

UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF FLORIDA
ORLANDO DIVISION

FILED

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CLERK, US DISTRICT COURT
MIDDLE DISTRICT OF FLORIDA
ORLANDO, FLORIDA

ASHLEY DRURY,)
)
 Plaintiff,)
 v.)
)
VOLUSIA COUNTY, FLORIDA,)
 a political subdivision of the State of Florida,)
ROBERT PAUL TAMERIS, individually,)
JEOA DUANE SIMMONS, individually,)
CHRISTIN DUARTE, individually,)
KEVIN SWEAT, individually and in his)
 official capacity as Director of the)
 Volusia County Beach Patrol,)
JAMES DINNEEN, in his official capacity as)
 County Manager for Volusia County, Florida,)
MARY ANNE CONNORS, in her official)
 capacity as Deputy County Manager for)
 Volusia County, Florida, and)
MIKE COFFIN, in his official capacity as)
 Director of the Volusia County Department)
 of Public Protection,)
)
 Defendants.)
 _____/

CASE NO.:
6:10-cv-1176-01-18DAB

COMPLAINT
FOR DECLARATORY JUDGMENT AND DAMAGES

Plaintiff brings this suit pursuant to 42 U.S.C. §1983, 42 U.S.C. §1985 and 42 U.S.C. §1986, seeking a declaratory judgment declaring certain policies and practices of Volusia County, and its agents and employees, to be unconstitutional under the Fourth and Fourteenth Amendments to the United States Constitution, together with an award of damages associated with those unconstitutional policies and practices. Plaintiff also brings several state law claims pursuant to the supplemental jurisdiction of this Court.

Plaintiff further seeks an award of damages, costs and attorney's fees in addition to a declaration of her rights.

JURISDICTION

1. This suit is brought pursuant to 42 U.S.C. §1983:

Every person who, under color of any statute, ordinance, regulation, custom, or usage, of any State or Territory or the District of Columbia, subjects, or causes to be subjected, any citizen of the United States or other person within the jurisdiction thereof to the deprivation of any rights, privileges, or immunities secured by the Constitution and laws, shall be liable to the party injured in an action at law, suit in equity, or other proper proceeding for redress...

2. This Court has "Federal Question" jurisdiction pursuant to 28 U.S.C. §1331 to hear cases arising under the Constitution of the United States, under 28 U.S.C. §1343(3) to redress the deprivation under color of state law of any right, privilege or immunity secured by the Constitution, and under 28 U.S.C. §1343(4) to recover damages and secure other relief for the invasion of civil rights.

3. The Court has the authority to issue declaratory judgments and grant further relief pursuant to 28 U.S.C. §§2201 and 2202, and Rule 65, Fed.R.Civ.P.

4. This Court may enter an award of attorney's fees pursuant to 42 U.S.C. §1988.

5. This Complaint seeks declaratory and injunctive relief to prevent violations of the Plaintiff's rights, privileges and immunities under the Constitution of the United States and Title 42 U.S.C. §§ 1983, 1985, 1986 and 1988, specifically seeking redress for the deprivation under color of state statute, ordinance, regulation, custom or usage of rights, privileges, and immunities secured by the Constitution and laws of the United States. The rights sought to be protected in this cause of action arise and are secured under the Fourth and Fourteenth Amendments to the Constitution.

6. This Court has supplemental jurisdiction over Plaintiff's state law claims pursuant to 28 U.S.C. §1366.

7. Plaintiff further asks the Court to enter judgment in favor of Plaintiff and against JEOA DUANE SIMMONS, ROBERT PAUL TAMERIS, CHRISTIN DUARTE, and KEVIN SWEAT, individually, awarding compensatory and punitive damages in an amount to be determined by a jury, to punish those Defendants for their illegal conduct and to deter them and others from similar conduct.

VENUE

8. Venue is proper in the Middle District of Florida, Orlando Division, since the policies and acts complained of are those of the County of Volusia County, Florida, which is within the district and geographical area assigned to the Orlando Division.

PARTIES

9. Plaintiff, ASHLEY DRURY, is an individual, *sui juris*, residing within the jurisdictional boundaries of the Middle District of Florida. ASHLEY DRURY is beneficially interested in the relief herein sought and seeks to invoke the original jurisdiction of this Court on account of the facts and matters herein stated.

10. Defendant, VOLUSIA COUNTY, Florida (hereinafter "COUNTY" or "VOLUSIA COUNTY") is a political subdivision of the State of Florida.

11. Defendant ROBERT PAUL TAMERIS ("TAMERIS") is a natural person, *sui juris*, residing in Volusia County, Florida. At all times material hereto, TAMERIS was an officer with the Volusia County Beach Patrol and was employed by Volusia County, Florida. TAMERIS is sued in his individual capacity.

12. Defendant JEOA DUANE SIMMONS ("SIMMONS") is a natural person, *sui juris*, residing in Volusia County, Florida. At all times material hereto,

SIMMONS was a captain with the Volusia County Beach Patrol and was employed by Volusia County, Florida. SIMMONS is sued in his individual capacity.

13. Defendant CHRISTIN DUARTE (“DUARTE”) is a natural person, *sui juris*, residing in Volusia County, Florida. At all times material hereto, DUARTE was a life guard with the Volusia County Beach Patrol and was employed by Volusia County, Florida. DUARTE is sued in his individual capacity.

14. Defendant KEVIN SWEAT (“SWEAT”) is a natural person, *sui juris*, residing in Volusia County, Florida. At all times material hereto, SWEAT was the Director of the Volusia County Beach Patrol and was employed by Volusia County, Florida. SWEAT is sued both individually and in his official capacity.

15. Defendant JAMES DINNEEN (“DINNEEN”) is a natural person, *sui juris*, residing in Volusia County, Florida. At all times material hereto, DINNEEN was County Manager for Volusia County and was employed by Volusia County, Florida. DINNEEN is sued in his official capacity only.

16. Defendant MARY ANNE CONNORS (“CONNORS”) is a natural person, *sui juris*, residing in Volusia County, Florida. At all times material hereto, CONNORS was Deputy County Manager for Volusia County and was employed by Volusia County, Florida. CONNORS is sued in her official capacity only.

17. Defendant MIKE COFFIN (“COFFIN”) is a natural person, *sui juris*, residing in Volusia County, Florida. At all times material hereto, COFFIN was the Director of the Volusia County Department of Public Protection and was employed by Volusia County. COFFIN is sued in his official capacity only.

BACKGROUND FACTS

18. The Volusia County Beach Patrol is a division of the Volusia County Department of Public Protection. The Volusia County Department of Public Protection is in turn a Department of Volusia County, Florida.

19. Volusia County, Florida is governed by its elected Board of County Councilmen, and is managed by the County Manager, JAMES DINNEEN.

20. Assistant County Manager MARY ANNE CONNORS is responsible for managing that portion of Volusia County government which includes the Volusia County Department of Public Protection and the Volusia County Beach Patrol. CONNORS reports directly to DINNEEN.

21. MIKE COFFIN is the Director of the Volusia County Department of Public Protection. Among his responsibilities is the management and oversight of the Volusia County Beach Patrol. COFFIN is responsible for policy-making decisions with respect to the Volusia County Beach Patrol in conjunction with SWEAT.

22. KEVIN SWEAT is the director of the Volusia County Beach Patrol. KEVIN SWEAT has the power to hire and fire Beach Patrol personnel and is directly responsible for the day-to-day management of the Volusia County Beach Patrol. SWEAT is responsible for policy-making decisions with respect to the Volusia County Beach Patrol in conjunction with COFFIN.

23. Employees of the Volusia County Beach Patrol include both sworn law enforcement officers and unsworn lifeguards. The law enforcement officers employed by the Volusia County Beach Patrol are cross-trained in lifeguard and rescue techniques.

24. At all times material hereto Defendant TAMERIS was a sworn law enforcement officer with the Volusia County Beach Patrol.

25. At all times material hereto Defendant SIMMONS was a Captain with the Volusia County Beach Patrol and a sworn law enforcement officer.

26. At all times material hereto Defendant DUARTE was an unsworn lifeguard with the Volusia County Beach Patrol.

27. The Volusia County Beach Patrol has employed minor children as summer lifeguards for several decades and continues to do so.

SEXUAL ABUSE OF PLAINTIFF

28. Plaintiff was born on August 16, 1991. While now over the age of majority, Plaintiff was a minor child at all times material to this Complaint.

29. During the summer of 2008, Plaintiff was employed as a lifeguard by the Volusia County Beach Patrol. Plaintiff was sixteen (16) years of age at the beginning of her employment as a lifeguard and turned seventeen (17) toward the end of her employment by the County.

30. Plaintiff was introduced to Defendants SIMMONS, TAMERIS and DUARTE while employed as a lifeguard during the summer of 2008. SIMMONS and TAMERIS were Plaintiff's direct supervisors while DUARTE was introduced to her as a senior lifeguard.

31. TAMERIS, SIMMONS and DUARTE established an intimate "relationship" with Plaintiff while she was a lifeguard employed by the Volusia County Beach Patrol. TAMERIS, SIMMONS and DUARTE utilized their position as Plaintiff's superior officers to foster that "relationship".

32. Plaintiff first met TAMERIS in April of 2008 while stationed at the lifeguard tower just north of Sunsplash Park. TAMERIS, who was then on duty, initiated

a conversation with Plaintiff and followed that initial casual contact with numerous telephone calls and text messages. Many of those text messages were sexually explicit.

33. Plaintiff advised TAMERIS at the time they met that she was only sixteen. TAMERIS responded that she should “just keep quiet about that”.

34. On August 16 or 17, 2008, TAMERIS engaged in sexual intercourse with Plaintiff. Plaintiff had just turned seventeen (17) years of age and TAMERIS was approximately forty-three (43) years old.

35. Plaintiff engaged in sexual intercourse with TAMERIS on a total of three occasions between August and September 2008.

36. In later conversation with another underage victim of his sexual abuse [W.C.], TAMERIS described his seduction of Plaintiff and opined that “she was easy”.

37. At some point after August 2008, SIMMONS engaged in sexual intercourse with Plaintiff. Plaintiff had just turned seventeen (17) years of age and SIMMONS was approximately thirty-five (35) years old.

38. The sexual encounter between SIMMONS and Plaintiff took place at the Main Street lifeguard tower, which is owned and operated by Volusia County.

39. At some point after August 2008, DUARTE engaged in sexual intercourse with Plaintiff. Plaintiff was seventeen (17) years of age at that time and DUARTE was approximately thirty (30) years old.

40. The sexual encounter between DUARTE and Plaintiff took place in the back of DUARTE’s pick-up truck shortly after Plaintiff and DUARTE finished their shift as lifeguards.

41. By engaging in sexual intercourse with the Plaintiff, TAMERIS, SIMMONS and DUARTE violated §794.05, Fla.Stat. which prohibits sexual activity with a minor child.

42. Plaintiff did not give consent to sexual intercourse with TAMERIS, SIMMONS or DUARTE because she was a minor child at the time of the sexual contact and was therefore legally incapable of giving consent.

43. Furthermore, the sexual intercourse between TAMERIS, SIMMONS and DUARTE took place in a coercive environment where voluntary consent was not possible. As will be described below, sexual encounters between underage lifeguards and officers and senior lifeguards employed by the Volusia County Beach Patrol, was both part of the culture of the Beach Patrol and a condition for employment of Plaintiff and other minors.

ESTABLISHED CULTURE OF SEXUAL ABUSE

44. While the Volusia County Beach Patrol is part of the organizational structure of Volusia County and is supervised and managed by DINNEEN, CONNORS and COFFIN, in practice, the Beach Patrol has been relatively autonomous.

45. That relative autonomy and the lack of firm oversight by high-level managers, including DINNEEN, CONNORS and COFFIN, has allowed a culture of sexual abuse and depravity to take hold of the Volusia County Beach Patrol.

46. That culture of sexual abuse has focused over the years on the minor children employed as lifeguards by the Volusia County Beach Patrol.

47. For minor children living in Volusia County, the position of lifeguard is considered both glamorous and fun. That perspective is fostered and encouraged by

Volusia County through the Beach Explorer program and the annual Junior Lifeguard Camp, which attracts children between the ages of 9 and 15.

48. It is common knowledge that minors employed as lifeguards by the Volusia County Beach Patrol will be expected to have sexual intercourse with the officers and adult lifeguards employed by that Division. Sex with an adult officer or lifeguard is considered a “rite of passage” among the minor lifeguards.

49. It is also common knowledge that minor lifeguards will not be re-hired the following summer unless they have engaged in sex with the officers and adult lifeguards employed by the Beach Patrol.

50. None of these sexual encounters with minor lifeguards has been consensual as the lifeguards were minors and are incapable of giving consent. Furthermore, the minors were placed in coercive situations where sexual intercourse was required as a condition for their employment.

51. While SWEAT is ultimately responsible for the selection and retention of minor lifeguards, in practice those lifeguards are selected by the Captains and Officers employed by the Beach Patrol, including SIMMONS and TAMERIS – the very individuals who were responsible for engaging in sexual intercourse with the minor lifeguards, including Plaintiff.

52. The sexual abuse and coerced intercourse by employees of the Volusia County Beach Patrol was not an occasional occurrence by a few isolated individuals, but was a regular fact of life for members of the Beach Patrol, occurring over the course of many, many years.

53. As far back as 1996, a Volusia County Beach Patrol spokesman was quoted in a national publication as saying that the lifeguards employed by the Volusia

County Beach Patrol were “sexaholics” and “hustlers” for whom having sex on their lunch hour was routine.

54. Furthermore, Plaintiff was not the only minor child to suffer sexual abuse and coerced intercourse at the hands of Volusia County Beach Patrol employees. Plaintiff’s inquiries have discovered that other minor children have suffered the same abuse she was forced to endure. Plaintiff alleges the following particulars:

A. Beginning in September or October of 2007, TAMERIS engaged in sexual intercourse with a minor known as “W.C.”, then 16 years of age. TAMERIS met and seduced W.C. while working as a lifeguard with the Volusia County Beach Patrol. The sexual relationship lasted until March 2008 when the victim turned 17. There were approximately 20-25 incidents of sexual activity between TAMERIS and W.C. TAMERIS also sent sexually explicit photographs and text messages to W.C. One such photograph of TAMERIS’ erect penis was taken on the third floor of the Main Street lifeguard tower.

B. In July and August of 2009, TAMERIS kissed and fondled the breasts of a minor known as “N.L.” then 17 years of age. N.L. was employed by the Volusia County Beach Patrol as a lifeguard beginning in May 2008, when she was 16 years of age.

C. In the summer of 1999, TAMERIS engaged in sexual intercourse with a minor known as “J.A.”, then 17 years of age. TAMERIS met and seduced J.A. while working as a lifeguard with the Volusia County Beach Patrol. The sexual relationship lasted for approximately 2-3 years and included 3 or 4 instances of sexual intercourse when J.A. was 17. One of those sexual encounters took place at the Main Street lifeguard tower.

D. On information and belief, SIMMONS engaged in similar conduct with minor children either employed as lifeguards by the Volusia County Beach Patrol, or seduced while SIMMONS was on duty as a lifeguard for the Beach Patrol.

E. Both SIMMONS and TAMERIS are also known to have engaged in sexual intercourse with adults while on duty as lifeguards for the Beach Patrol. Many of those encounters also occurred at the Main Street lifeguard station.

F. It was commonplace knowledge that members of the Volusia County Beach Patrol viewed pornographic materials on their computers while on duty.

KNOWLEDGE OF SEXUAL ABUSE BY COUNTY OFFICIALS;
RATIFICATION THROUGH INACTION

55. Volusia County, and its management-level employees, including SWEAT, DINNEEN, CONNORS and COFFIN, have a duty to ensure that all County employees are properly trained in the identification and prevention of sexual abuse of minor children.

56. The frequent sexual encounters between underage lifeguards and senior staff were known or should have been known to SWEAT, DINNEEN, CONNORS and COFFIN, and to other officers, agents and employees of Volusia County.

57. The sheer volume of abuse cases across many years and involving multiple victims shows a reckless disregard for the well-being of the minors entrusted to the Volusia County Beach Patrol. These crimes occurred over the course of decades and may have involved dozens of innocent young women such as Plaintiff.

58. Furthermore, the culture of sexual abuse in the Volusia County Beach Patrol was common knowledge among high school students applying for summer jobs as lifeguards and among the officers and lifeguards employed by the Beach Patrol. By

“common knowledge” Plaintiff asserts that the culture of sexual abuse was not mere rumor or hearsay. Rather, the actual identity of prior victims of sexual abuse was known to employees of the Beach Patrol as well as to many of the high school students applying for jobs. Sexual intercourse with officers and senior officers was accepted as a condition for employment by those young applicants.

59. SWEAT had actual knowledge of the encounters between TAMERIS and one or more underage lifeguards because TAMERIS told SWEAT that he was being investigated for such crimes. SWEAT counseled TAMERIS not to talk further about the subject and told TAMERIS not to worry about it because “it was a case of his word against hers”.

60. SWEAT took no action in response to TAMERIS’ confession despite actual knowledge of the illegal sexual encounters between TAMERIS and underage lifeguards. In particular, SWEAT did not:

- A. Take any immediate disciplinary action against TAMERIS;
- B. Take any action to protect underage lifeguards against future sexual abuse;
- C. Inform the parents of past and current lifeguards that their children may have been the victims of sexual abuse by TAMERIS or others;
- D. Inform his superiors of TAMERIS’ statements.

61. Even prior to TAMERIS’ confession to SWEAT, officers, agents and employees of Volusia County, including DINNEEN, CONNORS and COFFIN, had sufficient information of ongoing sexual abuse of underage lifeguards to have imposed upon them a duty to investigate and to correct the lack of oversight and the culture of abuse which led to Plaintiff’s injuries and those of other minor children.

62. Despite an abundance of information regarding ongoing sexual abuse of underage lifeguards – information which was commonly known to other members of the community - SWEAT, DINNEEN, CONNORS and COFFIN took no action to correct the lack of oversight and the culture of abuse which led to Plaintiff's injuries and those of other minor children.

63. Had VOLUSIA COUNTY and its various officers, agents and employees, including SWEAT, DINNEEN, CONNORS and COFFIN, taken timely action to correct the lack of oversight and the long-standing culture of abuse at the Beach Patrol, Plaintiff, and other minor children, would not have been sexually abused by TAMERIS, SIMMONS and DUARTE.

COLOR OF STATE LAW

64. As a political subdivision of the State of Florida, organized and operating under the laws of the State of Florida, VOLUSIA COUNTY and its agents, including TAMERIS, SIMMONS, DUARTE, SWEAT, DINNEEN, CONNORS and COFFIN, were, and are, acting under color of state law and authority.

DAMAGES AND ATTORNEY'S FEES

65. Plaintiff has suffered damages as a direct result of Defendants' unconstitutional policies and practices. Plaintiff's damages consist of infringement upon Plaintiff's constitutional rights as well as physical and emotional injuries.

66. Under the Due Process Clause of the Fourteenth Amendment, Plaintiff has a constitutional right and liberty interest to bodily privacy and the integrity of her person.

67. Under the Equal Protection Clause of the Fourteenth Amendment, Plaintiff has a right not to be discriminated against by virtue of her gender.

68. Under the Due Process Clause of the Fourteenth Amendment, Plaintiff has a constitutional right and liberty interest to be free from sexual abuse at the hands of County employees, including TAMERIS, SIMMONS and DUARTE.

69. Plaintiff's Fourteenth Amendment rights were infringed through coerced sexual intercourse with government employees in violation of her right to personal security and bodily integrity. Plaintiff suffered extreme humiliation, embarrassment and psychological injury as a result of the violation of her Fourteenth Amendment rights.

70. Plaintiff's Fourth Amendment rights were violated by the unconstitutional seizure of her person, including the invasion of her privacy through coerced sexual intercourse with government employees. Plaintiff suffered extreme humiliation, embarrassment and psychological injury as a result of the violation of her Fourth Amendment rights.

71. Plaintiff has retained BRETT HARTLEY, P.A. and GARY S. EDINGER & ASSOCIATES, P.A. as her attorneys to represent her in this action and has agreed to pay them a reasonable fee, which fee Defendants must pay pursuant to 42 U.S.C. §1988.

COUNT I

DECLARATORY JUDGMENT AND DAMAGES

(Fourteenth Amendment Violation – Due Process Clause)

72. Plaintiff realleges each and every allegation set forth in paragraphs 1 through 71 of this Complaint and incorporates them herein by reference.

73. This is an action against all of the Defendants for declaratory relief pursuant to Title 28, United States Code, §2201.

74. This Court is authorized to award damages for violation of Plaintiff's constitutional rights under 42 U.S.C. §1983.

75. Plaintiff asserts that her position, set forth in this Complaint, is legally sound and supported by fact and law. Defendants' policies and actions, however, have created a *bona fide* controversy between the parties, and Plaintiff is in doubt as to her rights, privileges and immunities. Plaintiff requires, therefore, a declaratory judgment declaring her rights, privileges and immunities.

76. Plaintiff's Due Process rights protected by the Fourteenth Amendment have been violated by the sexual abuse inflicted upon her by the Defendants.

77. Defendants TAMERIS, SIMMONS and DUARTE violated Plaintiff's Due Process rights by coercing her to engage in sexual intercourse with them.

78. Defendants TAMERIS, SIMMONS and DUARTE were placed in a position to violate Plaintiff's constitutional rights by virtue of their employment in supervisory positions by VOLUSIA COUNTY.

79. Defendant VOLUSIA COUNTY fostered and encouraged a culture of sexual abuse and depravity at the Volusia County Beach Patrol and failed to take any corrective action to change that long-established policy even after knowledge that minors had been sexually abused came to the attention of policy-making employees.

80. Defendant VOLUSIA COUNTY failed to develop policies or afford training for the detection and investigation of sexual abuse of minor employees and failed to protect Plaintiff from sexual abuse despite abundant evidence and actual knowledge that such abuse was regularly taking place at the Volusia County Beach Patrol.

81. As the individuals responsible for making and implementing policies pertaining to the Volusia County Beach Patrol, and the employees directly charged with managing the Beach Patrol, Defendants DINNEEN, CONNORS, COFFIN and SWEAT,

set and fostered the conditions and policies which allowed the sexual abuse of minor children, including Plaintiff, to take place.

82. SWEAT had actual knowledge that the Volusia County Beach Patrol encouraged and coerced minors employed as lifeguards to engage in sexual intercourse with the officers and senior lifeguards working for the Beach Patrol. Furthermore, SWEAT had actual knowledge that Defendant TAMERIS (and, possibly SIMMONS and DUARTE) had engaged in abusive sexual intercourse with Plaintiff and other minor children while employed as lifeguards with the Volusia County Beach Patrol. Despite his actual knowledge that minors were being sexually abused, SWEAT took no corrective action and failed to notify law enforcement of those crimes.

83. Through their long toleration and reckless disregard of the sexual abuse and depravity at the Volusia County Beach Patrol, Defendants VOLUSIA COUNTY, DINNEEN, CONNORS, COFFIN and SWEAT ratified and approved that illegal conduct and adopted the same as the *de facto* policy of the COUNTY.

84. Plaintiff has been damaged by the violation of her Fourteenth Amendment rights.

85. There is a substantial, actual, and justiciable controversy involving Plaintiff's rights under the Fourteenth Amendment to the United States Constitution as those rights will be affected by the continuation of the policies and actions of Defendants as described above.

WHEREFORE, Plaintiff prays for the following relief:

A. That this Court take jurisdiction over the parties and this cause;

B. That the Court find and declare that Defendants adopted and took part in a policy which permitted and encouraged the sexual abuse of minor children employed by the Volusia County Beach Patrol, including the repeated sexual abuse of the Plaintiff, all in violation of the Due Process Clause of the Fourteenth Amendment to the United States Constitution.

C. That this Court award Plaintiff money damages against Defendants TAMERIS, SIMMONS and DUARTE, individually; against DINNEEN, CONNORS, COFFIN in their official capacities; and against SWEAT, both individually and in his official capacity, for infringement of Plaintiff's constitutional rights pursuant to 42 U.S.C. §1983, and for injury to her person.

D. That this Court award Plaintiff punitive damages against Defendants TAMERIS, SIMMONS, DUARTE and SWEAT, individually, to punish those individual Defendants for their unlawful actions and to deter those individual Defendants and others from engaging in the same or similar acts in the future.

E. That this Court award Plaintiff her recoverable costs, including a reasonable attorney's fee pursuant to 42 U.S.C. §1988.

F. That this Court award Plaintiff all other relief in law and in equity to which she may be entitled.

COUNT II

DECLARATORY JUDGMENT AND DAMAGES

(Fourteenth Amendment Violation – Equal Protection)

86. Plaintiff realleges each and every allegation set forth in paragraphs 1 through 71 of this Complaint and incorporates them herein by reference.

87. This is an action against all of the Defendants for declaratory relief pursuant to Title 28, United States Code, §2201.

88. This Court is authorized to award damages for violation of Plaintiff's constitutional rights under 42 U.S.C. §1983.

89. Plaintiff asserts that her position, set forth in this Complaint, is legally sound and supported by fact and law. Defendants' policies and actions, however, have created a *bona fide* controversy between the parties, and Plaintiff is in doubt as to her rights, privileges and immunities. Plaintiff requires, therefore, a declaratory judgment declaring her rights, privileges and immunities.

90. Plaintiff's right of Equal Protection, protected by the Fourteenth Amendment, has been violated by the sexual abuse inflicted upon her by the Defendants because Plaintiff would not have been subjected to such abuse had she been male.

91. Defendants TAMERIS, SIMMONS and DUARTE violated Plaintiff's right of Equal Protection by coercing her to engage in sexual intercourse with them.

92. Defendants TAMERIS, SIMMONS and DUARTE were placed in a position to violate Plaintiff's constitutional rights by virtue of their employment in supervisory positions by VOLUSIA COUNTY.

93. Defendant VOLUSIA COUNTY fostered and encouraged a culture of sexual abuse and depravity at the Volusia County Beach Patrol and failed to take any corrective action to change that long-established policy even after knowledge that female minors had been sexually abused came to the attention of policy-making employees.

94. Defendant VOLUSIA COUNTY failed to develop policies or afford training for the detection and investigation of sexual abuse of minor employees and failed

to protect Plaintiff from sexual abuse despite abundant evidence and actual knowledge that such abuse was regularly taking place at the Volusia County Beach Patrol.

95. As the individuals responsible for making and implementing policies pertaining to the Volusia County Beach Patrol, and the employees directly charged with managing the Beach Patrol, Defendants DINNEEN, CONNORS, COFFIN and SWEAT, set and fostered the conditions and policies which allowed the sexual abuse of female minor children, including Plaintiff, to take place.

96. SWEAT had actual knowledge that the Volusia County Beach Patrol encouraged and coerced minors employed as lifeguards to engage in sexual intercourse with the officers and senior lifeguards working for the Beach Patrol. Furthermore, SWEAT had actual knowledge that Defendant TAMERIS (and, possibly SIMMONS and DUARTE) had engaged in abusive sexual intercourse with Plaintiff and other minor children while employed as lifeguards with the Volusia County Beach Patrol. Despite his actual knowledge that female minors were being sexually abused, SWEAT took no corrective action and failed to notify law enforcement of those crimes.

97. Through their long toleration and reckless disregard of the sexual abuse and depravity at the Volusia County Beach Patrol, Defendants VOLUSIA COUNTY DINNEEN, CONNORS, COFFIN and SWEAT ratified and approved that illegal conduct and adopted the same as the *de facto* policy of the COUNTY.

98. Plaintiff has been damaged by the violation of her Fourteenth Amendment rights.

99. There is a substantial, actual, and justiciable controversy involving Plaintiff's rights under the Fourteenth Amendment to the United States Constitution, and

as those rights will be affected by the continuation of the policies and actions of Defendants as described above.

WHEREFORE, Plaintiff prays for the following relief:

- A. That this Court take jurisdiction over the parties and this cause;
- B. That the Court find and declare that Defendants adopted and took part in a policy which permitted and encouraged the sexual abuse of female minor children employed by the Volusia County Beach Patrol, including the repeated sexual abuse of the Plaintiff, all in violation of the Equal Protection Clause of the Fourteenth Amendment to the United States Constitution.
- C. That this Court award Plaintiff money damages against Defendants TAMERIS, SIMMONS and DUARTE, individually; against DINNEEN, CONNORS, COFFIN in their official capacities; and against SWEAT, both individually and in his official capacity, for infringement of Plaintiff's constitutional rights pursuant to 42 U.S.C. §1983, and for injury to her person.
- D. That this Court award Plaintiff punitive damages against Defendants TAMERIS, SIMMONS, DUARTE and SWEAT, individually, to punish those individual Defendants for their unlawful actions and to deter those individual Defendants and others from engaging in the same or similar acts in the future.
- E. That this Court award Plaintiff her recoverable costs, including a reasonable attorney's fee pursuant to 42 U.S.C. §1988.
- F. That this Court award Plaintiff all other relief in law and in equity to which she may be entitled.

COUNT III
DECLARATORY JUDGMENT AND DAMAGES
(Fourth Amendment Violation)

100. Plaintiff realleges each and every allegation set forth in paragraphs 1 through 71 of this Complaint and incorporates them herein by reference.

101. This is an action against all of the Defendants for declaratory relief pursuant to Title 28, United States Code, §2201.

102. This Court is authorized to award damages for violation of Plaintiff's constitutional rights under 42 U.S.C. §1983.

103. Plaintiff asserts that her position, set forth in this Complaint, is legally sound and supported by fact and law. Defendants' policies and actions, however, have created a *bona fide* controversy between the parties, and Plaintiff is in doubt as to her rights, privileges and immunities. Plaintiff requires, therefore, a declaratory judgment declaring her rights, privileges and immunities.

104. Plaintiff's Fourth Amendment rights against the unreasonable and illegal seizure of her person have been violated by the sexual abuse inflicted upon her by the Defendants.

105. Defendants TAMERIS, SIMMONS and DUARTE violated Plaintiff's Fourth Amendment rights by coercing her to engage in sexual intercourse with them.

106. Defendants TAMERIS, SIMMONS and DUARTE were placed in a position to violate Plaintiff's constitutional rights by virtue of their employment in supervisory positions by VOLUSIA COUNTY. This is particularly true with respect to TAMERIS and SIMMONS who were law enforcement officers with arrest powers.

107. Defendant VOLUSIA COUNTY fostered and encouraged a culture of sexual abuse and depravity at the Volusia County Beach Patrol and failed to take any corrective action to change that long-established policy even after knowledge that minors had been sexually abused came to the attention of policy-making employees.

108. Defendant VOLUSIA COUNTY failed to develop policies or afford training for the detection and investigation of sexual abuse of minor employees and failed to protect Plaintiff from sexual abuse despite abundant evidence and actual knowledge that such abuse was regularly taking place at the Volusia County Beach Patrol.

109. As the individuals responsible for making and implementing policies pertaining to the Volusia County Beach Patrol, and the employees directly charged with managing the Beach Patrol, Defendants DINNEEN, CONNORS, COFFIN and SWEAT, set and fostered the conditions and policies which allowed the sexual abuse of minor children, including Plaintiff, to take place.

110. SWEAT had actual knowledge that the Volusia County Beach Patrol encouraged and coerced minors employed as lifeguards to engage in sexual intercourse with the officers and senior lifeguards working for the Beach Patrol. Furthermore, SWEAT had actual knowledge that Defendant TAMERIS (and, possibly SIMMONS and DUARTE) had engaged in abusive sexual intercourse with Plaintiff and other minor children while employed as lifeguards with the Volusia County Beach Patrol. Despite his actual knowledge that minors were being sexually abused, SWEAT took no corrective action and failed to notify law enforcement of those crimes.

111. Through their long toleration and reckless disregard of the sexual abuse and depravity at the Volusia County Beach Patrol, Defendants VOLUSIA COUNTY,

DINNEEN, CONNORS, COFFIN and SWEAT ratified and approved that illegal conduct and adopted the same as the *de facto* policy of the COUNTY.

112. Plaintiff has been damaged by the violation of her Fourth Amendment rights.

113. There is a substantial, actual, and justiciable controversy involving Plaintiff's rights under the Fourth Amendment to the United States Constitution, and as those rights will be affected by the continuation of the policies and actions of Defendants as described above.

WHEREFORE, Plaintiff prays for the following relief:

- A. That this Court take jurisdiction over the parties and this cause;
- B. That the Court find and declare that Defendants adopted and took part in a policy which permitted and encouraged the sexual abuse of minor children employed by the Volusia County Beach Patrol, including the repeated sexual abuse of the Plaintiff, all in violation of the Fourth Amendment to the United States Constitution.
- C. That this Court award Plaintiff money damages against Defendants TAMERIS, SIMMONS and DUARTE, individually; against DINNEEN, CONNORS, COFFIN in their official capacities; and against SWEAT, both individually and in his official capacity, for infringement of Plaintiff's constitutional rights pursuant to 42 U.S.C. §1983, and for injury to her person.
- D. That this Court award Plaintiff punitive damages against Defendants TAMERIS, SIMMONS, DUARTE and SWEAT, individually, to punish those individual Defendants for their unlawful actions and to deter those individual Defendants and others from engaging in the same or similar acts in the future.

E. That this Court award Plaintiff her recoverable costs, including a reasonable attorney's fee pursuant to 42 U.S.C. §1988.

F. That this Court award Plaintiff all other relief in law and in equity to which she may be entitled.

COUNT IV
DECLARATORY JUDGMENT AND DAMAGES
(42 U.S.C. §1985)

114. Plaintiff realleges each and every allegation set forth in paragraphs 1 through 71 of this Complaint and incorporates them herein by reference.

115. This is an action against Defendants TAMERIS, SIMMONS and SWEAT for declaratory relief pursuant to Title 28, United States Code, §2201.

116. This Court is authorized to award damages for violation of Plaintiff's constitutional rights under 42 U.S.C. §1985.

117. Plaintiff asserts that her position, set forth in this Complaint, is legally sound and supported by fact and law. Defendants' policies and actions, however, have created a *bona fide* controversy between the parties, and Plaintiff is in doubt as to her rights, privileges and immunities. Plaintiff requires, therefore, a declaratory judgment declaring her rights, privileges and immunities.

118. Plaintiff's right of Equal Protection protected by the Fourteenth Amendment has been violated by the sexual abuse inflicted upon her by the Defendants because Plaintiff would not have been subjected to such abuse had she been male.

119. Defendants TAMERIS, SIMMONS and DUARTE violated Plaintiff's right of Equal Protection by coercing her to engage in sexual intercourse with them.

120. On or about March 16, 2009, Plaintiff contacted the Florida Department of Law Enforcement to file a criminal complaint against TAMERIS, SIMMONS and DUARTE for the sexual abuse they inflicted upon her and to seek relief for the violation of her constitutional rights.

121. After an investigation, FDLE informed Plaintiff that they could take no further action because no other witness was willing to come forward to corroborate Plaintiff's charges.

122. Other witnesses refused or declined to corroborate Plaintiff's charges because such witnesses were actively threatened and cajoled by TAMERIS and SIMMONS not to cooperate with the authorities.

123. TAMERIS and SIMMONS learned that they were under investigation at some point in September 2009.

124. Upon learning that he may be under investigation for illicit sexual relations with a minor child, TAMERIS spoke with SWEAT to solicit his advice as to what he should do.

125. SWEAT counseled TAMERIS not to talk further about the subject and told TAMERIS not to worry about it because "it was a case of his word against hers".

126. SWEAT did not report his conversation with TAMERIS to the authorities despite actual knowledge that TAMERIS had committed a crime by engaging in sexual intercourse with a minor child employed by the Volusia County Beach Patrol.

127. TAMERIS also consulted with SIMMONS about tangible evidence which might link them to their repeated sexual abuse of minors. In particular, the two discussed the destruction of video tapes of sexual encounters with minor lifeguards and how to delete sexually explicit text messages and pictures on their telephones.

128. Between September 29, 2009 and October 6, 2009, TAMERIS met and spoke with the former lifeguard identified above as W.C. in an effort to learn what she knew of the investigation and to dissuade her from cooperating with the authorities. TAMERIS told W.C. that he had destroyed incriminating video tapes of him having sex with one or more minors, including W.C.

129. TAMERIS, SIMMONS and SWEAT conspired with each other to obstruct the investigation by Florida law enforcement officers of charges of sexual abuse of minors. The Defendants conspired to destroy evidence and to prevent witnesses from disclosing what they knew to law enforcement officers.

130. TAMERIS attempted to prevent third party witnesses from cooperating with the investigation of Plaintiff's sexual abuse by TAMERIS, SIMMONS and DUARTE.

131. TAMERIS, SIMMONS and SWEAT engaged in these efforts as part of a conspiracy to impede, hinder, obstruct, and defeat Plaintiff's efforts to pursue relief for violation of her constitutional rights and to seek the Equal Protection of the laws.

132. Plaintiff has been damaged by the violation of her constitutional rights, including the right of Equal Protection guaranteed by the Fourteenth Amendment.

133. There is a substantial, actual, and justiciable controversy involving Plaintiff's rights under the Fourteenth Amendment to the United States Constitution, and the obstruction of those rights through Defendants' ongoing conspiracy in violation of 42 U.S.C. §1985.

WHEREFORE, Plaintiff prays for the following relief:

A. That this Court take jurisdiction over the parties and this cause;

B. That the Court find and declare that Defendants adopted and took part in a conspiracy to impede, hinder, obstruct, and defeat Plaintiff's efforts to pursue relief for violation of her constitutional rights and to seek the Equal Protection of the laws, all in violation of 42 U.S.C. §1985.

C. That this Court award Plaintiff money damages against Defendants TAMERIS, SIMMONS and SWEAT, individually, for infringement of Plaintiff's constitutional rights pursuant to 42 U.S.C. §1985, and for injury to her person.

D. That this Court award Plaintiff punitive damages against Defendants TAMERIS, SIMMONS and SWEAT, individually, to punish those individual Defendants for their unlawful actions and to deter those individual Defendants and others from engaging in the same or similar acts in the future.

E. That this Court award Plaintiff her recoverable costs, including a reasonable attorney's fee pursuant to 42 U.S.C. §1988.

F. That this Court award Plaintiff all other relief in law and in equity to which she may be entitled.

COUNT V
DECLARATORY JUDGMENT AND DAMAGES
(42 U.S.C. §1986)

134. Plaintiff realleges each and every allegation set forth in paragraphs 1 through 71 of this Complaint and incorporates them herein by reference.

135. This is an action against Defendant SWEAT for declaratory relief pursuant to Title 28, United States Code, §2201.

136. This Court is authorized to award damages for violation of Plaintiff's constitutional rights under 42 U.S.C. §1986.

137. Plaintiff asserts that her position, set forth in this Complaint, is legally sound and supported by fact and law. Defendant's policies and actions, however, have created a *bona fide* controversy between the parties, and Plaintiff is in doubt as to her rights, privileges and immunities. Plaintiff requires, therefore, a declaratory judgment declaring her rights, privileges and immunities.

138. Plaintiff's constitutional rights have been violated by the sexual abuse inflicted upon her by the Defendants TAMERIS, SIMMONS and DUARTE.

139. Defendants TAMERIS, SIMMONS and DUARTE violated Plaintiff's right of Equal Protection by coercing her to engage in sexual intercourse with them.

140. On or about March 16, 2009, Plaintiff contacted the Florida Department of Law Enforcement to file a criminal complaint against TAMERIS, SIMMONS and DUARTE for the sexual abuse they inflicted upon her and to seek relief for the violation of her constitutional rights.

141. After an investigation, FDLE informed Plaintiff that they could take no further action because no other witness was willing to come forward to corroborate Plaintiff's charges.

142. Other witnesses refused or declined to corroborate Plaintiff's charges because such witnesses were actively threatened and cajoled by TAMERIS and SIMMONS not to cooperate with the authorities.

143. TAMERIS and SIMMONS learned that they were under investigation at some point in September 2009.

144. Upon learning that he may be under investigation for illicit sexual relations with a minor child, TAMERIS spoke with SWEAT to solicit his advice as to what he should do.

145. SWEAT counseled TAMERIS not to talk further about the subject and told TAMERIS not to worry about it because “it was a case of his word against hers”.

146. SWEAT did not report his conversation with TAMERIS to the authorities despite actual knowledge that TAMERIS had committed a crime by engaging in sexual intercourse with a minor child employed by the Volusia County Beach Patrol.

147. TAMERIS consulted with SIMMONS about tangible evidence which might link them to their repeated sexual abuse of minors. In particular, the two discussed the destruction of video tapes of sexual encounters with minor lifeguards and how to delete sexually explicit text messages and pictures on their telephones.

148. The actions taken by SIMMONS and TAMERIS to thwart and obstruct the ongoing police investigation into the sexual abuse of Plaintiff were in violation of Plaintiff’s constitutional rights and also violated 42 U.S.C. §1985.

149. SWEAT’s failure to report the instances of sexual abuse to the authorities allowed SIMMONS and TAMERIS the time they needed to destroy evidence and to threaten and cajole other witnesses not to testify or cooperate with the police.

150. SWEAT knew that his failure to report the instances of sexual abuse to the authorities would allow SIMMONS and TAMERIS to cover-up their crimes and would prevent Plaintiff and other similarly situated victims from pursuing relief for violation of their constitutional rights.

151. Had SWEAT timely reported his knowledge of TAMERIS’ crimes, Plaintiff’s efforts to seek relief for violation of her constitutional rights would not have been thwarted and the ongoing injuries to Plaintiff would have been mitigated.

152. Plaintiff has been damaged by the violation of her constitutional rights, including the right of Equal Protection guaranteed by the Fourteenth Amendment.

153. There is a substantial, actual, and justiciable controversy involving Plaintiff's rights under the Fourteenth Amendment to the United States Constitution, and the Defendant's neglect to prevent the violation of Plaintiff's constitutional rights, all in violation of 42 U.S.C. §1986.

WHEREFORE, Plaintiff prays for the following relief:

- A. That this Court take jurisdiction over the parties and this cause;
- B. That the Court find and declare that Defendant's SWEAT's neglect to prevent the infringement of Plaintiff's constitutional rights violated 42 U.S.C. §1986.
- C. That this Court award Plaintiff money damages against Defendant SWEAT, individually, for infringement of Plaintiff's constitutional rights pursuant to 42 U.S.C. §1986, and for injury to her person.
- D. That this Court award Plaintiff punitive damages against Defendant SWEAT, individually, to punish that individual Defendant for his unlawful actions and to deter that Defendant and others from engaging in the same or similar acts in the future.
- E. That this Court award Plaintiff her recoverable costs, including a reasonable attorney's fee pursuant to 42 U.S.C. §1988.
- F. That this Court award Plaintiff all other relief in law and in equity to which she may be entitled.

COUNT VI

(Negligent Supervision – State Law Tort)

154. Plaintiff realleges each and every allegation set forth in paragraphs 2 and 6 through 71 of this Complaint and incorporates them herein by reference.

155. This Court has jurisdiction over this state law cause of action because Plaintiff's other claims involve Federal Questions and this Court has supplemental jurisdiction pursuant to 28 U.S.C. §1367.

156. This is an action under Florida law for damages against the Defendant VOLUSIA COUNTY for its failure to adequately supervise its employees, TAMERIS, SIMMONS and DUARTE.

157. At all times material hereto, Defendant VOLUSIA COUNTY was the Plaintiff's employer as well as the employer of TAMERIS, SIMMONS and DUARTE.

158. VOLUSIA COUNTY owed a duty of care to its employees to safeguard them from sexual abuse perpetrated by other employees.

159. This duty of care was heightened when the individuals employed as lifeguards were minor children, as was the case with Plaintiff. In this instance, VOLUSIA COUNTY's duty of care was equivalent to the *parens patrie* relationship of a public school as the Defendant actively solicited and trained minors to serve as lifeguards through a camp system starting with children as young as nine years of age.

160. VOLUSIA COUNTY knew or should have known that the Volusia County Beach Patrol had a long-standing and well-documented reputation for sexual abuse and depravity, including the sexual abuse of minors.

161. VOLUSIA COUNTY knew or should have known that TAMERIS, SIMMONS and DUARTE regularly engaged in illegal sexual relations with minors employed by the County as lifeguards.

162. While Plaintiff was still employed by VOLUSIA COUNTY as a life guard, the Defendant VOLUSIA COUNTY had actual and imputed knowledge that

officers and senior life guards at the Volusia County Beach Patrol were engaging in illegal sexual relations with minors, including Plaintiff.

163. While Plaintiff was still employed by VOLUSIA COUNTY as a life guard, the Defendant VOLUSIA COUNTY, knew or should have known that TAMERIS, SIMMONS and DUARTE were engaging in illegal sexual relations with minors, including Plaintiff.

164. At least one of those sexual liaisons between Plaintiff and SIMMONS took place at a life guard station owned and maintained by VOLUSIA COUNTY.

165. Reasonable managers and supervisors would have recognized the dangers posed by TAMERIS, SIMMONS and DUARTE and would have taken remedial action to guard minors against ongoing sexual abuse.

166. Rather than take any such remedial action, VOLUSIA COUNTY allowed TAMERIS, SIMMONS and DUARTE to sexually abuse Plaintiff over the course of several months.

167. VOLUSIA COUNTY was negligent and breached its duty to Plaintiff by failing to timely discover and remedy the ongoing sexual abuse of Plaintiff and other minors employed as Beach Patrol life guards.

168. VOLUSIA COUNTY was negligent and breached its duty to Plaintiff by failing to take any remedial action following actual and imputed knowledge of Plaintiff's ongoing sexual abuse at the hands of TAMERIS, SIMMONS and DUARTE

169. Plaintiff suffered damages as a direct and proximate result of Defendant VOLUSIA COUNTY's failure to exercise reasonable supervision of its employees.

WHEREFORE, Plaintiff demands judgment against Defendant VOLUSIA COUNTY for damages, both general and special, together with the costs of this action.

COUNT VII

(Negligent Retention – State Law Tort)

170. Plaintiff realleges each and every allegation set forth in paragraphs 2 and 6 through 71 of this Complaint and incorporates them herein by reference.

171. This Court has jurisdiction over this state law cause of action because Plaintiff's other claims involve Federal Questions and this Court has supplemental jurisdiction pursuant to 28 U.S.C. §1367.

172. This is an action under Florida law for damages against the Defendant VOLUSIA COUNTY for the negligent retention of its employees, TAMERIS, SIMMONS and DUARTE.

173. At all times material hereto, Defendant VOLUSIA COUNTY was the Plaintiff's employer as well as the employer of TAMERIS, SIMMONS and DUARTE.

174. VOLUSIA COUNTY owed a duty of care to its employees to safeguard them from sexual abuse perpetrated by other employees.

175. This duty of care was heightened when the individuals employed as lifeguards were minor children, as was the case with Plaintiff. In this instance, VOLUSIA COUNTY's duty of care was equivalent to the *parens patrie* relationship of a public school as the Defendant actively solicited and trained minors to serve as lifeguards through a camp system starting with children as young as nine years of age.

176. VOLUSIA COUNTY knew or should have known that the Volusia County Beach Patrol had a long-standing and well-documented reputation for sexual abuse and depravity, including the sexual abuse of minors.

177. VOLUSIA COUNTY knew or should have known that TAMERIS, SIMMONS and DUARTE regularly engaged in illegal sexual relations with minors employed by the County as lifeguards.

178. While Plaintiff was still employed by VOLUSIA COUNTY as a life guard, the Defendant VOLUSIA COUNTY had actual and imputed knowledge that officers and senior life guards at the Volusia County Beach Patrol were engaging in illegal sexual relations with minors, including Plaintiff.

179. While Plaintiff was still employed by VOLUSIA COUNTY as a life guard, the Defendant VOLUSIA COUNTY, knew or should have known that TAMERIS, SIMMONS and DUARTE were engaging in illegal sexual relations with minors, including Plaintiff.

180. At least one of those sexual liaisons between Plaintiff and SIMMONS took place at a life guard station owned and maintained by VOLUSIA COUNTY.

181. Reasonable managers and supervisors would have recognized the dangers posed by TAMERIS, SIMMONS and DUARTE and would have taken remedial action to guard minors against ongoing sexual abuse. In particular, a reasonable employer would have fired TAMERIS, SIMMONS and DUARTE immediately to prevent further contact between them and minors employed by the County as lifeguards.

182. Rather than take any such remedial action, VOLUSIA COUNTY allowed TAMERIS, SIMMONS and DUARTE to sexually abuse Plaintiff over the course of several months.

183. VOLUSIA COUNTY breached its duty by failing to take remedial action following actual and imputed knowledge of that TAMERIS, SIMMONS and DUARTE were sexually abusing Plaintiff.

184. Plaintiff suffered damages as a direct and proximate result of Defendant VOLUSIA COUNTY's failure to discharge TAMERIS, SIMMONS and DUARTE.

WHEREFORE, Plaintiff demands judgment against Defendant VOLUSIA COUNTY for damages, both general and special, together with the costs of this action.

COUNT VIII

(State Law Tort Claim – Battery - Tameris)

185. Plaintiff realleges each and every allegation set forth in paragraphs 2 and 6 through 71 of this Complaint and incorporates them herein by reference.

186. This Court has jurisdiction over this state law cause of action because Plaintiff's other claims involve Federal Questions and this Court has supplemental jurisdiction pursuant to 28 U.S.C. §1367.

187. This is an action under Florida law to recover damages for battery against Defendant TAMERIS, individually.

188. Defendant TAMERIS, had offensive, non-consensual sexual relations with Plaintiff at a time when she was a minor and incapable of giving consent.

189. The sexual contact between TAMERIS and Plaintiff was a criminal violation of §794.05, Fla.Stat.

190. TAMERIS' actions were taken intentionally, maliciously and with complete disregard for the Plaintiff's constitutional and state law rights.

191. As a direct and proximate result of Defendant's physical assaults on Plaintiff, Plaintiff has suffered severe harm and ongoing psychological injuries.

WHEREFORE, Plaintiff prays for the following relief:

- A. That this Court take jurisdiction over the parties and this cause.
- B. That this Court award Plaintiff money damages against TAMERIS for the unlawful battery against her.
- C. That this Court award Plaintiff punitive damages against Defendant TAMERIS, individually, to punish TAMERIS for his unlawful actions and to deter TAMERIS and others from engaging in the same or similar acts in the future.
- D. That this Court award Plaintiff her recoverable costs.
- E. That this Court award Plaintiff all other relief in law to which she may be entitled.

COUNT IX

(State Law Tort Claim – Battery - Simmons)

192. Plaintiff realleges each and every allegation set forth in paragraphs 2 and 6 through 71 of this Complaint and incorporates them herein by reference.

193. This Court has jurisdiction over this state law cause of action because Plaintiff's other claims involve Federal Questions and this Court has supplemental jurisdiction pursuant to 28 U.S.C. §1367.

194. This is an action under Florida law to recover damages for battery against Defendant SIMMONS, individually.

195. Defendant SIMMONS, had offensive, non-consensual sexual relations with Plaintiff at a time when she was a minor and incapable of giving consent.

196. The sexual contact between SIMMONS and Plaintiff was a criminal violation of §794.05, Fla.Stat.

197. SIMMONS' actions were taken intentionally, maliciously and with complete disregard for the Plaintiff's constitutional and state law rights.

198. As a direct and proximate result of Defendant's physical assaults on Plaintiff, Plaintiff has suffered severe harm and ongoing psychological injuries.

WHEREFORE, Plaintiff prays for the following relief:

- A. That this Court take jurisdiction over the parties and this cause.
- B. That this Court award Plaintiff money damages against SIMMONS for the unlawful battery against her.
- C. That this Court award Plaintiff punitive damages against Defendant SIMMONS, individually, to punish SIMMONS for his unlawful actions and to deter SIMMONS and others from engaging in the same or similar acts in the future.
- D. That this Court award Plaintiff her recoverable costs.
- E. That this Court award Plaintiff all other relief in law to which she may be entitled.

COUNT X

(State Law Tort Claim – Battery - Duarte)

199. Plaintiff realleges each and every allegation set forth in paragraphs 1 through 71 of this Complaint and incorporates them herein by reference.

200. This Court has jurisdiction over this state law cause of action because Plaintiff's other claims involve Federal Questions and this Court has supplemental jurisdiction pursuant to 28 U.S.C. §1367.

201. This is an action under Florida law to recover damages for battery against Defendant DUARTE, individually.

202. Defendant DUARTE, had offensive, non-consensual sexual relations with Plaintiff at a time when she was a minor and incapable of giving consent.

203. The sexual contact between DUARTE and Plaintiff was a criminal violation of §794.05, Fla.Stat.

204. DUARTE's actions were taken intentionally, maliciously and with complete disregard for the Plaintiff's constitutional and state law rights.

205. As a direct and proximate result of Defendant's physical assaults on Plaintiff, Plaintiff has suffered severe harm and ongoing psychological injuries.

WHEREFORE, Plaintiff prays for the following relief:

- A. That this Court take jurisdiction over the parties and this cause.
- B. That this Court award Plaintiff money damages against DUARTE for the unlawful battery against her.
- C. That this Court award Plaintiff punitive damages against Defendant DUARTE, individually, to punish DUARTE for his unlawful actions and to deter DUARTE and others from engaging in the same or similar acts in the future.
- D. That this Court award Plaintiff her recoverable costs.
- E. That this Court award Plaintiff all other relief in law to which she may be entitled.

COUNT XI

(State Law Tort Claim - Intentional Infliction of Severe Emotional Distress)

206. Plaintiff realleges each and every allegation set forth in paragraphs 1 through 100 of this Complaint and incorporates them herein by reference.

207. This Court has jurisdiction over this state law cause of action because Plaintiff's other claims involve Federal Questions and this Court has supplemental jurisdiction pursuant to 28 U.S.C. §1367.

208. This is an action under Florida law to recover damages for intentional infliction of emotional distress, against Defendants, TAMERIS, SIMMONS, DUARTE and SWEAT, individually.

209. Defendants TAMERIS, SIMMONS and DUARTE, had offensive, non-consensual sexual relations with Plaintiff at a time when she was a minor and incapable of giving consent.

210. The sexual contact by TAMERIS, SIMMONS and DUARTE with Plaintiff was a criminal violation of §794.05, Fla.Stat.

211. TAMERIS, SIMMONS and DUARTE acted intentionally, maliciously and with complete disregard for the Plaintiff's constitutional and state law rights.

212. SWEAT was aware of the illegal sexual abuse of Plaintiff and, rather than reporting those crimes to the authorities, gave advice to TAMERIS to assist the Defendants in hiding their crimes and to obstruct the on-going police investigation.

213. Defendants acted recklessly and with complete indifference to Plaintiff's right of privacy, and emotional and physical well-being.

214. The emotional and psychological harm which Plaintiff suffered as a result of the illegal sexual abuse was completely foreseeable and was an intended consequence of those illegal and unconstitutional sexual acts.

215. As a direct and proximate result of Defendants' outrageous conduct, Plaintiff has suffered severe emotional distress and ongoing psychological injuries.

216. The emotional distress suffered by Plaintiff is unusually extreme and severe and is a direct and intended consequence of the intentional and outrageous conduct of the Defendants.

WHEREFORE, Plaintiff prays for the following relief:

A. That this Court take jurisdiction over the parties and this cause;

B. That this Court award Plaintiff money damages against Defendants TAMERIS, SIMMONS, DUARTE and SWEAT, individually for intentional infliction of emotional distress.

C. That this Court award Plaintiff punitive damages against Defendants TAMERIS, SIMMONS, DUARTE and SWEAT, individually, to punish those Defendants for their unlawful actions and to deter Defendants and others from engaging in the same or similar acts in the future.

D. That this Court award Plaintiff her recoverable costs.

E. That this Court award Plaintiff all other relief in law and in equity to which she may be entitled.

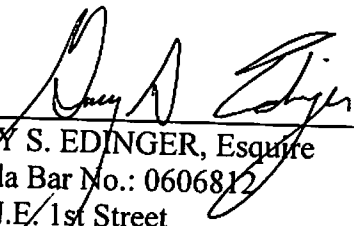
JURY TRIAL

Plaintiff demands a trial by jury on all issues so triable as a matter of right.

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