and other relief pursuant to [1] 42 U.S.C. § 1983 for violations of Plaintiff's Constitutional rights; [2] 42 U.S.C. §§1985 and 1986 for conspiracy to interfere with Plaintiff's Constitutional rights; and [3]

Plaintiff's pendant State law claims of [a] false arrest, [b] false imprisonment, [c] battery, [d] defamation and [e] intentional and [f] negligent infliction of emotional distress, as well as [g] conspiracy to commit the aforementioned cognizable torts.

2. Plaintiff's claims arise from unconstitutional and tortious conduct of Defendants originating at a public school board meeting of the Fairport Central School District where Plaintiff had a right to be present, and to participate and exercise her First Amendment rights of free speech and freedom of the press.

PARTIES

3. Plaintiff Shannon J. Bones a/k/a Shannon Joy is a natural person residing at 130 West Avenue in Fairport, New York 14450.

4. Defendant Monroe County, New York ("County") is a municipal corporation organized under the laws of the State of New York with its principal offices located at 110 County Office Building, 39 West Main Street, Rochester, New York 14614.

5. Defendant Monroe County Sheriff's Office ("Sheriff") is the law enforcement agency of the County of Monroe with its principal offices located at 130 South Plymouth Avenue, Rochester, New York 14614.

6. Defendant Fairport Central School District ("School District") is a public school district organized under the laws of the State of New York with its principal offices located at 38 West Church Street, Fairport, New York 14450.

7. Defendant Brett Provenzano (“Provenzano” or “Superintendent”) is an individual who resides in the State of New York, County of Monroe, and Town of Perinton, with a business address of 38 W. Church St, Fairport, NY 14450. Provenzano is and was at all times relevant herein the Superintendent of Defendant School District.

8. Defendant Provenzano at all times and places relevant herein was acting under color of New York State Law.

9. Defendant Peter D. Forsgren (“Forsgren”) is an individual who resides in the State of New York, County of Monroe and Town of Perinton, with a residential address of 8 Bent Oak Trail, Perinton, New York 14450. Forsgren is and was at all times relevant herein a member of the board of Defendant School District.

10. Defendant Erica Belois-Pacer (“Belois-Pacer”) is an individual who resides in the State of New York, County of Monroe and Town of Perinton, with a residential address of 10 Silver Birch Circle, Fairport, New York 14450. Belois-Pacer is and was at all times relevant herein a member of the board of Defendant School District.

11. Defendant Damon W. Buffum (“Buffum”) is an individual who resides in the State of New York, County of Monroe and Town of Perinton, with a residential address of 20 Wallingford Rise, Fairport, New York 14450. Buffum is and was at all times relevant herein a member of the board of Defendant School District.

12. Defendant Margaret S. Cardona (“Cardona”) is an individual who resides in the State of New York, County of Monroe and Town of Perinton, with a

residential address of 28 Foxboro Lane, Perinton, New York 14450. Cardona is and was at all times relevant herein a member of the board of Defendant School District.

13. Defendant Joyce Kostyk (“Kostyk”) is an individual who resides in the State of New York, County of Monroe and Town of Perinton, with a residential address of 24 Highpoint Trail, Perinton, New York 14450. Kostyk is and was at all times relevant herein a member of the board of Defendant School District.

14. Defendant Brian Moritz (“Moritz”) is an individual who resides in the State of New York, County of Monroe and Town of Perinton, with a residential address of 43 Aconbury Drive, Perinton, New York 14450. Moritz is and was at all times relevant herein a member of the board of Defendant School District.

15. Defendant Mary Caitlin Wight (“Wight”) is an individual who resides in the State of New York, County of Monroe and Town of Perinton, with a residential address of 12 Furman Hts, Fairport, New York 14450. Wight is and was at all times relevant herein a member of the board of Defendant School District.

16. Defendants Forsgren, Belois-Pacer, Buffum, Cardona, Kostyk, Moritz and Wight are collectively referred to as “Defendant Board Members.”

17. Defendant Board Members at all times and locations relevant herein acted under color of New York State Law, including, but not limited to, those powers generally identified in New York Education Law Article 37, although the conduct of Defendant Board Members exceeded the scope of all lawful authority.

18. Defendants BENJAMIN HAMELIN, ERICA HENDERSON, and ALISON KENDALL, collectively “Sheriff’s Deputies”, are individuals who, upon

information and belief, reside in the State of New York and County of Monroe, all of whom at all relevant times herein were and are employed by Defendants COUNTY OF MONROE and MONROE COUNTY SHERIFF'S OFFICE, as police officers as defined in NY CPL §1.20(34)(b) with business addresses at 130 South Plymouth Avenue, Rochester, New York 14614.

19. Sheriff's Deputies at all times and locations relevant herein acted under color of New York State Law.

JURISDICTION

20. Jurisdiction is in the United States District Court pursuant to 28 U.S.C. §§ 1331 and 1343(a)(3) & (4) and 42 U.S.C. §§1983, 1985, 1986, the Constitution of the United States and the Court's supplemental (formerly pendent), and ancillary jurisdiction pursuant to 28 U.S.C. §1367 for the Plaintiff's State claims herein.

21. Plaintiff alleges that all causes of action emanate from a common nucleus of operative facts.

VENUE

22. Venue for this action is proper in the Western District of New York pursuant to 28 U.S.C. §1391(b)(1) because all Defendants reside within the District, and pursuant to 28 U.S.C. §1391(b)(2) because the events giving rise to the claims herein occurred within this District.

STATEMENT OF FACTS

23. A Notice of Claim was duly served on the Defendants relative to all causes of action for which the service of a Notice of Claim may be a prerequisite (New York Gen. Mun. Law §50(e)) and is attached as **Exhibit “A”**. More than thirty (30) days have passed since the aforesaid Notice of Claim was served.

24. Defendants have not adjusted this claim.

25. Plaintiff is a broadcaster and political commentator by trade, and the host of a radio program based in the Rochester, New York area.

26. Plaintiff has appeared on local, regional and national news and entertainment shows and, prior to the incident from which the causes of action herein pleaded emanate, had expressed her critical views on controversial topics, including, but not limited to, Defendants’ policies, procedures and decisions. Defendants were well aware of Plaintiff’s publicly voiced criticism of Defendants.

27. In the early evening of August 24, 2021, Plaintiff was lawfully present at 1 Dave Paddock Way, Fairport, NY in the auditorium on the premises of a Fairport School attending a school board meeting being conducted by Defendant School District. The auditorium is variously referred to as “auditorium” or “board room.”

28. Plaintiff was in attendance in her capacity as a taxpayer and parent of a student, and also in her capacity as a member of the press. Plaintiff was a licensee, public invitee and general invitee at the subject location.

29. As requested by the School Board, Plaintiff wore a protective face mask and sat quietly among the other persons in attendance.

30. At various times during the meeting, the mask slid below Plaintiff's nose, but the slipping of Plaintiff's mask was not purposeful and was righted by the Plaintiff each time within seconds.

31. In the exercise of her Constitutional rights as a taxpayer and member of the press, and in her capacity as a parent of a Fairport School District student, prior to the aforementioned August 24, 2021 School Board meeting, Plaintiff had been a vocal and public critic of Defendant School District on various parental issues, in an attempt to raise awareness within her listening audience of what Plaintiff considered to be bad practices, policies and procedures of Defendant School District, and in attempt to effectuate positive change, including issues regarding the School District's curriculum, the School Board's restriction of the ability of parents to speak at School Board meetings, a face mask mandate for students and the acceptance of funding conditioned on the School District's enforcement of a face mask mandate.

32. In the exercise of her Constitutional rights as a taxpayer and member of the press, prior to the aforementioned August 24, 2021 School Board meeting, Plaintiff had been a vocal and public critic of Defendant County and Defendant Sheriff on various issues and matters, in an attempt to raise awareness within her listening audience of policies and procedures Plaintiff considered to be adverse to the best interests of the community served by those Defendants.

33. At all times herein, Defendants acted under color of state law in their interactions with Plaintiff. Defendants acted variously in their private capacities as well as under color of state law with respect to the design and execution of the conspiracy to deprive Plaintiff of her Constitutional rights as alleged herein.

34. At all times alleged, Defendants violated federal law, conferring upon this Court jurisdiction to adjudicate the claims herein under 42 USC 1983. (See Maine v. Thiboutot, 448 US 1 (1980)). See also 42 USC §§1985 and 1986.

35. Approximately twenty (20) persons who were known to support Defendant School District on various parental issues, and known to oppose Plaintiff's viewpoint, and known to be hostile toward Plaintiff were in attendance at the School Board meeting, upon information and belief, at the specific invitation of Defendants School District, Provenzano and Board Members.

36. Also in attendance were several private security guards engaged by Defendant School District for that specific meeting and for the purpose of depriving Plaintiff of her Constitutional rights, and commission of torts upon her.

37. Under the ruse and guise that Plaintiff was not properly wearing her face mask, at some point, the School Board meeting went into a fifteen (15) minute recess.

38. Despite Plaintiff's efforts to promptly right her face mask after it had slipped below her nose – and despite the fact that other persons in attendance had a similar problem with mask slippage, and in some cases had removed their masks entirely at various points in the meeting, including the School District Superintendent

– Plaintiff was singled out and approached by the private security guards engaged by Defendant School District and Defendant Provenzano and Defendant Board Members, and told that she was not wearing her face mask properly and was told to leave the meeting.

39. Plaintiff was not asked to fix or readjust her mask; she was directed by the private security guards at first instance to leave the meeting.

40. Defendants School District, Provenzano and Board Members sought to, conspired to, and did deprive Plaintiff of equal protection of the law and privileges and immunities as guaranteed by the Fourteenth Amendment to the United States Constitution, and also the Fifth Amendment, as applied to the State of New York by the 14th Amendment and 42 USC 1983.

41. Defendants School District, Provenzano and Board Members summoned Defendants Sheriff and County to send officers to come to the auditorium, a public place, where Defendant School District was holding the School Board meeting due to alleged misconduct of Plaintiff not wearing her mask properly. Sheriff's Deputies acted independently, and as agents of Defendants County and Sheriff, during the course of their conduct as alleged herein.

42. Upon arriving at the School Board meeting location, Defendant Sheriff's Deputies approached Plaintiff where she had been sitting peacefully during the course of the School Board meeting and advised Plaintiff that she was being placed under arrest.

43. Plaintiff repeatedly asked Defendant Sheriff's deputies to explain why she was being arrested. Plaintiff began to record and report on the incident via cell phone for live broadcast. Realizing that they were being recorded, Defendant Sheriff's Deputies eventually stated that Plaintiff was being arrested for trespass.

44. Defendant Sheriff's deputies never gave Plaintiff warning that she would be arrested unless she adjusted her mask; they simply forcibly lifted Plaintiff out of her seat, advised that they weren't going to arrest Plaintiff and just wanted to speak with Plaintiff, and then handcuffed her and took her outside the building, and contrary to their statement, arrested her.

45. Two of Defendants Sheriff's Deputies who responded were wearing their masks below their noses. In fact, the masks worn by two Defendants Sheriff's Deputies fell below their chins.

46. In full view of the numerous parents and school board members and other persons present in the auditorium, the Sheriff's deputies forcibly removed Plaintiff from the meeting location without her consent by lifting the Plaintiff from her chair and – by physical contact – removed Plaintiff from the meeting location.

47. As she was being forcibly removed by Defendant Sheriff's deputies in the aforesaid manner and still in view of the persons present at the School Board meeting, Sheriff's Deputies placed Plaintiff's hands behind her back, handcuffed her and forced Plaintiff into the back seat of a police vehicle, where Plaintiff was forced to remain for approximately an hour without the ability to leave, in the full view of passersby, until Plaintiff was eventually released.

48. During the time Plaintiff was confined to the rear seat of the patrol car, the School Board meeting continued. Plaintiff was prevented from attending and participating in the balance of the School Board meeting.

49. Plaintiff asked the Sheriff's deputies the name of the person who filed the complaint against her, and who called the police, and what did that caller ask the police to do, and one officer responded "[superintendent] Brett Provenzano asked us to arrest Shannon Joy and no one else."

50. An appearance ticket was issued to Plaintiff specifying PL 140.05, violation Trespass, as the charge against Plaintiff. That appearance ticket is annexed hereto as **Exhibit "B"**. Plaintiff was forcibly restrained, and forcibly removed in a manner appropriate for violent felony conduct, for an alleged violation-level offense.

51. Plaintiff was forced to retain counsel at personal expense to represent her in the criminal proceedings, and to attend at Perinton Town Court in Fairport, New York.

52. Plaintiff's counsel provided the Monroe County District Attorney and Defendant Sheriff Department with the evidence of Plaintiff's mask being worn, but occasionally slipping from her nose, digital images from the school board meeting of the school superintendent's mask falling below his nose, digital images of the responding police officers with their masks falling below their noses (and chins), digital evidence of the conduct of Plaintiff at the meeting, evidence of other people

present at the meeting not wearing masks, and video evidence of the manner in which Plaintiff was forcibly removed and arrested.

53. The evidence showed that Plaintiff's conduct did not constitute probable cause for an arrest.

54. Plaintiff's attorney raised the issue in open Court at the first appearance of the absence of probable cause for an arrest.

55. On or about September 14, 2021, while at the Perinton Town Court in the Town of Fairport, before Town Justice Hon. Thomas A. Klonick, and after arraignment, and after Plaintiff's counsel recited the aforesaid, the Monroe County District Attorney's Office moved to dismiss the sole charge of trespass which was the basis for the aforesaid arrest, stating that the dismissal was in furtherance of the interests of justice.

56. That motion to dismiss the charge was granted by Judge Klonick.

57. A copy of the transcript of that proceeding is annexed hereto as **Exhibit "C"**.

58. Defendants School District, Superintendent Provenzano and Board Members acted individually, and in concert with one another, to deprive Plaintiff of her Constitutional rights to free speech, to assemble, to redress grievances and to participate in the school board meeting of the school district her child(ren) attend(s) and to which Plaintiff pays taxes.

59. Defendants Sheriff's Deputies, County of Monroe and Monroe County Sheriff acted individually, and in concert with one another, to deprive Plaintiff of her Constitutional rights to free speech, to assemble, to redress grievances and to participate in the school board meeting of the school district her child(ren) attend(s) and to which Plaintiff pays taxes.

60. The conduct of all Defendants herein, both in the conspiracy and the physical actions upon Plaintiff, resulted in injury to Plaintiff's legal right and privilege to attend the meeting, to participate in the meeting, and to monitor the meeting.

61. Upon information and belief, prior to the subject school board meeting, Defendants School District, Provenzano, Board Members, County and Monroe County Sheriff, acting under color of law, communicated with one another to plan the specific tortious and unconstitutional conduct herein alleged against Plaintiff. The conduct alleged herein was orchestrated and implemented by Defendants School District, Provenzano, Board Members, County and Monroe County Sheriff, and did cause harm to Plaintiff.

62. Defendants Sheriff's Deputies were utilized by Defendants School District, Provenzano, Board Members, County and Monroe County Sheriff to carry out the plan to deprive Plaintiff of her Constitutional rights, and to commit the torts alleged in this complaint.

63. Defendants Sheriff's Deputies, as police officers, knew and should have known better than to violate the rights of Plaintiff, even if said violations were at the behest and order of other defendants herein.

64. Defendants Sheriff's Deputies have, and at all times herein relevant, had a duty to protect the rights of Plaintiff, and to protect Plaintiff from the tortious conduct to which Plaintiff was subjected.

65. Defendants Sheriff's Deputies under color of law acted improperly, unlawfully and tortiously, and without justification, in bullying, battering, embarrassing, and humiliating Plaintiff.

66. Defendants Sheriff's Deputies under color of law acted improperly, unlawfully and tortiously, and without justification, in depriving Plaintiff of her Constitutional rights in the manner set forth herein.

67. All Defendants herein conspired, colluded and acted in concert to commit the cognizable torts against Plaintiff set forth in this complaint.

68. All Defendants herein conspired, colluded and acted in concert to exceed their lawful authority and to act against Plaintiff in a manner repugnant to the United States Constitution.

69. Defendants' actions, to the extent they were intentional, comprise torts that are both federal Constitutional infringements, as well as New York State law violations. See, eg., Johnson v Glick, 481 F2d 1028 (2d Cir. 1973), cert. denied sub nom. 414 US 1148 (1973), Baker v. McCollan, 443 US 137 (1979).

70. Defendants individually, and in concert, and by conspiracy, violated Plaintiff's Constitutionally protected (federal) rights, and committed torts recognized under New York State law.

71. Upon information and belief, and in furtherance of the conspiracy, Defendant Provenzano falsely reported that Plaintiff was trespassing, and otherwise disturbing the peace at the board meeting. This act was designed to elicit a response by armed police officers who would – and did - forcibly remove Plaintiff from the school board meeting.

72. Upon information and belief, and in furtherance of the conspiracy, Defendants School Board Members authorized Defendant Provenzano to falsely report that Plaintiff was trespassing, and otherwise disturbing the peace at the board meeting.

73. Upon information and belief, and in furtherance of the conspiracy, Defendants County and Sheriff had pre-arranged with Defendants Provenzano and School Board Members to have a private security force in place at the meeting specifically, at least in part, to confront Plaintiff.

74. Upon information and belief, and in furtherance of the conspiracy, Defendants County and Sheriff had pre-arranged with Defendants Provenzano and School Board Members to trigger a response by police officers if Plaintiff was present at the subject school board meeting, such that Plaintiff would be forcibly removed, regardless of whether Plaintiff had created an unlawful disturbance.

75. Upon information and belief, and in furtherance of the conspiracy, Defendants County and Sheriff had pre-arranged and conspired with Defendants Provenzano and School Board Members to have armed officers respond to forcibly remove Plaintiff, in anticipation that Plaintiff would not leave quietly and would thereby create a commotion warranting the use of force by the responding police officers.

76. In furtherance of the conspiracy, Defendants Provenzano and School Board Members reported to Defendants County, Sheriff, and Sheriff's Deputies that Plaintiff was trespassing, not wearing a mask and was otherwise disturbing the peace at the board meeting. This act was designed to elicit a response by armed police officers who would – and did - forcibly remove Plaintiff from the school board meeting.

77. The acts aforesaid were designed to cause an overreaction by Plaintiff that would justify the use of physical force and arrest.

78. To Defendants' disappointment, and to Plaintiff's credit, Plaintiff reacted within the bounds of the law, and had the presence of mind to record the events as they unfolded, resulting in the withdrawal of the charges against her by the Monroe County District Attorney, and the dismissal of the charges by the Town Justice.

79. Defendants Sheriff's Deputies were negligent in taking no action to protect Plaintiff when they knew, or should have known, of the wrongs visited upon Plaintiff by the other Defendants.

80. Defendant Sheriff's Deputies knew, or should have known, that Defendants School District, County and School Board Members were attempting to use police powers to stifle critical political speech. Sheriff's Deputies permitted themselves to be used for that illegal purpose. They should have used their power to protect Plaintiff in her efforts to peacefully attend that meeting and speak. 42 USC 1986.

81. Plaintiff was humiliated, embarrassed, physically harmed, emotionally harmed, emotionally and physically traumatized and otherwise rendered sick, sore and disabled as a direct result of the conduct of all Defendants herein.

82. Plaintiff was deprived of her rights guaranteed under the Constitution of the United States of America as a direct result of the conduct of all Defendants herein.

**FIRST CAUSE OF ACTION
AGAINST ALL DEFENDANTS**

Violation of Constitutional Rights pursuant to 42 U.S.C. §1983

83. Plaintiff repeats and realleges paragraphs "1" through "82" as if fully set forth herein.

84. At the August 24, 2021 public governmental (school board) meeting, Plaintiff was subjected to conduct by Defendants depriving her of rights, privileges and immunities secured the Constitution and laws of the United States.

85. As a parent of an enrolled student, and as a taxpayer and member of the press with rights, license and privilege to be present at the aforesaid School Board meeting, Plaintiff was lawfully entitled to be present.

86. The State's trespass laws were invoked by the several Defendants and by the Defendants individually, solely for the purpose of excluding Plaintiff from exercising her First Amendment and other Constitutionally protected rights.

87. Defendants' conduct, individually and collectively, were retaliation against Plaintiff for her exercising her Constitutionally protected and guaranteed rights of freedom of speech and freedom of the press, both as set forth in the First Amendment.

88. Defendants' conduct was intended to, and resulted in, Plaintiff's exclusion from the school board meeting.

89. Defendants' conduct was retaliatory for past speech and press, and to stifle, prevent, silence and interfere with Plaintiff from speaking at and reporting about that August 24, 2021 school board meeting.

90. Defendants' conduct had no legitimate purpose and was unlawful.

91. Similarly, under the First Amendment, members of the press such as the Plaintiff have the right to access to public information and to observe the public business such as the above-described school board meeting for the purpose of gathering and disseminating news, and such persons may not be denied such access without good cause being shown.

92. Plaintiff was denied her Constitutional rights as a news reporter as secured and guaranteed by the First Amendment; freedom of the press was interfered with, restricted, abridged and curtailed.

93. Plaintiff was denied her Constitutional right to free speech as secured and guaranteed by the First Amendment; freedom of speech was interfered with, restricted, abridged and curtailed.

94. Plaintiff was denied her Constitutional right to liberty as secured and guaranteed by the Fifth and Fourteenth Amendments.

95. In the instant case, Defendants charged Plaintiff with trespass and caused her to be forcibly removed from the School Board meeting without her consent, as stated aforesaid, resulting in the exclusion and preclusion of Plaintiff from exercising her First Amendment rights on an issue being addressed by the School Board at the above-referenced meeting, and to retaliate against Plaintiff for her prior exercise of her First Amendment rights.

96. Plaintiff was barred and removed from Defendant School District premises and deprived of her liberty in the aforesaid manner without a lawful Court order and without good cause and with no probable cause for an arrest of the Plaintiff on a charge of trespass, in the absence of any violation or crime.

97. Accordingly, the above-described conduct of Defendants was in violation of the Plaintiff's Constitutional rights entitling her to redress under 42 U.S.C. §1983.

98. Defendants' conduct of improperly physically removing and excluding Plaintiff from Defendant School District meeting as described herein violated Plaintiff's Constitutional rights and 42 U.S.C. § 1983 specifically as aforementioned, and as follows:

- a. Defendants' conduct constituted false arrest and false imprisonment and conspiracy to engage in same, resulting in a deprivation of a liberty interest in violation of the Fifth and Fourteenth Amendments to the United States Constitution;
- b. Defendants' false arrest and false imprisonment of Plaintiff, and conspiracy to engage in same, without warrant or probable cause violated Plaintiff's rights under the Fourth Amendment to be free from unreasonable seizure and arrest;
- c. Defendants' conduct constitutes conspiracy to commit battery, and battery by a State actor in violation of the Plaintiff's Fourth, Fifth and Fourteenth Amendment rights; and
- d. Defendants' wrongful seizure and arrest of Plaintiff was in violation of Plaintiff's Fourth Amendment rights for the false arrest, false imprisonment, battery, defamation, intentional and negligent infliction of emotional distress, as well as the conspiracy to commit the aforementioned cognizable torts.
- e. Defendants' exclusion of Plaintiff from the school board meeting because of Plaintiff's political views and public commentary, while allowing others to remain in attendance, was a deprivation of Plaintiff's right to equal protection under the laws, and a violation of the privileges and immunities clause of the 14th Amendment to the United States Constitution.

99. By reason of Defendants' aforesaid violations of 42 U.S.C. §1983 and the referenced Amendments to the United States Constitution, Plaintiff is entitled to relief.

**SECOND CAUSE OF ACTION
AGAINST COUNTY OF MONROE, MONROE COUNTY SHERIFF and
SHERIFF'S DEPUTIES**

FALSE ARREST

100. Plaintiff repeats and realleges paragraphs "1" through "99" as if fully set forth herein.

101. By arresting Plaintiff at Defendant School District's School Board meeting on August 24, 2021 and forcibly removing the Plaintiff from the premises and placing the Plaintiff in a police vehicle as stated above, Defendants County and Sheriff and Sheriff's Deputies intentionally confined Plaintiff without her consent, and Plaintiff was aware of the fact that she was removed from the premises and being confined without her consent.

102. The confinement of Plaintiff was not otherwise privileged.

103. Inasmuch as there was no lawful order in effect to exclude the Plaintiff from Defendant School District premises when Plaintiff was arrested and removed by the Defendants County and Sheriff and Sheriff's Deputies, at the behest of Defendant School District, nor was there good cause to exclude the Plaintiff from the premises as a member of the press, there was no probable cause that the Plaintiff had committed the crime of trespass or any other crime, and the arrest was not otherwise justified.

104. Defendants Sheriff's Deputies failed to exercise their own independent judgment in assessing the conduct of Plaintiff, and blindly followed the orders of other Defendants in taking certain action against Plaintiff.

105. Furthermore, confirming that no probable cause existed for the subject arrest, the charge of arrest was subsequently dismissed on or about September 14, 2021.

106. The tortious and wrongful conduct of Defendants County, Sheriff's Deputies and Sheriff constituted false arrest in violation of Plaintiff's rights and the Plaintiff is entitled to relief.

**THIRD CAUSE OF ACTION
AGAINST COUNTY OF MONROE AND MONROE COUNTY SHERIFF
and SHERIFF'S DEPUTIES**

FALSE IMPRISONMENT

107. The Plaintiff repeats and realleges paragraphs "1" through "106" as if fully set forth herein.

108. Defendants County, Sheriff and Sheriff's Deputies intended to confine Plaintiff.

109. Plaintiff was aware and cognizant of the confinement and did not agree to be confined.

110. No probable cause existed that Plaintiff had committed a violation or crime when she was confined and the aforesaid confinement was not legally justified or otherwise privileged or permissible.

111. No conduct on the part of Plaintiff justified the level of force and restraint applied to Plaintiff by Defendants County, Sheriff and Sheriff's Deputies.

112. The unlawful and tortious confinement of the Plaintiff by Defendants County and Sheriff constitutes false imprisonment in violation of Plaintiff's rights and Plaintiff is entitled to relief.

**FOURTH CAUSE OF ACTION
AGAINST DEFENDANTS COUNTY OF MONROE, MONROE COUNTY
SHERIFF and SHERIFF'S DEPUTIES**

BATTERY

113. Plaintiff repeats and realleges paragraphs "1" through "112" as if fully set forth herein.

114. Defendants County, Sheriff, and Sheriff's Deputies, made unlawful and intentional physical bodily contact with Plaintiff.

115. By the acts of physically removing Plaintiff from the school board meeting by lifting Plaintiff from her chair, physically taking Plaintiff from the meeting location, physically placing Plaintiff's hands behind her back, handcuffing Plaintiff and forcing Plaintiff into a police vehicle, in full view of the persons present

in the meeting location, Defendants County, Sheriff and Sheriff's Deputies intended to and did subject Plaintiff to offensive, insulting and humiliating physical contact.

116. By physically contacting and removing Plaintiff in the aforesaid manner, Defendant Sheriff's Deputies did subject Plaintiff to offensive, insulting and humiliating physical contact.

117. The tortious and wrongful conduct of Defendants Sheriff's Deputies, County and Sheriff constitute battery in violation of Plaintiff's rights and Plaintiff is entitled to relief.

FIFTH CAUSE OF ACTION AGAINST ALL DEFENDANTS:

DEFAMATION

118. Plaintiff repeats and realleges paragraphs "1" through "117" as if fully set forth herein.

119. Defendants' comments, words, utterances and publication constituted false, misleading and untrue statements to others and those within earshot.

120. Said comments, words, utterances and publications were with malice, ill will, scienter, and/or deliberate falsification.

121. The actions of all Defendants herein aforestated had the direct, natural result of injuring Plaintiff's reputation and character.

122. The false statements by Defendants School District, School Board Members and Provenzano did cause Defendants County, Sheriff and Sheriff's Deputies to act inappropriately, excessively and unlawfully toward Plaintiff.

123. The actions of all Defendants proximately caused injury to Plaintiff's reputation and character, and were intended to induce others to refrain from dealing with Plaintiff or discredit Plaintiff such that Plaintiff's standing and credibility as a source of news and political commentary would be impaired.

124. Defendants' actions were defamatory, caused injury to Plaintiff's reputation, and additionally constitute injurious falsehood and slander.

**SIXTH CAUSE OF ACTION
AGAINST ALL DEFENDANTS:**

INTENTIONAL INFLICTION OF EMOTIONAL DISTRESS

125. Plaintiff repeats and realleges paragraphs "1" through "124" as if fully set forth herein.

126. Defendant County, Sheriff and Sheriff's Deputies, at the behest and instruction of Defendant School District, physically removed Plaintiff and/or had her removed from the August 24, 2021 school board meeting, arrested or had Plaintiff arrested, without probable cause, did so in full view of many persons present at the meeting, and physically restrained and confined Plaintiff, and/or had Plaintiff restrained and confined, without Plaintiff's consent.

127. Defendants acted extremely and outrageously, and with the intent to cause Plaintiff severe emotional distress and to punish Plaintiff for her critical speech and critical news reporting.

128. Defendants School District, Provenzano and School Board Members acted in retaliation against Plaintiff for Plaintiff's criticism of these Defendants as communicated by Plaintiff over the airwaves and in print. It was Defendants School District's, Provenzano and School Board Members' intention to punish, humiliate, embarrass and "teach Plaintiff a lesson" about speaking out against these Defendants by subjecting Plaintiff to the conduct alleged herein.

129. Plaintiff was caused to fear for her own safety at the hands of Defendants.

130. The intentional acts of Defendants in causing Defendant Sheriff's officers to come to the Defendant School District's board meeting to physically remove Plaintiff without a lawful order and place Plaintiff under arrest and be subjected to criminal prosecution without probable cause constitutes extreme and outrageous conduct intended to cause, and which did cause, Plaintiff severe emotional distress.

131. The aforesaid extreme and outrageous conduct of the Defendants did cause the Plaintiff severe emotional distress and such wrongful and tortious conduct of the Defendants constitutes intentional infliction of emotional distress in violation of Plaintiff's rights and entitles Plaintiff to relief.

**SEVENTH CAUSE OF ACTION
AGAINST ALL DEFENDANTS:**

NEGLIGENT INFLICTION OF EMOTIONAL DISTRESS

132. Plaintiff repeats and realleges paragraphs “1” through “131” as if fully set forth herein.

133. Defendants had a duty to protect all persons lawfully attending the school board meeting of August 24, 2021 against tortious conduct.

134. Defendants, and each Defendant, breached that duty to Plaintiff.

135. Plaintiff had a license and privilege to be present at the above-described School Board meeting. Defendants owed the Plaintiff the duty not to subject the Plaintiff to severe emotional distress through the aforesaid extreme and outrageous conduct of the Defendants.

136. Defendants intended to punish Plaintiff for her critical speech and critical news reporting regarding Defendants.

137. As the direct and foreseeable result of Defendants’ aforesaid extreme and outrageous conduct of physically removing Plaintiff from the school board meeting and publicly arresting Plaintiff without probable cause, and causing Plaintiff to be embarrassed and to fear for her own safety, Plaintiff suffered extreme emotional distress.

138. Defendants’ tortious and wrongful conduct breached the aforesaid duty of care owed to Plaintiff and constitutes negligent infliction of emotional distress and the Plaintiff is entitled to relief.

EIGHTH CAUSE OF ACTION AGAINST ALL DEFENDANTS:

**NEW YORK COMMON LAW CONSPIRACY TO COMMIT THE
COGNIZABLE TORTS OF FALSE ARREST, FALSE IMPRISONMENT,
BATTERY, DEFAMATION, NEGLIGENT INFLICTION OF
EMOTIONAL DISTRESS, AND INTENTIONAL INFLICTION OF
EMOTIONAL DISTRESS**

139. Plaintiff repeats and realleges paragraphs “1” through “138” as if set forth herein again.

140. Defendants did conspire and agree to commit the cognizable torts set forth in causes of action Second through Seventh.

141. Defendants Sheriff’s Deputies were brought in to execute the plan, and did in fact inflict the harm upon Plaintiff as planned and as hereinbefore set forth, although their specific complicity prior to their final role as henchmen, enforcers, physical actors and arresters is unclear.

142. Defendants did commit overt acts in furtherance of their conspiracy to commit the cognizable torts set forth herein.

143. Defendant School District did falsely report a trespass to Defendants County and Sheriff, and did coopt Defendants County, Sheriff and Sheriff’s Deputies to knowingly arrest, confine, restrain, defame, humiliate, embarrass, punish, retaliate against and otherwise inflict injury upon Plaintiff in the absence of any probable cause to support a charge of trespass.

144. By virtue of the aforesaid, Plaintiff was caused to suffer damages for which she is entitled to relief.

NINTH CAUSE OF ACTION AGAINST ALL DEFENDANTS:
CONSPIRACY TO INTERFERE WITH CIVIL RIGHTS UNDER
42 USC §§1985 and 1986

145. Plaintiff repeats and realleges paragraphs “1” through “144” as if set forth herein again.

146. Acting in their individual capacities, and also under color of New York State Law, Defendants acted as set forth herein. (42 USC 1985(3) does not require state action, and reaches private conspiracies to deprive a Plaintiff of Constitutional rights. See, eg., *Griffin v. Breckenridge*, 403 US 88 (1971)).

147. Defendants did conspire to deprive Plaintiff of her Constitutional rights as previously set forth herein and conspired to use police power to stifle critical political speech, and to punish a broadcaster for her public criticism of Defendants.

148. Defendants School District and School Board Members did act in furtherance of that conspiracy by falsely reporting the conduct of Plaintiff to Defendant Monroe County Sheriff and Sheriff's Deputies, and to the private security firm retained for the purpose of stifling, muting and excluding Plaintiff from the public board meeting, in pressing charges against Plaintiff for conduct that was not criminal or in violation of any statute, and with intent to deprive Plaintiff of the equal protection of the law as well as privileges and immunities under the law.

WHEREFORE, Plaintiff demands Judgment as follows:

- (a) Under the First Cause of Action against all Defendants:
 - 1) Compensatory damages in the amount of THREE MILLION FIVE HUNDRED THOUSAND (\$3,500,000) DOLLARS;
 - 2) Punitive damages in the amount of FIVE MILLION (\$5,000,000) DOLLARS;
 - 3) Plaintiff's attorney's fees pursuant to 42 U.S.C. § 1988;
 - 4) Such other and further relief as the Judge or Jury deems reasonable in favor of Plaintiff.

- (b) Under all causes of action sounding in tort against all Defendants:
 - 1) Compensatory damages in the amount of THREE HUNDRED FIFTY THOUSAND (\$350,000) DOLLARS;
 - 2) Plaintiff's attorneys fees, appropriate interest, costs and disbursements; and
 - 3) Such other and further relief as the Judge or Jury deems reasonable in favor of Plaintiff.

- (c) Under the Ninth Cause of Action against all Defendants:

- 1) Compensatory damages in the amount of THREE MILLION FIVE HUNDRED THOUSAND (\$3,500,000) DOLLARS;
- 2) Punitive damages in the amount of FIVE MILLION (\$5,000,000) DOLLARS;
- 3) Plaintiff's attorney's fees pursuant to 42 U.S.C. § 1988;
- 4) Such other and further relief as the Judge or Jury deems reasonable in favor of Plaintiff.

DEMAND FOR JURY TRIAL

The Plaintiff respectfully requests a jury trial of all matters so triable.

Dated: February 10, 2022
Amherst, New York

HOGANWILLIG, PLLC

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