

**LEGISLATIVE #**

**110734**

IN THE CIRCUIT COURT OF THE  
EIGHTH JUDICIAL CIRCUIT, IN AND  
FOR ALACHUA COUNTY, FLORIDA.

SHANNON PAIGE ROLLINS,

Plaintiff,

vs.

CASE NO: 12CA377

K

The CITY OF GAINESVILLE,  
Florida, a Municipal corporation;  
NORMAN BOTSFORD, in his official  
capacity as former Chief of the Gainesville  
Police Department and BRETT ROBISON  
in his individual and official capacity,

Defendants.

JK BUDDY FRY  
CLERK OF COURTS  
ALACHUA COUNTY FL.

2012 JAN 31 PM 3:00

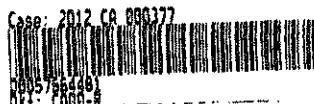
FILED  
CK 56

COMPLAINT

COMES NOW the Plaintiff, SHANNON PAIGE ROLLINS, by and through undersigned attorneys, and sues the Defendants, The CITY OF GAINESVILLE, Florida, a Municipal corporation; NORMAN BOTSFORD, in his official capacity as former Chief of the Gainesville Police Department; and BRETT ROBISON in his individual and official capacity, and alleges as follows:

JURISDICTION AND VENUE

1. This is an action for damages in excess of Fifteen Thousand Dollars (\$15,000.00), exclusive of costs and interest.
2. Prior to filing of this Complaint, Defendant, The CITY OF GAINESVILLE, was served notice of this claim pursuant to Florida Statutes, Section 768.28. Over 180 days have elapsed since service of Plaintiff's Notice of Administrative Claim.
3. The events giving rise to this complaint occurred or originated in Alachua County Florida; specifically within the city limits of Gainesville, Florida.



13

4. This is an action for money damages for injuries suffered by Plaintiff, SHANNON PAIGE ROLLINS, as a result of negligent conduct, violation of civil and constitutional rights secured and guaranteed by Title 42, Section 1983 of the United States Code ("U.S.C."), the Fourth and/or Fourteenth Amendments to the United States Constitution, the laws of the United States, and the laws and the Constitution of the State of Florida.

#### PARTIES

5. At all times material hereto, Plaintiff, SHANNON PAIGE ROLLINS was a citizen of the United States of America and was a resident of Gainesville, Alachua County, Florida and entitled to the protections of the Constitutions and laws of the United States of America and the state of Florida.
6. At all times relevant, Defendant, NORMAN BOTSFORD was the police chief of the City of Gainesville, Florida and responsible for the administration, operation and supervision of the Gainesville police department and for promulgation, enforcement and review of rules, regulations, policies, customs and practices relevant hereto, who was acting under color of state law and within the course and scope of his employment. Defendant, NORMAN BOTSFORD, is sued in his official capacity as set forth herein.
7. At all times relevant, Defendant, the CITY OF GAINESVILLE was under a non-delegable duty to promulgate and/or assure the promulgation of policies, practices, procedures and/or customs to insure that Gainesville residents were not

subjected to the invasion of their right to privacy or their right to be secure in their persons and houses, against unreasonable searches and seizures.

8. At all times material hereto, Defendant, THE CITY OF GAINESVILLE, was a Political Subdivision of the State of Florida, and the employer of Defendants, BRETT ROBISON and NORMAN BOTSFORD.
9. At all times material hereto, Defendant, BRETT ROBISON was a resident of Alachua County, Florida.
10. At all times material hereto, Defendant, BRETT ROBISON was a police officer employed by Defendant, the CITY OF GAINESVILLE's police department acting within the course and scope of his employment. He is sued in his individual and official capacity.

#### GENERAL ALLEGATIONS

11. The claims asserted herein arise from acts, failures to act, and omissions committed, and policies, procedures, and customs in place and/or implemented, while Plaintiff, SHANNON PAIGE ROLLINS, was a citizen of Gainesville, Alachua County, Florida from 2007 through 2008, during which times the Defendants, all of whom were acting under color of state law, violated the known and clearly established Constitutional rights of Plaintiff to be secure in her person and house, against unreasonable searches and seizures and to privacy.
12. Plaintiff, SHANNON PAIGE ROLLINS alleges that a Gainesville police officer Defendant, BRETT ROBISON, at various times during 2007 and 2008 videotaped her without her knowledge or permission while she was in her bedroom naked, in

the guise of performing his duties as a police officer. Plaintiff, did not know Defendant, BRETT ROBISON, in any capacity, professionally or personally.

13. In order to spy on and record Plaintiff, SHANNON PAIGE ROLLINS, Defendant, BRETT ROBISON used the DAVID (Driver And Vehicle Information Database) system to look up her address and other confidential information. This database is not available to the general public and was only accessible by Defendant, BRETT ROBISON because of his employment with the Gainesville Police Department.
14. The Gainesville police department does not monitor the use of or require an officer to adequately account for their use of the DAVID system, even though confidential information on members of the public is contained in the database.
15. The access of Plaintiff's confidential information by Defendant, BRETT ROBISON, through the DAVID system, occurred during the time he was on duty as a police officer with the City of Gainesville and while acting under color of state law.
16. At all times relevant, it was the policy, practice, custom and/or procedure of the Defendant, the CITY OF GAINESVILLE, and/or their employees who have final decision making authority to allow the unfettered use of the DAVID system by police officers.
17. The video voyeurism complained of herein occurred during the time, Defendant, BRETT ROBISON was on duty as a police officer with the City of Gainesville and acting under color of state law.

18. Plaintiff is informed and believes and thereon alleges that Defendant, BRETT ROBISON, was in uniform and in a marked Gainesville Police Department patrol car at the time of the incidents complained of herein.
19. Plaintiff is informed and believes and thereon alleges that Defendant, BRETT ROBISON, at the time of the video voyeurism had his police radio with him, which enabled him to know where other officers were and hear dispatch calls for service and thus avoid detection by law enforcement.
20. The Gainesville police department does not monitor the location of or require an officer to accurately account for their location while they are on duty.
21. On information and belief there were between 16 and 33 other women, many of them unidentified, who were also videoed by, Defendant, BRETT ROBISON while he was on duty as a City of Gainesville police officer and acting under color of state law.
22. At all times relevant, it was the policy, practice, custom and/or procedure of the Defendant, the CITY OF GAINESVILLE, and/or their employees who have final decision making authority to allow police officers such as Defendant, BRETT ROBISON, while ostensibly on duty, to patrol the streets of Gainesville, Florida with no oversight or accountability as to their location or activity such that Constitutional right violations were likely to, and in the case of Plaintiff, SHANNON PAIGE ROLLINS did occur.
23. On information and belief, other police officers, including, but not limited to Officer Dave Reveille #562 and Corporal William R. Billings, #0028, in the time frame referenced in this complaint, were likewise, while ostensibly on duty,

allowed to patrol the streets of Gainesville, Florida with no oversight or accountability as to their location or activity such that Constitutional right violations were likely to and did occur.

24. Defendant, BRETT ROBISON used Defendant, the CITY OF GAINESVILLE's police department's chattel to record the unauthorized and invasive video of Plaintiff, SHANNON PAIGE ROLLINS.
25. Defendant, BRETT ROBISON used Defendant, the CITY OF GAINESVILLE's police department's chattel to drive to the location where he did the unauthorized and invasive videoing of Plaintiff, SHANNON PAIGE ROLLINS.
26. Defendant, BRETT ROBISON used Defendant, the CITY OF GAINESVILLE's police department's chattel to avoid detection and inhibit apprehension while he did the unauthorized and invasive videoing of Plaintiff, SHANNON PAIGE ROLLINS.
27. The first notice to Plaintiff, SHANNON PAIGE ROLLINS of the tortious conduct of Defendant, BRETT ROBISON was given when Plaintiff, SHANNON PAIGE ROLLINS was contacted by a Gainesville Police Department (GPD) detective in September 2010 and told she had been filmed while she was in her apartment by GPD Officer Defendant, BRETT ROBISON.
28. Plaintiff, SHANNON PAIGE ROLLINS lived in the Landing Apartments (Apt. D-128) during portions of 2007 and 2008.
29. Each defendant caused and is responsible for the unlawful conduct and resulting harm by, *inter alia*, personally participating in the conduct; by authorizing, acquiescing, or failing or refusing, with deliberate indifference to and reckless

disregard for Plaintiff's clearly established and known rights, to initiate and maintain adequate training, supervision, and staffing; by failing to maintain proper and adequate policies, procedures and protocols, customs and practices.

FEDERAL CONSTITUTIONAL CLAIM

COUNT I

42 U.S.C. § 1983

FAILURE TO SUPERVISE, TRAIN AND TAKE CORRECTIVE MEASURES  
CAUSING CONSTITUTIONAL VIOLATIONS

(Defendants, the CITY OF GAINESVILLE, and NORMAN BOTSFORD)

The allegations of Paragraphs 1 through 29 are re-averred as though fully set out herein.

30. Plaintiff is informed and believes and thereon alleges that Defendants, the CITY OF GAINESVILLE, and NORMAN BOTSFORD, knew or should have known of a history, custom, propensity and pattern at times relevant to the allegations herein for Gainesville police officers to use the DAVID system for their personal use to gain confidential information about members of the public. These Defendants disregard of this knowledge, or failure and/or refusal to adequately investigate and discover and correct such history, custom and propensities, proximately caused the violation of the Constitutional rights of Plaintiff as alleged herein.
31. Plaintiff is informed and believes and thereon alleges that Defendants, the CITY OF GAINESVILLE, and NORMAN BOTSFORD, knew or should have known of a history, custom, propensity and pattern at times relevant to the allegations herein for Gainesville police officers to engage in behavior that was not part of their assigned duties and which behavior was solely personal in nature, while



ostensibly on duty as police officers, thus defrauding the public and evidencing a character of dishonesty which should not have been tolerated in sworn police officers. These Defendants disregard of this knowledge, or failure and/or refusal to adequately investigate and discover and correct such history, custom and propensities, proximately caused the violation of the Constitutional rights of Plaintiff as alleged herein.

32. Plaintiff is informed and believes and thereon alleges that Defendants, the CITY OF GAINESVILLE, and NORMAN BOTSFORD, knew or should have known of these practices and patterns which created the strong potential for unconstitutional acts, and these defendants had a duty to supervise, train, and instruct their subordinates to prevent Defendant, BRETT ROBISON's activities of videotaping unsuspecting female victims while on duty, using the DAVID database and police department video equipment but failed and/or refused to take reasonable and necessary steps to properly supervise, train, instruct, or investigate officers, and as a direct and proximate result, Plaintiff was harmed in the manner threatened by the pattern(s) or practice(s).
33. At all times relevant, the Defendants, the CITY OF GAINESVILLE, and NORMAN BOTSFORD had a duty:
  - a. To train, supervise, and instruct police officers to insure that they respected and did not violate federal and state constitutional rights of citizens of Gainesville, Florida;
  - b. To objectively investigate incidents of the inappropriate use of the DAVID system;

- c. To devise rules and regulations regarding the use of the DAVID system to assure that private information was not accessed for personal gain by police officers;
- d. To monitor the location of police officers who are acting under color of state law while in their patrol cars, wearing uniforms and using police chattel to assure they are not engaged in unapproved personal or criminal activity, while appearing to be engaged in their lawful duty;
- e. To monitor and periodically review the use of the DAVID system to assure its use is in conformity with state law and proper police procedure;
- f. To adequately supervise officers to prevent their committing criminal acts under color of state law.

34. The Defendants the CITY OF GAINESVILLE, and NORMAN BOTSFORD

breached the foregoing duties by:

- a. Failing and/or refusing to train, supervise and instruct officers on the violations of the Constitutional rights of Plaintiff and other citizens;
- b. Failing and/or refusing to objectively investigate the use of the DAVID system by police officers to assure its proper use, and failing and/or refusing to take remedial action;
- c. Failing and/or refusing to monitor and periodically review the use and adequacy of the asserted need to use the DAVID system by police officers;
- d. Failing and/or refusing to adequately monitor the locations of and the performance of their duty by police officers, to assure the officers were

not committing crimes while on duty or otherwise defrauding the public by reporting time worked when in fact they were not performing their assigned job duties.

35. As a result of the actions of the Defendants, the CITY OF GAINESVILLE, and NORMAN BOTSFORD, Plaintiff, SHANNON PAIGE ROLLINS suffered damages including pain and suffering, mental anguish, loss of capacity for the enjoyment of life and pecuniary loss including medical expenses. The losses are either permanent or continuing and Plaintiff will suffer the losses in the future.

WHEREFORE, Plaintiff SHANNON PAIGE ROLLINS demands judgment for damages together with costs against Defendant, the CITY OF GAINESVILLE, and NORMAN BOTSFORD, and all other relief which the Court deems appropriate and to which Plaintiff is entitled by law and further demands a trial by jury as to all issues so triable.

## COUNT II

### VIOLATION OF FLORIDA STATE CONSTITUTION, ARTICLE I, SECTION 23 (Against All Defendants)

The allegations of Paragraphs 1 through 29 are re-averred as though fully set out herein.

36. The acts of Defendants alleged herein constitute violation of rights guaranteed to Plaintiff under Article I, Section 23 of the Constitution of the State of Florida.
37. As a direct and proximate result of the conduct alleged herein, the Defendants deprived Plaintiff of clearly established and known rights under the Florida State Constitution, resulting in harm.

38. As a direct and proximate result of Defendants' violation of the right of Plaintiff created and secured by the Florida State Constitution Plaintiff was forced to endure and suffer extreme mental and emotional pain and suffering and pecuniary loss, including medical expenses.

WHEREFORE, Plaintiff SHANNON PAIGE ROLLINS demands judgment for damages together with costs against Defendants and all other relief which the Court deems appropriate and to which Plaintiff is entitled by law and further demands a trial by jury as to all issues so triable.

COUNT III

INTRUSION UPON SECLUSION  
(Brett Robison)

The allegations of Paragraphs 1 through 29 are re-averred as though fully set out herein.

39. At times during 2007 and 2008 at the Landings Apartments, 3801 SW13th Street, Gainesville, FL 32608, Alachua County, Florida, Defendant, BRETT ROBISON, while in uniform, used police department chattel, while on duty, to video record Plaintiff, SHANNON PAIGE ROLLINS, in her apartment while she was nude.

40. This invasion into Plaintiff, SHANNON PAIGE ROLLINS private life was without her knowledge or permission.

41. Plaintiff, SHANNON PAIGE ROLLINS had no knowledge of this invasion and in fact she was in her bedroom with her blinds draw to prevent exposure of her person to the defendant and any others.

42. This conduct by Defendant, BRETT ROBISON was intentional and of a nature that would cause mental injury to a person of ordinary feelings and intelligence in the same circumstances.

43. As a result of the actions of the Defendant, BRETT ROBISON, Plaintiff, SHANNON PAIGE ROLLINS suffered damages including pain and suffering, mental anguish, loss of capacity for the enjoyment of life. The losses are either permanent or continuing and Plaintiff will suffer the losses in the future.

WHEREFORE, Plaintiff SHANNON PAIGE ROLLINS demands judgment for damages together with costs against Defendant, BRETT ROBISON, and all other relief which the Court deems appropriate and to which Plaintiff is entitled by law and further demands a trial by jury as to all issues so triable.

#### COUNT IV

#### INTENTIONAL INFLICTION OF EMOTIONAL DISTRESS (Brett Robison)

The allegations of Paragraphs 1 through 29 are re-averred as though fully set out herein.

44. Defendant, BRETT ROBISON, intentionally and deliberately inflicted emotional distress on Plaintiff by invading her privacy, making a video recording of her without her knowledge when she was cloistered in her home with the full expectation of privacy.
45. Defendant, BRETT ROBISON's intentional conduct was extreme and outrageous, and well beyond the boundaries of acceptable civilized behavior and would be offensive or objectionable to any reasonable person.
46. It was engaged in by Defendant, BRETT ROBISON with either, intent to cause, or in disregard of a substantial probability of causing, severe emotional distress to Plaintiff.

47. Plaintiff has suffered severe emotional distress as a consequence of Defendant, BRETT ROBISON's conduct and more over by the fact that the violation was perpetrated by a police officer while on duty.


48. Plaintiff has been therefore harmed and damaged as a proximate consequence of the Defendant, BRETT ROBISON's outrageous conduct.

WHEREFORE, Plaintiff SHANNON PAIGE ROLLINS demands judgment for damages together with costs against Defendant, BRETT ROBISON, and all other relief which the Court deems appropriate and to which Plaintiff is entitled by law and further demands a trial by jury as to all issues so triable.

DATED this 31<sup>st</sup> day of January 2012.

FINE, FARKASH & PARLAPIANO, P.A.  
622 N.E. First Street  
Gainesville, Florida 32601  
(352) 376-6046  
(352) 372-0049 (facsimile)

BY:

  
\_\_\_\_\_  
CHERIE H. FINE, ESQUIRE  
Attorney for Plaintiff  
Fla. Bar No. 0331317