

**IN THE UNITED STATES DISTRICT COURT  
FOR THE MIDDLE DISTRICT OF GEORGIA  
COLUMBUS DIVISION**

CLEOPATRA HARRISON,	)	
	)	
Plaintiff,	)	CIVIL ACTION
	)	
v.	)	NO. _____
	)	
CONSOLIDATED GOVERNMENT	)	JURY TRIAL DEMANDED
OF COLUMBUS, GEORGIA,	)	
	)	CLASS ACTION
MICHAEL CIELINSKI, Chief Judge,	)	
Columbus Recorder’s Court, in his	)	
official and individual capacities,	)	
	)	
JOHN DARR, Sheriff of Muscogee	)	
County, Georgia, in his official	)	
capacity for injunctive relief,	)	
	)	
RICKY BOREN, Chief of Police,	)	
Columbus Police Department, in his	)	
official capacity for injunctive relief,	)	
	)	
MICHAEL LINCOLN, Police Officer,	)	
Columbus Police Department, in his	)	
individual capacity,	)	
	)	
Defendants.	)	
	)	

**COMPLAINT**

Plaintiff Cleopatra Harrison, on behalf of herself and the class of similarly situated persons alleged herein, states as follows for her complaint:

## INTRODUCTION

1. This is an action to stop a municipal government and its officers from imposing an illegal fee on women experiencing domestic violence and threatening to jail those who fail to pay.

2. Under the official policy of the Consolidated Government of Columbus, Georgia (“the City”), women who experience domestic violence are required to aid local law enforcement agencies in prosecuting people accused of violence against them. Women who express their lack of interest in doing so are ordered to pay a fee of at least \$50—and often several times that amount—without any consideration of the circumstances of their cases or their reasons for desiring not to prosecute. People ordered to pay these illegal fees are further threatened with summary incarceration if they fail to pay.

3. Plaintiff Cleopatra Harrison was injured by the City’s policy when she appeared at a preliminary hearing for her boyfriend, who was charged with assaulting her. After a police officer recounted the facts of the assault, Harrison truthfully affirmed those facts but expressed her wish not to serve as a witness for the prosecution. Without any further inquiry, Defendant Judge Michael Cielinski assessed a \$150 “victim assessment” fee against Harrison. Harrison, who is indigent, lacked the funds to immediately pay the fee, so she was given a document

warning that an arrest warrant would be summarily issued if she failed to pay within one week.

4. Minutes after Harrison was assessed a \$150 fee for expressing her wish not to pursue criminal charges, Harrison was shoved against a courthouse wall by Defendant Officer Michael Lincoln, handcuffed, placed in jail, and charged with giving Lincoln unspecified “fake information” four days earlier. In fact, Harrison was truthful during all interactions with law enforcement, and Defendant Lincoln had no arguable basis for arresting Harrison. The arrest was solely to punish Harrison for her viewpoint on whether the City should prosecute her boyfriend.

5. Defendants’ policy of imposing unauthorized fines on people who experience domestic violence and their further policy of threatening to summarily jail crime victims for nonpayment of an illegal fine further no legitimate governmental interest, violate the fundamental rights of domestic-violence victims, and lack any basis in Georgia law. The Court should enjoin Defendants’ unlawful practices to prevent further injury to Cleopatra Harrison and others similarly situated. In addition, the Court should award compensatory and punitive damages to Harrison and similarly situated persons to redress Defendants’ violations of fundamental rights and to deter similar conduct by these Defendants.

## **JURISDICTION AND VENUE**

6. This Court has subject-matter jurisdiction under 28 U.S.C. § 1331 because this action arises under the laws and Constitution of the United States and 42 U.S.C. § 1983. The Court has supplemental jurisdiction under 28 U.S.C. § 1367. This Court is authorized to grant declaratory and injunctive relief pursuant to 28 U.S.C. §§ 2201 and 2202.

7. Venue is proper in this Court under 28 U.S.C. § 1391 because at least one Defendant resides in this District and Division and all Defendants reside in this State, and because a substantial part of the events or omissions giving rise to the claims set forth in this complaint occurred within this District and Division.

## **PARTIES**

### **A. Plaintiff Cleopatra Harrison**

8. Plaintiff Cleopatra Harrison is a 22-year-old African-American woman who resides in Columbus, Georgia.

### **B. Defendants**

9. Defendant Consolidated Government of Columbus, Georgia (“the City”), is a municipal governmental entity located in this District and Division. The City has authority over the City of Columbus as well as Muscogee County, Georgia. As discussed herein, the City’s policies, practices, and customs were a moving force in the constitutional violations described in this complaint.

10. Defendant Michael Cielinski is the chief judge of the Columbus Recorder's Court. He resides in this District and Division. He is the final policymaker for the City with respect to the participation of the Columbus Recorder's Court in implementing the policies challenged in this complaint. Cielinski caused, authorized, condoned, ratified, approved, participated in, or knowingly acquiesced in the illegal policies or practices described in this complaint. His actions and inactions were deliberately indifferent to the constitutional rights of Plaintiff. He is sued in his individual capacity and in his official capacity as chief judge of the Recorder's Court. At all times pertinent to this action, he was acting under color of state law.

11. Defendant John Darr is the sheriff of Muscogee County, Georgia. He resides in this District and Division. He is responsible for enforcing warrants issued in connection with the policies challenged in this complaint, including any warrant that has been or will be issued against the Plaintiff. He is sued in his official capacity for injunctive relief only. At all times pertinent to this action, he was acting under color of state law.

12. Defendant Ricky Boren is the chief of the Columbus Police Department. He resides in this District and Division. He is the final policymaker for the City with respect to the participation of Columbus Police Department

officers in implementing the policies challenged in this complaint. Boren caused, authorized, condoned, ratified, approved, participated in, or knowingly acquiesced in the illegal policies or practices described in this complaint. His actions and inactions were deliberately indifferent to the constitutional rights of Plaintiff. He is sued in his official capacity for injunctive relief only. At all times pertinent to this action, he was acting under color of state law.

13. Defendant Michael Lincoln is a police officer employed by Columbus Police Department. He resides in this District and this Division. Lincoln's actions and inactions were deliberately indifferent to the constitutional rights of Plaintiff. He is sued in his individual capacity. At all times pertinent to this action, he was acting under color of state law.

## **STATEMENT OF FACTS**

### **A. The Domestic-Violence Victim Participation Policy**

14. Under an official and longstanding policy and practice, the Consolidated Government of Columbus, Georgia ("the City"), requires every person who has experienced domestic violence to participate in any prosecution that arises from the report of that violence to law enforcement officers ("the Domestic-Violence Victim Participation Policy").

15. The City's policy and practice designates any person who experiences domestic violence a "prosecuting witness." The City then enlists every prosecuting witness into the service of local police and prosecutors.

16. Columbus Police Department officers, with the knowledge and acquiescence of Defendant Ricky Boren, implement the City's policy by instructing victims of crime that they must assist the government in its law enforcement functions. Crime victims who choose not to prosecute are threatened by City police officers with a substantial fine.

17. The City enforces its policy through a municipal ordinance. Under Section 2-15.2(1) of the City's Code of Ordinances, the City imposes "[a] minimum charge of \$50.00 for dismissing a case in recorder's court, such charge to be paid by the prosecuting witness that refuses to prosecute the case." The ordinance provides no maximum fee, no standards by which the fee is imposed, and no discretion to decline to impose the fee.

18. As a matter of official City custom and practice, when a crime victim indicates to City officials or police officers that she does not wish to serve as a witness for the prosecution, the victim is escorted by a City officer to address a judge of the Columbus Recorder's Court. After the victim expresses her desire not to prosecute the accused for any reason, the judge, without any inquiry or

adjudicatory process, executes the City's policy by instructing the victim to pay the administrative fee required by the City's ordinance.

19. The judge then sets the amount of the administrative fee under the administrative authority delegated to the judge by the City. The judge bills the crime victim at an hourly rate for the amount of time that City police officers allege they spent investigating the case. The hourly rate is ad hoc and has no relationship to the actual cost of the law enforcement functions performed.

20. The judge then compounds the injury to the victim by ordering that the victim will be summarily arrested if she does not pay the fee by a certain date.

21. In setting and imposing fees on women who have experienced domestic violence, Recorder's Court judges exercise delegated executive, administrative, or quasi-legislative powers of the City government. Their role in executing the policy is indistinguishable from administrative functions carried out by executive officials in the City government.

22. In setting and imposing fees on women who have experienced domestic violence, Recorder's Court judges have no personal jurisdiction over the victim and no subject matter jurisdiction over any case to which the victim is a party, nor do the judges have any inherent authority to impose fees in the manner dictated by the City's policy. This administrative execution of the City's ordinance



is not a judicial act and is in clear absence of all jurisdiction to punish crime victims.

23. The City's policy provides no standards or limitations for setting the fee for a particular victim.

24. People subject to the fee are provided no meaningful notice that the fee will be assessed in a particular case.

25. People subject to the fee are never advised that they may explain their circumstances to the judge and have the fee waived, because the fee is mandatory under the City's official, written policy. Nor are crime victims informed of the standards that determine the amount of the fee, because there are no standards.

26. The City's policy provides no way for people to challenge the fees imposed on them. The City delegates final authority to Recorder's Court judges to execute its policy of assessing fees in any amount over \$50. The fees are not incorporated into a judgment from which an appeal could be taken.

27. Defendant Michael Cielinski, in his role as chief judge of the Recorder's Court, has final authority over the court's administrative policies and practices, including practices involved in imposing fees under Section 2-15.2(1) of the City's Code of Ordinances. Although he has the authority to establish standards binding on other Recorder's Court judges in order to regulate the

Recorder's Court's imposition of fees under the ordinance, Defendant Cielinski has taken no action to limit the reach or application of the ordinance.

28. A person's decision not to prosecute a case has no legal effect on the right of the City's prosecutors or state prosecutors to bring charges against someone accused of crime. Regardless of a crime victim's views, prosecutors may still subpoena a victim as a witness and use any evidence gathered during an investigation in a criminal prosecution.

29. Under Georgia law, there is no authority for the City's broad policy of punishing victims of domestic violence. Georgia does not permit such fees unless there is a finding by a judge that the alleged victim's original complaint was both "unfounded *and* malicious." O.C.G.A. § 17-11-4(b) (emphasis added). In contrast, the City's policy does not consider a crime victim's reasons for making a complaint, the accuracy of her statements to law enforcement officers, or her reasons for desiring not to be involved in a prosecution.

30. Defendant Cielinski has implemented the City's policy with reckless disregard for the rights of Plaintiff and similarly situated crime victims. The constitutional violations described in this complaint would not have occurred had Defendant Cielinski not acquiesced in enforcing the City's policy and failed to

exercise his authority as chief judge to limit the imposition of fees by Recorder's Court judges.

31. Defendant Ricky Boren, in his role as chief of the Columbus Police Department, is responsible for implementing the City's Domestic-Violence Victim Participation Policy with respect to the Columbus Police Department and its officers. Among other things, Defendant Boren and his subordinate officers are responsible for (a) informing victims of domestic violence of their duty to join in prosecutions under the City's policy, and (b) threatening victims of domestic violence with monetary assessments if the victims ask to drop charges against an accused. Defendant Boren has followed the City's policy with reckless disregard for the rights of Plaintiff and similarly situated crime victims. The constitutional violations described in this complaint would not have occurred had Defendant Boren not acquiesced in enforcing the City's policy.

32. Defendant John Darr, in his role as Sheriff of Muscogee County, Georgia, is responsible for implementing the City's Domestic-Violence Victim Participation Policy with respect to the Muscogee County Sheriff's Office and its officers and deputies. Among other things, Defendant Darr and his subordinate officers are responsible for enforcing summary arrest warrants issued for Plaintiff

and any other victim of domestic violence who fails to pay a fee assessed under the City's policy.

33. The City's Domestic-Violence Victim Participation Policy and all policies, customs, and practices associated with enforcing the Policy reflect the official policy of the City made or acquiesced in by the City or its final policymakers.

34. All money collected under the City's Domestic-Violence Victim Participation Policy is provided to the City and placed in the City's general fund.

35. Defendants' conduct with respect to maintaining and enforcing the Domestic-Violence Victim Participation Policy was and is willful, deliberate, and malicious. Defendants' actions involved reckless or callous indifference to the rights of Plaintiff and similarly situated crime victims.

36. Defendants' policies and practices are applied uniformly to every crime victim who expresses her desire not to prosecute. In each case, a City police officer informs the victim of her duty under the City's policy to aid the City in its law enforcement functions. In each case, a City police officer threatens the victim with a fee if she expresses her desire to drop charges against an accused. In each case, a fee is imposed on the victim with no inquiry into the victim's circumstances

or reasons for declining to aid the City's prosecution. And, in each case, the victim is subject to arrest under a summarily issued warrant if she is unable to pay the fee.

**B. The City's Application of Its Policy to Cleopatra Harrison**

37. Plaintiff Cleopatra Harrison is a 22-year old woman who lives in Columbus, Georgia. Before the events described in this complaint occurred, Harrison had never been to jail, never had problems with the law, and had never been to court before.

38. Harrison has limited income and most or all of what she earns goes toward monthly bills. Since graduating from high school, Harrison has worked as a civilian employee for a cleaning and food-service contractor on Fort Benning. She currently earns approximately \$12 per hour and works unpredictable hours, often under 40 hours per week.

39. In the recent past, Harrison has had to take out loans to pay her rent and utility bills on time. She is currently paying off those loans in addition to her other bills.

40. In June 2016, Harrison was living in an apartment complex on Baker Plaza Drive in Columbus, Georgia.

41. On the evening of June 9, Harrison's then-boyfriend became angry with Harrison because there were dirty dishes in the apartment's kitchen.

42. The boyfriend, believing Harrison was responsible for washing dishes, turned physically violent. He attacked Harrison, throwing her to the floor, grabbing her neck, and punching her. The assault left visible bruises and lacerations on Harrison's neck, face, and upper torso.

43. After the boyfriend left the apartment, Harrison called 9-1-1 but then left for a friend's apartment before police arrived because she feared the boyfriend would return. After Harrison arrived at her friend's apartment, the friend encouraged Harrison to call the police again.

44. On the morning of June 10, Harrison's friend called 9-1-1. Two Columbus Police Department officers responded to the friend's apartment. Harrison informed the officers that the boyfriend had punched and grabbed her neck, and that she hit the boyfriend with a frying pan in self-defense to keep him from killing her.

45. The two officers took photographs of Harrison's injuries. According to a police report, Harrison had "large dark bruises on the front and side of her neck consistent with having been choked" and "swelling to the right side of her forehead as if it had been hit with something or on something." She "also had scratches on her chest and on the back of her neck consistent with having been in a

struggle.” While the photographs were being taken, approximately three other police officers arrived including Defendant Michael Lincoln.

46. One of the officers gave Harrison paperwork about a domestic violence hotline. Harrison informed the officers, including Defendant Lincoln, that she did not want to press charges. The officers informed Harrison that she would still need to appear in court.

47. The officers later arrested Harrison’s boyfriend at his place of employment. The boyfriend was charged with aggravated assault, a felony under Georgia law.

48. Harrison contacted the Muscogee County Jail shortly after the officers arrested the boyfriend. Jail personnel informed Harrison that the boyfriend’s preliminary hearing would be held on June 14 in the Columbus Recorder’s Court.

49. As instructed by officers, Harrison attended the boyfriend’s preliminary hearing on June 14. Defendant Lincoln was also present. Before court proceedings began, Harrison advised Defendant Lincoln again that she did not wish to press charges.

50. When the boyfriend’s case was called, Defendant Lincoln addressed the judge, Defendant Cielinski, and described the assault on Harrison as well as Harrison’s injuries. Defendant Lincoln stated that Harrison had informed him that

her boyfriend had become enraged because Harrison had not done the dishes and “an argument ensued.” Lincoln also recounted Harrison’s statements to him that the boyfriend threw her on the ground and choked her until she “passed out.” Lincoln personally “observed large bruises around [Harrison’s] neck consistent with being choked” and “observed scratches to her chest and to her back consistent with having been in an altercation.”

51. Defendant Cielinski asked Harrison whether Defendant Lincoln’s remarks were true, and Harrison replied that they were. Defendant Cielinski then asked whether there was anything Harrison wanted to add, and Harrison stated that she did not wish to press charges.

52. Defendant Cielinski made no further inquiry into the facts of the case. Instead, Defendant Cielinski asked Defendant Lincoln how much time he spent on the case and whether Lincoln had informed Harrison about “the fee.” Defendant Lincoln replied that he had spent two to three hours on the case with three other officers.

53. Defendant Cielinski informed Harrison that there would be “a \$150 assessment since you now want to dismiss the case.”

54. Consistent with the City’s official policy, Defendant Cielinski did not find that Harrison’s original report to police was unfounded and malicious when he



set a \$150 fee. Nor was there any basis for Defendant Cielinski to find Harrison's report unfounded and malicious, as Harrison specifically affirmed her earlier report when Defendant Cielinski questioned her about the facts. Rather, the fee was imposed solely due to Harrison's statement that she did not wish to assist with the prosecution.

**C. Unlawful Arrest and Prosecution of Harrison for Expressing Her Desire Not to Assist with Prosecution**

55. After Defendant Cielinski imposed the \$150 fee, Harrison left the courtroom and visited the clerk's office outside of the courtroom. Harrison advised a worker in the clerk's office window that she could not afford to pay \$150 that day. Harrison was given a form signed by Defendant Cielinski that required her to pay \$150 by June 21, 2016, or else a warrant would be issued for her arrest.

56. As Harrison walked away from the clerk's window, Defendant Lincoln grabbed her, shoved her against a wall, and handcuffed her.

57. Defendant Lincoln then led Harrison to a police cruiser parked outside. Defendant Lincoln placed Harrison into the back of the cruiser while he sat in the front. He told Harrison that he was charging her with providing false information to a law enforcement officer in violation of a City ordinance. Defendant Lincoln told Harrison that it was "not a real charge" and was only punished by a fine.

58. Defendant Lincoln's arrest report narrative stated in its entirety: "Subject lied to me on scene, then admitted it in court." Lincoln provided no information to support the charge of "false information," either in his arrest report or in court. Neither the arrest report nor the audio recording of the hearing provide any evidentiary support for Lincoln's charge.

59. When Defendant Lincoln arrested Harrison, he had no arguable basis for believing that Harrison had in fact been untruthful either on the scene or in court. Lincoln had himself observed Harrison's injuries contemporaneously with Harrison's report to police and testified to having observed them in court. Defendant Lincoln's sole reason for arresting Harrison was to punish her for expressing her wish not to participate in prosecuting her boyfriend.

60. When Defendant Lincoln arrested Harrison, he claimed that she had provided unspecified "fake information" to him four days earlier when police officers initially responded to her report of the assault. If Defendant Lincoln had sought an arrest warrant from an impartial judicial officer and testified truthfully about Harrison's conduct, the judicial officer would not have issued an arrest warrant because Harrison had committed no crime.

61. Defendant Lincoln had ample time to obtain an arrest warrant from an impartial judicial officer and had no arguable reason to believe that an immediate arrest was necessary.

62. While Harrison was in jail, her boyfriend paid \$212.50 to the Recorder's Court clerk to get Harrison out of jail. Upon information and belief, the Recorder's Court applied the boyfriend's \$212.50 payment to Harrison's fine. Harrison was never given notice of any hearing date in connection with the false information charge. Harrison was not informed in any way that she could challenge the false information charge. After Harrison's boyfriend bonded her out of jail, the Recorder's Court then closed Harrison's case.

63. Under Georgia law, there is no procedure for challenging a fine, fee, or assessment that has already been paid.

**D. Risk of Defendants' Policy Being Applied to Harrison in the Future**

64. Harrison is imminently likely to be harmed by the Domestic-Violence Victim Participation policy in the near future.

65. The City's policy is applied uniformly and indiscriminately to victims of domestic violence. For example, in May 2016, police found a woman incoherent on the side of a road after her boyfriend beat her over the head with a handgun. As instructed by City police officers, the woman appeared in court for

her boyfriend's preliminary hearing. Although the woman was not responsible for police involvement in the incident, Defendant Cielinski imposed a \$200 fee on her when she expressed her preference for dropping the charges.

66. In July 2016, a woman was having an argument with her boyfriend in their apartment. During the argument, the woman's finger was fractured. An unknown person called police due to the disturbance. When the woman appeared in court and asked that the charges be dismissed, Defendant Cielinski imposed a fee of approximately \$200.

67. In March 2016, a woman appeared at a preliminary hearing for her boyfriend, who was accused of poking the woman in the eye and stealing her debit card. The woman affirmed all of the facts that she reported to police officers but expressed her view that she did not want to "go forward with the charges." Defendant Cielinski imposed a \$125 fee.

68. Harrison expects to show that domestic violence is a pervasive problem that affects countless women. Studies show that domestic violence is so widespread that women face the greatest risk of violence when they are inside of their own homes.

69. Harrison expects to show that domestic violence is likely to recur. Studies show that it takes an average of seven incidents of abuse before a person experiencing domestic violence leaves the abuser.

70. Harrison is likely to experience domestic violence in the near future. The City's policy harms Harrison by deterring her from contacting police to intervene in an act of domestic violence, by forcing her to participate fully in any prosecution that follows from contacting police, and by charging her a fee for expressing her desire not to be involved in a prosecution.

71. Harrison currently faces an imminent threat of arrest under the City's policy as described herein.

### **CLASS ACTION ALLEGATIONS**

72. Plaintiff brings this class action pursuant to Rule 23 of the Federal Rules of Civil Procedure on behalf of herself and a class of similarly situated persons affected during the pendency of this lawsuit and in the future.

73. Plaintiff will seek to certify a class defined as follows: "All persons who paid money to the City under Section 2-15.2(1) of the Columbus, Georgia, Code of Ordinances during the four-year period preceding the filing of this lawsuit, whose fees were assessed without inquiry into whether their complaints of violence against them were unfounded and malicious."

74. Plaintiff meets the requirements of Rule 23(a) in that:
- a) The class is so numerous that joinder of all members is impracticable. Plaintiff expects to show that the class consists of hundreds of persons who have been forced to pay money to the City for expressing the desire not to prosecute a criminal case.
  - b) There are questions of law and fact common to the class concerning the constitutionality and lawfulness of the policies challenged in this complaint. Common questions include:
    - 1) Whether Defendants had any lawful basis for summarily imposing fees on crime victims.
    - 2) Whether Defendants' policies and practices infringe the First Amendment rights of crime victims.
    - 3) Whether Defendants' policies and practices infringe the Due Process and Equal Protection Clauses of the Fourteenth Amendment.
    - 4) Whether Defendants' practice of summarily arresting or threatening to arrest any domestic-

violence victim who fails to pay the fees violates state and federal law.

- c) The policies challenged in this action apply with equal force to Plaintiff and all members of the class so that the claims of Plaintiff are typical of those of the class.
- d) Plaintiff will fairly and adequately protect the interests of the class. Plaintiff possesses the requisite personal interest in the subject matter of the lawsuit and has no interests adverse to other class members. Plaintiff is represented by attorneys at the Southern Center for Human Rights, a nonprofit organization with experience in complex class action litigation.

75. The class meets the requirements of Rule 23(b)(2) in that the Defendants acted or refused to act on grounds that apply generally to each class, so that final injunctive relief or corresponding declaratory relief is appropriate respecting the class as a whole. Any monetary relief sought is incidental to the claims for injunctive relief.

76. The class meets the requirements of Rule 23(b)(3) because common questions of law and fact predominate over questions affecting individual class

members. A class action is superior to any other method of adjudicating this dispute because hundreds of people are subjected to the illegal policies described in this complaint, but few are likely to have the time, legal acumen, and resources to pursue the claims at issue in this case on their own.

## **CLAIMS FOR RELIEF**

### **COUNT ONE**

#### **VIOLATIONS OF THE FOURTEENTH AMENDMENT DUE PROCESS CLAUSE**

#### **(against all Defendants)**

77. Plaintiff incorporates herein and re-alleges, as if fully set forth herein, all factual allegations of paragraphs 1-5 and 8-71.

78. Defendants' policies and practices deprive Plaintiff and other crime victims of liberty and property interests without due process of law by failing to provide adequate notice or an opportunity to be heard before assessing fees on crime victims who express their desire not to prosecute a criminal case.

79. Defendants' policies and practices deprive Plaintiff and other crime victims of liberty and property interests without due process of law by granting standardless discretion to City officials to assess fees on crime victims who express their desire not to prosecute a criminal case.



80. Defendants' policies and practices deprive Plaintiff and other crime victims of liberty and property interests without due process of law by subjecting Plaintiff and others to summary arrest for failure to pay victim fees, without any inquiry into ability to pay or consideration of alternatives to incarceration.

**COUNT TWO**

**VIOLATIONS OF THE FOURTEENTH AMENDMENT  
EQUAL PROTECTION CLAUSE**

**(against all Defendants)**

81. Plaintiff incorporates herein and re-alleges, as if fully set forth herein, all factual allegations of paragraphs 1-5 and 8-71.

82. Defendants' policies and practices harm Plaintiff and other crime victims by treating similarly situated crime victims differently without any rational basis for the disparate treatment.

83. Defendants' policies and practices harm Plaintiff and other crime victims by treating similarly situated crime victims differently for the impermissible purpose of punishing crime victims for their lack of enthusiasm concerning a prosecution.

84. Defendants' policies and practices harm Plaintiff and other crime victims because Plaintiff and others are subject to summary incarceration for

failure to pay victim fees, without any inquiry into ability to pay or consideration of alternatives to incarceration.

**COUNT THREE**

**VIOLATIONS OF THE FIRST AMENDMENT  
FREE SPEECH AND PETITION CLAUSES**

**(against all Defendants)**

85. Plaintiff incorporates herein and re-alleges, as if fully set forth herein, all factual allegations of paragraphs 1-5 and 8-71.

86. Expressions of opinion about whether or not a person should be prosecuted by the government involve core political speech. Defendants' policies and practices punish Plaintiff and other crime victims who express a desire not to prosecute a particular person accused of crime.

87. A crime victim's decision about whether or not to actively assist the government in the prosecution of a particular person accused of crime implicates victims' protected associational rights. Defendants' policies and practices punish Plaintiff and other crime victims who choose not to associate with City law enforcement officials and prosecutors.

88. A crime victim's right to petition the government for redress includes a corresponding right to decide for herself whether to exercise that right.

Defendants' policies and practices infringe the right of Plaintiff and other crime victims by punishing them for failing to participate in criminal prosecutions.

**COUNT FOUR**

**VIOLATION OF THE FOURTH AMENDMENT**

**(against Defendant Lincoln)**

89. Plaintiff incorporates herein and re-alleges, as if fully set forth herein, all factual allegations of paragraphs 1-5 and 8-71.

90. When Defendant Lincoln arrested Plaintiff, there were no objective facts and circumstances that would arguably lead a prudent person to believe that Plaintiff had committed a crime. Therefore, Defendant Lincoln's seizure of Plaintiff was objectively unreasonable.

91. When Defendant Lincoln arrested Plaintiff, the purported "crime" had been committed days earlier and Defendant Lincoln had "'ample opportunity to procure a warrant' between the time of the commission of the offenses and the arrests." *Herren v. Bowyer*, 850 F.2d 1543, 1547 (11th Cir. 1988). Therefore, Defendant Lincoln's seizure of Plaintiff was objectively unreasonable.

**COUNT FIVE**

**FALSE IMPRISONMENT  
O.C.G.A. § 51-7-20**

**(against Defendant Lincoln)**

92. Plaintiff incorporates herein and re-alleges, as if fully set forth herein, all factual allegations of paragraphs 1-5 and 8-71.

93. Defendant Lincoln's arrest of Plaintiff was unlawful because he acted without probable cause and arrested Plaintiff maliciously and for the purpose of causing Plaintiff harm. As a result, Plaintiff was unlawfully detained and deprived of her liberty.

94. Defendant Lincoln's arrest of Plaintiff was unlawful because he had time to seek a warrant and failed to do so maliciously and for the purpose of causing Plaintiff harm. *See, e.g., Yancey v. Fidelity & Cas. Co of N.Y.*, 100 S.E.2d 653, 656 (Ga. 1957). As a result, Plaintiff was unlawfully detained and deprived of her liberty.

**COUNT SIX**

**MALICIOUS PROSECUTION  
O.C.G.A. § 51-7-40**

**(against Defendant Lincoln)**

95. Plaintiff incorporates herein and re-alleges, as if fully set forth herein, all factual allegations of paragraphs 1-5 and 8-71.

96. Defendant Lincoln initiated a criminal prosecution of Plaintiff for allegedly giving false information. The prosecution was carried on maliciously and without any probable cause. The prosecution injured Plaintiff by causing her to be unlawfully detained and fined.

**COUNT SEVEN**

**CONVERSION  
O.C.G.A. § 51-10-1**

**(against Defendant Columbus Consolidated Government)**

97. Plaintiff incorporates herein and re-alleges, as if fully set forth herein, all factual allegations of paragraphs 1-5 and 8-71.

98. The City has unlawfully interfered with the right of Plaintiff and similarly situated crime victims to retain possession of their money by taking it from them under Section 2-15.2(1) of the Columbus, Georgia, Code of Ordinances.

**COUNT EIGHT**

**UNJUST ENRICHMENT**

**(against Defendant Columbus Consolidated Government)**

99. Plaintiff incorporates herein and re-alleges, as if fully set forth herein, all factual allegations of paragraphs 1-5 and 8-71.

100. The City unlawfully collected fees from Plaintiff and similarly situated crime victims under Section 2-15.2(1) of the Columbus, Georgia, Code of Ordinances. Allowing the City to retain the money of Plaintiff and other crime victims would unjustly enrich the City at Plaintiff's expense.

**COUNT NINE**

**MONEY HAD AND RECEIVED**

**(against Defendant Columbus Consolidated Government)**

101. Plaintiff incorporates herein and re-alleges, as if fully set forth herein, all factual allegations of paragraphs 1-5 and 8-71.

102. The City is unlawfully holding the money of Plaintiff and similarly situated crime victims under circumstances where equity and good conscience demand return of the money.

### **PRAYER FOR RELIEF**

On the basis of the foregoing, Plaintiff respectfully prays that this Court:

1. Assume jurisdiction over this action;
2. Certify this case as a class action;
3. Award Plaintiff and members of the class compensatory, nominal, and punitive damages, as permitted by law;
4. Declare that Defendants' conduct violated the constitutional rights of Plaintiff and similarly situated crime victims;
5. Preliminarily and permanently enjoin Defendants' unconstitutional conduct;
6. Award costs and reasonable attorney fees under 42 U.S.C. § 1988 and other applicable law.

Respectfully submitted,

/s/ Sarah Geraghty  
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October 5, 2016