

COMMONWEALTH OF MASSACHUSETTS
SUPERIOR COURT DEPARTMENT

BRISTOL, ss

DOCKET NO.: 2073CV00524 C

CRISTINA J. MALOTT,
Plaintiff

) BRISTOL, SS SUPERIOR COURT
) FILED

v.

)
) AUG 6 - 2020

TOWN OF DARTMOUTH,
Defendant

) MARC J. SANTOS, ESQ.
) CLERK/MAGISTRATE
)
)

COMPLAINT AND JURY DEMAND

1. Plaintiff, Cristina J. Malott ("Plaintiff" or "Malott"), is an adult individual who resides in Dartmouth, Bristol County, Massachusetts.
2. Defendant, Town of Dartmouth ("Defendant"), is a municipality of the Commonwealth of Massachusetts and is located in Bristol County, Massachusetts, and owns, operates, manages, and directs and controls the Town of Dartmouth Police Department which employed, trains and directs Patrol Officer Amanda Tavaras who is identified herein.
3. On January 7, 2019, Plaintiff was driving to her home in Dartmouth from a City of New Bedford Historical Commission meeting. At approximately 6:45 pm, Plaintiff was pulled over by Patrol Officer Amanda Tavaras of the Town of Dartmouth's Police Department for allegedly driving 40 mph in a 30-mph zone on Fisher Road in Dartmouth. Plaintiff denies she was driving in excess of the speed limit. Plaintiff further alleges she observed the police vehicle following behind her for approximately 3.2 miles prior to her being stopped. Plaintiff also believes and therefore avers the Officer had "run" her plates prior to stopping her. Plaintiff gave the Officer her Massachusetts driver's license and vehicle registration. At all times relevant hereto, Officer Tavares was acting within the scope of her employment with the Town.

4. Officer Tavaras was joined at the scene by two additional Dartmouth patrol vehicles. Officer Tavaras then informed Plaintiff that her license was suspended and that she was going to be arrested and brought to the jail. Plaintiff responded that her license had not been suspended. She then told Officer Tavaras that she was pregnant. Officer Tavaras then handcuffed Plaintiff and transported her to the Town's Police lock-up. Plaintiff continued to tell Officer Tavaras that her license was not suspended and there must be an error.
5.
 - a) At the Police Station, Plaintiff was placed into ankle shackles in violation of the laws of the Commonwealth of Massachusetts and was brought into the Defendant's temporary Police Station, where she was handcuffed to a bench. The ankle shackles were not removed. During this time, Officer Tavaras was being supervised by two Sergeants that came in and out of the room during the processing.
 - b) The shackling of the Plaintiff, while pregnant, and for her alleged motor vehicle violation, was unreasonable, negligent, and constituted callous indifference to her physical safety and to her constitutional rights as outlined herein.
6. Plaintiff remained in the Defendant's police lock-up until approximately 8:45 pm. Plaintiff remained in ankle shackles and handcuffed to a bench the entire time. Officer Tavaras was fully aware of Plaintiff's pregnancy throughout the booking process.
7. After Plaintiff was booked, she was transported to the Bristol County Ash Street lock-up by a Dartmouth police cruiser. She walked to the cruiser in ankle shackles and with cuffs behind her back. She arrived at the county jail at approximately 9:15 pm and was brought to a holding room. She was then uncuffed and asked a series of questions. She answered the questions and informed the officers that she was pregnant.
8. Next, the officers inspected Plaintiff for weapons and she was subject to two x-ray metal detectors. Plaintiff was then directed into a cell with another female roommate. Plaintiff was then taken to a general population cell that had a sink and a toilet that was covered in feces. Two of the walls in the cell also had feces smeared on them. Mice ran along the floor. She spent approximately three hours in this cell.

9. At approximately 12:45 am on January 8, 2019, Plaintiff was released to her husband after paying a \$50 bail fee.
10. Later on January 8, 2019, Plaintiff appeared in the New Bedford District Court. The Assistant District Attorney representing the Commonwealth requested the judge to dismiss Plaintiff's case and demanded costs of \$50.00. Plaintiff paid the costs and left the court.
11. From the courthouse, Plaintiff and her husband drove immediately to the Registry of Motor Vehicles ("RMV") in Fall River to get the bottom of her suspended license. A hearings agent from the RMV, Vivian, informed Plaintiff that her license was not suspended and stated that "there must have been a glitch in the computer system." After hearing the details regarding Plaintiff's experience at the Town's police station and the jail, Vivian apologized to Plaintiff.
12. After three hours at the RMV, Plaintiff left at approximately 4:00 pm with two letters in hand. One letter stated that the RMV had made an error about the suspension of her license and one letter outlined instructions on how she could receive reimbursement for her costs associated with the error.
13. Thereafter, Plaintiff returned to the Police Station where she spoke with Deputy Chief, Jim Storey. Deputy Storey apologized for what had happened to Plaintiff and said that he would have handled the situation much differently than Officer Tavaras, who was a new Officer. Plaintiff informed the Deputy Chief about the amendments that were made to M.G.L. c127 Section 118 which prohibit the use of ankle shackles on pregnant women. Deputy Storey acknowledged that he was unfamiliar with these laws.
14. From the Police Station, Plaintiff proceeded directed to the impound lot to retrieve her car that had been towed.
15. The next day, on January 9, 2019, Plaintiff went to the Emergency Department at St. Luke's Hospital to seek medical attention for the cramping she had experienced in her abdomen throughout the events related to the events described above. Thereafter, she

23. The Town's interference with Plaintiff's rights were effectuated by coercion, intimidation, and/or threats.
24. As a result of the Town's actions, Plaintiff suffered physical injury, financial losses and emotional harm.

Wherefore, the Plaintiff demands judgment for damages against the Defendant and costs.

Count II - Negligence

28. Plaintiff realleges the allegations set forth in paragraphs 1-24 and incorporates them by reference herein.
29. The Defendant negligently and carelessly maintained, supervised and operated its police department and as a direct and proximate result it permitted the Plaintiff to suffer injury and damages without cause or justification.
30. As a result of said wrongful acts, the Plaintiff was obliged to expend and become liable for medical bills and other expenses.

Wherefore, Plaintiff demands judgment for damages and costs.

Count III - Negligent Infliction of Emotional Distress

31. Plaintiff realleges the allegations set forth in paragraphs 1-30 and incorporates them by reference herein.
32. Plaintiff's emotional distress includes physical symptomology including lack of sleep, knots in her stomach, fear, and pain/cramping in her abdomen.
33. Under the circumstances, Plaintiff's emotional distress was reasonable.

Wherefore, Plaintiff respectfully demands judgment against Defendant in the amount of her damages to be determined by this litigation, including costs, attorneys' fees and any other damages that this court deems just and fit.

REQUEST FOR A JURY TRIAL

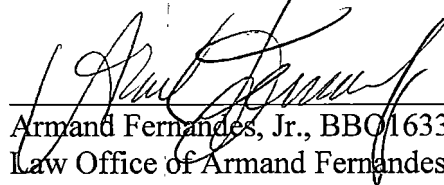
Plaintiff, Cristina J. Malott, respectfully requests a trial by jury on all counts to the fullest extent permitted by law.

Respectfully submitted,

PLAINTIFF; CRISTINA MALOTT,
By her attorneys,



Maria Mancini Scott, BBO #630722
2 Granite Ave, #400
Milton, MA 02186
508-821-4373
mariascott@manciniscottlaw.com



Armand Fernandes, Jr., BBO 163340
Law Office of Armand Fernandes, Jr.
442 County St.
New Bedford, MA 02740
(508) 997-3375
afern1961@verizon.net

Dated: 8/6/2020