



**NAILAH K. BYRD**  
**CUYAHOGA COUNTY CLERK OF COURTS**  
1200 Ontario Street  
Cleveland, Ohio 44113

**Court of Common Pleas**

**New Case Electronically Filed:**  
**February 16, 2016 09:06**

By: PETER G. PATTAKOS 0082884

Confirmation Nbr. 670793

JESSICA FERRATO

CV 16 859016

vs.

JONATHAN PACHOLKE, ET AL.

**Judge:**

MICHAEL E. JACKSON

**Pages Filed: 10**

IN THE COURT OF COMMON PLEAS  
CUYAHOGA COUNTY, OHIO

JESSICA FERRATO  
1547 Rosewood Avenue  
Lakewood, Ohio 44107

Plaintiff,

vs.

JONATHAN PACHOLKE  
In both his official and personal capacities  
1215 West 3rd Street  
Cleveland, Ohio 44113

and

GREATER CLEVELAND REGIONAL  
TRANSIT AUTHORITY  
1215 West 3rd Street  
Cleveland, Ohio 44113

Defendants.

Case No. \_\_\_\_\_

Judge \_\_\_\_\_

**COMPLAINT WITH JURY DEMAND**

**I. NATURE OF THE ACTION**

1. This is a civil-rights action brought under 42 U.S.C. §§ 1983 and 1985(3). It also asserts state-law causes of action. Plaintiff Jessica Ferrato alleges that RTA police officer Jonathan Pacholke violated the Fourth Amendment of the United States Constitution by unlawfully arresting her and using excessive force against her without just cause, causing her physical and emotional injuries and distress.

2. While Defendant Pacholke was acting in the scope of his employment with the Cuyahoga County Regional Transit Authority and under color of state law, he unlawfully arrested and assaulted Ms. Ferrato as she was exiting the RTA's West 117th Street – Madison Avenue Rapid Station on March 29, 2015. This unlawful arrest and assault directly and proximately caused Ms. Ferrato's injuries. As a result of this incident, the RTA issued a public apology for Officer Pacholke's conduct and suspended his employment before placing him on a year-long probation for "viola[ting] departmental procedures" and "fail[ing] to control the situation that led to an escalation of the incident and a use of force, which may have been avoided."

## **II. PARTIES**

3. Plaintiff Jessica Ferrato resides in Lakewood, Ohio.

4. Defendant Jonathan Pacholke was a police officer for the RTA. At all times relevant to this Complaint's allegations, he was acting in his capacity as a police officer employed by RTA and was acting under color of state law.

5. Defendant RTA is legally responsible for Defendant Pacholke's conduct as to Ferrato's state law claims for battery and false arrest, as this conduct was committed in the course and scope of Pacholke's employment with RTA in performance of a proprietary function under R.C. 2744.02.

## **III. JURISDICTION AND VENUE**

6. This Court has personal jurisdiction over Defendants under R.C. 2305.01.

7. Venue is proper in this Court under Civ. R. 3(B)(3) because the events giving rise to Plaintiffs' claims took place in Cuyahoga County, Ohio.

#### **IV. FACTUAL BACKGROUND**

8. Late on the night of March 29, 2015, Ferrato was returning home on an RTA passenger train from the Cleveland International Film Festival's closing ceremonies. Just before midnight, she exited the train at the RTA's West 117th Street – Madison Avenue Rapid Station in Cleveland near the Lakewood border.

9. As she exited the station through the outer vestibule door into the parking lot, Officer Pacholke was standing in the vestibule arguing with a female passenger. As Ferrato walked by, Pacholke interrupted his interaction with the other passenger to ask Ferrato to see her "bus pass."

10. Ms. Ferrato said in response, "Bus? I just got off the train," as she reached for the pass that was in her pocket. Pacholke then asked again to see Ferrato's bus pass. Ferrato had already pulled the pass out of her pocket, and showed him her pass as she walked away. Pacholke could clearly see that her pass was valid.

11. But Officer Pacholke then asked yet again, in an aggressive and threatening manner, to see Ferrato's pass. She had already walked past him at this point and was outside of the building in the parking lot, so she turned around to show it to him again, holding the pass within approximately two feet of him so that he could, again, clearly see that it was valid.

12. As Ferrato again began to walk away, Pacholke ran in front of her to block her path, and told her to stop and return to him. Ferrato then asked him why, and he said something to the effect of, "you have to do what I say." Ferrato then pulled out her RTA pass again, and held it within inches of Pacholke's face, explaining to him, correctly, that she had repeatedly showed him her pass, and that it was a valid all-day pass that she had purchased that morning. Pacholke then closed in on Ferrato, and told her again that she "had to do what he said," to which she replied that he was exceeding his authority, that he needed to leave her alone, that she'd already shown him her pass, and that he had no right to detain her.

13. As Ferrato again tried to walk past Pacholke towards her car, Pacholke ordered her to turn around, threatened to taze her, and ordered her to give him her hands. Ferrato then attempted to turn on her phone's video camera to record the interaction, at which point Pacholke slapped the phone out of her hand. As Ferrato attempted to pick the phone up, Pacholke knocked her to the ground, shoved her face in the dirt, and threatened to pepper spray her.

14. Pacholke then called for backup as he continued to push Ferrato's face in the dirt and secured her body to the ground. He pulled Ferrato's arms behind her back, used a knife to cut the strap of her purse to remove the purse from her possession, and continued to hold her to the ground by pushing his knees onto her back as three other officers arrived at the scene. One of the officers then handcuffed Ferrato, who stated that she wanted to be booked, taken to the police station, and given the opportunity to speak with a lawyer. Ferrato was terrified throughout this experience, and in physical pain.

15. Eventually, one of the officers removed the other officers who were on top of Ferrato, pulled up her pants and underwear, which had come down during the assault exposing her buttocks, and escorted her to the back seat of a police cruiser. The three officers who arrived on the scene then asked Pacholke to explain to them what happened, and Pacholke proceeded to comply.

16. One of the officers then asked Ferrato to explain what happened, and she told him and one of the other officers who had arrived at the scene. The officers then took some additional information from Ferrato to fill out some paperwork, and two of them drove her to the RTA police headquarters.

17. Ferrato continually pleaded with these officers as to the unlawfulness of her arrest and as they arrived at RTA police headquarters Ferrato was given the opportunity to tell two more officers what had transpired. Pacholke was not present at this time.

18. After these officers discussed Ferrato's situation, one of them explained that they would drop resisting arrest and obstruction charges, but that they would cite her for Disorderly Conduct while Intoxicated, which, they advised, she could fight in court. He also explained that instead of booking Ferrato and keeping her in jail, they would cite her, drive her home, and release her, which they proceeded to do.

19. At no point during this incident was Ferrato intoxicated. At no point during this incident did Ferrato appear to be intoxicated, or behave in a manner that would have caused any person to believe that she was intoxicated. At no point during this incident did Ferrato engage in conduct prohibited by R.C. 2917.11. At no point during this incident did Ferrato engage in conduct that would have given any reasonable person probable cause to believe that she was engaging in conduct prohibited by R.C. 2917.11. At no point during this incident did Ferrato engage in conduct that would have given any reasonable person probable cause to believe that she was committing or about to commit any crime.

20. On April 8, 2015, the RTA's Chief of Police, John P. Joyce, wrote a letter to Ferrato in which he stated that: "As a result of our internal investigation, your citation for Disorderly Conduct/Intoxication was not forwarded to the court and no further action regarding this citation will be taken by GCRTA's Transit Police Department. ... you will not be required to appear in court on the designated date. Please accept my apology for the officer's failure to follow departmental procedures."

21. As a result of this incident, the RTA also issued a public apology for Officer Pacholke's conduct and suspended his employment before placing him on a year-long probation for "viola[ting] departmental procedures" and "fail[ing] to control the situation that led to an escalation of the incident and a use of force, which may have been avoided."

22. Since having been unlawfully detained and assaulted by Pacholke, Ferrato's ability to perform and enjoy her usual activities has been impaired. She has suffered severe mental and emotional distress, including PTSD and related anxiety as a result of her mistreatment. Her mental and emotional injuries are due to having been terrorized by the unlawful detention and assault that Defendant Pacholke perpetrated.

23. As a direct and proximate result of Pacholke's intentional and reckless acts, Ferrato sustained physical pain and suffering, including injury to her neck and back.

24. Ferrato is entitled to compensatory damages for the harms inflicted upon her. And she is entitled to punitive damages for the unconscionable conduct she was forced to endure at the hands of Pacholke, as well as attorneys' fees and costs.

## **V. CLAIMS**

25. All claims stated against Officer Pacholke in his official capacity are therefore asserted against both the RTA and Officer Pacholke, personally, for actions committed in the course and scope of his employment with RTA.

### **Claim 1 Unreasonable seizure under the Fourth Amendment and 42 U.S.C. § 1983**

**(against Pacholke in his personal capacity)**

26. Plaintiff incorporates the previous allegations by reference.

27. With purpose or intent, acting under color of state law, Defendant Pacholke unlawfully arrested, detained, and seized Ferrato's person. A reasonable officer would not have initiated the seizure. Pacholke seized Ferrato without probable cause or reasonable need to do so. The unlawful seizure was objectively unreasonable under the Fourth Amendment. All of these actions caused damage to Ferrato.

28. Pacholke acted under color of law in his official capacity to deprive Ferrato of her right to freedom from illegal seizure of her person. This right is secured to her by the Fourth Amendment and was clearly established as of March 29, 2015.

29. As a direct and proximate result of Pacholke's unlawful conduct, which was intentional and showed a spirit of ill-will, hatred, and wanton disregard of Ferrato's rights, Ferrato suffered and will continue to suffer economic and non-economic damages for which Pacholke is liable, including, but not limited to, mental, emotional, and physical pain and suffering. Ferrato is entitled to punitive damages based on Defendants' unlawful conduct.

**Claim 2**  
**Excessive use of force under the Fourth Amendment**  
**and 42 U.S.C. § 1983**

**(against Pacholke in his personal capacity)**

30. Plaintiff incorporates all previous allegations by reference.

31. Defendant Pacholke used excessive force against Ferrato to terrorize her. Even if Pacholke's arrest of Ferrato was reasonable and lawful (it was not), a reasonable officer would not have used the kind of force that Pacholke used against Ferrato to detain her. Pacholke used a grossly unnecessary amount of force to detain Ferrato, which was shocking to a person of ordinary conscience and unjustifiable under the circumstances. The amount of force used to accomplish the detention was clearly excessive and objectively unreasonable under the Fourth Amendment. All of these actions caused damage to Ferrato.

32. Pacholke acted under color of law in his official capacity to deprive Ferrato of her right to freedom from excessive force. This right is secured to her by the Fourth Amendment and was clearly established as of March 29, 2015.

33. As a direct and proximate result of Pacholke's unlawful conduct, which was intentional and showed a spirit of ill-will, hatred, and wanton disregard of Ferrato's rights, Ferrato suffered and will continue to suffer economic and non-economic damages for which Pacholke and the County are liable, including, but not limited to, mental, emotional, and physical pain and suffering.

34. Ferrato is entitled to punitive damages based on Defendants' unlawful conduct.

**Claim 3  
Battery**

**(against Pacholke in his official and personal capacities)**

35. Plaintiff incorporates the previous allegations by reference.

36. Defendant Pacholke engaged in the above-described actions intending to cause the harmful contact and the harmful contact resulted. Pacholke intended to tackle Ferrato to the ground, forcefully pin her to the ground, pull down her pants and underwear, twist her arms, and handcuff her. These offensive touchings were unlawful and unwanted.

37. As a direct and proximate result of Pacholke's unlawful conduct, which was intentional and showed a spirit of ill-will, hatred, and wanton disregard of Ferrato's rights, Ferrato suffered and will continue to suffer economic and non-economic damages for which Pacholke is liable, including, but not limited to, mental, emotional, and physical pain and suffering.

38. Ferrato is entitled to punitive damages based on Pacholke's malicious conduct.

39. The RTA is legally responsible for this unlawful and malicious conduct, committed in the course and scope of Pacholke's employment with RTA in performance of a proprietary function under R.C. 2744.02.

**Claim 4  
False Arrest**

**(against Pacholke in his official and personal capacities)**

40. Plaintiff incorporates the previous allegations by reference.

41. Defendant Pacholke deprived Ferrato of her liberty without lawful justification.

42. As a direct and proximate result of Pacholke's unlawful conduct, Ferrato suffered and will continue to suffer economic and non-economic damages for which Pacholke is liable, including, but not limited to, mental, emotional, and physical pain and suffering.

43. Ferrato is entitled to punitive damages based on Pacholke's malicious conduct.

44. The RTA is legally responsible for this unlawful and malicious conduct, committed in the course and scope of Pacholke's employment with RTA in performance of a proprietary function under R.C. 2744.02.

**VI.  
PRAYER FOR RELIEF**

For the reasons stated above, Plaintiff respectfully requests the following relief from the Court:

- A. Declare that Defendant Pacholke's acts and conduct constitute violations of the Fourth Amendment of the U.S. Constitution under 42 U.S.C. §§ 1983.
- B. Judgment in Plaintiff's favor as to all claims for relief.
- C. Special and general damages in excess of \$25,000 to compensate for the injuries Ms. Ferrato sustained due to Defendant Pacholke's conduct including economic and non-economic damages for medical costs, pain, suffering, humiliation, and emotional distress.
- D. Punitive and exemplary damages, pre-judgment interest, post-judgment interest, costs, and other reasonable expenses incurred in maintaining this action, and the reasonable attorneys' fees and costs incurred in maintaining this action.

- E. All other relief in law or equity to which Plaintiff is entitled and that the Court deems equitable, just, or proper.

**VII.**  
**JURY DEMAND**

Plaintiff demands a trial by jury on all issues within this Complaint.

Respectfully submitted,

THE CHANDRA LAW FIRM, LLC

*/s/ Peter Pattakos*

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