

UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF NEW HAMPSHIRE

Roderick Webber,	)	
	)	
Plaintiff,	)	
	)	
v.	)	No. 1:18-CV-931-LM
	)	
Edward Deck, et al.	)	Jury Trial Demanded
	)	
Defendants	)	

**ANSWER AND AFFIRMATIVE DEFENSES OF DEFENDANTS  
CITY OF MANCHESTER, OFFICER PITTMAN, OFFICER CRAIG, OFFICER COSIO  
AND SGT. ALDENBERG TO PLAINTIFF’S  
SECOND AMENDED COMPLAINT**

The City of Manchester, Officer James M. Pittman, Captain Allen Aldenberg, Officer Daniel Craig, and Sergeant Brian Cosio (hereinafter “Manchester Defendants”) submit this Answer to Plaintiff’s Second Amended Complaint dated May 22, 2019, and say as follows:

**INTRODUCTION**

1. The introductory paragraph consists of general background information and rhetoric to which no response is required. To the extent that a response is required, Manchester Defendants deny the allegations.

**PARTIES**

2. Manchester Defendants lack sufficient information to admit or deny the allegations contained in Paragraph 2 and, therefore, deny the same.

3. Manchester Defendants admit that Donald J. Trump is the President of the United States of America and that he was running to become the President at the time

of the alleged incident. Manchester Defendants lack sufficient information to admit or deny the remaining allegations contained in Paragraph 3 and, therefore, deny the same.

4. Manchester Defendants lack sufficient information to admit or deny the allegations contained in Paragraph 4 and, therefore, deny the same.

5. Manchester Defendants lack sufficient information to admit or deny the allegations contained in Paragraph 5 and, therefore, deny the same.

6. Manchester Defendants lack sufficient information to admit or deny the allegations contained in Paragraph 6 and, therefore, deny the same.

7. Manchester Defendants lack sufficient information to admit or deny the allegations contained in Paragraph 7 and, therefore, deny the same.

8. Manchester Defendants lack sufficient information to admit or deny the allegations contained in Paragraph 8 and, therefore, deny the same.

9. Manchester Defendants lack sufficient information to admit or deny the allegations contained in Paragraph 9 and, therefore, deny the same.

10. Manchester Defendants lack sufficient information to admit or deny the allegations contained in Paragraph 10 and, therefore, deny the same.

11. Manchester Defendants admit the allegations contained in Paragraph 11.

12. Manchester Defendants admit the allegations contained in Paragraph 12.

13. Manchester Defendants admit the allegations contained in Paragraph 13.

14. Manchester Defendants admit the allegations contained in Paragraph 14.

15. Manchester Defendants admit the allegations contained in Paragraph 15.

16. Manchester Defendants lack sufficient information to admit or deny the allegations contained in Paragraph 16 and, therefore, deny the same.

17. Manchester Defendants lack sufficient information to admit or deny the allegations contained in Paragraph 17 and, therefore, deny the same.

**NOTES ABOUT THE PARTIES**

18. Paragraph 18 contains information about naming conventions in the Second Amended Complaint, to which no response is required.

**FEDERAL JURISDICTION AND VENUE**

19. Paragraph 19 calls for legal conclusions to which no response is required, however, to the extent a response is required, Manchester Defendants do not contest jurisdiction at this time.

20. Paragraph 20 calls for legal conclusions to which no response is required, however, to the extent a response is required, Manchester Defendants do not contest jurisdiction at this time.

21. Paragraph 21 calls for legal conclusions to which no response is required, however, to the extent a response is required, Manchester Defendants do not contest jurisdiction at this time.

22. Paragraph 22 calls for legal conclusions to which no response is required, however, to the extent a response is required, Manchester Defendants do not contest venue at this time.

23. Paragraph 23 calls for legal conclusions to which no response is required, however, to the extent a response is required, Manchester Defendants object to any award of costs or fees to Plaintiff.

**FACTS**

24. Manchester Defendants lack sufficient information to admit or deny the allegations contained in Paragraph 24 and, therefore, deny the same.

25. Manchester Defendants lack sufficient information to admit or deny the allegations contained in Paragraph 25 and, therefore, deny the same.

26. Manchester Defendants lack sufficient information to admit or deny the allegations contained in Paragraph 26 and, therefore, deny the same.

27. Manchester Defendants lack sufficient information to admit or deny the allegations contained in Paragraph 27 and, therefore, deny the same.

28. Manchester Defendants lack sufficient information to admit or deny the allegations contained in Paragraph 28 and, therefore, deny the same.

29. Manchester Defendants lack sufficient information to admit or deny the allegations contained in Paragraph 29 and, therefore, deny the same.

30. Manchester Defendants lack sufficient information to admit or deny the allegations contained in Paragraph 30 and, therefore, deny the same.

31. Manchester Defendants lack sufficient information to admit or deny the allegations contained in Paragraph 31 and, therefore, deny the same.

32. Manchester Defendants lack sufficient information to admit or deny the allegations contained in Paragraph 32 and, therefore, deny the same.

33. Manchester Defendants admit that Plaintiff attended the event on October 15, 2015 in the Radisson Hotel. Manchester Defendants lack sufficient information to admit or deny the remaining allegations contained in the first sentence of Paragraph 33 and, therefore, deny the same. Manchester Defendants state that Defendant No Labels' March 18, 2019 motion to dismiss speaks for itself.

34. Manchester Defendants state that C-SPAN has catalogued video of the No Labels Convention opening, including remarks by Lisa Borders, at <https://www.c-span.org/video/?328623-1/labels-problem-solver-convention-manchester-hampshire-part-1>, which speaks for itself.

35. Manchester Defendants lack sufficient information to admit or deny the allegations contained in Paragraph 35 and, therefore, deny the same.

36. Manchester Defendants state that C-SPAN has catalogued video of the No Labels Convention opening, including remarks by Jon Huntsman and Joe Lieberman, at <https://www.c-span.org/video/?328623-1/labels-problem-solver-convention-manchester-hampshire-part-1>, which speaks for itself.

37. Manchester Defendants lack sufficient information to admit or deny the allegations contained in Paragraph 37 and, therefore, deny the same.

38. Manchester Defendants lack sufficient information to admit or deny the allegations contained in the first sentence of Paragraph 38 and, therefore, deny the same. Manchester Defendants state that C-SPAN has catalogued video of the No Labels Convention opening, including an interaction between Lisa Borders and “Mr. Problem Solver” regarding a microphone, at <https://www.c-span.org/video/?328623-1/labels-problem-solver-convention-manchester-hampshire-part-1>, which speaks for itself. Manchester Defendants state that C-SPAN has catalogued video of then-candidate Trump’s presentation at <https://www.c-span.org/video/?328623-6/presidential-candidate-donald-trump-labels-convention>, which speaks for itself. Manchester Defendants state that C-SPAN has catalogued video of Governor Chris

Christie's presentation at <https://www.c-span.org/video/?328623-7/presidential-candidate-chris-christie-labels-convention>, which speaks for itself.

40. Manchester Defendants state that C-SPAN has catalogued video of then-candidate Trump's presentation at <https://www.c-span.org/video/?328623-6/presidential-candidate-donald-trump-labels-convention>, which speaks for itself.

Manchester Defendants lack sufficient information to admit or deny the allegations contained in the fifth sentence of Paragraph 40 and, therefore, deny the same.

41. Manchester Defendants lack sufficient information to admit or deny the allegations contained Paragraph 41 and, therefore, deny the same.

42. Manchester Defendants lack sufficient information to admit or deny the allegations contained in Paragraph 42 and, therefore, deny the same.

43. Manchester Defendants lack sufficient information to admit or deny the allegations contained in Paragraph 43 and, therefore, deny the same.

44. Manchester Defendants lack sufficient information to admit or deny the allegations contained in Paragraph 44 and, therefore, deny the same.

45. Manchester Defendants lack sufficient information to admit or deny the allegations contained in Paragraph 45 and, therefore, deny the same.

46. Manchester Defendants lack sufficient information to admit or deny the allegations contained in Paragraph 46 and, therefore, deny the same.

47. Manchester Defendants lack sufficient information to admit or deny the allegations contained in Paragraph 47 and, therefore, deny the same.

48. Manchester Defendants lack sufficient information to admit or deny the allegations contained in Paragraph 48 and, therefore, deny the same.

49. Manchester Defendants lack sufficient information to admit or deny the allegations contained in Paragraph 49 and, therefore, deny the same. By way of further answer, video of the incident speaks for itself.

50. Manchester Defendants lack sufficient information to admit or deny the allegations contained in Paragraph 50 and, therefore, deny the same.

51. Manchester Defendants admit that Officer Pittman grabbed Plaintiff's arm to escort him out of the event. By way of further answer, Officer Pittman had been asked to remove Plaintiff and Officer Pittman witnessed Plaintiff causing a disturbance.

52. Manchester Defendants lack sufficient information to admit or deny the allegations contained in Paragraph 52 and, therefore, deny the same.

53. Denied. By way of further answer, Plaintiff did fall or dive into and knock over a table as Officer Pittman attempted to escort Plaintiff out of the event.

54. Manchester Defendants lack sufficient information to admit or deny the allegations contained in Paragraph 54 and, therefore, deny the same.

55. Manchester Defendants deny that any are rightfully described as "attackers," that their efforts to escort the actively-resisting Plaintiff out of the venue is truthfully characterized as "pushing," or that Plaintiff was not able to see their faces.

55. Manchester Defendants deny that Sergeant Cosio or Officer Pittman "pushed" or "aggressively thr[e]w" Plaintiff. By way of further answer, Sergeant Cosio did pick Plaintiff up and assist in removing him from the event after he knocked over the table. Plaintiff also fell forward into divider ropes due to his efforts to resist forward momentum out of the event.

56. Manchester Defendants lack sufficient information to admit or deny the allegations contained in Paragraph 56 and, therefore, deny the same. By way of further answer, the video speaks for itself.

57. Manchester Defendants admit the allegations in the first sentence of Paragraph 57. Manchester Defendants lack sufficient information to admit or deny the allegations contained in the second sentence of Paragraph 56 and, therefore, deny the same.

58. Manchester Defendants lack sufficient information to admit or deny the allegations contained in Paragraph 58 and, therefore, deny the same. By way of further answer, the video speaks for itself.

59. The allegations in Paragraph 59 apparently describe a video, which speaks for itself.

60. The allegations in Paragraph 60 apparently describe a video, which speaks for itself.

61. Manchester Defendants admit that Captain Aldenberg held the rank of Sergeant at the time of the alleged incident. The remaining allegations in Paragraph 61 apparently describe a video, which speaks for itself.

62. Manchester Defendants lack sufficient information to admit or deny the ownership of the property and, therefore, deny same. The remaining allegations in Paragraph 62 apparently describe a video, which speaks for itself.

63. Manchester Defendants lack sufficient information to admit or deny Plaintiffs thoughts or reasoning and, therefore, deny same. The remaining allegations in Paragraph 63 apparently describe a video, which speaks for itself.



64. Manchester Defendants lack sufficient information to admit or deny Plaintiff's thoughts or reasoning and, therefore, deny same. The remaining allegations in Paragraph 64 apparently describe a video, which speaks for itself. By way of further answer, Officer Pittman arrested Plaintiff for disorderly conduct and resisting detention.

65. Denied. By way of further answer, as to the quotes from Officer Pittman's police report, the report speaks for itself.

66. Manchester Defendants admit that Plaintiff expressed to multiple people on multiple occasions that he wanted to "press charges" for "assault" and "police brutality" against police officers involved in the alleged incident. Manchester Defendants deny that the City did not explain an available procedure. Whether such a procedure is "necessary to make a future claim in court" calls for a legal conclusion which requires no response, however, to the extent a response is required, Manchester Defendants deny the allegations.

67. Manchester Defendants lack sufficient information to admit or deny the allegations in the first sentence of Paragraph 67 and, therefore, deny same. Manchester Defendants admit that the police station telephone number is 603-668-8711. Manchester Defendants deny the allegations in the third sentence of Paragraph 67.

68. Manchester Defendants lack sufficient information to admit or deny the allegations in Paragraph 68 and, therefore, deny same.

69. Manchester Defendants lack sufficient information to admit or deny the allegations in Paragraph 69 and, therefore, deny same.

70. Manchester Defendants lack sufficient information to admit or deny the allegations in Paragraph 70 and, therefore, deny same.

71. Manchester Defendants lack sufficient information to admit or deny the allegations in Paragraph 71 and, therefore, deny same.

72. Manchester Defendants lack sufficient information to admit or deny the allegations in Paragraph 72 and, therefore, deny same.

73. Manchester Defendants admit that Plaintiff sent an email to the Manchester Police Department at 9:42 AM on October 15, 2015. The email speaks for itself.

74. Manchester Defendants lack sufficient information to admit or deny the allegations in Paragraph 74 and, therefore, deny same.

75. Manchester Defendants admit that Plaintiff sent an email to Captain Aldenberg at 6:23 PM on October 15, 2015. The email speaks for itself.

76. Manchester Defendants lack sufficient information to admit or deny the allegations in Paragraph 76 and, therefore, deny same.

77. Manchester Defendants admit that Plaintiff received an email from Captain Tessier at 1:54 PM on October 16, 2015. The email speaks for itself.

78. Manchester Defendants admit that Plaintiff sent an email to Captain Tessier at 2:56 PM on October 16, 2015. The email speaks for itself.

79. Manchester Defendants admit that Plaintiff received an email from Captain Aldenberg at 9:50 AM on October 19, 2015. The email speaks for itself.

80. Manchester Defendants admit that Plaintiff sent an email to Captain Aldenberg and the Attorney General at 1:38 PM on October 19, 2015. The email speaks for itself.

81. Manchester Defendants lack sufficient information to admit or deny the allegations in Paragraph 81 and, therefore, deny same.

82. Manchester Defendants admit that Plaintiff sent an email to Captain Tessier at 3:11 PM on October 19, 2015. The email speaks for itself.

83. Manchester Defendants admit that Plaintiff received an email from Richard Tracy at 10:33 AM on October 20, 2015. The email speaks for itself.

84. Manchester Defendants have not found a record of such call and would not be able to identify it without further information. Therefore, they deny the allegations in Paragraph 84.

85. Denied.

86. Manchester Defendants lack sufficient information to admit or deny the allegations in Paragraph 86 and, therefore, deny same.

87. Manchester Defendants lack sufficient information to admit or deny the allegations in Paragraph 87 and, therefore, deny same.

88. Manchester Defendants lack sufficient information to admit or deny the allegations in Paragraph 88 and, therefore, deny same.

89. Manchester Defendants lack sufficient information to admit or deny the allegations in Paragraph 89 and, therefore, deny same.

90. Manchester Defendants lack sufficient information to admit or deny the allegations in Paragraph 90 and, therefore, deny same.

91. Manchester Defendants lack sufficient information to admit or deny the allegations in Paragraph 91 and, therefore, deny same.

92. Manchester Defendants lack sufficient information to admit or deny the allegations in Paragraph 92 and, therefore, deny same.

93. Manchester Defendants lack sufficient information to admit or deny the allegations in Paragraph 93 and, therefore, deny same.

94. Manchester Defendants lack sufficient information to admit or deny the allegations in the first sentence of Paragraph 94 and, therefore, deny same.

Manchester Defendants deny allegations in the second and third sentences of Paragraph 94.

95. Manchester Defendants lack sufficient information to admit or deny the allegations in Paragraph 95 and, therefore, deny same.

96. Manchester Defendants lack sufficient information to admit or deny the allegations in Paragraph 96 and, therefore, deny same.

97. Manchester Defendants lack sufficient information to admit or deny the allegations in Paragraph 97 and, therefore, deny same.

**FIRST CLAIM FOR RELIEF**

**STATE LAW TORT: ASSAULT**

98. Manchester Defendants incorporate the foregoing answers herein.

99. Denied.

100. Manchester Defendants lack sufficient information to admit or deny the allegations in Paragraph 100 and, therefore, deny same.

101. Manchester Defendants lack sufficient information to admit or deny the allegations in Paragraph 101 and, therefore, deny same.

102. Manchester Defendants lack sufficient information to admit or deny the allegations in Paragraph 102 and, therefore, deny same.

103. Manchester Defendants lack sufficient information to admit or deny the allegations in Paragraph 103 and, therefore, deny same.

104. Manchester Defendants lack sufficient information to admit or deny the allegations in Paragraph 104 and, therefore, deny same.

105. Manchester Defendants lack sufficient information to admit or deny the allegations in Paragraph 105 and, therefore, deny same.

106. Manchester Defendants lack sufficient information to admit or deny the allegations in Paragraph 106 and, therefore, deny same.

107. Manchester Defendants lack sufficient information to admit or deny the allegations in Paragraph 107 and, therefore, deny same.

108. Manchester Defendants lack sufficient information to admit or deny the allegations in Paragraph 108 and, therefore, deny same.

109. Denied.

110. Denied.

111. Denied.

112. Manchester Defendants lack sufficient information to admit or deny the allegations in Paragraph 112 and, therefore, deny same.

113. Manchester Defendants lack sufficient information to admit or deny the allegations in Paragraph 113 and, therefore, deny same.

114. Manchester Defendants lack sufficient information to admit or deny the allegations in Paragraph 114 and, therefore, deny same.

115. Manchester Defendants lack sufficient information to admit or deny the allegations in Paragraph 115 and, therefore, deny same.

**SECOND CLAIM FOR RELIEF**

**STATE LAW TORT: BATTERY**

116. Manchester Defendants incorporate the foregoing answers herein.

117. Denied.

118. Denied.

119. Manchester Defendants deny “tossing Plaintiff to the floor.” The remaining allegations in Paragraph 119 apparently describe a video, which speaks for itself.

120. Denied.

121. The allegations in the first sentence of the first paragraph of Paragraph 121 are denied. The second and third sentences of the first paragraph of Paragraph 121 call for legal conclusions to which no response is required.

Manchester Defendants admit the allegations in the first sentence of the second paragraph of Paragraph 121. The remaining allegations are denied.

The allegations in the third paragraph of Paragraph 121 are denied.

122. Denied.

123. Manchester Defendants lack sufficient information to admit or deny the allegations in the first two sentences of Paragraph 123 and, therefore, deny same.

Manchester Defendants deny the allegations in the third sentence of Paragraph 123.

124. Denied.

125. Manchester Defendants lack sufficient information to admit or deny the allegations in Paragraph 125 and, therefore, deny same.

126. Denied.

### **THIRD CLAIM FOR RELIEF**

#### **STATE LAW CLAIM: INTENTIONAL INFLICTION OF EMOTIONAL DISTRESS**

127. Manchester Defendants incorporate the foregoing answers herein.

128. Denied.

129. Manchester Defendants lack sufficient information to admit or deny the allegations in the first two sentences of Paragraph 129 and, therefore, deny same. Manchester Defendants deny the remaining allegations in Paragraph 129.

130. The allegations in Paragraph 130 call for legal conclusions to which no response is required.

131. Manchester Defendants lack sufficient information to admit or deny the allegations in Paragraph 131 and, therefore, deny same.

132. Denied.

### **FOURTH CLAIM FOR RELIEF**

#### **STATE LAW CLAIM-NEGLIGENCE**

133. Manchester Defendants incorporate the foregoing answers herein.

134. Denied.

135. Denied.

136. Manchester Defendants lack sufficient information to admit or deny the allegations in Paragraph 136 and, therefore, deny same.

137. Manchester Defendants deny that they assaulted or battered Plaintiff or committed any other actionable tort. Manchester Defendants lack sufficient information to admit or deny the remaining allegations in Paragraph 137 and, therefore, deny same.

138. The allegations in Paragraph 138 call for legal conclusions to which no response is required.

139. The first sentence of the first paragraph of Paragraph 139 calls for a legal conclusion to which no response is required. Manchester Defendants deny the allegations in the second sentence of the first paragraph of Paragraph 139. Manchester Defendants lack sufficient information to admit or deny the allegations in the third sentence of the first paragraph Paragraph 139 and, therefore, deny same.

Manchester Defendants deny that Plaintiff was “attacked.” Manchester Defendants lack sufficient information to admit or deny the remaining allegations in the second paragraph of Paragraph 139 and, therefore, deny same.

Manchester Defendants lack sufficient information to admit or deny the allegations in the third paragraph of Paragraph 139 and, therefore, deny same.

Manchester Defendants lack sufficient information to admit or deny the allegations in the first sentence of the fourth paragraph of Paragraph 139 and, therefore, deny same. Manchester Defendants deny that the chances were very high that there would be violence at the event or that four off-duty officers was inadequate. Manchester Defendants lack sufficient information to admit or deny the allegations in the fourth sentence of the fourth paragraph of Paragraph 139 and, therefore, deny same.



Manchester Defendants deny the allegations in the fifth paragraph of Paragraph 139.

140. Manchester Defendants lack sufficient information to admit or deny the allegations in Paragraph 140 and, therefore, deny same.

141. Manchester Defendants deny that they battered Plaintiff. Manchester Defendants lack sufficient information to admit or deny the remaining allegations in Paragraph 141 and, therefore, deny same.

142. The allegations in Paragraph 142 call for legal conclusions to which no response is required.

143. Denied.

#### **FIFTH CLAIM FOR RELIEF**

#### **STATE LAW CLAIM: NEGLIGENCE, TRAINING, SUPERVISION, RETENTION**

144. Manchester Defendants incorporate the foregoing answers herein

145. Denied.

#### **SIXTH CLAIM FOR RELIEF**

#### **STATE LAW CLAIM: INTENTIONAL MISREPRESENTATION/FRAUD**

146. Manchester Defendants incorporate the foregoing answers herein.

147. The allegations do not apply to Manchester Defendants and thus no answer is required.

148. The allegations do not apply to Manchester Defendants and thus no answer is required.

149. The allegations do not apply to Manchester Defendants and thus no answer is required.

150. The allegations do not apply to Manchester Defendants and thus no answer is required.

151. The allegations do not apply to Manchester Defendants and thus no answer is required.

**SEVENTH CLAIM FOR RELIEF**

**STATE LAW CLAIM: FALSE IMPRISONMENT**

152. Manchester Defendants incorporate the foregoing answers herein.

153. Denied.

154. Manchester Defendants deny the allegations in the first two sentences of Paragraph 154. Manchester Defendants lack sufficient information to admit or deny the allegations in the third sentence of Paragraph 154 and, therefore, deny same. The allegations in the final sentence in Paragraph 154 call for legal conclusions to which no response is required.

155. Denied.

156. Denied.

**EIGHTH CLAIM FOR RELIEF**

**CIVIL RIGHTS VIOLATION, 42 U.S.C. § 1983 (UNREASONABLE SEIZURE – TERRY STOP AND FRISK, FOURTH AMENDMENT VIOLATIONS)**

157. Manchester Defendants incorporate the foregoing answers herein.

158. Denied.

159. Denied.

160. Denied.

161. Denied.

162. Manchester Defendants deny the allegations in the first and third sentences of Paragraph 162. The allegations in the second sentence in Paragraph 162 call for legal conclusions to which no response is required.

163. Manchester Defendants deny the allegations in the first and third sentences of Paragraph 163. The allegations in the second sentence in Paragraph 163 call for legal conclusions to which no response is required. Manchester Defendants lack sufficient information to admit or deny the allegations in the final sentence of Paragraph 163 and, therefore, deny same.

164. Manchester Defendants deny the allegations in the first, second, and third sentences of the first paragraph of Paragraph 164. The fourth and fifth sentences of the first paragraph of Paragraph 164 cite to Manchester Police Internal Affairs Investigation reports which speak for themselves.

Manchester Defendants deny the allegations contained in the first two sentences of the second paragraph of Paragraph 164. Manchester Defendants admit that the incidents listed in the remainder of the paragraph took place, but deny Plaintiff's characterization of the Strange Brew incident as a "bar brawl."

**NINTH CLAIM FOR RELIEF**

**CIVIL RIGHTS VIOLATION, 42 U.S.C. § 1983 (UNREASONABLE SEIZURE –  
"EXCESSIVE FORCE," FOURTH AMENDMENT VIOLATIONS)**

165. Manchester Defendants incorporate the foregoing answers herein.

166. Manchester Defendants deny the allegations in the first two paragraphs of Paragraph 166. The allegations in the first two sentences of the third paragraph of Paragraph 166 refer to a video which speaks for itself. The final two sentences of the third paragraph of Paragraph 166 are denied.

167. Manchester Defendants deny the allegations contained in the first and third sentences of Paragraph 167. The allegations in the second sentence in Paragraph 167 call for legal conclusions to which no response is required. Manchester Defendants lack sufficient information to admit or deny the allegations in the final sentence of Paragraph 167 and, therefore, deny same.

168. Manchester Defendants lack sufficient information to admit or deny the allegations in the first paragraph of Paragraph 168 and, therefore, deny same. Manchester Defendants deny the allegations contained in the remainder of Paragraph 168.

169. Manchester Defendants deny the allegations in the first, second, and third sentences of the first paragraph of Paragraph 169. The fourth and fifth sentences of the first paragraph of Paragraph 169 cite to Manchester Police Internal Affairs Investigation reports which speak for themselves.

Manchester Defendants deny the allegations contained in the first two sentences of the second paragraph of Paragraph 169. Manchester Defendants admit that the incidents listed in the remainder of the paragraph took place, but deny Plaintiff's characterization of the Strange Brew incident as a "bar brawl."

**TENTH CLAIM FOR RELIEF**

**CIVIL RIGHTS VIOLATION, 42 U.S.C. § 1983 (FREEDOM OF SPEECH, FIRST AMENDMENT VIOLATION)**

170. Manchester Defendants incorporate the foregoing answers herein.

171. Manchester Defendants deny the allegations contained in the first paragraph of Paragraph 171.

Manchester Defendants lack sufficient information to admit or deny the allegations in the second and third paragraph of Paragraph 171 and, therefore, deny same.

Manchester Defendants deny the allegations contained in the fourth paragraph of Paragraph 171.

172. The allegations in the first paragraph of Paragraph 172 call for legal conclusions to which no response is required.

Manchester Defendants lack sufficient information to admit or deny the allegations in the second paragraph of Paragraph 172 and, therefore, deny same.

Manchester Defendants deny the allegations contained in the third paragraph of Paragraph 172.

173. Manchester Defendants deny the allegations in the first, second, and third sentences of the first paragraph of Paragraph 173. The fourth and fifth sentences of the first paragraph of Paragraph 173 cite to Manchester Police Internal Affairs Investigation reports which speak for themselves.

Manchester Defendants deny the allegations contained in the first two sentences of the second paragraph of Paragraph 173. Manchester Defendants admit that the incidents listed in the remainder of the paragraph took place, but deny Plaintiff's characterization of the Strange Brew incident as a "bar brawl."

#### **ELEVENTH CLAIM FOR RELIEF**

**CIVIL RIGHTS VIOLATION, 42 U.S.C. § 1983 (FIRST AMENDMENT, FREEDOM OF RELIGION)**

174. Manchester Defendants incorporate the foregoing answers herein.

175. Denied.

176. Manchester Defendants lack sufficient information to admit or deny the allegations Paragraph 176 and, therefore, deny same.

177. Denied.

178. The allegations in Paragraph 178 call for legal conclusions to which no response is required.

179. Denied.

180. Manchester Defendants lack sufficient information to admit or deny the allegations Paragraph 180 and, therefore, deny same.

181. Denied.

182. Manchester Defendants lack sufficient information to admit or deny the allegations in the first paragraph of Paragraph 182 and, therefore, deny same.

Manchester Defendants deny the allegations in the second paragraph of Paragraph 182.

183. Manchester Defendants deny the allegations in the first, second, and third sentences of the first paragraph of Paragraph 183. The fourth and fifth sentences of the first paragraph of Paragraph 183 cite to Manchester Police Internal Affairs Investigation reports which speak for themselves.

Manchester Defendants deny the allegations contained in the first two sentences of the second paragraph of Paragraph 183. Manchester Defendants admit that the

incidents listed in the remainder of the paragraph took place, but deny Plaintiff's characterization of the Strange Brew incident as a "bar brawl."

**TWELFTH CLAIM FOR RELIEF**

**CIVIL RIGHTS VIOLATION, 42 U.S.C. § 1983 (NEGLIGENT HIRING AND RETENTION)**

184. Manchester Defendants incorporate the foregoing answers herein.

185. Denied.

186. Denied.

187. Manchester Defendants deny the allegations in the first, second, and third sentences of the first paragraph of Paragraph 187. The fourth and fifth sentences of the first paragraph of Paragraph 187 cite to Manchester Police Internal Affairs Investigation reports which speak for themselves.

Manchester Defendants deny the allegations contained in the first two sentences of the second paragraph of Paragraph 187. Manchester Defendants admit that the incidents listed in the remainder of the paragraph took place, but deny Plaintiff's characterization of the Strange Brew incident as a "bar brawl."

**THIRTEENTH CLAIM FOR RELIEF**

**CIVIL RIGHTS VIOLATION, 42 U.S.C. § 1983 (NEGLIGENT SUPERVISION)**

188. Manchester Defendants incorporate the foregoing answers herein.

189. Denied.

190. Denied.

191. Denied.

192. Manchester Defendants deny the allegations in the first, second, and third sentences of the first paragraph of Paragraph 192. The fourth and fifth sentences of the first paragraph of Paragraph 192 cite to Manchester Police Internal Affairs Investigation reports which speak for themselves.

Manchester Defendants deny the allegations contained in the first two sentences of the second paragraph of Paragraph 192. Manchester Defendants admit that the incidents listed in the remainder of the paragraph took place, but deny Plaintiff's characterization of the Strange Brew incident as a "bar brawl."

193. Manchester Defendants deny the allegations contained in the first and last sentences of Paragraph 193. Manchester Defendants lack sufficient information to admit or deny the allegations in the second sentence of Paragraph 193 and, therefore, deny same. The allegations in the third sentence of Paragraph 193 call for legal conclusions to which no response is required.

#### **FOURTEENTH CLAIM FOR RELIEF**

##### **CIVIL RIGHTS VIOLATION, 42 U.S.C. § 1983 (MALICIOUS ABUSE OF PROCESS)**

194. Manchester Defendants incorporate the foregoing answers herein.

195. The allegations in the first paragraph of Paragraph 195 call for legal conclusions to which no response is required. Manchester Defendants admit that they arrested Plaintiff and detained Plaintiff. Manchester Defendants deny that they violated Plaintiff's constitutional rights.

196. Manchester Defendants deny that Plaintiff was assaulted. The description of the statements and movements of Plaintiff and the officers refer to a video which



speaks for itself. Officer Pittman arrested Plaintiff. Manchester Defendants deny the allegations in the final sentence of Paragraph 196.

197. Manchester Defendants deny the allegations in the first, second, and third sentences of the first paragraph of Paragraph 197. The fourth and fifth sentences of the first paragraph of Paragraph 197 cite to Manchester Police Internal Affairs Investigation reports which speak for themselves.

Manchester Defendants deny the allegations contained in the first two sentences of the second paragraph of Paragraph 197. Manchester Defendants admit that the incidents listed in the remainder of the paragraph took place, but deny Plaintiff's characterization of the Strange Brew incident as a "bar brawl."

**FIFTEENTH CLAIM FOR RELIEF**

**CIVIL RIGHTS VIOLATION, 42 U.S.C. § 1983 (FALSE IMPRISONMENT –  
FOURTEENTH AMENDMENT**

198. Manchester Defendants incorporate the foregoing answers herein.

199. The allegations in Paragraph 199 appear to be legal standards call to which no response is required. To the extent that they allege a violation of Plaintiff's Fourth Amendment rights, they are denied.

200. Denied.

201. Manchester Defendants deny the allegations in the first, second, and third sentences of the first paragraph of Paragraph 201. The fourth and fifth sentences of the first paragraph of Paragraph 201 cite to Manchester Police Internal Affairs Investigation reports which speak for themselves.

Manchester Defendants deny the allegations contained in the first two sentences of the second paragraph of Paragraph 201. Manchester Defendants admit that the incidents listed in the remainder of the paragraph took place, but deny Plaintiff's characterization of the Strange Brew incident as a "bar brawl."

**SIXTEENTH CLAIM FOR RELIEF**

**CIVIL RIGHTS VIOLATION, 42 U.S.C. § 1983 (FALSE ARREST – FOURTH AMENDMENT)**

202. Manchester Defendants incorporate the foregoing answers herein.

203. Denied.

204. Manchester Defendants deny the allegations in the first, second, and third sentences of the first paragraph of Paragraph 204. The fourth and fifth sentences of the first paragraph of Paragraph 204 cite to Manchester Police Internal Affairs Investigation reports which speak for themselves.

Manchester Defendants deny the allegations contained in the first two sentences of the second paragraph of Paragraph 204. Manchester Defendants admit that the incidents listed in the remainder of the paragraph took place, but deny Plaintiff's characterization of the Strange Brew incident as a "bar brawl."

**SEVENTEENTH CLAIM FOR RELIEF**

**CIVIL RIGHTS VIOLATION, 42 U.S.C. § 1983 (RETALIATION)**

205. Manchester Defendants incorporate the foregoing answers herein.

206. Denied.

207. Denied.

208. Manchester Defendants deny the allegations in the first, second, and third sentences of the first paragraph of Paragraph 208. The fourth and fifth sentences of the first paragraph of Paragraph 208 cite to Manchester Police Internal Affairs Investigation reports which speak for themselves.

Manchester Defendants deny the allegations contained in the first two sentences of the second paragraph of Paragraph 208. Manchester Defendants admit that the incidents listed in the remainder of the paragraph took place, but deny Plaintiff's characterization of the Strange Brew incident as a "bar brawl."

**EIGHTEENTH CLAIM FOR RELIEF**

**CIVIL RIGHTS VIOLATION, 42 U.S.C. § 1983 (FAILURE TO INTERVENE)**

209. Manchester Defendants incorporate the foregoing answers herein.

210. Denied.

211. Denied.

212. Manchester Defendants deny the allegations in the first, second, and third sentences of the first paragraph of Paragraph 212. The fourth and fifth sentences of the first paragraph of Paragraph 212 cite to Manchester Police Internal Affairs Investigation reports which speak for themselves.

Manchester Defendants deny the allegations contained in the first two sentences of the second paragraph of Paragraph 212. Manchester Defendants admit that the incidents listed in the remainder of the paragraph took place, but deny Plaintiff's characterization of the Strange Brew incident as a "bar brawl."

**RELIEF**

Manchester Defendants request that the Court deny the relief requested in this paragraph.

### **APPENDIX**

Manchester Defendants reserves the right to object to the contents of the Appendix as hearsay, lacking foundation, not authenticated, improper copies, and on other grounds.

### **AFFIRMATIVE DEFENSES**

1. Manchester Defendants deny liability and damages.
2. Manchester Defendants deny violating Plaintiff's constitutional, federal, state, statutory, or common law rights.
3. Plaintiff's complaint fails to state proper claims for which relief may be granted.
4. Plaintiff's alleged damages were the result of Plaintiff's fault or negligence.
5. Plaintiff's alleged damages were caused, in whole or in part, by Plaintiff's violation of statutes, ordinances, regulations, policies, or other legal authority governing the conduct of the parties at the time that said injuries or damages were sustained, and/or because he posed a direct threat at the time.
6. Manchester Defendants at all times acted in the public interest of promoting and protecting public safety and good order in accordance with existing laws, policies, and practices.
7. Plaintiff's claims are barred by the doctrines of municipal immunity.
8. Plaintiff's claims are barred by the doctrines of individual, official, and qualified immunity.

9. Manchester Defendants are entitled to raise the defenses of statutory and common law immunities, including but not limited to R.S.A. 507-B, R.S.A. 507:8-d, and R.S.A. 627.

10. Plaintiff's damages are limited by the provisions of R.S.A. 507-B.

11. Plaintiff has failed to mitigate his damages.

12. Manchester Defendants' actions were not the proximate cause of injury to plaintiff.

13. Manchester Defendants' actions were justified.

14. No punitive or enhanced damages are warranted or permitted. RSA 507-B:4.

15. Plaintiff's claims are barred by *Heck v. Humphrey*.

16. All or part of Plaintiff's damages were caused by third parties.

17. Manchester Defendants reserve the right to add additional defenses as discovery proceeds.

WHEREFORE, Manchester Defendants respectfully request the following affirmative relief:

1. Dismiss the Plaintiff's Second Amended Complaint;
2. Grant judgment in favor of Manchester Defendants;
3. Provide a jury of not less than six (6) to decide all issues; and

4. Award attorneys' fees and costs to Manchester Defendants.

Respectfully submitted,

**CITY OF MANCHESTER, OFFICER JAMES  
PITTMAN, OFFICER DANIEL CRAIG, SGT.  
BRIAN COSIO AND CAPT. ALLEN  
ALDENBERG**

By Their Attorneys,

Gallagher, Callahan & Gartrell, P.C.

Dated: June 14, 2019

By: /s/ Samantha D. Elliott  
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CERTIFICATE OF SERVICE

I, Samantha D. Elliott, hereby certify that a copy of the foregoing was sent to all parties/counsel of record via ECF.

Dated: June 14, 2019

By: /s/ Samantha D. Elliott  
Samantha D. Elliott, Esq. (#17685)