

**IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF MARYLAND  
NORTHERN DIVISION**

ANGELA SWAGLER, ELIZABETH  
WALSH, and JOAN WALSH,

Plaintiffs,

-vs-

HARFORD COUNTY, MARYLAND;  
CITY OF BEL AIR, MARYLAND;  
COLONEL TERRENCE SHERIDAN, in his  
official capacity; STATE TROOPER  
NEIGHOFF, in his official and in  
his individual capacity; STATE TROOPER  
BRADLEY, in his official and in his  
individual capacity; and STATE TROOPER  
RASINSKI, in his official and in his  
individual capacity; BEL AIR POLICE  
OFFICER DONALD RAVADGE, in his  
individual capacity; BEL AIR POLICE  
OFFICER MARK ZULAUF; in his individual  
capacity; and BEL AIR POLICE OFFICER  
ARMAND DUPRE, in his individual capacity,

Defendants.

Case No.

Judge:

Jury Trial Requested

---

**COMPLAINT FOR DECLARATORY JUDGMENT,  
PRELIMINARY AND PERMANENT INJUNCTION AND DAMAGES**

---

Now come the Plaintiffs, by and through counsel, and for their Complaint against Defendants, state as follows:

1. This action arises from Defendants' illegal suppression of Plaintiffs' speech and Defendants' subsequent unlawful arrest, sexually invasive searches, and imprisonment of Plaintiffs based on a county regulations prohibit speaking on county property without a permit.

Plaintiffs' constitutional rights were egregiously violated by Defendants without warrant in law or reason.

2. Defendants' requirement to obtain a permit prior to peaceful assembly and protest on public property violates time-honored free speech practice under the First and Fourteenth Amendments to the United States Constitution. Plaintiffs seek declaratory judgment, preliminary and permanent injunction, and damages arising out of Defendants' unconstitutional policies and actions. Unless this Court issues immediate equitable relief, Defendants will continue squelching the core First Amendment right to peacefully demonstrate in a traditional public forum.

3. Defendants' illegal arrest, search, and imprisonment of Plaintiffs violated their Fourth and Fourteenth Amendment rights to be secure from unreasonable searches and seizures; these acts also deprived Plaintiffs of their liberty without due process of law, in violation of the Fifth Amendment. Defendants' sexually invasive searches of Plaintiffs constituted an invasion of privacy in violation of the Fifth, Ninth, and Fourteenth Amendments. Defendants' illegally targeted only female participants, including the Plaintiffs, for sexually invasive searches, in violation of Plaintiffs' Fourteenth Amendment rights to equal protection under law. Defendants' illegal arrest and imprisonment of Plaintiffs constituted the torts of false arrest and false imprisonment under Maryland state law. Plaintiffs seek compensatory damages for these violations.

## **PARTIES**

4. Plaintiff Angela Swagler is an eighteen- year-old resident of Erie, Pennsylvania, who flew in to Maryland to take part in the "Face the Truth" tour.

5. Plaintiff Elizabeth Walsh was the Director of Defend Life's "Face the Truth" 2008 tour. She is twenty years old, a resident of Baltimore County, Maryland, and helps lead Defend Life in its efforts to promote a pro-life message in communities throughout Maryland, Washington D.C., and Northern Virginia.

6. Plaintiff Joan Walsh was Assistant Director of the "Face the Truth" tour and is the sister of Plaintiff Elizabeth Walsh. She is eighteen years old, and a resident of Baltimore County, Maryland.

7. Defendant Harford County, Maryland, is a political subdivision of the State of Maryland.

8. Defendant City of Bel Air, Maryland, is a political subdivision of the State of Maryland.

9. Defendant Colonel Terrence Sheridan oversees the enforcement of county and state law as Superintendent of the Maryland State Police, and is sued in his official capacity.

10. Defendant Trooper Neighoff, Officer ID 5173, is an officer of the Maryland State Police, and is sued in his official and individual capacity.

11. Defendant Trooper Bradley is, on information and belief, an officer of the Maryland State Police, and is sued in his official and individual capacity.

12. Defendant Trooper First Class Rasinski is, on information and belief, an officer of the Maryland State Police, and is sued in his official and individual capacity.

13. Defendant Bel Air Police Officer Donald Ravadge is, on information and belief, an officer of the Bel Air Police Department, and is sued in his individual capacity.

14. Defendant Bel Air Police Officer Mark Zulauf is, on information and belief, an officer of the Bel Air Police Department, and is sued in his individual capacity.

15. Defendant Bel Air Police Officer Armand Dupre is, on information and belief, an officer of the Bel Air Police Department, and is sued in his individual capacity.<sup>1</sup>

### **JURISDICTION AND VENUE**

16. The Court has subject matter jurisdiction over this case under 28 U.S.C. § 1331, as this action arises under the First, Fourth, Fifth, Ninth, and Fourteenth Amendments to the United States Constitution; under 28 U.S.C. § 1343(a)(3), in that it is brought to redress deprivations, under color of state law, of rights, privileges and immunities secured by the United States Constitution; under 28 U.S.C. § 1367(a), in that the state law claims raised are so related the federal claims that they form part of the same case or controversy; under 28 U.S.C. §1343(a)(4), in that it seeks to recover damages and secure equitable relief under an Act of Congress, specifically, 42 U.S.C. § 1983, which provides a cause of action for the protection of civil rights; under 28 U.S.C. § 2201(a), to secure declaratory relief; and under 28 U.S.C. § 2202, to secure preliminary and injunctive relief and damages.

17. The venue in this action is proper within this judicial district and division pursuant to 28 U.S.C. § 1391(b)(2) and Local Rule 501(4)(a)(i), in that all of the claims asserted by Plaintiffs arose within this judicial district and the principal offices of the Defendant government parties are within this judicial district.

### **FACTS**

18. Plaintiffs participated in a week-long pro-life event entitled “Face the Truth,” sponsored by Defend Life, a non-profit Maryland corporation in an effort to communicate a pro-life message to the public.

---

<sup>1</sup> Plaintiffs intend to add as Defendants the female officers who conducted the two sexually intrusive searches upon ascertaining their identities.

19. On Friday, August 1, 2008 at about 4:00 PM, on the final day of the tour, Plaintiffs and about 20 other participants in “Face the Truth” were peacefully holding up signs promoting their pro-life message at the intersection of Route 924 and Route 24 in Harford County. They were situated along a grassy shoulder adjacent to the road.

20. Participants only entered the street to cross from one side to another, obeying traffic rules, and did not venture into the roads or the intersection as a part of their demonstration.

21. Once, crossing the street to assist participants on the other side, Plaintiff Joan Walsh walked briefly on the median strip past six cars and held out literature to them, which no one accepted. She did not leave the median strip to approach the cars and was not carrying a sign.

22. At no time did Plaintiffs or their companions block or obstruct traffic.

23. Plaintiffs and the other participants were holding signs containing pictures and written messages advocating against the practice of abortion and the public policy which promotes and protects this lethal practice.

24. The signs were of varying sizes, between 4 and 5 feet in height and 2 and 3 feet in width. They were placed on the ground and held upright by a participant. The signs were not held up in the air, so as to avoid blocking commuters’ views of road signs or other traffic.

25. Each participant stood approximately 20 to 40 feet apart from one another on the grassy shoulder of the road along Route 24 in the vicinity of the Route 924 and Route 24 intersection.

26. Each of the Plaintiffs and most participants wore a blue shirt with the words “Pro-life” on the front and “Defend Life” on the back.

27. The participating individuals were broadly distributed over a vast area, not collected at any single point. The majority of individuals were out of earshot, and several out of sight, of each other.

28. Plaintiffs intended to maintain their positions in the traditional public forums adjacent to these roads so as to present their political, social, and religious message in favor of preborn human life to the large number of motorists passing through this intersection.

***Defendants' prohibition on Plaintiffs' speech in a traditional public forum***

29. Defendants Trooper Neighoff, Trooper Bradley, and Trooper First Class Rasinski put a stop to the Plaintiffs' peaceful advocacy, arriving at the Plaintiffs' location at 4:45 PM.

30. Defendant Trooper Bradley commanded Plaintiffs and the participants that they must stop their advocacy because they did not have a permit to publically speak on Harford County property.

31. Defendant Trooper Bradley said Plaintiffs must stop speaking because some motorists had called to say they were offended by the content of their signs.

32. Defendant Trooper Bradley told Plaintiffs and the participants that failure to comply with his instruction would result in their arrest.

33. When asked what permit was required and which county ordinance specifically required the permit, Defendant Trooper Bradley only responded that Plaintiffs needed a permit from Harford County and would not specify further.

34. Plaintiff Elizabeth Walsh, the group leader, stated that such a requirement was an infringement on the group's First Amendment rights, but that—to avoid arrest—the group would comply with the order.

35. Defendant Trooper Bradley repeated his command and again stated that failure to obey would result in arrest. Defendant Trooper Bradley said, “You need to pack up and go or you’re going to jail, that’s it.”

36. Plaintiffs were acting reasonably and safely, both in their peaceful advocacy and in their interactions with Defendants.

37. Plaintiffs were confused, as earlier in the day, as a part of the same tour but at a different location in Howard County, Plaintiffs had been approached by Howard County Lieutenant Levy, who neither said nor did anything to indicate their actions were unlawful and left Plaintiffs to continue demonstrating. Lieutenant Levy’s only command was to “be careful” and only warning was that, if traffic became unduly backed up, Plaintiffs might need to move.

38. Further, while Plaintiffs experienced police observation and questioning of their tour, Plaintiffs had not been threatened with arrest or required to disperse anywhere else by any other police officers.

39. Nonetheless, Plaintiffs and the participants attempted to comply with the Defendant troopers’ command by moving down the street 2 miles, moving inside of Bel Air city limits, to the corner of Route 24 and Marketplace Drive.

40. They again situated themselves along the public roadway, this time on an even wider grassy shoulder that was separated from the flow of traffic by a paved emergency lane. They resumed their peaceful advocacy.

41. Neither Plaintiffs nor any of the participants entered the street at this location, not even to cross from one side to another, nor did they in any other manner obstruct traffic. They had all parked their vehicles in a parking lot adjacent to the roadside, avoiding the need to cross the road to assume their stations.

42. At 5:30 PM, the Defendant troopers returned, this time supported by three other State Troopers (Trooper Mohr, Trooper First Class Meades, and Trooper First Class Nuzzo) and the three Defendant Bel Air police officers (Officer Ravadge, Officer Zulauf, and Captain Dupree) and three unidentified Harford County deputies.

43. Plaintiffs, as before, acted in a respectful manner toward the Defendants, other officers, and passing traffic.

44. Plaintiffs did not act in a physically or vocally threatening fashion, nor did they attempt to resist the Defendants' orders or the Defendants' eventual arrest of their persons.

45. Up until this point, there was no traffic congestion as a result of Plaintiffs' speech. However, upon the arrival of twelve uniformed police officers in at least six police cruisers—all parked in the paved emergency lane alongside the grassy shoulder where Plaintiffs and participants stood, or actually parked on the wide shoulder itself—traffic did become congested.

#### ***Defendants' Illegal Arrest of Plaintiffs***

46. The Defendant Trooper Neighoff immediately began arresting Plaintiffs and their companions. Eighteen participants, including Plaintiffs, were arrested.

47. No statement was given of the reason for arrest by the Defendant Trooper Neighoff or any other troopers to the Plaintiffs, despite repeated requests by Plaintiffs for Defendants to state the law under which they were being arrested.

48. Plaintiffs were frightened and confused at Defendant trooper's unexplained actions.

49. Plaintiffs were put in handcuffs and held alongside the heavily trafficked public road for over a half hour, making them appear to be criminals to the public, putting both them and their message into disrepute, and exposing them to shouted ridicule from occasional drivers.



50. Plaintiff Joan Walsh was extremely worried, feeling light-headed and struggling to breath properly.

51. Plaintiffs were required to divulge their names, social security numbers, phone numbers, addresses, and ages to the arresting officers.

52. Plaintiffs, along with the other participants, were then driven to a police station.

***Defendants' First Sexually Invasive Search of Plaintiffs***

53. Upon arriving at the station, at or near 6:30 PM, Plaintiffs were subjected to a sexually intrusive search in the station's parking lot, in the presence of both male companions and male police officers.

54. A female officer came to each of the Plaintiffs, as well as the other female participants, pulled out the top of their shirt collars and looked down their shirts to facilitate inspection of their breasts, and reached down their pants and felt around below their waist lines.

55. Only Plaintiff Angela Swanson was spared the intrusive manual search down her pants.

56. These sexually intrusive searches were conducted without any regard for the privacy of the Plaintiffs or the other female participants; one of the searches had been done on a teenage girl who was immediately adjacent to a teenage boy, much to her intense embarrassment and shame.

57. To avoid having to watch these searches on each other and other female participants, Plaintiffs had to look away. No partitions of any sort were set up to protect the privacy of the as-yet uncharged Plaintiffs or their companions.

58. These sexually invasive searches caused Plaintiffs embarrassment and humiliation.

59. On information and belief, these searches were not performed on the male participants.

***Defendants' Illegal Imprisonment of Plaintiffs***

60. Plaintiffs were then put in a holding cell.

61. There were no prisoners in the holding cell other than the female participants and Plaintiffs. Male participants had been placed in another nearby holding cell.

62. At no point were Plaintiffs or other female participants put in cells with detainees other than "Face the Truth" participants; they were never put in the general prison population.

63. Plaintiffs were detained in the holding cell for nearly six hours, only leaving the cell once for individual mug shots.

64. They were not told why they were being held or when they could expect to be charged or released.

65. Plaintiff Joan Walsh asked repeatedly for permission to call her parents to inform them of her arrest and imprisonment, but was denied each time.

66. The only available bathroom was a toilet situated along one side of the cell, in full view of the surrounding cells, each of the other female participants, and the nearby security cameras. This was yet another violation of Plaintiffs' privacy.

67. At or about midnight, the first of the Plaintiffs were put back in handcuffs and transferred to the Harford County Detention Center to see the commissioner. This transfer process continued until after 2:30 AM, when the last Plaintiff was transferred.

***Defendants' Second Sexually Invasive Search of Plaintiffs***

68. Upon arriving, Plaintiffs were put in shackles and again subjected to a sexually invasive search.

69. Plaintiffs were required to remove their shoes and socks while standing in a holding room with other participants.

70. Plaintiffs, still shackled, were then individually taken into a bathroom by a female police officer and ordered to lift up their shirts and their brassieres.

71. Plaintiffs felt trapped, embarrassed, and confused at being subjected to yet another sexually invasive search.

72. Plaintiffs Elizabeth and Joan Walsh were required to completely lift up their shirts, exposing their upper bodies to inspection, and then to lift their brassieres off their breasts, completely exposing their breasts to visual inspection by the police officer.

73. During the inspections of Plaintiffs Elizabeth and Joan Walsh, the female police officer conducting the search stood by the door and left it partially ajar, increasing Plaintiffs embarrassment and discomfort even more.

74. When Plaintiff Swagler requested that the less-invasive procedure of looking down her shirt be employed, as had already been done, the officer denied her request.

75. Plaintiff Swagler was ordered to lift up her brassiere and to completely lift up her shirt; she complied by lifting up her brassiere and partially lifting up her shirt, exposing her abdomen to visual inspection by the police officer.

76. As result of the sexually invasive searches, Plaintiffs felt humiliated, fearful, confused, and intimidated.

77. Plaintiffs were again required to undergo mug shots and then were taken to another holding cell to await meeting with the commissioner.

78. Only one other non-participant prisoner was in the holding cell with them, a woman who had been charged with check fraud and held in the cell since 5:00 PM.

79. The woman revealed, after hearing the distressed and tearful conversations between the Plaintiffs and other female participants about their strip searches, that the prison officials had not searched her in nearly so intrusive a manner.

80. The woman also stated that, when she arrived at the detention center, she overheard police officers planning the arrest of Plaintiffs and participants, but trying to determine what charges could be brought against them.

81. At no time were Plaintiffs put in the general prison population.

82. Plaintiffs had to wait over several hours for their individual meetings with the commissioner, the first Plaintiff not seeing the commissioner until after 2:00 AM and the last Plaintiff until after 9:30 AM.

83. Plaintiffs were placed back in shackles for the meeting and when Plaintiff Swagler told the guard her shackles were hurting her, he laughed at her and did nothing to loosen the shackles.

84. The commissioner asked Plaintiffs several questions, requested that they sign several forms they did not understand and the commissioner did not explain, and presented them with their formal charges.

85. Plaintiffs were charged with loitering (HCC § 193-4(B)(1)), disorderly conduct (CR 10-201(c)(2)), and failure to obey a lawful order (CR 10-201(c)(3)).

86. They were not charged under Harford County permit requirement.

87. No mention was made at any time of the permit requirement which Defendants had originally cited as the basis of their authority to require Plaintiffs to disperse and to arrest them if they did not obey.

88. The arrest report by Defendant Trooper Neighoff makes no mention of an issue with disorderly conduct or loitering. The report specifically relies upon the permit requirement, as the basis for arrest.

89. The commissioner instructed Plaintiffs that they were prohibited to return to the location of their arrest to engage in peaceful advocacy.

90. After meeting with the commissioner, Plaintiffs and participants were then individually released.

91. Plaintiff Angela Swagler was released at or near 3:00 AM, Plaintiff Joan Walsh was released at or near 6:30 AM, and Plaintiff Elizabeth Walsh was released at or near 9:30 AM. The final “Face the Truth” participant was not released until almost 11:00 AM.

92. Several participants stated that, based on conversation they had with or overheard from Defendants and other officers, the Defendants had arrested Plaintiffs and participants without knowing what charges they could bring against them.

93. Two attorneys, Steve Peroutka and Scott Whiteman, arrived at 10:00 PM the night before to assist Plaintiffs and other participants, but the Defendants never notified Plaintiffs of the attorneys’ presence nor allowed the attorneys to contact the Plaintiffs.

94. On August 12, the State entered a *nolle prosequi* of the entire case against all the Plaintiffs and their companions.

### ***The Relevant Harford County Ordinances and Policies***

95. Defendants referenced county law as the source of their authority to command Plaintiffs and other participants to cease their peaceful advocacy.

96. The only ordinance violation actually charged against Plaintiffs and other “Face the Truth” participants is loitering.

97. However, Harford County’s loitering ordinance, HCC § 193-4(B)(1), specifically excepts “picketing” and “other lawful assembly” from the ordinance. See § 193-4(D).

98. The only Harford County ordinance that is applicable on these facts—though no Plaintiffs or participants have been charged with it—is § 219-5, which requires that any signs placed on or near public property in the county conform to county specifications and receive prior approval and a permit before being erected.

99. The ordinance, in subsection (F)(1) specifies that temporary signs are within the regulation.

100. The ordinance’s definition in § 219-4 of “sign” is very broad and includes “any announcement, declaration, demonstration...used to...promote the interests of any person when the same is placed out of doors in view of the general public.”

101. § 219-7(G) of the ordinance allows an exception for political or “public issue” signs, but only allows them to be displayed on private property, away from public streets, and within 45 days of an election.

102. This exception does nothing to serve the protected free-speech rights of the Plaintiffs to engage in peaceful advocacy in public forums.

103. To comply with the ordinance, parties are required to obtain a permit and pay a fee for each sign they hold. § 219-6(A). Obtaining a permit requires a signed application which contains:

- a. the name and address of the individual sign owner,
- b. a drawing revealing the content of the sign, and
- c. the proposed location and dimensions of the sign. § 219-6(B).

104. The amount of the fee for temporary portable signs, pursuant to § 219-6(C) and § 219-16, is \$40 per sign.

105. The ordinance does not specify how long it will take the application to be approved.

106. If signs are discovered which either do not have a permit or fail to meet the issued permit's specifications, a particular enforcement officer can require the sign to be removed. § 219-10(D) and § 219-18(A).

107. The officer must give the offending party written notice of the violation and a length of time, unspecified in the ordinance, to remove the sign. § 219-18(A). If the party does not remove the signs, the officer can take legal action to have them removed. *Id.*

108. Nowhere does the ordinance authorize the arrest and imprisonment of individuals who violate it.

109. Plaintiffs' ability to exercise their free speech rights—merely attempting to communicate their viewpoint on an important social issue through the medium of outdoor, hand-held signs in a traditional public forum—is subject to a prior restraint under Harford County ordinances.

110. Other types of signs, however, are excepted from the ordinance's scope:

- d. Special event signs (§ 219-7(B))
- e. Real estate signs (§ 219-7(E))
- f. Homeowner identification signs (§ 219-7(H))
- g. Agriculture identification signs (§ 219-7(I))
- h. Noncommercial flags—including flags for nations, states, political subdivisions, educational institutions, and noncommercial organizations. (§ 219-7(L))

- i. Commercial flags § 219-7(N))
- j. Ballpark signs (§ 219-7(O))

***Plaintiffs' chilled speech***

111. Plaintiffs desire to have access to the public property of Harford in the future to hold signs that communicate their pro-life message.

112. However, because of Defendants' speech-suppressing policies, practices, and threats described herein, Plaintiffs are faced with arrest and incarceration from Defendants if they engage in such speech.

113. As a result of their fear of prosecution by Defendants, a fear born out in their previous arrest and the arrests of 15 of their companions, Plaintiffs have previously and continue to self-censor to avoid this unhappy eventuality.

114. Defendants Harford County and Sheridan have failed to provide proper training to their subordinates on the issue of the freedom of speech in traditional public forums, which has contributed to the violation of the constitutional rights of Plaintiffs and others not before the Court.

115. Defendants knew or should known that their actions violated the clearly established constitutional rights of Plaintiffs and others not before the Court.

**FIRST CAUSE OF ACTION  
VIOLATION OF THE FIRST AMENDMENT  
OF THE UNITED STATES CONSTITUTION  
FREEDOM OF SPEECH**

116. Plaintiffs hereby incorporate by reference all foregoing allegations as if set forth fully herein.



117. All acts alleged herein of the Defendants, and their members, officers, agents, servants, employees, or persons acting at their behest or direction, were done and are continuing to be done under the color and pretense of state law.

118. Harford County laws and policy requiring individuals to obtain a permit before displaying signs in a traditional public forum are unconstitutional, facially and as applied to Plaintiffs, under the First and Fourteenth Amendments of the United States Constitutions, because they ban core political and social speech in traditional public fora, and for the particular reasons discussed below.

119. Defendants' policies and actions against Plaintiffs' speech are not narrowly tailored to serve a compelling state interest, and are not permissible regulations of the time, place, or manner of speech.

120. Defendants' application of charges for loitering (HCC § 193-4(B)(1)), disorderly conduct (CR 10-201(c)(2)), and failure to obey a lawful order (CR 10-201(c)(3)) as a means to silence Plaintiffs speech was a violation of Plaintiffs' First Amendment rights.

121. Defendants' policies and actions against Plaintiffs' speech are unconstitutional prior restraints on speech, afford unbridled discretion to county officials, and do not contain the procedural safeguards necessary for a speech-related permit scheme.

122. Defendants' policies and actions against Plaintiffs' speech are unconstitutionally overbroad and have a substantial chilling effect on the free speech rights of Plaintiffs and others not before the Court.

123. As a result of the Defendants' past and present refusal to allow Plaintiffs to exercise their political and social speech rights in traditional public forums, Plaintiffs are suffering irreparable harm for which there is no adequate remedy at law.

124. As a legal consequence of Defendants' violation of Plaintiffs' First and Fourteenth Amendment rights, as alleged above, Plaintiffs are entitled to recover damages.

**SECOND CAUSE OF ACTION  
VIOLATION OF THE FOURTEENTH AMENDMENT  
OF THE UNITED STATES CONSTITUTION  
DUE PROCESS (VAGUENESS)**

125. Plaintiffs hereby incorporate by reference all foregoing allegations as if set forth fully herein.

126. Defendants' policies and actions against Plaintiffs' speech are unconstitutionally vague, in that they neither define sufficiently the standards utilized in governing citizens' speech in public fora, nor do they protect against arbitrary and discriminatory enforcement.

127. As a result of the Defendants' policies and actions, Plaintiffs are suffering irreparable harm for which there is no adequate remedy at law.

128. As a legal consequence of Defendants' violation of Plaintiffs' Fourteenth Amendment rights, as alleged above, Plaintiffs are entitled to recover damages.

**THIRD CAUSE OF ACTION  
VIOLATION OF THE FIFTH AMENDMENT  
OF THE UNITED STATES CONSTITUTION  
UNREASONABLE SEIZURE**

129. Plaintiffs hereby incorporate by reference all foregoing allegations as if set forth fully herein.

130. Defendants intentionally arrested, detained, and imprisoned Plaintiffs, which constituted a seizure under the Fourth Amendment.

131. Defendants had no legal basis for their seizure of the Plaintiffs, as the ordinance they cited as the basis for their arrest could only be enforced by a designated county official, enforcement was only allowed after written notice was delivered, and enforcement only entailed

a fine—not arrest. Further, since the ordinance itself was unconstitutional, as alleged above, it could not be used as a basis to censor Plaintiffs’ well-established constitutional right to free speech through seizure of Plaintiffs.

132. Further, none of Defendants’ charged offenses—loitering (HCC § 193-4(B)(1)), disorderly conduct (CR 10-201(c)(2)), and failure to obey a lawful order (CR 10-201(c)(3))—constituted a basis for arrest, as Plaintiffs and their companions were peacefully and respectfully advocating alongside a public road without interfering with traffic or otherwise acting unreasonably.

133. Defendants had no probable cause to believe that Plaintiffs were violating any law, much less one justifying a seizure of their persons; accordingly, their seizure of the Plaintiffs was unreasonable and in violation of the Fourth Amendment.

134. Under the facts and circumstances known to the Defendants at the time of arrest, no reasonable police officer would have believed that probable cause existed for arrest of the Plaintiffs. Earlier on the same day of the arrest, in the same county, Plaintiffs’ peaceful demonstration was determined to be lawful and allowed to continue by Harford County officers.

135. Plaintiffs had completed over eighteen other similar peaceful demonstrations all over Maryland just that week, and Defend Life had sponsored similar peaceful demonstrations for eight years in over 100 Maryland cities without any other police officer finding probable cause to arrest Plaintiffs or those similar to them.

136. Plaintiffs suffered deprivation of liberty, physical and mental pain, embarrassment, fear, and subjection to public spectacle and humiliation as result of Defendants’ unreasonable seizure of their persons.

137. As a direct and proximate result of the Defendants' actions, the Plaintiffs were unlawfully arrested, searched, detained, and suffered other damages, including but not limited to economic and other loss, embarrassment, loss of reputation and mental anguish.

**FOURTH CAUSE OF ACTION  
VIOLATION OF THE FOURTH AMENDMENT  
OF THE UNITED STATES CONSTITUTION  
UNREASONABLE SEARCH**

138. Plaintiffs hereby incorporate by reference all foregoing allegations as if set forth fully herein.

139. Plaintiffs were subjected to two separate sexually invasive searches—strip searches—by Defendants, the first of which was conducted in a public area in front of both male participants in the “Face the Truth” tour and male police officers.

140. Plaintiffs were illegally arrested for minor offenses which had no conceivable relation to concerns regarding weapons or contraband, and there was no basis on which to form a reasonable and individualized suspicion that Plaintiffs were concealing weapons or contraband.

141. Plaintiffs were never introduced to the general prison population at either of the locations in which they were imprisoned.

142. Defendants had no reasonable basis to justify the invasion of personal and constitutional rights that a sexually invasive search necessarily involves. Accordingly, Defendants' two sexually invasive searches of the Plaintiffs were conducted in violation of Plaintiffs' Fourth Amendment right to be free from unreasonable searches.

143. These sexually invasive searches caused the Plaintiffs intense embarrassment, humiliation, fear, and mental suffering.

144. As a direct and proximate result of the Defendants' actions, the Plaintiffs were unlawfully arrested, searched, detained, and suffered other damages, including but not limited to economic and other loss, embarrassment, loss of reputation and mental anguish.

**FIFTH CAUSE OF ACTION  
VIOLATION OF THE FIFTH AND FOURTEENTH AMENDMENTS  
OF THE UNITED STATES CONSTITUTION  
DEPRIVATION OF LIBERTY WITHOUT DUE PROCESS OF LAW**

145. Plaintiffs hereby incorporate by reference all foregoing allegations as if set forth fully herein.

146. Plaintiffs have a liberty interest in the security and freedom of their persons.

147. The Defendants' actions and arrest of Plaintiffs violates their right to be free from deprivation of liberty without due process of law, secured by the Fifth and Fourteenth Amendments to the United States Constitution.

148. As a direct and proximate result of the Defendants' actions, the Plaintiffs were unlawfully arrested, searched, detained, and suffered other damages, including but not limited to economic and other loss, embarrassment, loss of reputation and mental anguish.

**SIXTH CAUSE OF ACTION  
VIOLATION OF THE FIFTH, NINTH, AND FOURTEENTH AMENDMENTS  
OF THE UNITED STATES CONSTITUTION  
INVASION OF PRIVACY**

149. Plaintiffs hereby incorporate by reference all foregoing allegations as if set forth fully herein.

150. The Defendants' illegal and unreasonable arrest of Plaintiffs resulted in their submission to two unreasonable sexually invasive searches, one in a jail parking lot and the other at the Harford County Detention Center.

151. These sexually invasive searches constituted a gross invasion of the rights of Plaintiffs to privacy and due process under the Fifth, Ninth, and Fourteenth Amendments to the United States Constitution.

152. As a direct and proximate result of the Defendants' actions, the Plaintiffs were unlawfully arrested, searched, detained, and suffered other damages, including but not limited to economic and other loss, embarrassment, loss of reputation and mental anguish.

**SEVENTH CAUSE OF ACTION  
VIOLATION OF FOURTEENTH AMENDMENT  
OF THE UNITED STATES CONSTITUTION  
EQUAL PROTECTION UNDER LAW**

153. Plaintiffs hereby incorporate by reference all foregoing allegations as if set forth fully herein.

154. Plaintiffs were subjected to two separate sexually invasive searches by the Defendants, as were all other female participants, while their similarly situated male counterparts were not.

155. The right to be free from sex-based searches is clearly established and Defendants' sex-based searches were in violation of the Plaintiffs' rights under the Fourteenth Amendment's guarantee of equal protection under laws.

156. As a direct and proximate result of the Defendants' actions, the Plaintiffs were unlawfully arrested, searched, detained, and suffered other damages, including but not limited to economic and other loss, embarrassment, loss of reputation and mental anguish.

**EIGHTH CAUSE OF ACTION  
FALSE ARREST AND IMPRISONMENT**

157. Plaintiffs hereby incorporate by reference all foregoing allegations as if set forth fully herein.

158. Defendants did intentionally and unlawfully arrest, detain, and imprison the Plaintiffs without their consent, without a warrant, without legal justification, and without probable cause to believe a misdemeanor had been committed in Defendants' presence.

159. These actions constituted tortious misconduct and a violation of Article 24 of the Declaration of Rights under the Maryland Constitution.

160. As a direct and proximate result of the Defendants' actions, the Plaintiffs were unlawfully arrested, searched, detained, and suffered other damages, including but not limited to economic and other loss, embarrassment, loss of reputation and mental anguish.

#### **NINTH CAUSE OF ACTION ASSAULT AND BATTERY**

161. Plaintiffs hereby incorporate by reference all foregoing allegations as is set forth fully herein.

162. Defendants intentional actions, both through illegal arrest and illegal strip search, put Plaintiffs in apprehension of imminent offensive physical contact and actually resulted in offensive contact with the Plaintiffs' persons.

163. As a direct and proximate result of the Defendants' actions, the Plaintiffs were unlawfully arrested, searched, detained, and suffered other damages, including but not limited to economic and other loss, embarrassment, loss of reputation and mental anguish.

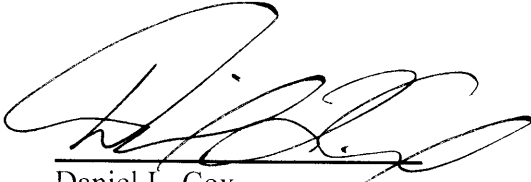
**WHEREFORE**, Plaintiffs pray for judgment against Defendants and that the Court:

- A. Adjudge, decree and declare the rights and other legal relations of the parties to the subject matter and claims in controversy in order that such declarations shall have the force and effect of final judgment and that the Court retain jurisdiction of this matter for the purpose of enforcing the Court's Orders;

- B. Pursuant to 28 U.S.C. §2201, declare that the Defendants' laws, policies and practices, as alleged above, violate the First, Fourth, Fifth, Ninth, and Fourteenth Amendments to the United States Constitution;
- C. Pursuant to 28 U.S.C. §2202, Fed. R. Civ. P. 65, and 42 U.S.C. §1983, preliminarily and permanently enjoin Defendants from enforcing the unconstitutional policies and practices against Plaintiffs and others similarly situated, and award damages to Plaintiffs;
- D. Pursuant to 42 U.S.C. §1988 and other applicable law, award Plaintiffs their costs and expenses incurred in bringing this action, including their reasonable attorneys' fees;
- E. Award Plaintiffs compensatory damages for the damages suffered in violation of federal and state law in an amount to be determined by a jury; and
- F. Award Plaintiffs punitive damages as against Defendants sued in their individual capacities;
- G. Expunge from Plaintiffs' records all charges filed against them regarding this action, specifically: loitering, failure to obey a lawful order, and disorderly conduct.
- H. Grant such other and further relief as the Court deems equitable, just and proper.



Respectfully submitted,



Daniel L. Cox  
(D. MD Bar No. 28245)  
THE COX LAW CENTER, LLC  
P.O. Box 245  
Secretary, Maryland 21664  
Telephone: (410) 943-0004  
Facsimile: (410) 943-0034  
founderslaw@gmail.com

Kevin Theriot\*  
(KS Bar No. 21565)  
Joel Oster \*  
(KS Bar No. 18547)  
ALLIANCE DEFENSE FUND  
15192 Rosewood  
Leawood, Kansas 66224  
Telephone: (913) 685-8000  
Facsimile: (913) 685-8001  
ktheriot@telladf.org

Benjamin W. Bull (*of counsel*)  
(AZ Bar No. 009940)  
ALLIANCE DEFENSE FUND  
15100 North 90th Street  
Scottsdale, Arizona 85260  
Telephone: (480) 444-0020  
Facsimile (480) 444-0028  
bbull@telladf.org

*Attorneys for Plaintiffs*

\*Pending *pro hac vice* admission.