

STATE OF MINNESOTA

COUNTY OF HENNEPIN

FILED  
MINNEAPOLIS, MINN  
2017 JUN 27 PM 2:47  
CITY CLERK  
DEPARTMENT

DISTRICT COURT

FOURTH JUDICIAL DISTRICT

CASE TYPE - Personal Injury

Teresa M. Graham,

Plaintiff,

**COMPLAINT**

vs.

Sgt. Shannon L. Barnette,  
Officer Amanda Sanchez;  
Officer Mohamed Noor,  
and City of Minneapolis,

JURY TRIAL DEMANDED

Court File No. \_\_\_\_\_

Defendants.

Plaintiff Teresa M. Graham, for her Complaint against above-named Defendants,  
states and alleges as follows:

**I. INTRODUCTION**

1. This is an action for money damages arising out of an incident on May 25, 2017 when Defendants without any reasonable or legal cause, forced their way into Plaintiff's house, violently and forcibly detained her, and transported her to a hospital against her will where Plaintiff was further detained. Plaintiff's causes of action include statutory violations of 42 U.S.C. § 1983 based on violations of her federal constitutional rights under the First, Fourth, Fifth and Fourteenth Amendments, and common law claims for false imprisonment, assault, battery, and negligence.

**II. THE PARTIES**

2. Plaintiff Teresa Graham, a retired social worker, resides in Minneapolis, Minnesota.

3. Defendant Sgt. Shannon L. Barnette is a police officer employed by the City of Minneapolis presently and at the time of the incident giving rise to this case. At all times relevant hereto, she was acting under color of state law. Defendant Barnette is being sued in her personal and official capacity.

4. Defendant Officer Amanda Sanchez is a police officer employed by the City of Minneapolis presently and at the time of the incident giving rise to this case. At all times relevant hereto, she was acting under color of state law. Defendant Sanchez is being sued in her personal and official capacity.

5. Defendant Officer Mohamed Noor is a police officer employed by the City of Minneapolis presently and at the time of the incident giving rise to this case. At all times relevant hereto, he was acting under color of state law. Defendant Noor is being sued in his personal and official capacity.

6. Defendant City of Minneapolis is a city in the State of Minnesota, and through its police officer employees, is responsible for the actions that are the subject of this lawsuit.

### **III. FACTUAL BACKGROUND**

7. On May 25, 2017, at about 9:56 a.m., Plaintiff Teresa Graham called 911 to report an unknown young male who was sitting on her retaining wall behind her

house, smoking marijuana and appeared to be under the influence of drugs. Plaintiff did not receive a visit or further communication from police, and therefore assumed that they did not do anything in response to her call.

8. At 15:19, Plaintiff called the City of Minneapolis to follow up on her earlier 911 call, and was transferred to 5<sup>th</sup> Precinct Inspector Kathy Waite's voice mail. Plaintiff left a message.

9. At 18:17, Plaintiff received a phone call from Lt. Dan May, who told Plaintiff that police had driven by her house that morning in response to her 911 call.

10. Plaintiff also sent an email on late afternoon of May 25, 2017 to several Minneapolis city officials, including the mayor, police chief, inspector Waite, and her city council representative, complaining about the lack of response to vulnerable adult reports that she had filed related to the illness and death of her sister in November, 2016.

11. According to police reports, one or more relatives of Plaintiff reported to police that Plaintiff has some sort of mental health issues.

12. At approximately 8 pm, Defendant police officers Sanchez and Noor came to Plaintiff's house to perform a "welfare check." Defendant Noor reported that the welfare check was in response to a request from an anonymous cousin. Plaintiff has not been able to obtain any further information relating to the rationale for police deciding to perform a welfare check.

13. Defendant officers Sanchez and Noor knocked on Plaintiff's door

and Plaintiff opened her door. Defendant Sanchez stated that a cousin had called and accused Plaintiff of making threats to him and his family. Sanchez subsequently turned on her body camera and then told Plaintiff that they came to find out if she was okay and told Plaintiff that a family member had called and stated there was a problem. Plaintiff demanded to know who called. Defendant officers refused to answer her question. Sanchez told Plaintiff the relative had stated that Plaintiff was harassing or making threats to family members. Defendant officer Noor eventually stated that the issue was over and apologized. The officers then left Plaintiff's property.

14. During Plaintiff's encounter with Defendant officers doing the "welfare check.," Plaintiff was annoyed at false suggestions that something was wrong with her or that she had done anything wrong. She was also unhappy that police had not communicated with her in response to her 911 that morning. Plaintiff did not act in any way that was illegal, violent or threatening. No reasonable officer could have concluded that Plaintiff posed any threat to herself or others based on the interaction with her. Defendant officers indeed reached the conclusion that Plaintiff was not a threat to herself or anyone else as evidenced by the fact that they apologized and left.

15. At about 20:21 on May 25, 2017, Plaintiff made a 911 call to complain about the police encounter at her house. Plaintiff indicated that she believed the police visit to be harassment, retaliatory for her prior complaint that morning, and "bizarre." She demanded to speak with the precinct inspector about the situation. The person handling the call stated that he would have the sergeant contact Plaintiff. Plaintiff also subsequently made a phone call to



Inspector Waite, and left a voice mail complaining about the police harassment.

16. Also during the evening of May 25, 2017, Plaintiff called 911 to report concerns about her brother, a vulnerable adult with serious medical needs. Plaintiff needed to make a couple of calls in order to be transferred from the City of Minneapolis dispatch to the Edina police where her brother's residence is located.

17. Plaintiff had ongoing concerns regarding her brother receiving improper care and being exploited, and had made previous reports to authorities. She had also previously made reports to authorities about treatment of her sister who was also a vulnerable adult and had died in November, 2016. Plaintiff is a retired licensed clinical social worker who has dedicated tremendous time and energy addressing issues of care for vulnerable adults prior to her brother and sister becoming ill.

18. At about 21:34 on May 25, 2017, Defendant police officers Barnette, Sanchez and Noor again came to Plaintiff's house. According to the reports of Sanchez and Noor, Barnette had ordered that Plaintiff be involuntarily transported by ambulance to a hospital and put on an emergency mental health hold.

19. The Defendant police officers knocked on Plaintiff's door and Plaintiff opened it. Sgt. Barnette claimed to Plaintiff that Plaintiff had called for help and that they had spoken on the phone. Plaintiff had spoken with Defendant Barnette about the harassing visit by Sanchez and Noor, but did not ask for "help." Plaintiff demanded that the police officers leave her property immediately. Defendant officers refused to

leave. Plaintiff then closed her door and retreated inside her house, leaving the police officers in front of her door.

20. Defendant police officers then broke the screen insert in the storm door and removed it. Plaintiff had not given any permission to damage, alter or remove her property.

21. Defendant officers next knocked repeatedly on Plaintiff's front door. Plaintiff did not answer. Sgt. Barnette announced to Plaintiff through the closed door several times that they only needed to speak with her to see that Plaintiff was okay and then they would leave. Officers continued to state they only needed to speak with Plaintiff. These were lies since Defendant Barnette had already ordered an emergency hold and an ambulance had been ordered, according to the police reports.

22. After Defendants officers repeatedly knocked on Plaintiff's door and urged her to open it, Plaintiff opened her door again and again demanded that the Defendant officers leave Plaintiff's property immediately.

23. Defendant police officers did not obey Plaintiff's order to leave her property. Instead, they forced their way into Plaintiff's house without her permission. Upon entering Plaintiff's house, Defendant Sgt. Barnette immediately grabbed Plaintiff's left wrist and upper arm. Defendant Officer Noor grabbed Plaintiff's phone from her hand and then grabbed her right wrist and upper arm, thereby immobilizing her. Plaintiff had not in any way physically resisted the officers, and did not offer physical resistance at

any time during the encounter.

24. Defendant Sgt. Barnette told Plaintiff they were bringing her to the hospital because they believed she was in “a mental health crisis.” Defendant Sgt. Barnette stated as reasons that Plaintiff “called 911 “a million times” and called “Edina PD.”

25. Plaintiff insisted that she did not need to go to the hospital and that Defendant officers were taking her to the hospital against her will.

26. Plaintiff requested to call an attorney. Defendant Barnette refused to allow Plaintiff to call an attorney, and stated that Plaintiff would have to wait until she got to the hospital to call an attorney.

27. Defendants Barnette and Noor continued to hold onto Plaintiff’s wrists and arms. Plaintiff repeatedly told the Defendants to let go of her wrists and arms, the they were hurting and injuring her, and causing bruises to her wrists. Plaintiff also told the Defendants that she was being treated for a previous shoulder injury and that they were exacerbating that injury. After Plaintiff repeatedly requested that Defendants Noor and Barnette let go of her and that they were injuring her, Defendant Noor lessened the tightness of his grip on Plaintiff’s right arm, but Barnette responded by tightening her grip on Plaintiff’s left arm (which was the arm with the shoulder injury). Defendants continued to hold on to Plaintiff’s wrists and arms, depriving her of her freedom and causing Plaintiff pain for about nine minutes.

28. Defendant police officers then ordered Plaintiff to sit down in a chair or Barnette would continue to restrain her. Defendant officers continued to detain Plaintiff in her chair until the paramedics from the ambulance arrived.

29. When the ambulance arrived, EMS personnel transported Plaintiff to Fairview Southdale Medical Center in Edina.

30. Defendant police officers filled out an "Application by Peace or Health Officer for Emergency Admission" and presented it to staff at the hospital in order to have Plaintiff involuntarily admitted. The Application alleged that Plaintiff "continuously called 911" and "was verbally agitated and not making sense." The statement that Plaintiff was "not making sense" is clearly false based on a review of recordings of Plaintiff's statements to officers at her home and during her phone calls. These allegations further fail to meet the statutory requirements for an emergency hold.

31. No reasonable person could have had any reason to believe that Plaintiff "in danger of injuring self or others if not immediately detained presented any sort of a threat to herself or others if not immediately detained" - the required standard for an emergency hold under Minn. Stat. § 253B.05, subd. 2(a). Defendant officers further lacked any basis to believe that Plaintiff was mentally ill or developmentally disabled within the meaning of § 253B.02, subd. 13 and 14, as is required for an emergency hold.

32. A document filled out by a hospital nurse entitled, "Health or Peace Officer Custody and Transport Authority Order, states that the sergeant placed Plaintiff



on a hold because when officers went to her residence, “she was agitated and making non-sensical statements.” Plaintiff’s statements to Defendant officers, which are recorded on the officers’ body cameras, could not be interpreted by a reasonable person as nonsensical.

33. When Plaintiff arrived at Fairview Southdale hospital, hospital staff ordered Plaintiff to remove all of her clothes and give up all of her property, which upon information and belief, was the hospital’s practice towards persons admitted pursuant to emergency holds who are believed to present a danger to themselves or others. Plaintiff objected to these grave and humiliating intrusions, but hospital staff threatened to forcibly remove Plaintiff’s clothes if she did not cooperate.

34. Plaintiff remained at Fairview Southdale Medical Center against her will for more than 1 ½ hours. During this time, a physician performed a psychiatric evaluation of Plaintiff, determined that she was not “hold-able” and ordered that she be discharged.

35. As a result of the acts of Defendants and their agents, Plaintiff has suffered extensive damages, including but not limited to pain, severe mental and emotional distress, humiliation and embarrassment, invasion of her person and property, and past and future treatment expenses, thereby resulting in damages **in excess of** \$50,000, and the total amount of which remains to be determined.

#### IV. CAUSES OF ACTION

36. Plaintiff hereby realleges and incorporates by reference all allegations contained within Paragraphs 1 to 35 of this Complaint.

37. **COUNT 1 - VIOLATION OF 42 U.S.C. § 1983 - FOURTH AMENDMENT -- UNLAWFUL SEIZURE, SEARCH, AND DETENTION.**

Defendants, acting under color of state law, deprived Plaintiff Teresa Graham of her rights, privileges and immunities secured by the Constitution and laws of the United States, in violation of 42 U.S.C. § 1983, by committing acts in violation of the Fourth Amendment protections against unreasonable searches and seizures. These violations included but are not necessarily limited to entering and remaining on Plaintiff's property after being ordered to leave without any legal basis for remaining on the property, damaging Plaintiff's property, entering Plaintiff's house without her permission and refusing to leave without any legal basis for entering and remaining on her property, detaining Plaintiff against her will physically confining her and arranging for her to be involuntarily transported and detained at a hospital against her will without any justification for such action, using excessive force upon Plaintiff by physically grabbing her for an extended period of time so as to cause her pain, and arranging for or causing Plaintiff to be forcibly searched and have her property seized at the hospital.

38. **COUNT 2 - VIOLATION OF 42 U.S.C. § 1983 - FIFTH AND FOURTEENTH AMENDMENT.** Defendants, acting under color of state law, have

deprived Plaintiff Teresa Graham of her rights, privileges and immunities secured by the Constitution and laws of the United States, in violation of 42 U.S.C. § 1983, by committing acts in violation of the Fifth and Fourteenth Amendment Rights to Due Process by forcing their way into Plaintiff's house, and forcing Plaintiff to be involuntarily confined without any legal justification or procedures.

**39. COUNT 3 - VIOLATIONS OF 42 U.S.C. § 1983 - FIRST AMENDMENT - RETALIATION.** Defendants, acting under color of state law, have deprived Plaintiff Teresa Graham of her rights, privileges and immunities secured by the Constitution and laws of the United States, in violation of 42 U.S.C. § 1983, by committing acts in violation of the First Amendment Right to Free Speech by improperly entering Plaintiff's property, assaulting, detaining, and involuntarily confining Plaintiff in her home and then at a hospital in retaliation for her exercise of basic and fundamental right to engage in free speech and petition the government for redress of grievances, including to report issues of concern to police authorities and to communicate grievances to police and government officials.

**40. COUNT 4 - VIOLATIONS OF 42 U.S.C. § 1983 - CONSPIRACY.** Defendants, acting under color of state law, deprived Plaintiff Teresa Graham of her rights, privileges and immunities secured by the Constitution and laws of the United States, in violation of 42 U.S.C. § 1983, by conspiring among themselves and with others to violate Plaintiff's rights under the First, Fourth, Fifth and Fourteenth

Amendments, in connection with the unlawful forcible entry onto her property and into her house, detention and involuntary confinement in a hospital. Said conspiracies include but are not limited to the conspiracy among the named Defendants, and Defendant police officers with emergency medical and hospital personnel in arranging for Plaintiff's unlawful confinement.

41. **COUNT 5 - VIOLATIONS OF 42 U.S.C. § 1983 - UNLAWFUL POLICY, PRACTICE AND CUSTOM.** Defendant City of Minneapolis deprived Plaintiff Teresa Graham of her rights, privileges and immunities secured by the Constitution and laws of the United States, in violation of 42 U.S.C. § 1983, by maintaining unlawful policies, customs or practices with respect to violations of rights of citizens, including violations of their persons and property. The Minneapolis Police Department has a long and continuing tradition of such violations, and specifically in this case, had a policy in place for emergency holds that where police believe a person "poses a threat to himself or others," "The threat does not have to be imminent." This policy violates state law and established constitutional constraints.

42. **COUNT 6 - VIOLATIONS OF 42 U.S.C. § 1983 - FAILURE TO PROPERLY TRAIN AND SUPERVISE.** Defendant City of Minneapolis deprived Plaintiff of her rights, privileges and immunities secured by the Constitution and laws of the United States, in violation of 42 U.S.C. § 1983, by failing to properly train and supervise its police officers to respect the constitutional and other rights of its citizens,



and thereby encouraged and implicitly authorized individual Defendants to violate the rights of Plaintiff. These failures include but are not limited to failure to train police officers as to the proper requisites for warrantless entries into private homes and the legal requirements for forcibly and involuntarily confining persons for mental health reasons.

43. **COUNT 7 - FALSE IMPRISONMENT.** Defendants, by their above-described actions, wrongfully, illegally, and unjustifiably confined and restrained Plaintiff without her consent, and thereby falsely imprisoned her.

44. **COUNT 8 - BATTERY.** Defendants, by their above-described actions, engaged in harmful and violent physical contact against Plaintiff without consent or any legal justification.

45. **COUNT 9 - ASSAULT** Defendants, by their above-described actions, caused Plaintiff to suffer fear of imminent bodily harm without any consent or legal justification.

46. **COUNT 10 - NEGLIGENCE.** Defendants, by their above-described actions, breached their duty to exercise a reasonable standard of care in dealing with Plaintiff Teresa Graham, and acted willfully and maliciously.

47. As a result of Defendants' above-described illegal conduct, Plaintiff Teresa Graham has suffered the damages described in paragraph 35 of this Complaint.

## **V. RELIEF REQUESTED**

WHEREFORE Plaintiff prays for Judgment in his favor as follows:

1. Awarding judgment in favor of Plaintiff against the Defendants and each of them jointly and severally in an amount **in excess of** \$50,000.00 as and for compensatory damages.
2. Awarding punitive damages against Defendants.
- 3.. Awarding Plaintiff all of her costs and disbursements herein, and prejudgment interest.
4. Awarding Plaintiff reasonable attorney fees pursuant to 42 U.S.C. § 1988.
5. Such other and further relief as the Court may deem just and proper.

Dated: June 26, 2017

LAW OFFICE OF JORDAN S. KUSHNER

By s/Jordan S. Kushner

Jordan S. Kushner, ID 219307  
Attorney for Plaintiff  
431 South 7th Street, Suite 2446  
Minneapolis, Minnesota 55415  
(612) 288-0545

**ACKNOWLEDGMENT REQUIRED BY MINN. STAT. § 549.211**

The Plaintiff, by her undersigned attorney, hereby acknowledges that, pursuant to Minn. Stat. § 549.211, costs, disbursements, and reasonable attorney and witness fees may be awarded to the opposing party in this litigation.

Dated: June 26, 2017

By s/Jordan S. Kushner

Jordan S. Kushner, ID 219307  
Attorney for Plaintiff