

JS 44 (Rev. 12/12)

**CIVIL COVER SHEET**

The JS 44 civil cover sheet and the information contained herein neither replace nor supplement the filing and service of pleadings or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. (SEE INSTRUCTIONS ON NEXT PAGE OF THIS FORM.)

**I. (a) PLAINTIFFS**

Lakendus Cole And Leon Edmond, Individually And As Representatives  
Of All Others Similarly Situated

(b) County of Residence of First Listed Plaintiff Shelby  
(EXCEPT IN U.S. PLAINTIFF CASES)

(c) Attorneys (Firm Name, Address, and Telephone Number)

Robert L. J. Spence, Jr. and Bryan M. Meredith  
SpenceWalk, PLLC, 1 Commerce Sq. Suite 2200, Memphis TN 38103  
(901) 312-9160

**DEFENDANTS**

City Of Memphis, and Robert Forbert, Samuel Hearn, Christopher  
Bing, John Faircloth, Cari Cooper and Robert Skelton Individually and  
In Their Official Capacities as City Of Memphis Police Officers

County of Residence of First Listed Defendant Shelby  
(IN U.S. PLAINTIFF CASES ONLY)

NOTE: IN LAND CONDEMNATION CASES, USE THE LOCATION OF  
THE TRACT OF LAND INVOLVED.

Attorneys (If Known)

Herman Morris  
City of Memphis Attorney's Office  
125 North Main, Suite 336, Memphis, Tennessee 38103

**II. BASIS OF JURISDICTION** (Place an "X" in One Box Only)

- ☐ 1 U.S. Government Plaintiff
- ☒ 3 Federal Question  
(U.S. Government Not a Party)
- ☐ 2 U.S. Government Defendant
- ☐ 4 Diversity  
(Indicate Citizenship of Parties in Item III)

**III. CITIZENSHIP OF PRINCIPAL PARTIES** (Place an "X" in One Box for Plaintiff and One Box for Defendant)

- |   | PTF                        | DEF                        |   | PTF                        | DEF                        |
|---|----------------------------|----------------------------|---|----------------------------|----------------------------|
| Citizen of This State                   | <input type="checkbox"/> 1 | <input type="checkbox"/> 1 | Incorporated or Principal Place of Business In This State     | <input type="checkbox"/> 4 | <input type="checkbox"/> 4 |
| Citizen of Another State                | <input type="checkbox"/> 2 | <input type="checkbox"/> 2 | Incorporated and Principal Place of Business In Another State | <input type="checkbox"/> 5 | <input type="checkbox"/> 5 |
| Citizen or Subject of a Foreign Country | <input type="checkbox"/> 3 | <input type="checkbox"/> 3 | Foreign Nation  | <input type="checkbox"/> 6 | <input type="checkbox"/> 6 |

**IV. NATURE OF SUIT** (Place an "X" in One Box Only)

CONTRACT	TORTS	FORFEITURE/PENALTY	BANKRUPTCY	OTHER STATUTES
<input type="checkbox"/> 110 Insurance <input type="checkbox"/> 120 Marine <input type="checkbox"/> 130 Miller Act <input type="checkbox"/> 140 Negotiable Instrument <input type="checkbox"/> 150 Recovery of Overpayment & Enforcement of Judgment <input type="checkbox"/> 151 Medicare Act <input type="checkbox"/> 152 Recovery of Defaulted Student Loans (Excludes Veterans) <input type="checkbox"/> 153 Recovery of Overpayment of Veteran's Benefits <input type="checkbox"/> 160 Stockholders' Suits <input type="checkbox"/> 190 Other Contract <input type="checkbox"/> 195 Contract Product Liability <input type="checkbox"/> 196 Franchise	<b>PERSONAL INJURY</b> <input type="checkbox"/> 310 Airplane <input type="checkbox"/> 315 Airplane Product Liability <input type="checkbox"/> 320 Assault, Libel & Slander <input type="checkbox"/> 330 Federal Employers' Liability <input type="checkbox"/> 340 Marine <input type="checkbox"/> 345 Marine Product Liability <input type="checkbox"/> 350 Motor Vehicle <input type="checkbox"/> 355 Motor Vehicle Product Liability <input type="checkbox"/> 360 Other Personal Injury <input type="checkbox"/> 362 Personal Injury - Medical Malpractice	<input type="checkbox"/> 625 Drug Related Seizure of Property 21 USC 881 <input type="checkbox"/> 690 Other	<input type="checkbox"/> 422 Appeal 28 USC 158 <input type="checkbox"/> 423 Withdrawal 28 USC 157 <b>PROPERTY RIGHTS</b> <input type="checkbox"/> 820 Copyrights <input type="checkbox"/> 830 Patent <input type="checkbox"/> 840 Trademark <b>SOCIAL SECURITY</b> <input type="checkbox"/> 861 HIA (1395ff) <input type="checkbox"/> 862 Black Lung (923) <input type="checkbox"/> 863 DIWC/DIWW (405(g)) <input type="checkbox"/> 864 SSID Title XVI <input type="checkbox"/> 865 RSI (405(g))	<input type="checkbox"/> 375 False Claims Act <input type="checkbox"/> 400 State Reapportionment <input type="checkbox"/> 410 Antitrust <input type="checkbox"/> 430 Banks and Banking <input type="checkbox"/> 450 Commerce <input type="checkbox"/> 460 Deportation <input type="checkbox"/> 470 Racketeer Influenced and Corrupt Organizations <input type="checkbox"/> 480 Consumer Credit <input type="checkbox"/> 490 Cable/Sat TV <input type="checkbox"/> 850 Securities/Commodities/Exchange <input type="checkbox"/> 890 Other Statutory Actions <input type="checkbox"/> 891 Agricultural Acts <input type="checkbox"/> 893 Environmental Matters <input type="checkbox"/> 895 Freedom of Information Act <input type="checkbox"/> 896 Arbitration <input type="checkbox"/> 899 Administrative Procedure Act/Review or Appeal of Agency Decision <input type="checkbox"/> 950 Constitutionality of State Statutes
<b>REAL PROPERTY</b> <input type="checkbox"/> 210 Land Condemnation <input type="checkbox"/> 220 Foreclosure <input type="checkbox"/> 230 Rent Lease & Ejectment <input type="checkbox"/> 240 Torts to Land <input type="checkbox"/> 245 Tort Product Liability <input type="checkbox"/> 290 All Other Real Property	<b>CIVIL RIGHTS</b> <input checked="" type="checkbox"/> 440 Other Civil Rights <input type="checkbox"/> 441 Voting <input type="checkbox"/> 442 Employment <input type="checkbox"/> 443 Housing/Accommodations <input type="checkbox"/> 445 Amer. w/Disabilities - Employment <input type="checkbox"/> 446 Amer. w/Disabilities - Other <input type="checkbox"/> 448 Education	<b>PRISONER PETITIONS</b> <b>Habeas Corpus:</b> <input type="checkbox"/> 463 Alien Detainee <input type="checkbox"/> 510 Motions to Vacate Sentence <input type="checkbox"/> 530 General <input type="checkbox"/> 535 Death Penalty <b>Other:</b> <input type="checkbox"/> 540 Mandamus & Other <input type="checkbox"/> 550 Civil Rights <input type="checkbox"/> 555 Prison Condition <input type="checkbox"/> 560 Civil Detainee - Conditions of Confinement	<b>LABOR</b> <input type="checkbox"/> 710 Fair Labor Standards Act <input type="checkbox"/> 720 Labor/Management Relations <input type="checkbox"/> 740 Railway Labor Act <input type="checkbox"/> 751 Family and Medical Leave Act <input type="checkbox"/> 790 Other Labor Litigation <input type="checkbox"/> 791 Employee Retirement Income Security Act <b>IMMIGRATION</b> <input type="checkbox"/> 462 Naturalization Application <input type="checkbox"/> 465 Other Immigration Actions	<b>FEDERAL TAX SUITS</b> <input type="checkbox"/> 870 Taxes (U.S. Plaintiff or Defendant) <input type="checkbox"/> 871 IRS—Third Party 26 USC 7609

**V. ORIGIN** (Place an "X" in One Box Only)

- ☒ 1 Original Proceeding
- ☐ 2 Removed from State Court
- ☐ 3 Remanded from Appellate Court
- ☐ 4 Reinstated or Reopened
- ☐ 5 Transferred from Another District (specify)
- ☐ 6 Multidistrict Litigation

**VI. CAUSE OF ACTION**

Cite the U.S. Civil Statute under which you are filing (Do not cite jurisdictional statutes unless diversity):  
42 U.S.C. 1983

Brief description of cause:

Complaint pursuant to 42 U.S.C. 1983 for deprivation of rights under the Fourth and Fourteenth Amendments

**VII. REQUESTED IN COMPLAINT:**

☒ CHECK IF THIS IS A CLASS ACTION UNDER RULE 23, F.R.Cv.P.

DEMAND \$  
5,000,000.00

CHECK YES only if demanded in complaint:

JURY DEMAND: ☒ Yes ☐ No

**VIII. RELATED CASE(S) IF ANY**

(See instructions):

JUDGE

DOCKET NUMBER

DATE

02/25/2013

SIGNATURE OF ATTORNEY OF RECORD

/s/ Robert L. J. Spence, Jr.

FOR OFFICE USE ONLY

RECEIPT #

AMOUNT

APPLYING IFP

JUDGE

MAG. JUDGE

IN THE UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF TENNESSEE  
WESTERN SECTION

---

LAKENDUS COLE and LEON EDMOND,  
INDIVIDUALLY AND AS REPRESENTATIVES  
OF ALL OTHERS SIMILARLY SITUATED,

Plaintiffs,

vs.

Docket No. 2:13-cv-2117

CITY OF MEMPHIS,  
and ROBERT FORBERT, SAMUEL HEARN,  
CHRISTOPHER BING, JOHN FAIRCLOTH,  
CARI COOPER and ROBERT SKELTON  
INDIVIDUALLY AND IN THEIR OFFICIAL  
CAPACITIES AS CITY OF MEMPHIS  
POLICE OFFICERS,

Defendants.

---

**CLASS ACTION COMPLAINT FOR DAMAGES, COMPLAINT FOR DAMAGES FOR  
DEPRIVATION OF CONSTITUTIONAL RIGHTS AND INJUNCTIVE RELIEF**

---

COME NOW Plaintiffs Lakendus Cole and Leon Edmond, individually and as class representatives by and through counsel, and file this Class Action Complaint Against the City of Memphis and Complaint against the City of Memphis and individually named defendants (hereinafter referred to as the "Complaint") and state as follows:

**I. INTRODUCTION**

This action is brought by Plaintiff Lakendus Cole, a police officer employed with the City of Memphis Police Department Organized Crime Unit, and Plaintiff Leon

Edmond, a Special Agent employed with the Bureau of Alcohol, Tobacco, Firearms and Explosives, against the City of Memphis for the creation and implementation of an unlawful policy, custom, procedure or practice on Beale Street in Memphis, Tennessee which violates the Fourth and Fourteenth Amendments to the Constitutions of the United States of America and the State of Tennessee.

The Plaintiffs, individually and on behalf of individuals similarly situated, assert a class action claim against the City of Memphis for the policy, procedure, custom, or practice by which police officers of the Memphis Police Department (hereinafter referred to as the “MPD”) order all persons to immediately leave the sidewalks and street on Beale Street when there are no circumstances present which threaten the safety of the public or MPD police officers (referred to in this Introduction as the “Beale Street Police Sweep”). The Beale Street Police Sweep routinely occurs in the early morning hours on Saturdays and Sundays and during certain scheduled entertainment events on weekdays.

The City of Memphis is acutely aware by virtue of the repeated abuse of persons which routinely occurs during Beale Street Police Sweeps that the policy and manner of execution of this unconstitutional policy incites violence amongst its employee police officers and creates an environment where they become aggressive, agitated, frenetic, and confrontational with persons lawfully standing on a sidewalk or upon Beale Street.

As a result of the Beale Street Police Sweeps, Memphis police officers deprive persons of their constitutional rights, commit vicious and violent assaults, use excessive force, unlawfully detain and arrest, and fabricate criminal charges all in an effort to conceal their unlawful conduct and in furtherance of the City’s unconstitutional policy.

The Plaintiffs request that the Court after a hearing issue a preliminary and permanent injunction enjoining the City of Memphis from continuing this unlawful and unconstitutional policy.

The Plaintiffs also assert claims in their individual capacity pursuant to 42 U.S.C. §1983 against the City of Memphis for (1) its policy, procedure, custom or practice of committing assaults, excessive force, unlawful detentions and/or arrests, and fabricating false criminal charges against law abiding persons on Beale Street; (2) its knowledge and acquiescence in the Individual Defendants use of excessive force, unlawful detention and/or arrest, and fabrication of false criminal charges against law abiding persons on Beale Street; and (3) the City of Memphis' deliberate indifference to the harm caused to persons resulting from the unlawful and unconstitutional policy.

## **II. PARTIES**

1. Class Representative, Plaintiff Lakendus Cole (hereinafter referred to as "Plaintiff Cole"), is an adult resident of Memphis, Shelby County, Tennessee and, at all times relevant hereto, was a police officer employed with the City of Memphis Police Department. Plaintiff Cole is a representative of a class of Plaintiffs consisting of citizens assaulted, subjected to excessive force, unlawfully detained, and/or unlawfully arrested, and falsely charged with a crime on Beale Street between the intersections of Second Street and Fourth Street in Memphis, Tennessee (hereinafter referred to as the "Beale Street Entertainment District").

2. Class Representative, Leon Edmond (hereinafter referred to as "Plaintiff Edmond"), is an adult resident of St. Louis, Missouri and, at all times relevant hereto,

was a special agent with the Bureau of Alcohol, Tobacco, Firearms and Explosives assigned to the Kansas City Field Division, St. Louis Field Office. Plaintiff Edmond is a representative of a class of Plaintiffs consisting of citizens assaulted, subjected to excessive force, unlawfully detained, and/or unlawfully arrested, and falsely charged with a crime in the Beale Street Entertainment District

3. Defendant City of Memphis is a municipal entity located in Shelby County, Tennessee, recognized by the State of Tennessee as a properly organized and legal municipal entity and can be served with process through its city attorney, Herman Morris at his office located at 125 North Main, Suite 336, Memphis, Tennessee 38103.

4. At all times relevant hereto, Defendant Robert Forbert was an employee and officer of the City of Memphis. Defendant Forbert can be found at 201 Poplar Avenue, Memphis, Tennessee 38103 for service of process. Defendant Forbert is being sued in both his official capacity as an officer of the Memphis Police Department and in his individual capacity for actions or inactions taken by him individually.

5. At all times relevant hereto, Defendant Samuel Hearn was an employee and officer of the City of Memphis. Defendant Hearn can be found at 201 Poplar Avenue, Memphis, Tennessee 38103 for service of process. Defendant Hearn is being sued in both his official capacity as an officer of the Memphis Police Department and in his individual capacity for actions or inactions taken by him individually.

6. At all times relevant hereto, Defendant Christopher Bing was an employee and officer of the City of Memphis. Defendant Bing can be found at 201 Poplar Avenue, Memphis, Tennessee 38103 for service of process. Defendant Bing is being

sued in both his official capacity as an officer of the Memphis Police Department and in his individual capacity for actions or inactions taken by him individually.

7. At all times relevant hereto, Defendant John Faircloth was an employee and officer of the City of Memphis. Defendant Faircloth can be found at 201 Poplar Avenue, Memphis, Tennessee 38103 for service of process. Defendant Faircloth is being sued in both his official capacity as an officer of the Memphis Police Department and in his individual capacity for actions or inactions taken by him individually.

8. At all times relevant hereto, Defendant Robert Skelton was an employee and officer of the City of Memphis. Defendant Skelton can be found at 201 Poplar Avenue, Memphis, Tennessee 38103 for service of process. Defendant Skelton is being sued in both his official capacity as an officer of the Memphis Police Department and in his individual capacity for actions or inactions taken by him individually.

9. At all times relevant hereto, Defendant Cari Cooper was an employee and officer of the City of Memphis. Defendant Cari Cooper can be found at 201 Poplar Avenue, Memphis, Tennessee 38103 for service of process. Defendant Cari Cooper is being sued in both her official capacity as an officer of the Memphis Police Department and in his individual capacity for actions or inactions taken by her individually.

### **III. JURISDICTION AND VENUE**

10. The acts and omissions described in the body of this Complaint all occurred in Memphis, Shelby County, Tennessee and venue is appropriate in this judicial district.

11. The jurisdiction of this lawsuit is proper in the United States District Court for the Western District of Tennessee, Western Section. Jurisdiction lies with this Court pursuant to 28 U.S.C. § 1331 and 28 U.S.C. § 1367.

### **IV. CLASS ACTION**

12. Pursuant to Rule 23(a) and 23(b)(1), (2), and (3) of the Federal Rules of Civil Procedure, Class Representatives Lakendus Cole and Leon Edmond bring this class action on their own behalf and on behalf of other similarly situated individuals who were and will be deprived of constitutional rights, assaulted, unlawfully detained, unlawfully arrested, and/or arrested without probable cause in the Beale Street Entertainment District.

13. The exact number of members in the Class identified in the preceding paragraph is not presently known, but upon information and belief, the Class includes hundreds of individuals, and is therefore so numerous that joinder of individual members in this action is impracticable.

14. There are common questions of law and fact in the action that relate to and affect the rights of each member of the Class. The relief sought is common to the entire Class, as set forth below in this Complaint.

15. The claims of the Class Representatives are typical of the Class they represent, in that the Class Representative claims that the City of Memphis violated the rights held by the Class members under the Fourth and Fourteenth Amendments to the United States Constitution, 42 U.S.C. §1983 and state law. There is no conflict between the Class Representative and any other members of the Class with respect to this action.

16. The Class Representatives are the representative parties for the Class, are able to fairly and adequately protect the interests of the Class, and will so represent the Class.

17. The attorneys for the Class Representatives are experienced and capable in complex litigation in the fields of municipal law, constitutional law and class actions.

18. The City of Memphis has acted on grounds generally applicable to the Class, thereby making final injunctive relief or corresponding injunctive relief appropriate with respect to the Class as a whole.

19. This action is properly maintained as a class action in that the prosecution of separate actions by individual Class members would create a risk of adjudications with respect to individual members of the Class that would establish incompatible standards of conduct for the City of Memphis.

20. The questions of law or fact common to the class members predominate over any questions affecting only individual members.

21. A class action is superior to other available methods for fairly and efficiently adjudicating the controversy in the class action claim.



**V. FACTS PERTAINING TO THE REPRESENTATIVE PLAINTIFFS**

**A. The Beale Street Sweep**

22. The United States Supreme Court has held that citizens of the United State of America have a right, protected by the Due Process Clause of the Fourteenth Amendment to the United States Constitution to remain in a public place with no apparent purpose.

23. The Sixth Circuit Court of Appeals has held that citizens of the United States of America have the freedom, protected by the Due Process Clause of the Fourteenth Amendment to the United States Constitution, to travel locally through public spaces and roadways.

24. At all times relevant hereto, the City of Memphis engaged in a policy, procedure, custom, or practice in which MPD police officers ordered all persons lawfully standing on the sidewalks and street in the Beale Street Entertainment District to immediately leave the Beale Street Entertainment District (hereinafter referred to as the “Beale Street Sweep”).

25. The City of Memphis conducts the Beale Street Sweep irrespective of whether circumstances exist which threaten the safety of the public or MPD police officers.

26. The Beale Street Sweep routinely occurs in the early morning hours on Saturdays and Sundays and during certain scheduled entertainment events on weekdays.

27. The City of Memphis has knowledge that the policy and manner in which the Beale Street Sweep is executed incites violence and creates an environment where

Memphis police officers involved in this unlawful conduct become highly aggressive, agitated, frenetic, and confrontational towards individuals lawfully standing and walking on Beale Street.

28. At all times relevant hereto, the Beale Street Sweep is routinely executed by MPD police officers assaulting, using excessive force, detaining, arresting and/or fabricating false creating criminal charges against persons who are engaged in lawful and constitutionally protected conduct on the street and sidewalks of the Beale Street Entertainment District.

29. As a direct and proximate cause of the execution of the Beale Street Sweep, the Plaintiffs and individuals similarly situated to the Plaintiff have sustained and will continue to sustain the deprivation of their constitutional rights and economic, physical, mental and/or emotional injuries.

**B. Plaintiff Cole, a Police Officer with the City of Memphis Police Department Organized Crime Unit**

30. In the early morning on August 26, 2012, Plaintiff Cole, while off-duty and dressed in civilian clothing, was outside of Club 152 on Beale Street in Memphis, Tennessee eating pizza purchased from a vendor next door to Club 152.

31. At all times relevant hereto, Plaintiff Cole was not intoxicated and had not consumed an alcoholic beverage.

32. Pursuant to the Beale Street Sweep, prior to Plaintiff exiting Club 152, MPD police officers including the Individual Defendants ordered all individuals to immediately leave the sidewalks and street in the Beale Street Entertainment District.

33. While Plaintiff Cole was lawfully eating pizza in the Beale Street Entertainment District, MPD police officers including the Individual Defendants approached him and shouted “didn’t we tell you to get off of the street?”

34. At no time prior to the statement referenced in paragraph 32 did the MPD Police Officers order Plaintiff Cole to leave Beale Street.

35. The Individual Defendants suddenly grabbed Plaintiff Cole and without reasonable cause to do so began to assault and viciously attack him.

36. The Individual Defendants slammed Plaintiff Cole’s body into the police vehicle twice with such force that the impact dented the body of the police vehicle.

37. The Individual Defendants handcuffed Plaintiff Cole and placed him under arrest in the back of the police vehicle.

38. The Individual Defendants transported Plaintiff Cole to the Shelby County Jail.

39. The Individual Defendants prepared or caused to be prepared an Affidavit of Complaint which included fabricated and false information against Plaintiff Cole.

40. As a direct result of the false affidavits of complaints Plaintiff Cole was charged with Vandalism over \$500 (T.C.A. § 39-14-408), Disorderly Conduct (T.C.A. § 39-17-305), and Resisting Stop, Arrest (T.C.A. § 39-16-602).

41. All criminal charges referenced in paragraph 39 were dismissed.

42. At no relevant time did Plaintiff Cole commit the crime of Vandalism.

43. At no relevant time did Plaintiff Cole commit the crime of Disorderly Conduct.

44. At no relevant time did Plaintiff Cole commit the crime of Resisting Stop, Arrest.

45. As a result of his unlawful detention and arrest, Plaintiff Cole suffered a deprivation of his constitutional rights under the Fourth and Fourteenth Amendments and economic, physical, mental and/or emotional injuries.

**C. Plaintiff Edmond, a Special Agent with the Bureau of Alcohol, Tobacco, Firearms and Explosives**

46. In the early morning of May 5, 2012, Plaintiff Edmond, while off-duty and dressed in civilian clothing and visiting Memphis was walking in the Beale Street Entertainment District enjoying the sights and music.

47. At all times relevant hereto, Plaintiff Edmond was not intoxicated.

48. Pursuant to the Beale Street Sweep, the MPD police officers stationed in the Beale Street Entertainment District, including but not limited to the Individual Defendants, ordered all individuals to immediately leave the sidewalks and street of the Beale Street Entertainment District.

49. Plaintiff Edmond attempted to enter Club 152 on Beale Street.

50. Plaintiff Edmond did not enter Club 152 on Beale Street.

51. Plaintiff Edmond and other family members were approached by Defendant Cooper who ordered Plaintiff Edmond and his family member to stop walking and demanded that they speak to her regarding their attempt to enter Club 152.

52. Defendant Cooper actions were consistent with and similar to the actions of a private security guard for Club 152.

53. Plaintiff Edmond, Defendant Cooper, and Defendant Skelton engaged in a conversation and the officers asserted that Plaintiff Edmond was acting unprofessionally when he tried to enter Club 152 and placed Plaintiff Edmond in handcuffs and under arrest in a MPD police vehicle.

54. Defendant Cooper and Defendant Skelton placed Plaintiff Edmond under arrest for public intoxication.

55. Prior to and after being arrested, Plaintiff Edmond advised Defendant Cooper and Defendant Skelton that he was a special agent with the Bureau of Alcohol, Tobacco, Firearms and Explosives assigned to the Kansas City Field Division, St. Louis Field Office.

56. MPD police officers contacted Plaintiff Edmond's supervisor and advised that him that Plaintiff Edmond had been arrested because he was intoxicated and belligerent.

57. Plaintiff Edmond's supervisor contacted ATF Special Agent Marcus Watson, Resident Agent in Charge of the Memphis Field Office who subsequently arrived on Beale Street.

58. After ATF Special Agent Marcus Watson arrived on the scene Plaintiff Edmond was released from police custody and allowed to depart Beale Street.

59. At no time relevant hereto did Plaintiff Edmond commit any crime.

60. As a result of his unlawful detention and arrest, Plaintiff Edmond suffered a deprivation of his constitutional rights under the Fourth and Fourteenth Amendment and economic, mental and/or emotional injuries.

**VI. CLASS ACTION CLAIM AGAINST THE CITY OF MEMPHIS FOR VIOLATION OF THE FOURTH AND FOURTEENTH AMENDMENTS DURING THE BEALE STREET SWEEP**

61. The Plaintiffs repeat, re-allege, and incorporate herein each of the preceding paragraphs as if fully set forth herein.

62. On May 5, 2012, Plaintiff Edmond and other persons were subjected to the Beale Street Sweep.

63. On August 26, 2012, Plaintiff Cole and other persons were subjected to the Beale Street Sweep.

64. Upon information and belief, numerous other individuals in the Beale Street Entertainment District have been and will continue to be routinely subjected to the Beale Street Sweep in the early morning hours on Saturdays and Sundays and during certain scheduled entertainment events on weekdays.

65. At the time of the Beale Street Sweeps referenced herein, the MPD police officers were not conducting the Beale Street Sweep in response to circumstances threatening public safety or the safety of MPD police officers.

66. The Beale Street Sweep deprives persons on the sidewalks and street in the Beale Street Entertainment District of their constitutional rights to remain in a public place with no apparent purpose and to travel locally through public spaces and roadways.

67. The manner in which the Beale Street Sweep is conducted by the City of Memphis is unconstitutional.

68. Defendant City of Memphis implicitly or explicitly adopted and implemented the Beale Street Sweep.

69. The City of Memphis knows or should know, and knew or should have known, that the MPD police officers including but not limited to the Individual Defendants routinely engage in the Beale Street Sweep which caused damages to the Plaintiffs and to other individuals similarly situated, and have caused and will continue to cause damages to persons similarly situated to the Plaintiffs.

70. The City of Memphis has not taken any actions to stop the MPD police officers including but not limited to the Individual Defendants from engaging in the Beale Street Sweep.

71. The City of Memphis knew, or should have known, that in the absence of official action to stop MPD police officers including but not limited to the Individual Defendants from engaging in the Beale Street Sweep, MPD police officers were likely to engage in unlawful conduct including but not limited to the assault, use of excessive force, unlawful detention, unlawful arrest, and/or creation of false charges against the Plaintiffs and of other individuals similarly situated.

72. The failure of the City of Memphis to adequately implement and enforce police procedures, train and/or supervise MPD police officers including but not limited to the Individual Defendants amounts to deliberate indifference to the rights of the Plaintiffs, and of individuals similarly situated to the Plaintiffs, to be free from excessive force and unreasonable seizures under the Fourth and Fourteenth Amendments to the Constitution of the United States.

73. As a result of the aforementioned policies, procedures, customs, or practices, and deliberate indifference to the Plaintiffs' rights and the rights of individuals similarly situated to the Plaintiffs, the Plaintiffs and individuals similarly suffered personal injuries and a deprivation of constitutional rights and are entitled to relief under 42 U.S.C. §1983.

**VII. REQUEST FOR PRELIMINARY AND PERMANENT INJUNCTIONS TO RESTRAIN THE BEALE STREET SWEEP**

74. The Plaintiffs repeat, re-allege, and incorporate herein each of the preceding paragraphs as if fully set forth herein.

75. The Plaintiffs seek a preliminary injunction restraining and prohibiting Defendants from conducting the Beale Street Sweep.

76. In the absence of the issuance of a preliminary injunction, the Defendants will cause immediate and irreparable harm to the Plaintiffs and individuals similarly situated to the Plaintiffs including, but not limited to, the deprivation of constitutional rights, physical, mental and emotional harm caused by the Defendants' execution of the Beale Street Sweep and assault, use of excessive force, unlawful detention, unlawful arrest, and/or creating false criminal charges against individuals engage in lawful conduct.

77. There is no harm to the public interest if an injunction issues, and, in fact, the issuance of an injunction under the circumstances and facts of this case protects the public interest.



78. The harm to citizens engaged in lawful conduct in the Beale Street Entertainment District from the actions of the Defendants outweighs any harm to the Defendants, thus injunctive relief is appropriate.

79. The Plaintiffs requests that a permanent injunction be issued after a trial on the merits enjoining and restraining the Defendants from executing the Beale Street Sweep.

**VIII. PLAINTIFFS' INDIVIDUAL CLAIMS AGAINST THE CITY FOR VIOLATION OF THEIR RIGHTS UNDER THE FOURTH AND FOURTEENTH AMENDMENTS**

**A. The Use of Excessive Force and Unlawful Arrest in the Beale Street Entertainment District**

80. The Plaintiffs repeat, re-allege, and incorporate herein each of the preceding paragraphs as if fully set forth herein.

81. Defendant City of Memphis implicitly or explicitly adopted and implemented policies, procedures, customs, or practices authorizing MPD police officers, including but not limited to the Individual Defendants, in the performance of their official police duties in and around the Beale Street Entertainment District to assault, use excessive force, unlawfully detain, unlawful arrest and/or falsely create criminal charges against individuals, who are engaged in lawful conduct.

82. The City of Memphis knew, or should have known, that MPD police officers, including but not limited to the Individual Defendants, in the performance of their official police duties in and around the Beale Street Entertainment District were routinely assaulting, using excessive force, unlawfully detaining, unlawful arresting

and/or falsely charging persons with crimes, who are engaged in lawful conduct in and around the Beale Street Entertainment District prior to and at the time of the unlawful detention and/or arrests of the Plaintiffs.

83. The City of Memphis did not, and does not, take any actions to stop MPD police officers, including but not limited to the Individual Defendants, in the performance of their official police duties in and around the Beale Street Entertainment District from assaulting, using excessive force, unlawfully detaining, unlawful arresting and/or falsely creating criminal charges against individuals, who are engaged in lawful conduct.

84. The City of Memphis knew or should have known that, in the absence of a reasonable procedure, policy, training, supervision or discipline to deter MPD police officers, including but not limited to the Individual Defendants, in the performance of their official police duties in and around the Beale Street Entertainment District from assaulting, using excessive force, unlawfully detaining, unlawful arresting and/or falsely creating criminal charges against individuals, who are engaged in lawful conduct, citizens including the Plaintiffs would be subjected to unlawful conduct by MPD police officers in the performance of their official police duties in and around the Beale Street Entertainment District.

85. The failure of the City of Memphis to adequately implement policies and procedures, train, supervise, or discipline MPD police officers, including but not limited to the Individual Defendants, amounts to deliberate indifference to the rights of the Plaintiffs, to be free from police assaults, excessive force and unreasonable seizures under the Fourth and Fourteenth Amendments to the Constitution of the United States.

86. As a result of the aforementioned policies, procedures, customs, or practices, and deliberate indifference to the Plaintiffs' rights, the Plaintiffs suffered a deprivation of their constitutional rights and personal injuries and are entitled to relief under 42 U.S.C. §1983.

**B. The City's Failure to Train, Supervise, and Discipline the Individual Defendants**

87. The Plaintiffs repeat, re-allege, and incorporate herein each of the preceding paragraphs as if fully set forth herein.

88. The Plaintiffs' actions set forth herein did not constitute a crime and the Individual Defendants did not have probable cause to use force against them or to arrest or detain them.

89. The force used by the Individual Defendants to arrest Plaintiff Cole was clearly excessive and was performed in a manner that caused harm to his person when Plaintiff Cole had committed no unlawful act and had acted in no way threatening to the life or safety of the Individual Defendants.

90. The arrest of Plaintiff Edmond was clearly unlawful and without probable cause.

91. The Individual Defendants routinely assault, use excessive force during arrests and unlawfully detain and unlawfully arrest, and create false criminal charges against innocent persons without probable cause.

92. Defendant City of Memphis failed to adequately supervise, investigate, and reprimand the Individual Defendants.

93. Upon information and belief, the Individual Defendants have been the subject of numerous complaints submitted to the City of Memphis/Memphis Police Department Internal Affairs Bureau by citizens and/or visitors to the City of Memphis who complained of the Individual Defendants' assaults, use of excessive force during an arrest, unlawful detention and arrest, and/or creation of false charges against innocent individuals without probable cause.

94. Upon information and belief, the Individual Defendants have rarely, if ever, been investigated or disciplined for their assaults, use of excessive force during an arrest, unlawful detention and arrest, and/or creation of false charges against innocent individuals without probable cause.

95. The City of Memphis' policies, procedures, and customs pertaining to the investigation and discipline of assaults, use of excessive force during an arrest, unlawful detention and arrest, and/or creation of false charges against innocent individuals without probable cause by police officers are inadequate to protect civilians from police misuse of force.

96. Defendant City of Memphis had actual and constructive notice that the Individual Defendants routinely assaulted, used of excessive force during an arrest, unlawful detained and arrested, and/or created false charges against innocent individuals without probable cause, that complaints against the Individual Defendants by citizens and/or visitors to the City of Memphis were not being properly investigated and addressed by the City of Memphis, that alternatives existed to remedy the referenced unlawful conduct of the Individual Defendants.

97. Defendant City of Memphis had actual and constructive notice that unless adequate hiring, training, supervision and investigation and discipline of complaints against the Individual Defendants occurred, the Individual Defendants would continue to undermine the constitutional rights of individuals including but not limited to the Plaintiffs.

98. Defendant City of Memphis deliberately chose not to pursue the alternatives to prevent and/or acquiesced in a long-standing policy or custom of inaction in regards to the Individual Defendants' assaults, use of excessive force during an arrest and/or unlawful detention, arrest of innocent individuals without probable cause, and creation of sale charges.

99. The City of Memphis tolerated and acquiesced in the custom of excessive force and unlawful arrest routinely being used by the Individual Defendants and permitted a situation to exist where they were likely to injure members of the public engaged in lawful conduct.

100. If the City of Memphis had proper supervision, investigative and police disciplining procedures in place, its police officers including the Individual Defendants would not have pursued a settled practice of assaulting, using excessive force, unlawfully detaining and arresting, and fabricating criminal charges against individuals engaged in lawful conduct, and the Individual Defendants would not have assaulted and used excessive force against Plaintiff Cole, unlawfully detained and/or arrested Plaintiff Cole and Plaintiff Edmond, or created false criminal charges against Plaintiff Cole.

**C. General Allegations Germane to the City's Constitutional Violations**

101. The above described actions of the City and the Individual Defendants, in their official capacity, were taken under color of state law and in violation of the rights secured to the Plaintiffs by the Fourth and Fourteenth Amendments of the Constitution of the United States. These rights include, but are not limited to, the right to be free from the excessive use of force, the right to be free from deprivations of liberty, and the right to be free from summary punishment that occur without due process of law.

102. At all relevant times, the Plaintiffs had a right to be free from excessive use of force, the right to be free from deprivations of liberty, the right to be free from summary punishment that occur without due process of law and the right to a fair trial. Each of these rights were clear and well-established at the time of the incidents and facts alleged herein.

103. At all relevant times herein, the City failed to exercise its ability and duty to intervene for the purpose of preventing the acts complained of herein.

104. The City of Memphis is responsible for the hiring, training, discipline and control of all personnel of the Memphis Police Department.

105. The City of Memphis establishes the Memphis Police Department's policy with respect to the manner in which persons are arrested, the use of force in arrest, and performance of official police duties by on-duty and off-duty police officers within the City of Memphis.

106. All police officers referenced in this Complaint are employees of the City of Memphis.

107. The City of Memphis is liable because:

(i) The Plaintiffs' rights were violated pursuant to the unconstitutional policies, procedures, customs, or practices, and deliberate indifference referenced herein, whether express or implicit;

(ii) the City of Memphis had actual or constructive knowledge of the same or similar conduct by the Memphis Police Department's employees including the Individual Defendants, and acted with deliberate indifference regarding same;

(iii) the City of Memphis' failed to act to prevent such misconduct and deprivation of rights which permitted the same to become the policy, procedure, practice and/or custom of the Memphis Police Department.

108. The failure of the Defendant City of Memphis to adequately train, discipline and/or supervise Memphis Police Department personnel, including but not limited to the Individual Defendants, is derived from inadequate and constitutionally deficient hiring procedures, training procedures, and procedures involving the investigation of complaints against and discipline of Memphis police officers, and said failure amounts to a deliberate indifference to the rights of persons with whom Memphis police officers come into contact.

109. The misconduct and deprivation of the Plaintiffs' rights by the City of Memphis and Memphis Police Department personnel as described herein was reasonably foreseeable to the Defendant City of Memphis.

110. The remedies available under Tennessee law for redressing the deprivation of the Plaintiffs' constitutional rights are inadequate.

111. The conduct of the Defendants was willful, malicious, oppressive and/or reckless, and was of such a nature that punitive damages should be imposed in an amount commensurate with the wrongful acts alleged herein.

112. The Individual Defendants, acted under color of law and in their official capacity, to deprive the Plaintiffs of their right to be free from the excessive use of force, the right to be free from deprivations of liberty, the right to be free from summary punishment that occur without due process of law and the right to a fair trial

113. As a direct and proximate result of the policies, procedures, customs, and actions of the Defendants, the Plaintiffs suffered deprivations of their constitutional rights, physical and mental pain and suffering, both past and future; and medical and psychological expenses, both past and future.

**VIII. CAUSE OF ACTION PURSUANT TO 42 U.S.C. § 1983 AGAINST THE  
INDIVIDUAL DEFENDANTS, INDIVIDUALLY**

114. The Plaintiffs repeat, re-allege, and incorporate herein each of the preceding paragraphs as if fully set forth herein.

115. The Individual Defendants individually and under color of law acted willfully, maliciously, unreasonably, recklessly and with deliberate indifference to, and with intentional and wanton disregard of the constitutional and federally protected civil rights of the Plaintiffs.

116. The aforesaid conduct of the Individual Defendants was motivated by evil motive or intent and involved willful, reckless and callous indifference to the federally protected rights of the Plaintiffs.



117. A reasonable official in the Individual Defendants' position would have understood that the aforesaid conduct violated the clearly established constitutional rights of the Plaintiffs.

118. By virtue of the foregoing, the Individual Defendants are liable to the Plaintiffs, pursuant to 42 U.S.C.A. § 1983. The Individual Defendants, acting individually and under color of state law, engaged in a course of conduct which caused pain, suffering, and injuries to the Plaintiffs, and violated their rights as guaranteed by the Fourth and Fourteenth Amendments of the Constitution of the United States. These include, but are not limited to, the right to be free from the excessive use of force, the right to be free from deprivations of liberty and the right to be free from summary punishment that occurs without due process of law and the right to a fair trial.

119. As a direct and proximate result of the actions of Individual Defendants, the Plaintiffs suffered deprivation of their constitutional rights, physical and mental pain and suffering, both past and future; and medical and psychological expenses, both past and future.

**IX. CLAIM AGAINST THE CITY OF MEMPHIS PURSUANT TO THE TENNESSEE GOVERNMENTAL TORT LIABILITY ACT**

120. The Plaintiffs repeat, re-allege, and incorporate herein each of the preceding paragraphs as if fully set forth herein.

121. Defendant, City of Memphis, by or through its agents, servants and employees, is guilty of negligent acts or omissions where immunity has been removed under Tenn. Code Ann. §29-20-205.

122. The agents, servants, and/or employees of the City of Memphis were negligent in permitting the false imprisonment of the Plaintiff Cole on August 26, 2012 without probable cause to support the arrest and said negligence was committed within the scope of the employment of the agents, servants, and/or employees of the City of Memphis.

123. The agents, servants, and/or employees of the City of Memphis were negligent in permitting the false imprisonment of the Plaintiff Edmond on May 4, 2012 without probable cause to support the detention and said negligence was committed within the scope of the employment of the agents, servants, and/or employees of the City of Memphis.

124. The false imprisonment of the Plaintiffs was not pursuant to a mittimus from a court.

125. The City of Memphis had actual and constructive notice that its agents, servants, and/or employees falsely imprisoned the Plaintiffs without probable cause.

126. The City of Memphis had a duty to supervise and prevent its agents, servants, and/or employees from falsely imprisoning civilians and citizens, including the Plaintiffs, without probable cause and breached its duty by the acts complained of herein.

127. As a direct and proximate cause of the City of Memphis' breach of duties, the Plaintiffs sustained great humiliation, mental anguish, mental and emotional distress, extreme embarrassment, damage to their personal reputation and standing in the community, for which damages are sought.

**X. CIVIL ASSAULT AND BATTERY**

128. The Plaintiffs repeat, re-allege, and incorporate herein each of the preceding paragraphs as if fully set forth herein.

129. The Individual Defendants' conduct as set forth herein was intentional and constitutes civil assault and battery for which they are liable to Plaintiff Cole.

130. The Individual Defendants' conduct was in reckless disregard for the safety and well being of the Plaintiff Cole who was not engaged in criminal activity at the time of his assault and arrest.

131. Further, to the extent that the Individual Defendants were acting within the course and scope of their employment when they assaulted and battered Plaintiff Cole and may claim that they were acting within their discretion, the Plaintiffs aver that the Individual Defendants greatly or substantially exceeded their authority and caused Plaintiff Cole great physical, emotional and mental harm.

132. The Individual Defendants' conduct is the proximate cause of the Plaintiff Cole's injuries, including physical injuries, great humiliation, mental anguish, mental and emotional distress, extreme embarrassment, fear of loss of employment, damage to his personal and business reputation and standing the community, for which damages are sought.

**XI. FALSE ARREST AND FALSE IMPRISONMENT**

133. The Plaintiffs repeat, re-allege, and incorporate herein each of the preceding paragraphs as if fully set forth herein.

134. The Individual Defendants, acting individually and in concert, knowingly, intentionally and recklessly arrested and imprisoned the Plaintiffs against their will, falsely and without just cause and/or probable cause.

135. The Individual Defendants' conduct was in reckless disregard for the safety and well being of the Plaintiffs who were not engaged in criminal activity at the time of their arrest.

136. Further, to the extent that the Individual Defendants were acting within the course and scope of their employment when they falsely arrested and imprisoned the Plaintiffs and may claim that they were acting within their discretion, the Plaintiffs aver that the Individual Defendants greatly or substantially exceeded their authority and caused the Plaintiffs' harm.

137. The Individual Defendants' conduct is the proximate cause of the Plaintiffs' injuries, including physical injuries, great humiliation, mental anguish, mental and emotional distress, extreme embarrassment, fear of loss of employment, damage to their reputation and standing in the community and attorney's fees and expenses related to criminal proceeding, for which damages are sought.

**WHEREFORE, PREMISES CONSIDERED,** Plaintiffs demand that a jury be empanelled to try the issues raised herein which are properly triable before a jury of their peers and prays for a judgment against the Defendants referenced above for the following:

- (i) Certification of the case as a class action maintainable under the Federal Rules of Civil Procedure Rule 23(a), (b)(1), (b)(2), and (b)(3), designation of the Plaintiffs as representatives of the class and their counsel of record

as class counsel, and require the City of Memphis to bear the cost of class notice.

- (ii) Issue a Preliminary Injunction and a Permanent Injunction restraining and prohibiting Defendant City of Memphis from executing the Beale Street Sweep policy.
- (iii) Compensatory damages awarded to Plaintiff Lakendus Cole for both the federal and state court claims and personal injuries in the amount of \$2,500,000.00 or an amount the jury may determine just and proper under the circumstances and/or which may be permitted by law.
- (iv) Compensatory damages awarded to Plaintiff Leon Edmond for both the federal and state court claims in the amount of \$250,000.00 or an amount the jury may determine just and proper under the circumstances and/or which may be permitted by law.
- (v) Compensatory damages to the class members for both the federal and state court claims against the Defendant City of Memphis in an amount to be determined at trial.
- (ii) Punitive damages against the Defendants;
- (iii) Attorney's fees and costs;
- (iv) Pre and post judgment interest;
- (v) Discretionary costs; and
- (vi) All such further relief, both general and specific, to which Plaintiffs or the class members may be entitled or to which they may show themselves entitled.

Respectfully submitted,

SPENCEWALK, PLLC

s/ Robert L. J. Spence, Jr.  
Robert L. J. Spence, Jr. (BPR# 12256)  
Bryan M. Meredith (BPR# 26876)  
One Commerce Square, Suite 2200  
Memphis, Tennessee 38103  
(901) 312-9160 (ofc.)  
(901) 521-9550 (fax.)  
*Attorneys for Plaintiffs*