

**IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF DELAWARE**

MARK TAYLOR,	)	
	)	
Plaintiff,	)	
	)	C.A. No. 1:21-cv-01036 LPS
v.	)	
	)	JURY TRIAL DEMANDED
GREGORY LYNCH, JR., individually,	)	
JANE DOE, individually, TOWN OF	)	
DEWEY BEACH, and SAMUEL	)	
MACKERT, III, individually and in his	)	
official capacity as the Chief of Police for the	)	
Town of Dewey Beach,	)	
	)	
Defendants.		

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**AMENDED COMPLAINT**

**The Parties**

1. Plaintiff Mark Taylor (“Taylor”) is a Delaware resident.
2. Defendant Gregory Lynch, Jr., was, at all times relevant, a police officer acting under color of state law as an agent or employee of the Dewey Beach, Delaware Police Department (“DBPD”) located at 105 Rodney Avenue, Dewey Beach, Delaware.
3. Defendant Jane Doe was, at all times relevant, a police officer acting under color of state law as an agent or employee of the DBPD located at 105 Rodney Avenue, Dewey Beach, Delaware.
4. Defendant Town of Dewey Beach (“Town”) is a municipal corporation duly organized, existing, and operating under and pursuant to the applicable laws of the State of Delaware. At all relevant times, Town was the employer of Lynch and had responsibility for hiring, training, supervision, disciplining, and retention of police officers employed by Town, including Lynch.

5. Defendant Samuel Mackert, III (“Mackert”), was, at all times relevant, the Chief of Police for the Town of Dewey Beach and acting under color of state law an agent or employee of the DBPD located at 105 Rodney Avenue, Dewey Beach, Delaware. At all times relevant, the DBPD had eight full-time officers and utilized seasonal police officers in the summer. Mackert was the acting Chief of Police for the Town in or around 2009. A new contract was entered into between the Town and Mackert, with him as Chief of Police for the Town, in 2015.

### **Jurisdiction & Venue**

6. This is a civil action for damages arising under the Fourth and Fourteenth Amendments to the United States Constitution and 42 U.S.C. §§ 1983 and 1988.

7. This Court has subject matter jurisdiction over the claims asserted herein pursuant to 28 U.S.C. §§ 1331 and 1343 and supplemental jurisdiction pursuant to 28 U.S.C. §1367.

8. Personal jurisdiction is proper since all parties either reside in the District, conduct business in the District, or the unlawful actions giving rise to the claim took place within this District.

9. Venue is properly in this Court pursuant 28 U.S.C. §1391(b) because the events giving rise to the suit occurred in this judicial District.

10. Pursuant to Dewey Beach Town Code § 170-1, counsel for Taylor sent letters via certified mail, return receipt requested, to Mayor Dale Cooke and Town Manager Scott Koenig putting the Town on notice of Taylor’s claims. The letters were mailed on June 23, 2020, and the return cards indicate they were received on June 25, 2020, by the Town.

**The Night of August 9-10, 2019**

11. On August 9, 2019, Taylor and three of his friends were in Dewey Beach, Delaware. They decided to leave the Rusty Rudder between midnight and 12:30 a.m. on August 10, 2019.

12. While some of his companions were going to The Starboard, Taylor, who had been drinking, was going to go back to where he was staying.

13. The four of them stopped near Jimmy's Grille. As they started to move again, Taylor lost his balance, fell, and struck his head on a road sign. Taylor lost consciousness and was bleeding from the back of his head.

14. A couple of young DBPD police officers arrived and offered napkins to assist with the bleeding on Taylor's head. They also indicated that an ambulance was on its way.

15. Taylor had woken up and did not realize how badly he was hurt. He indicated he did not want to go to the hospital.

16. When the ambulance arrived, he agreed to get on a stretcher and be evaluated by the ambulance crew.

17. Taylor was sitting on the stretcher, when Lynch, acting under color of law as a DBPD police officer, began forcefully telling Taylor to put his legs up on the stretcher.

18. Taylor repeated that he did not want to go to the hospital. Lynch then grabbed Taylor's leg and slammed it on the stretcher.

19. A female DBPD officer then asked Taylor's three companions to step back.

20. Lynch pushed Taylor down onto the stretcher by Taylor's chest. Lynch then began to punch Taylor four to five times in the face, causing Taylor's face to bleed. Lynch's

punches were so forceful that the stretcher began to rise off of the ground, and others standing nearby had to hold it down so that it did not flip over.

21. Taylor's companions yelled to Lynch that Taylor had just fallen and was injured.

22. Taylor, who was handcuffed to the stretcher and covered in blood, sat up confused as to what was going on. The ambulance crew began to push the stretcher into the ambulance. Lynch jumped into the back of the ambulance slammed Taylor's head down onto the stretcher.

23. At no point did Taylor physically assault or batter Lynch. Taylor did put his hands up during Lynch's attack to protect his face from Lynch.

24. One member of the ambulance crew seemed upset regarding Lynch's behavior. Taylor was taken to Beebe Hospital.

25. None of the DBPD officers who were present asked Taylor's companions for a statement.

### **The Aftermath**

26. Following the event, Lynch filed a sworn affidavit that Taylor had tried to strangle him.

27. Taylor was initially charged with the crimes of strangulation and offensive touching. All three charges against Taylor were dropped or not prosecuted.

28. After going to Beebe Hospital on August 10, 2019, Taylor woke up at Sussex Correctional Institution ("SCI") with a headache, nausea, and black and swollen eyes. He had skin glue on his nose and staples in the back of his head.

29. Taylor was incarcerated at SCI from sometime on August 10, 2019, a Saturday, until late in the evening on Monday, August 12, 2019.

30. In or about November 2019, a grand jury indicted Lynch for second-degree assault, second-degree perjury, and official misconduct in connection with the event. The second-degree perjury indictment was related to Lynch's false statement in the affidavit that Taylor tried to strangle him. Upon information and belief, Lynch is going to plead guilty to a count of perjury and assault.

**Lynch Was Accused of Excessive Force in June 2011<sup>1</sup>**

31. In or about June 2011, Frank Shock attended a party in Dewey Beach, Delaware. Mr. Shock traveled by bicycle. Following the party, Mr. Shock traveled by bicycle to a restaurant and bar.

32. When Mr. Shock was leaving the restaurant and bar by bicycle, a DBPD vehicle activated its lights and swerved in front of Mr. Shock while he was riding his bicycle.

33. Mr. Shock stopped his bicycle but remained seated on the bicycle. Lynch and another DBPD officer threw Mr. Shock, who was in his sixties, to the ground. Lynch and the other officer put their knees in Mr. Shock's back, and Lynch put his foot on the side of Mr. Shock's head and face and ground Mr. Shock's head and face into the pavement and gravel.

34. Bystanders yelled at Lynch and the other officer to stop.

35. Mr. Shock told the officers he had recently had knee surgery and was unable to bend it, but the officers nonetheless shoved Mr. Shock into the police van.

36. At the police station, Mr. Shock was charged with disorderly conduct and resisting arrest, and Lynch threatened to take Mr. Shock to prison if he did not "sign off" on the charges, which Mr. Shock did.

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<sup>1</sup> The facts in Paragraphs 29 through 37 are based upon the Complaint and docket in the matter of *Shock v. Lynch*, C.A. 1:13-cv-00974-GMS, in the U.S. District Court for the District of Delaware. The settlement amount was reported in a story in the Cape Gazette on or about November 19, 2019.

37. Lynch gloated to Mr. Shock that would teach him not to “talk back” to a police officer.

38. Ms. Shock retained counsel and filed a civil suit against Lynch, the other officer, and the Town of Dewey Beach in the United States District Court for the District of Delaware on or about May 31, 2013, alleging unlawful detention under 42 U.S.C. § 1983, excessive force under 42 U.S.C. § 1983, malicious prosecution, abuse of process, a *Monell* claim (against the Town only), intentional infliction of emotional distress, wanton negligence, and false imprisonment.

39. A Stipulation of Dismissal was filed in August 2014. Upon information and belief, the case settled for \$175,000.00.

#### **Lynch Was Accused of Excessive Force in July 2014<sup>2</sup>**

40. In or about July 2014, Kelli Harman was vacationing in Dewey Beach, Delaware. She and her family had received a noise complaint one evening. Lynch and other DBPD officers had written her a ticket that evening.

41. Lynch returned to Ms. Harman’s vacation residence the following day demanding she and her adult son provide her with identification, which they had provided the night before.

42. When Ms. Harman began asking questions about him being there again, Lynch told her to put her hands behind her back and moved aggressively to Harman. Ms. Harman moved back away from Lynch. Lynch grabbed Ms. Harman, threw her into a door or threshold, and then threw her to the ground.

43. While Ms. Harman was handcuffed at the DBPD station, she heard Lynch tell another officer, “you should have seen the look on that bitch’s face when I threw her down.”

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<sup>2</sup> The facts in Paragraphs 38 through 46 are based upon the Complaint and docket in the matter of *Harman v. Lynch*, C.A. 1:15-cv-00229-SLR, in the U.S. District Court for the District of Delaware.

44. Lynch made false accusations against Ms. Harman to cause her to be arrested. Lynch also made false statements in an Affidavit of Probable Cause. Unbeknownst to Lynch, someone had videotaped his encounter with Ms. Harman.

45. When Ms. Harman appeared for her criminal trial, all of the charges were dropped or not prosecuted.

46. Ms. Harman retained counsel and filed a civil suit against Lynch in the United States District Court for the District of Delaware on or about March 12, 2015, alleging, excessive force under 42 U.S.C. § 1983, unlawful detention and arrest under 42 U.S.C. § 1983, battery, false imprisonment, malicious prosecution under 42 U.S.C. § 1983, and First Amendment retaliation under 42 U.S.C. § 1983.

47. A Stipulation of Dismissal was filed on December 2, 2015. No further details are known to Taylor.

### **The History of Excessive Force Cases Against the Town**

48. The Town has been accused of violating the Fourth Amendment rights of its citizens on a number of occasions. Some of the following are examples:

- a. Plaintiff Matthew Ferguson filed a lawsuit in the Superior Court of the State of Delaware against the Town and three of its officers in August 2004 alleging claims under 42 U.S.C. § 1983 for excessive force and *Monell* liability against the Town, gross and wanton negligence, false arrest, malicious prosecution, and intentional infliction of emotional distress.<sup>3</sup> The plaintiff alleged that Town police officers used excessive force against him while he was intoxicated in Dewey Beach. The case was resolved through binding arbitration in November 2006.

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<sup>3</sup> The allegations in this Paragraph are based upon the docket in the matter of *Ferguson v. Town of Dewey Beach, et al.*, in the Superior Court of the State of Delaware, C.A. No. SS04C-08-004, as well as a reported decision found at 2006 Del. Super. LEXIS 182, 2006 WL 1174017.

- b. Plaintiff Gary Goodwin filed a lawsuit in the U.S. District Court for the District of Delaware on June 19, 2012, alleging, *inter alia*, he was beaten by police officers for the Town for no apparent reason while walking to catch the “Jolley Trolley.”<sup>4</sup> A Stipulation of Dismissal was filed on January 15, 2014.
- c. Plaintiff Allen Wedell filed a lawsuit in the U.S. District Court for the District of Delaware on May 31, 2013, alleging, *inter alia*, excessive force and unlawful detention in connection with a traffic stop by police officers for the Town.<sup>5</sup> A Stipulation of Dismissal was filed on June 5, 2014.
- d. Plaintiff Jeffrey Smith filed a lawsuit in the U.S. District Court for the District of Delaware on February 21, 2019, alleging, *inter alia*, excessive force by the Chairman of the Dewey Beach Audit Committee.<sup>6</sup> A judgment against the four defendants was entered, pursuant to an offer of judgment, on October 8, 2019.

### **The Study of the DBPD in Early 2019**

49. In January of 2019, the Town of Dewey Beach commissioned a study of its police department by Captain Gregory A. Warren, Ed.D., who was retired from the Delaware State Police. The report was based upon certain data that pre-dated the publication of the report. Dr. Warren’s report was dated June 30, 2019, and was posted on the Town’s website on or about July 26, 2019. The report made, *inter alia*, the following findings:

- a. The DBPD was understaffed;

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<sup>4</sup> The allegations in this Paragraph are based upon the Complaint and docket in the matter of *Goodwin v. Town of Dewey Beach, et al.*, C.A. 1:12-cv-00773-LPS, in the U.S. District Court for the District of Delaware.

<sup>5</sup> The allegations in this Paragraph are based upon the Complaint and docket in the matter of *Wedell v. Town of Dewey Beach, et al.*, C.A. 1:13-cv-00973-SLR, in the U.S. District Court for the District of Delaware.

<sup>6</sup> The allegations in this Paragraph are based upon the Complaint and docket in the matter of *Smith v. Town of Dewey Beach, et al.*, C.A. 1:19-cv-00360-RGA-SRF, in the U.S. District Court for the District of Delaware.



- b. The DBPD's model of relying on seasonal officers during the summer was problematic;
- c. The DBPD suffered from low morale;
- d. The DBPD needed to "revisit its own table of organization, shift scheduling system, and job responsibilities of each and every person serving within the" DBPD;
- e. There was a lack of trust by "almost everyone interviewed for this study" based upon "a deep divide or bifurcation that specific personality conflicts and perceived political interference have caused within the Town of Dewey Beach both in the past and even today";
- f. There was an inadequate training budget;
- g. The DBPD facilities' were inadequate;
- h. There was inadequate training for officers acting as supervisors;
- i. There were too many officers designated by rank and pay as supervisors;
- j. The Department's Annual Performance Appraisal contained an evaluation of whether the officer "'Does not shy away from physical confrontation'", which could be construed as condoning officers "'never backing down'", etc.;
- k. There was "some degree of concern about the current effectiveness of the chief of police and the overall effectiveness of the leadership and supervisory management practices within the police department at this time";
- l. Internal and external communication was "lacking", including what was in the DBPD's policy manual and between and among the chief of police and the DBPD's officers and employees;
- m. The DBPD's technology, including body cams, needed to be upgraded;

- n. There was, apparently, “a desire to not engage in stricter discipline or corrective action within the Department.” The report went on to state “[t]his can become a concern for obvious reasons because, circumventing the policies and or procedures in place may become the norm and part of the corporate culture of the organization if left unchecked.”; and
- o. The DBPD policy manual was “in desperate need of a complete overhaul” and had apparently not been revisited or updated in 10 years.

### **Damages**

50. Taylor was signed up to join the Navy and was supposed to report for duty in November 2019. Part of his obligation was to call in every Monday to the Navy to report. Because he was incarcerated on August 12, 2019, he was unable to call in to the Navy that day to report. This caused problems with his enlistment in the Navy, and this ultimately led to Taylor not joining the Navy. Taylor did not receive his \$8,000 signing bonus.

51. As a result of the intentional and/or reckless actions of Defendants Lynch, Jane Doe, and the policies, practices, and/or customs of the Town, Taylor sustained the following damages:

- a. Bodily injuries to his head and face;
- b. Fear and apprehension for his physical safety;
- c. Deprivation of his rights secured by the Constitutions and laws of the United States of America and the State of Delaware;
- d. Mental and emotional stress and anxiety;
- e. Lost wages; and
- f. Inconvenience to and disruption of his life.

**COUNT I – EXCESSIVE FORCE (CONSTITUTIONAL)**

**(Against Defendant Lynch)**

52. Plaintiff incorporates the preceding allegations as though they are expressly stated in this Count.

53. At all times relevant, Lynch was acting under color of state law.

54. Lynch knowingly, intentionally, and/or recklessly used excessive force against Taylor on the night of August 9-10, 2019.

55. Taylor had a right to be free of excessive force. Lynch knowingly, intentionally, and/or recklessly violated Taylor's rights under the Fourth Amendment to the United States Constitution and Article I, § 6 of the Delaware Constitution as secured by 42 U.S.C. §1983.

56. As a result of these Constitutional violations, Taylor suffered the damages identified in Paragraph 51.

**COUNT II – UNLAWFUL DETENTION AND ARREST/FALSE IMPRISONMENT**

**(CONSTITUTIONAL)**

**(Against Defendant Lynch)**

57. Plaintiff incorporates the preceding allegations as though they are expressly stated in this Count.

58. Taylor was unlawfully seized and arrested when Lynch suddenly and violently beat Taylor while Taylor was on a stretcher receiving medical attention.

59. Taylor remained unlawfully seized and arrested until he was later released from Sussex Correctional Institute the following Monday.

60. Lynch lacked probable cause to seize Taylor.

61. Lynch lacked reasonable suspicion to seize Taylor.

62. The scope of Lynch's violent intrusion of Taylor's rights was unreasonably related to the circumstances.

63. Taylor committed no crime and was non-threatening at all times.

64. Taylor had a right to be free of unlawful detention and arrest. Lynch knowingly, intentionally, and/or recklessly violated Taylor's rights under the Fourth Amendment to the United States Constitution and Article I, § 6 of the Delaware Constitution as secured by 42 U.S.C. §1983.

65. As a result of these Constitutional violations, Taylor suffered the damages identified in Paragraph 51.

### **COUNT III – MALICIOUS PROSECUTION (CONSTITUTIONAL)**

#### **(Against Defendant Lynch)**

66. Plaintiff incorporates the preceding allegations as though they are expressly stated in this Count.

67. Lynch lacked probable cause to charge Taylor with any crime.

68. Lynch caused Taylor to be charged with crimes to cover up his own abuses of power, including, but not limited to, using excessive force against Taylor and unlawfully arresting Taylor.

69. Lynch maliciously caused Taylor to be charged with three crimes.

70. All charges were dropped/dismissed/not prosecuted in Taylor's favor with Taylor making no concessions.

71. Taylor had a right to be free of malicious prosecution. Lynch knowingly, intentionally, and/or recklessly violated Taylor's rights under the Fourth Amendment to the

United States Constitution and Article I, § 6 of the Delaware Constitution as secured by 42 U.S.C. §1983.

72. As a result of these Constitutional violations, Taylor suffered the damages identified in Paragraph 51.

**COUNT IV – FAILURE TO INTERVENE (CONSTITUTIONAL)**

**(Against Defendant Jane Doe)**

73. Plaintiff incorporates the preceding allegations as though they are expressly stated in this Count.

74. At all times relevant, Jane Doe was acting under color of state law.

75. Jane Doe was present when Lynch knowingly, intentionally, and/or recklessly used excessive force against Taylor on the night of August 9-10, 2019, and observed Lynch's use of excessive force.

76. The level of force used by Lynch was clearly excessive and was apparent to Jane Doe.

77. While she was close enough and able to intervene to stop Lynch's use of excessive force, Jane Doe failed to intervene and stop Lynch's use of excessive force.

78. Taylor had a right to be free of excessive force. Jane Doe failed to intervene while Lynch knowingly, intentionally, and/or recklessly violated Taylor's rights under the Fourth Amendment to the United States Constitution and Article I, § 6 of the Delaware Constitution as secured by 42 U.S.C. §1983.

79. As a result of these Constitutional violations, Taylor suffered the damages identified in Paragraph 51.

**COUNT V – *MONELL* LIABILITY (CONSTITUTIONAL)**

**(Against Defendant Town of Dewey Beach and Defendant Mackert (Official Capacity))**

80. Plaintiff incorporates the preceding allegations as though they are expressly stated in this Count.

81. Defendant Town and Defendant Mackert have a policy or custom of condoning the use of excessive force, abuse of process, and unlawful arrest/detention in violation of the Fourth Amendment to the United States Constitution and Article I, § 6 of the Delaware Constitution. The cases cited herein involve claims against members of the Town's police department (and once an Audit Committee Chairman) for engaging in excessive force against its citizens.

82. A number of the factors in the 2019 report by Dr. Warren, including, without limitation, understaffing, inadequate training, lack of leadership, problems with supervision, lack of discipline/accountability, evaluating officers based on them not backing down from physical confrontations, and lack of communication about the policy manual, demonstrate the policy or custom of the Defendant Town and Defendant Mackert condoning the use of excessive force, abuse of process, and unlawful arrest/detention in violation of the Fourth Amendment to the United States Constitution and Article I, § 6 of the Delaware Constitution.

83. Defendant Town and Defendant Mackert have particularly condoned the use of excessive force, abuse of process, and unlawful arrest/detention by Defendant Lynch as the first civil case against him stemmed from an incident in 2011. The second civil case against him stemmed from an incident in 2014. Yet, in 2019, Defendant Lynch was still employed by the Town.

84. These cases, which have been filed in the last fifteen years, show the type of conduct that occurred with Taylor has been ongoing. Defendant Town and Defendant Mackert therefore have a policy or custom of ignoring and/or condoning these Constitutional deprivations by DBPD police officers.

85. Similarly, because of the length of time of these types of Constitutional deprivations by its officers, The Town and Defendant Mackert have a policy or custom of failing to train/adequately train and/or supervise its police officers, especially Defendant Lynch. Such failure to train and/or supervise demonstrates the Town and Mackert's deliberate indifference to the potential deprivations of Constitutional rights of the citizens of the Town and visitors to the Town, such as Taylor.

86. Taylor has a right to be free of excessive force, abuse of process, and unlawful arrest/detention. The policies and/or customs of the Town and Mackert directly led to the violations of the Fourth Amendment to the United States Constitution and Article I, § 6 of the Delaware Constitution as secured by 42 U.S.C. § 1983.

87. As a result of these Constitutional violations, Taylor suffered the damages identified in Paragraph 51.

## **COUNT VI – WANTON NEGLIGENCE**

### **(Against Defendant Lynch)**

88. Plaintiff incorporates the preceding allegations as though they are expressly stated in this Count.

89. The standard of care requires an officer to only use force against a member of the public or a suspect that is reasonable under the circumstances to protect the officer and others from harm.

90. When Lynch attacked Taylor, Taylor was bleeding from the back of his head, sitting on a stretcher, and receiving medical attention.

91. Taylor did not provoke Lynch in any way. Taylor's leg merely moved off the stretcher to the side of the stretcher. This was not an action that was antagonistic to Lynch, the medical paraprofessionals, or anyone else nearby.

92. Taylor's attack therefore was an extreme departure from the standard of care required of police officers when using force and dealing generally with the public.

93. As a direct and proximate result of Lynch's actions, Taylor suffered the damages listed in Paragraph 51.

## **COUNT VII – ABUSE OF PROCESS**

### **(Against Defendant Lynch)**

94. Plaintiff incorporates the preceding allegations as though they are expressly stated in this Count.

95. Lynch engaged in a willful use of process for an illegal purpose with an underlying ulterior motive to cover up his own improper actions when he charged Taylor with the crimes of strangulation and offensive touching.

96. Lynch lacked probable cause or any other justification to violently seize, beat, and arrest Taylor.

97. Lynch had no justification to engage in repeated, violent, excessive force against Taylor.

98. Lynch further engaged in a willful use of process for an illegal purpose with an underlying ulterior motive to cover up his own improper actions when he pursued prosecution of Taylor for strangulation and offensive touching.



99. As a direct and proximate result of Lynch's actions, Taylor suffered the damages listed in Paragraph 51.

**COUNT VIII – ABUSE OF PROCESS (CONSTITUTIONAL)**

**(Against Defendant Lynch)**

100. Plaintiff incorporates the preceding allegations as though they are expressly stated in this Count.

101. Lynch's conduct also violates the prohibitions of the Fourth Amendment.

102. Taylor has a right to be free of abuse of process. The policies and/or customs of the Town directly led to the violations of the Fourth Amendment to the United States Constitution and Article I, § 6 of the Delaware Constitution as secured by 42 U.S.C. § 1983.

103. As a result of these Constitutional violations, Taylor suffered the damages identified in Paragraph 51.

**COUNT IX – MALICIOUS PROSECUTION**

**(Against Defendant Lynch)**

104. Plaintiff incorporates the preceding allegations as though they are expressly stated in this Count.

105. Following Lynch's attack on Taylor, Lynch sought and obtained an arrest warrant to initiate a criminal proceeding against Taylor. Lynch claimed that Taylor attempted to strangle Lynch during the incident on August 10, 2019.

106. Lynch, however, has been criminally charged with committing perjury in obtaining the arrest warrant because Taylor, in fact, did not strangle Lynch on August 10, 2019.

107. The charges against Taylor, however, were dropped and/or not prosecuted. The criminal proceeding therefore resolved in Taylor's favor.

108. Notwithstanding the truth, Lynch maliciously perjured himself to find a reason to arrest and prosecute Taylor.

109. As a direct and proximate result of Lynch's actions, Taylor suffered the damages listed in Paragraph 51.

**COUNT X – FALSE ARREST**

**(Against Defendant Lynch)**

110. Plaintiff incorporates the preceding allegations as though they are expressly stated in this Count.

111. Taylor did not commit any crime before Lynch arrived to the scene where Taylor was sitting on a stretcher with the ambulance.

112. Taylor did not commit any crime after Lynch arrived to the scene where Taylor was sitting on a stretcher with the ambulance.

113. No reasonable person at the scene on the night of August 9 – August 10, 2019, would have thought that Lynch had committed a crime.

114. The arrest warrant that Lynch swore out against Taylor was based upon Lynch's perjured testimony.

115. The criminal charges brought against Taylor by Lynch in the arrest warrant tainted by perjury were ultimately dropped and/or not prosecuted.

116. As a direct and proximate result of Lynch's actions, Taylor suffered the damages listed in Paragraph 51.

**COUNT XI – ASSAULT**

**(Against Defendant Lynch)**

117. Plaintiff incorporates the preceding allegations as though they are expressly stated in this Count.

118. Lynch intended to cause a harmful or offensive contact with Taylor.

119. Lynch intended to cause Taylor an imminent apprehension of harmful or offensive contact.

120. Taylor, while receiving medical attention, was put in imminent apprehension of such contact.

121. As a direct and proximate result of Lynch's actions, Taylor suffered the damages listed in Paragraph 51.

**COUNT XII – BATTERY**

**(Against Defendant Lynch)**

122. Plaintiff incorporates the preceding allegations as though they are expressly stated in this Count.

123. Lynch's actions amount to an intentional, unpermitted contact of Taylor's person.

124. Lynch's contact with Taylor was harmful and offensive.

125. Lynch had no reason or justification to harmfully and offensively touch Taylor.

126. As a direct and proximate result of Lynch's actions, Taylor suffered the damages listed in Paragraph 51.

**COUNT XIII – INTENTIONAL INFLECTION OF EMOTIONAL DISTRESS**

**(Against Defendant Lynch)**

127. Plaintiff incorporates the preceding allegations as though they are expressly stated in this Count.

128. Lynch's acts of attacking Taylor and punching him in the face while Taylor was receiving a medical evaluation for a head injury was outrageous in character and extreme in degree.

129. Lynch's further act of committing perjury in furtherance of obtaining an arrest warrant was also outrageous in character and extreme in degree.

130. Lynch's aforementioned acts go beyond all possible bounds of decency and are utterly intolerable in a civilized community.

131. Lynch's aforementioned acts caused Taylor emotional distress that no reasonable person should have to suffer.

132. As a direct and proximate result of Lynch's actions, Taylor suffered the damages listed in Paragraph 51.

**COUNT XIV – FALSE IMPRISONMENT**

**(Against Defendant Lynch)**

133. Plaintiff incorporates the preceding allegations as though they are expressly stated in this Count.

134. Lynch deprived Taylor of his liberty

135. The deprivation of Taylor's liberty was without his consent.

136. The deprivation of Taylor's liberty was without legal justification.

137. As a direct and proximate result of Lynch's actions, Taylor suffered the damages listed in Paragraph 51.

**COUNT XV – 1983 LIABILITY**

**(Against Defendant Mackert (Individual Capacity))**

138. Plaintiff incorporates the preceding allegations as though they are expressly stated in this Count.

139. Defendant Mackert is a close personal friend of the father of Defendant Lynch.

140. Defendant Mackert routinely socializes with Defendant Lynch's father, and, upon information and belief, they go hunting together, they attend social events together, and they have engaged in land transactions with each other.

141. Given this close relationship with Defendant Lynch's father, Defendant Mackert has willfully ignored and/or been deliberately indifferent to concerns about Defendant Lynch, which should have alerted Defendant Mackert that Defendant Lynch posed a threat to the safety and Constitutional rights of citizens and visitors to the Town, including Taylor. Upon information and belief, these concerns about Lynch include:

- a. Defendant Lynch has a narcissistic and manipulative personality;
- b. Defendant Lynch was abusive to his first two wives and his children;
- c. Defendant Lynch harbors racist and homophobic views as demonstrated by postings he has made online and decorations on his vehicle; and
- d. Defendant Lynch was allegedly written up multiple times while working for the DBPD.

142. Because Defendant Mackert willfully ignored and/or was deliberately indifferent to the concerns raised above, Defendant Mackert enabled Defendant Lynch and allowed

Defendant Lynch to remain on the DBPD and interact with the public. Defendant Mackert's actions directly allowed Defendant Lynch to injure multiple people and to deprive multiple people of their Constitutional rights. Some of those so affected by Lynch were Frank Shock, Kelli Harman, and Mark Taylor.

143. Taylor has a right to be free of excessive force, abuse of process, and unlawful arrest/detention. Mackert's enabling and protection of Defendant Lynch directly led to the violations of the Fourth Amendment to the United States Constitution and Article I, § 6 of the Delaware Constitution as secured by 42 U.S.C. § 1983.

144. As a result of these Constitutional violations, Taylor suffered the damages identified in Paragraph 51.

**COUNT XVI – WANTON NEGLIGENCE/WILFUL MALICIOUS INTENT**

**(Against Defendant Mackert (Individual Capacity))**

145. Plaintiff incorporates the preceding allegations as though they are expressly stated in this Count.

146. As the Chief of Police of the Town, Defendant Mackert owed a duty of care to citizens of and visitors to the Town.

147. Defendant Mackert ignored significant concerns about Defendant Lynch's behaviors and beliefs of which he knew or should have known given the length of time Defendant Lynch worked under Defendant Mackert and/or Defendant Mackert's close personal relationship with Defendant Lynch.

148. Defendant Mackert also failed to adequately train, supervise, and/or discipline Lynch when Lynch was sued twice for utilizing excessive force and engaging in other

Constitutional deprivations. It is unknown to Taylor how many other individuals may have complained about similar incidents involving Lynch.

149. The foregoing actions of Defendant Mackert amount to wanton negligence as he knew or should have known about the concerns pertaining to Lynch's behaviors and beliefs and Lynch's incidents on the job, yet he failed to take any action against Defendant Lynch. The concerns pertaining to Lynch alone and in conjunction with Lynch's prior incidents on the job put Mackert on notice of a risk of significant harm to citizens of and visitors to the Town if he failed to take any action against Lynch. By failing to act, Defendant Mackert wantonly endangered the citizens of and visitors to the Town, including Taylor.

150. Alternatively, Defendant Mackert was fully aware of the concerns about Defendant Lynch, chose to ignore them, and willfully and/or maliciously intended for citizens of and visitors to the Town, including Taylor, to be harmed by Defendant Lynch.

151. Alternatively, Defendant Mackert allowed his relationship with Defendant Lynch and/or Defendant Lynch's father to affect his professional judgment and his duty as the Chief of Police of the Town. Defendant Mackert's enabling and protection of Defendant Lynch was therefore performed outside the scope of Mackert's employment.

152. As a direct result of Defendant Mackert's actions, Taylor suffered the damages indicated in Paragraph 51.

WHEREFORE Plaintiff Mark Taylor respectfully requests this Court:

- A. Grant judgment in his favor and jointly and severally against Defendants Gregory Lynch, Jr., Jane Doe, the Town of Dewey Beach, and Samuel Mackert, III;
- B. Award him special damages as he can prove;
- C. Award him compensatory damages as he can prove;

- D. Award him punitive damages;
- E. Award him costs and attorneys' fees for prosecuting this action;
- F. Award him pre- and post-judgment interest; and
- G. Grant such other relief as the Court deems proper.

**JACOBS & CRUMPLAR, P.A.**

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