

19631

MARGIE |SCHOEDINGER

Plaintiff,

Vs.

CITY OF SUGAR LAND, SUGAR LAND POLICE
DEPARTMENT, OFFICER JONES, OFFICER
SIPE, AND SERGEANT SCHULTZ

Defendants

) IN THE COUNTY CIVIL COURT

) AT LAW NUMBER 2

) FORT BEND COUNTY, T E X A S

PLAINTIFFS FIRST AMENDED PETITION

TO THE HONORABLE JUDGE OF SAID COURT:

COMES NOW, MARGIE SCHOEDINGER, Plaintiff, in the above styled and numbered cause, with respect, submitting Plaintiff's First Amended Petition, and shows the court the following:

I.

Plaintiff is a resident of Fort Bend County, Texas. Defendants are Police Officers under the commission of the City of Sugar Land and may be served with process at: City of Sugar Land, City Attorney, Sugar Land City Hall, 10405 Corporate Drive, Sugar Land, TX 77478.

II.

On the evening of October 26, 2000, Plaintiff was driving home alone after a shopping trip. Upon stopping at the red light at the intersection of Dairy Ashford and Highway 90, in Sugar Land, TX, Plaintiff was held against

her will by an unknown white male assailant. While Plaintiff had turned her attention to the red light in front of her, the individual had exited the passenger seat of the vehicle, a blue mini-van which had pulled up to the light behind Plaintiff, and began screaming obscenities and pounding Plaintiff's driver side window with raised fists. Assailant threatened Plaintiff with physical violence, and held Plaintiff in terror under non-stop psychological warfare all the while assailant continued to attempt to obtain access into Plaintiff's vehicle.

Plaintiff immediately started to try to garner the attention of passing drivers until finally Plaintiff spotted a Texas State Trooper Vehicle waiting at the light, to the left, across the highway. Plaintiff advised assailant that the Trooper was nearby and had noticed her efforts to get help. At which point assailant stated that he, the assailant, would advise the Trooper that Plaintiff had hit the mini-van.

At this point Plaintiff noticed that there was a second assailant at the passenger side, rear of Plaintiff's vehicle.

III.

As Trooper exited his vehicle and walked across the highway, Plaintiff noticed that assailant had moved to the back of her vehicle and was in the process of concealing what looked like a switch blade in the pocket of his pants.

At this point, the driver of the mini-van got out and both the driver of the mini-van and the first assailant began to walk rapidly, back and forth, along the back of Plaintiff's vehicle. After spotting an old gash on Plaintiff's vehicle, the driver of the mini-van stated, "Here, Here's something."

IV.

Once it was clear that Trooper was making the turn to come to the scene, Plaintiff partially exited her vehicle and stood by the driver side door with it open, looking back to see what the two assailants were pointing out at the back of her vehicle. At the same time, Plaintiff noticed that the second assailant, a black male was attempting to conceal himself in the back seat of the mini-van.

As the first assailant and the driver pointed out what damage they were going to claim had been done to Plaintiff's vehicle as a result of this manufactured tale the first assailant had just created to cover their actual intentions, Plaintiff exited her vehicle and ran towards the Trooper.

V.

After this, assailant made the false assertion that Plaintiff had hit said mini-van in which the assailant was a passenger, as mentioned earlier in this Petition, to the Texas State Trooper, however, Trooper seeing that the only damage to the mini-van was a cracked front passenger side signal, pointed out that the damage to the mini-van had been done by a rock or some other direct poke into the glass. The Trooper also pointed out that the

Plaintiff's bumper had dust on its entirety, and that because of the height difference between the mini-van and the Plaintiff's Explorer would have caused the Plaintiff's bumper to rub across the mini-van and cause paint transfer.

VI.

Plaintiff advised Trooper that Plaintiff felt assailant was going to harm Plaintiff in some manner, and that assailant did not make the assertion of an accident until the Trooper was spotted. Plaintiff pointed out the third assailant, now hunched low in the back seat of the mini-van. Plaintiff attempted to further advise Trooper of what had occurred, but Sugar Land Police arrived and Trooper advised Plaintiff to return to car and explain the details to Sugar Land Police, who now had jurisdiction.

VII.

The Sugar Land Officers arrived in separate units, both having no nametags and having their badges covered in black tape. After taking some time in their cars, then conversing with one another, the Officers began walking towards the scene.

VIII.

Plaintiff got out of her vehicle and walked towards one of the officers. As soon as Plaintiff began to speak, the officer told Plaintiff to be quiet and get back to her vehicle. Stunned, Plaintiff attempted once again to advise the officer of all that she had just been through. This time the officer's demeanor became extremely aggressive and the officer leaned

in towards Plaintiff and yelled at Plaintiff to get back to her vehicle, stand by it, wait until he came to talk to her and he was not going to tell her again, or else.

Plaintiff went back to her vehicle and cried briefly, waiting in her vehicle while both the Sugar Land Officers talked and laughed with the assailants.

IX.

After noticing that Plaintiff had gotten into her vehicle, the second Sugar Land Officer came to Plaintiff's vehicle and stated that he was ready to hear about the accident. When Plaintiff asserted that there was no accident, officer laughed and told Plaintiff, "Often times certain drivers can have accidents and don't even know it."

Plaintiff then went on to attempt to explain the entire situation to the officer, but with each attempt the Plaintiff made, the officer would interrupt the Plaintiff, telling Plaintiff she was mistaken, confused or over-reacting. These are the descriptive words the officer chose to use.

X.

At some point, the first officer joined the second officer at Plaintiff's vehicle. Plaintiff then stated firmly that she had a right to file a complaint and have this matter looked at by a jury. The officers gave each other a grin and the first officer told Plaintiff that the only thing they, the Sugar Land Police, were there to do was investigate an accident.

Plaintiff asked the officer if they were refusing Plaintiff's complaint. In response, the first officer stated that they had the discretion to ascertain whether or not they wanted to take a report on Plaintiff's issue.

XI.

At this point, Plaintiff said, "I want to know who this man is that threatened me this way, and I will file a complaint with the DA's office, if you two won't take the complaint, so that if he does something to me, at least my family will know who did it."

Ignoring Plaintiff, officer two then went back to one of the units and talked for a short while on the police radio. At this point, officer one asked for Plaintiff's insurance and driver's license. Officer questioned Plaintiff about the address on Plaintiff's driver's license and asked how Plaintiff had maintained a P.O. Box address on the license. Plaintiff explained to officer that she had worked for the State of Texas Previously and had obtained a Commercial Drivers License at that time, which allows the use of a P.O. Box address. The Officer then told Plaintiff to stand outside Plaintiff's vehicle and wait right there, then walked back to the squad car and spoke with the other officer briefly.

When the officers returned to Plaintiff's vehicle, officer one stated that he would drive up to the highway and see if there was any glass on the highway.

At this point, Plaintiff noticed that the first assailant, now sitting in the front passenger seat of the mini-van, was bouncing up and down. When Plaintiff looked over, assailant shoved his hand down the front of his pants and seemed to be lifting his chin up and down at the Plaintiff.

Upon officer one's return, he joined the other officer again and they spoke with each other for a moment.

The officers walked over to the mini-van. The officers and the assailants spoke with each other briefly in a huddle. The first assailant was now smoking a cigarette and laughing while he and the other assailants talked with the officers. The officers shook hands with the assailants, and then walked back to Plaintiff's vehicle. The mini-van drove off. Expecting that the officer's had taken the assailants information, just as they had taken Plaintiff's, Plaintiff asked for the assailants information and was told that the officers had gotten no information from the assailants and had, 'done the Plaintiff a favor by not making an accident report'.

Plaintiff made one more attempt to tell officer what had happened, but the first officer interrupted Plaintiff, "I know, you are upset because you say he talked about your Blackness."

At that point Plaintiff got in her vehicle and drove away.

XII.

Immediately, upon arriving home, Plaintiff contacted the Sugar Land Police Department and asked to speak with a supervisor, hoping that the assailants might still be located on the road. Plaintiff spoke with Sergeant Schultz at the Sugar Land Police Department, and was offered no help at all.

Sergeant Schultz compared Plaintiff's plight to his wife's personality when complaining around the house, and told Plaintiff that assailants were probably more intimidated by Plaintiff than Plaintiff was by Assailants.

XIII.

VIOLATION OF CONSTITUTIONAL RIGHTS

Plaintiff alleges that by refusing to accept Plaintiff's incident report, or even hear Plaintiff's account of the incident, Officer Jones and Officer Sipe violated Plaintiff's rights under The Equal Protection Clause of Amendment 14 of the United States Constitution.

A.

While this assailant threatened Plaintiff in every way imaginable, and made sure to let Plaintiff know the matter did not end with the evening of October 26, 2000, leaving Plaintiff feeling completely terrorized, the Sugar Land Police Department refused Plaintiff's right to have her accounts of being victimized by the assailants recorded and was denied her rights to be protected from the assailants' threats by Sugar Land Police.

Plaintiff further alleges that Sugar Land Police acted as judge and jury without even hearing the facts and further denied Plaintiff's right to have the assailants answer charges before a tribunal.

B.

Plaintiff further alleges that based on the friendly demeanor of the officers with the assailants, and the fact that the officers spent nearly two hours investigating an imaginary accident in which the damages were approximately \$25.00 to \$50.00, that one or more of the assailants were known to one or both of the Sugar Land Police Officers. And that the officers acted as protectorate to the assailants, and engaged in joking and laughing with the assailants, shielding them from the possibility of prosecution for the unlawful acts that they did commit against the Plaintiff on the evening of October 26, 2000.

And in the end, when Plaintiff stated she would use the accident report to follow up at the District Attorney's office, officers further shielded the assailants by allowing them to leave the scene without Plaintiff's knowledge that absolutely no information had been obtained from assailants throughout the entirety of the nearly two hour process.

XIV.

Discrimination

Plaintiff repeats and re-alleges allegations in Paragraphs I through

XII.

Plaintiff further alleges that both gender bias and/or racial biases were furthering cause of the officers' indifference to Plaintiff's plight. The reference to Plaintiff's 'Blackness' and comparing Plaintiff's efforts to seek help from the police department to that of an officer's wife's complaining, as mentioned earlier, herein.

XV.

Plaintiff made good faith effort, in every way possible to describe the events of the evening of October 26, 2000. As mentioned earlier herein, Plaintiff was told to stop attempting to assert her charges against the assailants, or else. Thereby, leaving Plaintiff feeling under threat from both assailants and the officers. Plaintiff was in fear throughout the entirety of the process that the officers might leave the scene before the assailants did, or cause the Plaintiff some other harm.

XVI.

Plaintiff further alleges that because of the actions of Sugar Land Police Officers Jones, Sipe and Sergeant Schultz, Plaintiff has no idea as to the identity of the assailants who threatened Plaintiff. Plaintiff is left with no other option but to re-live the night of October 26, 2000, over and over again, realizing that for some reason, the officers from which Plaintiff sought help, and felt relieved to see, treated her with disdain and indifference.

XVII.

Plaintiff is afraid to go outside, Plaintiff is afraid to drive. Plaintiff is in fear for her life. Plaintiff is afraid of retaliation by the Sugar Land Police Department. Plaintiff is tired and overtaxed from trying to understand why these officers were so indifferent to Plaintiff.

XVIII.

By their actions in refusing to take down Plaintiff's account of the facts and record the identity of the assailants, and treating Plaintiff with such disdain in the presence of the assailant, officers Jones and Sipe advocated the behavior of the assailant, thereby making assailant feel free of any consequence, comfortable enough to make obscene gestures towards Plaintiff while officers were still on the scene.

Plaintiff alleges that because of the assailants' level of organization: the driver waiting in the mini-van; the second assailant secreting himself on the opposite side of Plaintiff's vehicle, apparently to catch Plaintiff at the other side if Plaintiff attempted to exit via the passenger side door; the way the first assailant was able to create an alternate reason for his actions upon the Plaintiff gaining assistance from the State Trooper; and, the assailant's level of rage towards the Plaintiff, leaves Plaintiff in fear that this was not a random attack, but that Plaintiff had been followed and/or watched by assailants for sometime prior to the attack.

Plaintiff further alleges that because of the assailant being able to witness Plaintiff's being put under further distress by members of law enforcement, the entire encounter was made even more thrilling for the assailant and thus the assailant will feel even more comfortable about seeking Plaintiff out again to cause Plaintiff further harm.

A.

By reason of the foregoing, Plaintiff is in fear for her life and left with no other reasonable alternative but to relocate and seek to feel safe again.

B.

To Plaintiff's detriment, Plaintiff relied upon the Sugar Land Police to be diligent, fair and thorough in the performance of their duties. Defendants' actions have left Plaintiff with no other option but to seek relief within the courts to prescribe effective remedy to signal that such treatment of citizens by Law Enforcement will not be tolerated and to insure that the messages is sent that officers of the Law do not have the right to effectively deny any citizen their right under the United States Constitution to file a complaint and have the outcome of that complaint decided by a judge or jury.

C.

The City of Sugar Land Police Department has acknowledged to Plaintiff that Defendants: Officer Jones, Officer Sipe and Sergeant Schultz are

members of the City of Sugar Land Police Force, and were on duty on the evening of October 26, 2000.

The City of Sugar Land Police Department has acknowledged to Plaintiff that the Defendants: Officer Jones, Officer Sipe were the two officers that arrived on the scene to answer Plaintiff's call for help on the evening of October 26, 2000, and were in the performance of their duties as Police Officers with the City of Sugar Land at that time.

The City of Sugar Land Police Department further acknowledged to Plaintiff that Sergeant Schultz is the officer that answered Plaintiff's further call to the City of Sugar Land Police Department for help in locating the assailants while they were still on the road, and that Sergeant Schultz was in the performance of his duties as a police officer with the City of Sugar Land at that time.

The City of Sugar Land has refused to provide plaintiff with the full name and badge number of the defendants: Officer Jones, Officer Sipe and Sergeant Schultz. The defendants are police officers with the City of Sugar Land Police Department, and the City of Sugar Land is responsible for the actions taken by the defendants, as described herein, on the evening of October 26, 2000.

XIX.

Plaintiff repeats and re-alleges allegations in Paragraphs I through

XVIII

To date, Plaintiff has sustained at least \$1 in actual damages, and seeks punitive damages in the amount of \$50,000.00 for the emotional distress, loss of sense of security and loss of peace of mind that Plaintiff has suffered as a result of the actions taken by defendants as described herein.

The Defendant's conduct as described in this petition was in gross violation of Plaintiff's right to equal access and protection under the law, resulting in Plaintiff's damages, and justifies an award of exemplary damages, exceeding the minimum jurisdictional limits of the courts.

Plaintiff prays that in addition to the aforementioned recovery, Plaintiff is entitled to recover a reasonable amount for any such attorney's services, as fixed by the Court, in connection with the preparation, trial and appeal of this action.

WHEREFORE, Plaintiff prays that the Defendants, be sited to appear and answer, and that on final trial, Plaintiff be granted the following:

1. Judgment against defendants for actual damage suffered by the Plaintiff.
2. Judgment against the defendants for punitive damage.

3. A further judgment against the defendants for damages in excess of the minimum jurisdictional limits of the Court.

4. A judgment against the defendants for the initial costs associated with the relocating of Plaintiff's family.

5. Costs of Suit.

6. Pre-Judgment Interest

7. Post-Judgment Interest

8. Such other and further relief to which plaintiff may be justly entitled.

RESPECTFULLY SUBMITTED,

BY:


Marshall Schoedinger

PRO SE

For Plaintiff

12100 HWY 6 SO
UNIT 6204
SUGAR LAND TX 77478
(281) 546-6765

FILED FOR RECORD

NO. _____ TIME 2:31 PM.

DEC 27 2000


County Clerk Fort Bend Co. Tex.

The Schoedingers

P. O. Box 2435
Bellaire, TX 77402-2435
(281) 546-6765

CERTIFIED MAIL
RETURN RECEIPT REQUESTED
No. 7099 3220 0004 9060 0892

December 27, 2000

Dianne Wilson
County Clerk, Fort Bend County
Civil - Probate
Attention: Erica
301 Jackson
Richmond, TX 77469-3108

RE: CAUSE NUMBER 19631, AMENDED PETITION - ADDITIONAL COPIES

Dear Erica:

Thank you for your care in contacting me back to correct the information you initially gave me. This is greatly appreciated.

Per your request, I have enclosed (4) additional copies of the Amended Petition to add to the (1) original Amended Petition and (1) copy of the original Amended Petition already sent to your office via certified mail, item number 7099 3220 0004 9060 0854. Please keep the original for your office and stamp the copies to show that original is on file with your office, for my records.

I have enclosed a copy of the original cover letter for your review.

I should be receiving back (4) four citations and (4) copies of the Amended Petition for the Defendants: City of Sugar Land, Officer Jones, Officer Sipe and Sergeant Schultz, plus (1) copy of the Amended Petition for my files.

Please return the (4) citations, the (5) copies of the Amended Petition and the copy of the request for service to me in the self-addressed, post paid envelope which was enclosed with the initial mailing, as I will be serving the defendants via certified mail.

I have enclosed an additional self-addressed envelope for your convenience, if needed.

Thank you,

Marlene Schoedinger

00 DEC 28 PM 2:42

FILED

The Schoedingers

P. O. Box 2436
Bellaire, TX 77402-2436
(281) 546-6765

December 22, 2000

Dianne Wilson
County Clerk, Fort Bend County
301 Jackson
Richmond, TX 77479-3108

RE: CAUSE NUMBER 19831, AMENDED PETITION

Enclosed please find \$16.00 to cover (4) four citations for the Amended Petitions to the Defendants: City of Sugar Land, Officer Jones, Officer Sipe and Sergeant Schultz, per your 'Civil Fee Schedule'.

I have enclosed (1) original of the Amended Petition and (1) copy of the original Amended Petition. Please keep the original for your office and stamp the copy to show that original is on file with your office, for my records.

I have enclosed an additional \$5.00 to cover a copy of the hand written request for service given at your office on December 21, 2000.

Please return the citations, the copy of the Amended Petition and the copy of the request for service to me in the enclosed, self-addressed, post paid envelope, as I will be serving the defendants via certified

Thank you

Mary Schoedinger

AS PER ORIGINAL

The Schoedingers

P. O. Box 2435
Bellaire, TX 77402-2435
(281) 546-6765

December 22, 2000

Dianne Wilson
County Clerk, Fort Bend County
301 Jackson
Richmond, TX 77479-3108

RE: CAUSE NUMBER 19631 AMENDED PETITION

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Thank you

Marge Schoedinger

00 DEC 27 PM 2:31

FILED

FORT BEND COUNTY, TEXAS