

IN THE TWENTY-SEVENTH JUDICIAL CIRCUIT OF ST. CLAIR COUNTY, MISSOURI

GEORGE RICHEY,	)	
Plaintiff,	)	
	)	
v.	)	Case No.
	)	(Jury Trial Demanded)
ST. CLAIR COUNTY, MISSOURI,	)	
<i>Serve Presiding Commissioner:</i>	)	
Robert Salmon	)	
655 Second Street	)	
Osceola, MO 64776	)	
	)	
SCOTT KEELER, ST. CLAIR COUNTY	)	
SHERIFF, in his Official Capacity, and	)	
<i>Serve at:</i>	)	
360 Chestnut Street	)	
Osecola, MO 64776	)	
	)	
JUDGE JERRY J. RELLIHAN, in his	)	
Individual and Official Capacities.	)	
<i>Serve at:</i>	)	
655 Second Street	)	
Osceola, MO 64776	)	
	)	
Defendants.	)	

**PETITION**

COMES NOW Plaintiff George Richey and for his Petition against Defendants states and alleges as follows:

**PRELIMINARY STATEMENT**

1. Plaintiff George Richey, like many indigent people charged with a crime in Missouri, was punished repeatedly for the same offense.

2. First, Mr. Richey was incarcerated in St. Clair County Jail for a period of ninety days. Upon his release, Mr. Richey was ordered to pay for the costs of his incarceration also known as a “jail board bill.”
3. Mr. Richey was jailed again when he was unable to pay the bill because of his poverty. Mr. Richey was required by defendants to pay the costs for that new period of incarceration that was solely a result of his inability to pay the costs for his initial period of incarceration.
4. As a result of this practice, Mr. Richey was required to pay a total of \$5,541.50 and to make monthly payments between \$250 and \$350 per month to avoid further arrest and incarceration.
5. Mr. Richey’s sole source of income was Social Security Disability Benefits in the amount of \$630 per month. Because of this unlawful incarceration due to his poverty, Mr. Richey lost his home, all of his personal belongings, and lived in constant fear of arrest for the past four years.
6. Mr. Richey’s story epitomizes the modern-day debtors’ prison scheme Defendants created in order to generate revenue by incarcerating or threatening to incarcerate people too poor to pay jail board bills.
7. When an individual is arrested in St. Clair County, he is taken to the St. Clair County Jail (hereinafter “the Jail”), which is overseen by Scott Keeler and the St. Clair County Sheriff’s Office (hereinafter “Defendant Sheriff”). The operating budget for both the Defendant Sheriff and the Jail is determined by St. Clair County (hereinafter “Defendant County”). People arrested by Defendant Sheriff are taken before Associate Circuit Court Judge Jerry Rellihan (hereinafter “Defendant Rellihan”).

8. Prior to being released, Defendant Rellihan orders a person jailed by Defendant Sheriff to pay a jail board bill at a rate of \$35 dollars per day, an amount set by Defendant County.<sup>1</sup> One month of incarceration in the jail amounts to \$1,050.
9. To put these costs in perspective, the median monthly cost for rent in St. Clair County is \$588 and the median monthly cost for a homeowner with a mortgage is \$933.<sup>2</sup>
10. Defendant County collects this revenue through orders issued by Defendant Rellihan, who issues warrants for arrest to those unable to pay the costs of their incarceration. Defendant Rellihan issues these warrants without an inquiry into the person's ability to pay.
11. Missouri law provides no basis for the issuance of warrants based on board bills/jail debt alone.
12. Defendant Sheriff enforces these unlawful warrants by arresting individuals who owe Defendant County money. The person remains in Jail for an indefinite amount of time, awaiting release. Prior to being released, the individual is assessed another jail board bill and additional fees. As a result of their inability to pay, people in poverty are trapped in a cycle of incarceration and debt without any hope of escape.
13. This scheme has been enormously profitable for Defendant County. In Fiscal Year 2018, the Jail reported \$3,468,541.24 in revenue, while Defendant Sheriff, through fees and other income, produced \$21,183.43 for Defendant County.<sup>3</sup> Nearly 40% of Defendant County's \$8,639,789.98 in annual revenue for 2018 was derived from incarceration.<sup>4</sup>

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<sup>1</sup> "Upon conviction the costs of jail board prior to conviction, at the rate established by the County Commission, shall be taxed as costs to the Defendant." Mo. R. 27 Cir. Rule 5.2 (1).

<sup>2</sup> QuickFacts, St. Clair County, Missouri, United States Census Bureau (Jul. 1, 2019). <https://www.census.gov/quickfacts/fact/table/stclaircountymissouri/PST045219#>.

<sup>3</sup> Figures based on 2018 and 2019 budgets of the St. Clair County Jail and St. Clair County Sheriff, obtained by Plaintiff pursuant to Chapter 610 RSMo.

<sup>4</sup> 2018 St. Clair County Financial Statement, St. Clair County Courier, February 22, 2019, at pgs. 10-11.

14. It has been the policy and practice of Defendant County to assess the daily rate of jail board bills.<sup>5</sup>
15. It has been the policy and practice of Defendant County to oversee the revenue generated by the St. Clair County Sheriff and jail.<sup>6</sup>
16. It has been the policy and practice of Defendant County to use the Circuit Court of St. Clair County as a mechanism to collect outstanding jail board bills to fund Defendant County's operations.
17. It has been the policy and practice of the Defendants County and Sheriff to jail people when they cannot afford the costs of their incarceration.
18. It has been the policy and practice of Defendants County and Sheriff to enforce invalid arrest warrants and to threaten impoverished people with indefinite incarceration if they are unable to pay.
19. The policies and practices of Defendants County, Sheriff, and Rellihan have created a monetary scheme designed to punish and exploit citizens for profit that criminalizes and incarcerates people because of their poverty. Such practices are unconstitutional and illegal.
20. Defendants' practice collecting jail board bills through incarceration is impermissible in Missouri. While a person jailed by the state is responsible for these costs of imprisonment,

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<sup>5</sup> "Upon conviction the costs of jail board prior to conviction, at the rate established by the County Commission, shall be taxed as costs to the Defendant." Mo. R. 27 Cir. Rule 5.2 (1).

<sup>6</sup> St. Clair County Commission Minutes, Jan. 14, 2019; <https://www.stclaircomo.com/sites/default/files/1-14-2019%20Comm%20Minutes%20001%5B4521%5D.jpg>); *See also*, St. Clair County Commission Minutes, Jan. 17, 2018. <https://www.stclaircomo.com/sites/default/files/Jan.%2017%2C%202018%20min%20002.jpg>

there is no statutory authority allowing Defendants to designate jail board bills as “court costs.”<sup>7</sup>

21. The Missouri Supreme Court has held that failure to pay cannot result in a new incarceration.

*State v. Richey*, 569 S.W.3d 420, 425 (Mo. 2019).

22. Mr. Richey brings this action under state tort law theories, the United States Constitution, and federal law.

23. Mr. Richey seeks damages for harms he suffered as a result of Defendants County and Sheriffs’ false imprisonment and abuse of process.

24. Mr. Richey seeks damages for harms he suffered as a result of the Defendants County and Sheriffs’ policies and practices that violated his rights under the Fourth and Fourteenth Amendments to the United States Constitution.

25. Mr. Richey seeks a declaratory judgment prohibiting Defendant County from compelling him to use his Social Security Disability Benefits to pay for his jail board bill and court fees in violation of federal law.

26. Mr. Richey seeks a declaratory judgment that Defendant Rellihan violated his Fourth Amendment rights by issuing warrants without probable cause.

27. Mr. Richey seeks a declaratory judgment that Defendant Rellihan retaliated against him for engaging in protected conduct in violation of Mr. Richey’s First Amendment rights.

## **PARTIES**

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<sup>7</sup> “Every person who shall be committed to the common jail, within any county in this state. . . shall bear the expense of carrying his or her to said jail, and also his or her support while in jail, before he or she shall be discharged.” § 221.070.1 RSMo. (2016).

28. Plaintiff George Richey is a fifty-eight-year-old honorably discharged Air Force Veteran, father, and grandfather who has resided within St. Clair County in the State of Missouri at all times relevant to this Petition.
29. Defendant St. Clair County is a Third Class County organized under the laws of the State of Missouri and is a legal entity which may sue and be sued, and may be served with process as set forth above.
30. Missouri law permits the governing body of any county to fix the amount to be expended for the costs of incarceration, including jail board bills. § 221.105(1) RSMo. (2016).
31. According to local rules within the Twenty-Seventh Judicial Circuit, the Commission for Defendant County establishes the daily rate of jail board bills. 27 Cir. Ct. Rule 5.2 (1).
32. In addition to assessing and determining the daily rate of jail board bills, Defendant County oversees the budget for the St. Clair County Sheriff's Office and the St. Clair County Jail. <sup>8</sup>
33. At all times relevant to the subject matter of this Petition, St. Clair County Sheriff Scott Keeler was acting under color of state law in his capacity as Sheriff of Defendant County.
34. At all times relevant to the subject matter of this Petition, Honorable Jerry J. Rellihan, was the Associate Circuit Judge for St. Clair County, Missouri. Defendant Rellihan is sued in both his individual and official capacities.

### **JURISDICTION AND VENUE**

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<sup>8</sup> St Clair County Commission Minutes, Jan. 14, 2019; <https://www.stclaircomo.com/sites/default/files/1-14-2019%20Comm%20Minutes%20001%5B4521%5D.jpg>; *See also*, St. Clair County Commission Minutes, Jan. 17, 2018; <https://www.stclaircomo.com/sites/default/files/Jan.%2017%2C%202018%20min%20002.jpg>

35. Venue is proper within the Circuit Court for St. Clair County.<sup>9</sup>
36. While venue within the Circuit Court of St. Clair County is appropriate, Mr. Richey is entitled to a change of venue as a matter of right pursuant to Mo. Sup. Ct. R. 51.03. *See* Plaintiff's Motion for Change of Venue.
37. The Circuit Court of St. Clair has jurisdiction to hear this case pursuant to § 506.500 RSMo.
38. Mr. Richey requests the recusal of St. Clair County Associate Circuit Judge Jerry J. Rellihan for cause and the disqualification of Presiding Judge of the Twenty-Seventh Judicial Circuit, Honorable Brandon Baker, as a matter of right. *See* Plaintiff's Motion for Recusal and Motion for Disqualification.
39. Pursuant to Missouri Supreme Court Rule 51.05(e), Mr. Richey requests the Presiding Judge of the Twenty-Seventh Judicial Circuit, Honorable Brandon Baker, seek a transfer of an impartial judge from the Missouri Supreme Court to preside over the proceedings related to this Petition. *See State ex. Re. Walters v. Schaeperkoetter*, 22 S.W.3d 740, 742-743 (Mo App. 2000). The judge transferred and assigned to this case will have full and complete jurisdiction to hear this case. *State ex. Rel. Ellis v. Creech*, 259 S.W.2d 372 (Mo. 1953).
40. Mr. Richey requests that the judge assigned by the Missouri Supreme Court to grant his Application for Intrastate Transfer of Inmate. *See* Plaintiff's Application for Intrastate Transfer of Inmate. an order from the judge assigned by the Missouri Supreme Court to preside over this case to grant his application for transfer.

### **STATEMENT OF FACTS COMMON TO ALL COUNTS**

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<sup>9</sup>"All actions whatsoever against any county shall be commenced in the circuit court of such county, and prosecuted to final judgment and execution therein, unless removed by change of venue to some other county, in which case the action or actions so removed shall be prosecuted to final judgment and execution in the circuit court of such other county." § 508.060 RSMo.(2016).

41. In April 2015, Mr. Richey pleaded guilty to the misdemeanor offense of violation of an order of protection and was sentenced to ninety days in Jail with credit for time served.

**Exhibit A.**

42. Upon Mr. Richey's release in June 2015, Defendant Rellihan ordered Mr. Richey to pay Defendant County a total of \$3,150 for his jail board bill. Defendant Rellihan calculated the bill using a rate determined by the Defendant County of \$35 per day for the ninety days Mr. Richey was incarcerated between April and June 2015. **Exhibit A.**

43. Defendant Rellihan ordered Mr. Richey to pay the total amount of \$3,266.50 (his jail board bill plus an additional \$116.50 in fines) by December 31, 2015. **Exhibit A.**

44. In 2015, Mr. Richey's only source of income was Social Security Disability Benefits. He received \$630 per month to obtain food, shelter, clothing, medical care, and comfort items according to federal law.<sup>10</sup>

45. Mr. Richey was unable to pay the jail board bill by December 31, 2015 and, as a result, on January 4, 2016, Defendant Rellihan issued a warrant for Mr. Richey's arrest. **Exhibit B.**

46. On February 2, 2016, Defendant Sheriff served Mr. Richey with a warrant for his arrest due to Mr. Richey's "failure to pay fines/costs." This new period of incarceration lasted sixty-five days. **Exhibit C.**

47. Mr. Richey, knowing he could not afford to pay a lawyer, requested and qualified for the assistance of a public defender. **Exhibit H.**

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<sup>10</sup> "The basic purpose underlying the supplemental security income program is to assure a minimum level of income for people who are age 65 or over, or who are blind or disabled and who do not have sufficient income and resources to maintain a standard of living at the established Federal minimum income level." 20 C.F.R. § 416.110 (1996).

48. Applicants for the services of the public defender in Missouri are only eligible if they fall below the Federal Poverty Guidelines.<sup>11</sup> That means any person qualifying for the services of the public defender must have made less than \$12,140 a year for a household of one, roughly the equivalent of one year's jailing according to Defendant County's set board bill amount. Mr. Richey qualified for a public defender.
49. Mr. Richey appeared in court with his public defender on February 17, 2016.
50. Docket entries indicate that Mr. Richey was "still unable to pay [the] agreed to amount of costs." **Exhibit D.**
51. There was no inquiry or finding regarding Mr. Richey's ability to pay and the Court ordered that Mr. Richey remain incarcerated until he paid. **Exhibit D.**
52. Mr. Richey wrote Defendant Rellihan on March 6, 2016, explaining that he was unable to pay his jail board bill. The letter was filed on March 10, 2016. **Exhibit E.**
53. Mr. Richey lived on a fixed income consisting of Social Security Disability Benefits and was three months behind on all of his bills at the time. After rent, utilities, and personal expenses, Mr. Richey was left with \$55 a month to survive. Although Defendant Rellihan now had evidence before him of Mr. Richey's poverty, he ordered Mr. Richey to remain in jail. **Exhibit E.**
54. On April 6, 2016, after languishing for sixty-five days in jail, Defendant Rellihan arbitrarily released Mr. Richey. **Exhibit F.**

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<sup>11</sup> "A defendant may be considered indigent if his/her gross pay and other sources of income do not exceed the federal poverty guideline as issued in the *Federal Register* by the U.S. Department of Health and Human Services." Mo. Code Regs. Ann. tit. 18, § 10-3.010 (2019).

55. During Mr. Richey's sixty-five day incarceration, Defendant Rellihan denied Mr. Richey's request for release and Defendant Sheriff enforced this unlawful order because of Defendant County's policy of imposing and collecting board bills through the threat of incarceration.
56. During this period of incarceration, Mr. Richey was not charged or found guilty of any offense. The sole reason for Mr. Richey's incarceration was because he could not afford to pay his jail board bill.
57. As a condition of release on April 6, 2016, Defendant Rellihan ordered Mr. Richey to immediately remit \$750 toward the outstanding jail board bill. **Exhibit F.**
58. Defendant Rellihan also assessed an additional jail board bill of \$2,275 for the sixty-five days Mr. Richey was incarcerated between February 2 and April 6, 2016. **Exhibit G.**
59. Adding that new board bill to the initial incarceration's outstanding debt, Defendant Rellihan ordered Richey to pay a total of \$5,541.50 at a rate of \$250 per month. **Exhibit G.**
60. The failure to pay this amount was punishable by further incarceration and never-ending additional costs for his incarceration enforced by Defendant Sheriff. **Exhibit G.**
61. When Defendant Rellihan issued his unlawful order, he knew Mr. Richey was unable to pay the costs of his incarceration.
62. Defendant Rellihan also ordered Mr. Richey's monthly return to court for "payment review" hearings to ensure he paid the costs of his unlawful incarceration to Defendant County.  
**Exhibit F.**
63. If Mr. Richey failed to make a payment or to attend a hearing, Defendant Rellihan immediately issued a warrant for his arrest, which was enforced by Defendant Sheriff to the benefit of Defendant County.

64. At the time of Defendant Rellihan's order, Mr. Richey's home address was 601 North College Avenue, Warrensburg, Missouri, over fifty miles from the courthouse in Osceola, Missouri.
65. Defendant Rellihan knew that Mr. Richey did not have reliable transportation. **Exhibit H.**
66. There is no adequate public transportation in rural Missouri and in order to attend court-ordered pay dockets and avoid subsequent arrest, incarceration, and new costs of incarceration, Mr. Richey relied on others to help him get to the courthouse.
67. If Mr. Richey was unable to find a ride to court from his home in Warrensburg, Mr. Richey would walk fifty-three miles to Appleton City to get a ride from a family member for the remaining twenty-seven miles from Appleton City and the courthouse in Osceola.
68. During these appearances, Defendant Rellihan made no inquiry into Mr. Richey's ability to pay.
69. On August 17, 2016, Mr. Richey appeared before the Court requesting smaller payments. Defendant Rellihan ignored Mr. Richey's plea, instead noting that "substantial payment progress [is] due." **Exhibit C.**
70. On August 18, 2016, Defendant Rellihan issued a warrant for Mr. Richey's arrest because of allegations that Mr. Richey committed a misdemeanor offense. **Exhibit I.**
71. Defendant Sheriff served the warrant and arrested Mr. Richey on August 19, 2016. **Exhibit I.**
72. On December 21, 2016, Defendant Rellihan released Mr. Richey on his own recognizance and ordered Mr. Richey to now pay \$350 per month instead of the original \$250 payment required by the Court. **Exhibit I.**

73. The \$350 monthly payment was over 55% of Mr. Richey's monthly income of \$630 he received from Social Security Disability Benefits at the time. **Exhibit C.**
74. Between May 2016 and October 2018, Mr. Richey was ordered to attend twenty-four "payment review" hearings to ensure he paid the costs of his unlawful incarceration to Defendant County. **Exhibit C.**
75. Only twice between May 2016 and October 2018 was he able to make a payment of \$250 for the remaining court ordered appearances, Mr. Richey made partial payment or no payment at all. **Exhibit C.**
76. Between June 2015 and March 2018, Mr. Richey used \$1,600 of his Social Security Disability Benefits to pay his outstanding debt to Defendant County and still owed \$3,941.50. **Exhibit G.**
77. On February 20, 2019, Defendant Rellihan issued a warrant for Mr. Richey's arrest for failure to appear at a probation violation hearing. **Exhibit I.**
78. Defendant Sheriff served the warrant and arrested Mr. Richey on February 26, 2019. Mr. Richey posted a \$3,500 surety bond and was released the same day. **Exhibits I, J, and K.**
79. On March 19, 2019, the Missouri Supreme Court issued an opinion holding that Defendant Rellihan's decision to incarcerate Mr. Richey for sixty-five days for failure to pay his jail board bill was impermissible and illegal. As the underlying incarceration was illegal, Mr. Richey could not be responsible for the resulting jail board bill for his incarceration between February and April 2016. *State v. Richey*, 569 S.W.3d 420, 425 (Mo. Sup. Ct. 2019). *See also Exhibit T.*

80. The Missouri Supreme Court noted “[Judge Rellihan] should not have required [Mr. Richey] to repeatedly appear to account for debts the courts could not legally designate as court costs” and that Mr. Richey should not have been sent back to jail for failing to pay his jail board bill. *Id. See also, Exhibit T.*
81. Ultimately, the Missouri Supreme Court ordered the removal of the \$2,275 charge from Mr. Richey’s liabilities and ordered Defendant Rellihan to “apply any funds Richey has paid towards that debt to the jail debt incurred during his underlying *lawful* incarceration.” *Id., see also, Exhibit T.*
82. As a result of Mr. Richey’s appeal, the Missouri Supreme Court prohibited Defendants County and Sheriff from imprisoning people, including Mr. Richey, for their inability to pay debts associated with a previous incarceration. **Exhibit T.**
83. Additionally, Mr. Richey successfully obtained a writ prohibiting Defendant Rellihan from compelling him to attend the “payment review” hearings. **Exhibit R.**
84. Between August 2016 and December 2018, St. Clair County prosecuting attorney charged Mr. Richey with six misdemeanors. **Exhibit I, J, K, and P.**
85. Three months after Mr. Richey’s win in the Missouri Supreme Court, Defendant Rellihan decided to run Mr. Richey’s sentences consecutively instead of concurrently. **Exhibit U.**
86. As a result, Defendant Rellihan’s decision meant he sentenced Mr. Richey to 755 days in the jail because of misdemeanors and probation violations. **Exhibit I, J, K, P, and U.**
87. The 755 days in jail will amount to a jail board bill of \$26,425.00, an amount Mr. Richey will never be able to pay.

88. Mr. Richey's public defender questioned Defendant Rellihan's decision to run Mr. Richey's sentences consecutively, however, Defendant Rellihan stayed firm in his decision to impose consecutive sentencing. **Exhibit U.**

89. Mr. Richey has been incarcerated by Defendants County and Sheriff since June 5, 2019.  
**Exhibits I, J, K, and P.**

90. Since then, Mr. Richey has not been outside or even seen the sun, and has been unable to communicate with his family.

91. As a result of Defendant Rellihan, Defendant Sheriff, and Defendant County's policies and practices, Mr. Richey's life has fallen apart. He lost his home and all of his personal belongings, including clothing, furniture, appliances, electronics and personal effects. Additionally, the incarceration led to the deterioration of his relationship with his family.

92. As a result of the illegal jail board bill assessed by Defendant Rellihan to benefit Defendant County and the resulting incarceration by Defendant Sheriff, Mr. Richey was deprived of his constitutional liberties and freedoms.

### **CLAIMS FOR RELIEF**

#### **COUNT I: FALSE IMPRISONMENT**

93. Mr. Richey incorporates by reference the allegations in paragraphs 1-92.

94. In order to succeed on a claim for false imprisonment, a Plaintiff must show:

- a. He was confined against his will; and
- b. His imprisonment was unlawful. *Ivy v. Wal-Mart Stores, Inc.*, 777 S.W.2d 682, 684 (Mo. App. 1989).

95. Defendants County and Sheriff committed false imprisonment by confining Mr. Richey against his will for the unlawful purpose of collecting Mr. Richey's jail board bill.
96. Defendant County encouraged, caused, and initiated the arrest of Mr. Richey by serving the January 4, 2016 warrant for failure to pay his jail board bill.
97. For sixty-five days between February 2 and April 6, 2016, Defendant Sheriff incarcerated Mr. Richey against his will at the Jail, which is owned and operated by Defendant County.
98. The Missouri Supreme Court has held that arresting people for failure to pay jail board bills and discretionary court costs is illegal. **Exhibit T.**
99. Defendants County and Sheriffs' incarceration of Mr. Richey for failure to pay for his April 2015 jail board bill was unlawful.
100. Defendant County, pursuant to § 537.600 RSMo. and § 537.610 RSMo., had in full force and effect, and did maintain at all times pertinent, a policy of general liability insurance.
101. By possessing such insurance (and/or any self insurance), the Defendant County has waived sovereign immunity on state claims pursuant to § 537.610.1, RSMo.
102. As a result of being falsely imprisoned, Mr. Richey lost everything, including his home, clothing, and personal effects.
103. Additionally, his absence strained the relationship between Mr. Richey and his son.
104. As a direct result of Defendants' unlawful practices, Mr. Richey has suffered extensive damages, including, but not limited to, pain and suffering, anxiety, anguish, feelings of unjust treatment, fear, and lost earnings.

## **COUNT II: ABUSE OF PROCESS**

105. Mr. Richey incorporates by reference the allegations in paragraphs 1-104.

106. The test to determine abuse of process is whether the process was used to accomplish some unlawful end or to compel the opposing party to do some collateral thing that he could not be compelled to do legally. *Lambert v. Warner*, 379 S.W. 3d 848, 656 (Mo. App. 2012).

107. In order to succeed on a claim for abuse of process, a Plaintiff must show:

- a. Defendant made an illegal, improper, perverted use of process, a use neither warranted nor authorized by the process;
- b. Defendant had an improper purpose in exercising such illegal, perverted or improper use of process; and
- c. Damages.

*Arbors at Sugar Creek Homeowners Association v. Jefferson Bank and Trust Co. Inc.*, 464 S.W.3d 177, 188 (Mo. 2015).

108. Under the guise of legal authority, Defendants County and Sheriff used the January 4, 2016 warrant for failure to appear to arrest and incarcerate Mr. Richey for failing to pay his jail board bill. **Exhibit B.**

109. Using an arrest warrant to incarcerate people for failure to pay for jail board bills is not authorized by state or federal law.

110. The purpose of Defendant County and Sheriffs' use of the January 4, 2016 warrant was to extort money from Mr. Richey in two ways: first, to compel him to pay his outstanding jail board bill; and, second, to continue extracting revenue from Mr. Richey by charging him \$35 per day for each day of his incarceration.

111. The Missouri Supreme Court's March 2019 opinion made it clear that Defendant County's use of warrants and arrests to compel Mr. Richey pay the costs of his incarceration

was an illegal, improper, perverted, and unauthorized use of the criminal justice system.

**Exhibit T.**

112. As a result of Defendant Sheriff serving the warrant, arresting, and incarcerating Mr. Richey pursuant to January 4, 2016 warrant, Mr. Richey languished in jail for sixty-five days.
113. During this time, he lost his home, all of his personal effects and his relationship with his family deteriorated.
114. After being released from jail, Defendant Rellihan required Mr. Richey to attend twenty-four hearings regarding his outstanding jail board bill debt.
115. To attend these hearings, Mr. Richey would often walk fifty-three miles from his home in Warrensburg to Appleton City to then get a ride for the remaining twenty-seven miles from Appleton City to the courthouse in Osceola.
116. This almost monthly pilgrimage was physically and mentally demanding for Mr. Richey and made it impossible for him to find a steady job or obtain any stability.
117. Defendant County, pursuant to § 537.600 RSMo. and § 537.610 RSMo., had in full force and effect, and did maintain at all times pertinent, a policy of general liability insurance
118. By possessing such insurance (and/or any self insurance), the Defendant County has waived sovereign immunity on state claims pursuant to § 537.610.1, RSMo.
119. As a direct result of Defendants County and Sheriffs' unlawful practices, Mr. Richey suffered extensive damages, including, but not limited to, pain and suffering, anxiety, anguish, feelings of unjust treatment, fear, and lost earnings.

**COUNT III: DUE PROCESS AND EQUAL PROTECTION**

120. Mr. Richey incorporates by reference the allegations in paragraphs 1-119.
121. In order to state a claim under 42 U.S.C. § 1983, a Plaintiff must show that:
  - a. Defendant's action deprived him of a federal constitutional right; and
  - b. The defendant was acting under color of state law when engaging in the conduct complained of by the plaintiff. 42 U.S.C. § 1983.
122. Claims under Section 1983 are cognizable by Missouri courts. *Stafford v. Muster*, 582 S.W.12d 670, 681 (Mo. 1979).
123. Defendants County and Sheriff violated Mr. Richey's Fourth Amendment and Fourteenth Amendment rights when arresting and incarcerating him for sixty-five days between February and April 2016 for the sole reason he was unable to pay his jail board bill.
124. As a direct result of Defendants County and Sheriffs' unlawful practices, Mr. Richey suffered extensive damages, including, but not limited to, pain and suffering, anxiety, anguish, feelings of unjust treatment, fear, and lost earnings.
125. Defendants County and Sheriff can be held liable for damages under 42 U.S.C. § 1983.
126. Mr. Richey has a right against wealth-based detention. The Fourteenth Amendment's Equal Protection and Due Process Clauses prohibit jailing a person because of their inability to make a monetary payment. *Bearden v. Georgia*, 461 U.S. 660 (1983).
127. Because Mr. Richey was detained based solely on his inability to pay, heightened scrutiny is implicated. *O'Donnell v. Harris Cty.*, 892 F.3d 147, 161 (5th Cir. 2018) (“[T]he Supreme Court has found that heightened scrutiny is required when criminal laws detain poor defendants because of their indigence.”); *Tate v. Short*, 401 U.S. 395, 397-99 (1971); *Williams v. Illinois*, 399 U.S. 235, 241-42 (1970).

128. Prior to incarcerating an indigent defendant, a court must determine that the individual was willfully failing to pay, and that there were no other methods other than incarceration that would fulfill the government's interest in collecting the fines. *Bearden v. Georgia*, 461 U.S. 660, 668-69 (1983).
129. Mr. Richey was arrested and incarcerated when he could not afford his jail board bill without any inquiry into alternatives to imprisonment or his ability to pay as required by the United States Constitution.
130. At any time, had Mr. Richey had the financial resources necessary, he could have paid the entirety of his jail board bill and been released.
131. Defendants County and Sheriffs' policy and practice is to execute arrest warrants against those who have not paid their jail board bill. These warrants are executed without inquiry as to the person's ability to pay even though the person is impoverished and unable to pay or possesses other valid defenses.
132. By incarcerating Mr. Richey, Defendant County took advantage of its control over the machinery of the penal and police systems to deny Mr. Richey of the statutory protections that every debtor may invoke against a private creditor.
133. The coercive policy and practice constitutes invidious discrimination and violates the fundamental principles of equal protection of the laws.
134. Defendant County maintained, and continues to maintain, a policy and practice of: (i) imprisoning, or threatening to imprison, people, like Mr. Richey, when they cannot afford to pay the debts allegedly owed as a result of jail board bills and discretionary court fees; and

(ii) incarcerating people, like Mr. Richey, in jail unless and until they are able to pay for illegally imposed jail board bills.

135. These practices violated Mr. Richey's Fourteenth Amendment rights by depriving him of the most basic of fundamental liberty interests without adequate due process.

136. Defendant County is liable under 42 U.S.C. § 1983.

137. As a direct result of Defendant County's unlawful practices, Mr. Richey suffered extensive damages, including, but not limited to, pain and suffering, anxiety, anguish, feelings of unjust treatment, fear, and lost earnings.

#### **COUNT IV: UNREASONABLE SEIZURE**

138. Mr. Richey incorporates by reference the allegations in paragraphs 1-137.

139. Defendants County and Sheriff violated Mr. Richey's Fourth Amendment Rights against unreasonable seizures without a reliable finding of probable cause because it is a right of the people "to be secure in their persons . . . and no warrants shall issue, but upon probable cause, supported by oath or affirmation. . ." U.S. Const. Art. V, amend. 4.

140. A valid warrant must be supported by an indictment or by a complaint stating sufficient facts to show probable cause to believe the person identified in the warrant has committed the offense described in the complaint. Mo. Sup. Ct. R. 22.03.

141. Probable cause simply means "a knowledge of facts and circumstances sufficient for a prudent person to believe a suspect is committing or has committed an offense." *State v. Tokar*, 918 S.W.2d 753 (Mo. 1996).

142. When the January 4, 2016 warrant was issued, there was no complaint or statement to support probable cause that Mr. Richey committed an offense. **Exhibits B and C.**

143. The true purpose of the warrant was to compel Mr. Richey to pay for outstanding jail board bill owed to Defendant County.

144. Despite the complete lack of probable cause, Defendant Sheriff illegally arrested Mr. Richey on February 2, 2016.

145. For sixty-five days, Mr. Richey remained imprisoned by Defendants County and Sheriff until April 6, 2016.

146. These practices violated Mr. Richey's Fourth Amendment rights by effecting unreasonable seizures without a fair and reliable determination of probable cause.

147. As a direct result of Defendant County and Sheriff's' unlawful practices, Mr. Richey has suffered extensive damages, including, but not limited to, pain and suffering, anxiety, anguish, feelings of unjust treatment, fear, and lost earnings.

#### **COUNT V: ANTI-ATTACHMENT PROVISION OF THE SOCIAL SECURITY ACT**

148. Mr. Richey incorporates by reference the allegations in paragraphs 1-147.

149. Since at least March 6, 2016, Defendant County has been aware of the fact that Mr. Richey is a recipient of Social Security Disability Benefits ("SSDB"). **Exhibit E.**

150. Defendant County knew the only means Mr. Richey had to pay his jail board bill and court fees was using these benefits.

151. Defendant County's policy and practice of using SSDB to pay for jail board bills and court fees violates the anti-attachment provision of the Social Security Act, which in relevant part states:

The right of any person to any future payment under this subchapter shall not be transferable or assignable at law or in equity, *and none of the moneys paid or payable or rights existing under this subchapter shall be subject to execution, levy, attachment, garnishment, or other legal process.* . . .

42 U.S.C. § 407(a) (emphasis added).

152. Defendant County knew that Mr. Richey was unemployed and on fixed income. **Exhibits E and Q.**

153. Defendant County knew that the only money Mr. Richey had to pay for his jail board bill and court fees was from his SSDB benefits. **Exhibits E and Q.**

154. Instead of using his SSDB benefits for their intended purpose of obtaining food, shelter and medical care, Defendant County required Mr. Richey to use these funds to pay for his jail board bill and court fees.

155. This practice directly contradicts the Social Security Act's anti-attachment provision.

156. Mr. Richey seeks a declaratory judgement prohibiting Defendant County from compelling Mr. Richey to use his Social Security Disability Benefits to pay for his jail board bill, fines, and costs.

#### **COUNT VI: WARRANT ISSUED WITHOUT PROBABLE CAUSE**

157. Mr. Richey incorporates by reference the allegations in paragraphs 1-156.

158. On January 4, 2016, Defendant Rellihan issued a warrant for Mr. Richey's arrest for failure to pay for his jail board bill.
159. The January 4, 2016 warrant was served by Defendant Sheriff, who arrested and imprisoned Mr. Richey for sixty-five days between February 2 and April 6, 2016.
160. During the sixty-five days of his incarceration, there was no finding that Mr. Richey committed a crime. Rather, Mr. Richey remained incarcerated as a result of his inability to pay. **Exhibit C.**
161. The January 4, 2016 warrant completely and totally lacked probable cause as there was no written statement, affidavit, or testimony that Mr. Richey committed a criminal act.
162. Prior to issuing the January 2016 warrant, Defendant Rellihan made no determination of probable cause.
163. Mr. Richey seeks a declaratory judgment that Defendant Rellihan's act of issuing the January 4, 2016 warrant without any finding of probable cause was unconstitutional.

#### **COUNT VII: RETALIATION**

164. Mr. Richey incorporates by reference the allegations in paragraphs 1-163.
165. Defendant Rellihan violated Mr. Richey's First Amendment rights by retaliating against him after Mr. Richey engaged in the protected conduct of filing a Writ of Prohibition and in appealing Defendant Rellihan's denial of the Motion to Retax Costs.
166. To prevail on a claim for retaliation in violation of the First Amendment, a Plaintiff must show:
- a. That he engaged in a protected activity;

- b. That the government defendant took adverse action against the plaintiff that would chill a person of ordinary firmness from continuing in the activity; and
- c. That the adverse action was motivated at least in part by the exercise of the protected activity.

*Santiago v. Blair*, 707 F.3d 984, 991 (8th Cir. 2013).

167. Facing the impossibility of paying the costs of his incarceration and avoiding further jailings, Mr. Richey filed a Motion to Retax Costs (hereinafter “Motion to Retax”) in the Circuit Court of St. Clair County appealing Defendant Rellihan’s imposition of \$5,425.00 for his jail board bill as “court costs” for lack of express statutory authority to do so on March 19, 2018. **Exhibit L.**

168. An itemized fee assessment of what Mr. Richey “owed” Defendant County at the time:

“Board Bill - Def.”	\$5,425.00
“LET-County”	\$2.00
“Inmate Pris Detainee Security”	\$2.00
“Misdemeanor Costs w/SRF”	\$102.50
“CVC”	\$10.00
<b>Total</b>	<b>\$5,541.50</b>

169. On May 2, 2018, Defendant Rellihan denied Mr. Richey’s Motion to Retax. **Exhibit C.**

170. On May 3, 2018, Mr. Richey appealed Defendant Rellihan’s denial of the Motion to Retax in the Southern District for the Missouri Court of Appeals (hereinafter “the Southern District”). **Exhibit M.**

171. On May 10, 2018, Mr. Richey filed an Application for Transfer in the Missouri Supreme Court for his appeal of the denial of the Motion to Retax. The Southern District denied Mr. Richey's Application for Transfer on May 14, 2018. **Exhibit M.**
172. On November 7, 2018, Mr. Richey filed a Petition for a Writ of Prohibition (hereinafter "Writ of Prohibition") in the Southern District against Defendant Rellihan requesting Defendant Rellihan be prohibited from compelling Mr. Richey to attend the "payment review" hearings. **Exhibit N.**
173. The Southern District denied the Writ of Prohibition on November 8, 2018; Mr. Richey filed an immediate appeal of this decision with the Missouri Supreme Court. **Exhibit O.**
174. On November 30, 2018, the Missouri Supreme Court issued an order demanding that Defendant Rellihan file suggestions in opposition in response to the Writ of Prohibition by December 4, 2018. Defendant Rellihan did not comply with this order. **Exhibit O.**
175. Instead of complying with the Court's order, Defendant Rellihan issued a warrant on December 3, 2018 for charges filed against Mr. Richey regarding allegations that occurred nearly three months earlier. **Exhibit P.**
176. On December 4, 2018, Defendant Sheriff arrested Mr. Richey. Mr. Richey posted a \$2,500 surety bond and was released the same day. **Exhibit P.**
177. As a result of Defendant Rellihan's failure to comply with its previous demands, the Missouri Supreme Court issued a second order demanding Defendant Rellihan respond to the Writ of Prohibition by December 14, 2018. **Exhibit R.**
178. On December 6, 2018, the Prosecuting Attorney for Defendant County, Joshua P. Jones, filed a Motion to Revoke Mr. Richey's probation. **Exhibits I, J, and K.**

179. On December 7, 2018, Mr. Richey's public defender submitted a letter to the Clerk of the St. Clair County Circuit Court bringing attention to the fact Defendant County required Mr. Richey to pay his jail board bill and court fees with his Social Security Disability Benefits.

**Exhibit Q.**

180. The letter detailing this illegal practice was submitted and filed with the Clerk for the Missouri Supreme Court. **Exhibit Q.**

181. On December 10, 2018, Defendant Rellihan issued another warrant for Mr. Richey's arrest for violating his probation. **Exhibits I, J, and K.**

182. On December 11, 2018, for the second time in less than a week, Defendant Sheriff arrested Mr. Richey. **Exhibit I, J, and K.**

183. Defendant Rellihan provided the Missouri Supreme Court with his Suggestions in Opposition to the Writ of Prohibition on December 13, 2018. **Exhibit O.**

184. Mr. Richey was released from the Jail on December 20, 2018 after posting a \$2,500 surety bond. **Exhibits I, J, and K.**

185. On December 21, 2018, the Missouri Supreme Court ordered the Southern District to transfer Mr. Richey's appeal of Defendant Rellihan's denial of the Motion to Retax and the Writ of Prohibition for "consideration of the general interests and importance of questions involved in the case." **Exhibit R.**

186. On January 24, 2019, the Missouri Supreme Court issued a preliminary writ ordering Defendant Rellihan to cancel Mr. Richey's court appearance set for February 6, 2019.

**Exhibit O.**

187. On the same day Defendant Rellihan filed a brief in the appeal of the denial of the Motion to Retax Costs, asserting that “[Mr. Richey] now claims that his failure to comply with the order to pay the initial jail board bill was a result of his inability to pay the costs, there is no evidence in the record to support that claim.” **Exhibit S.**
188. On January 28, 2019, four days *after* the preliminary writ was issued, rather than cancelling his court appearance as ordered by the Missouri Supreme Court, Defendant Rellihan instead “re-set” Mr. Richey’s February 6, 2019 court appearance for April 3, 2019. **Exhibit C.**
189. On February 6, 2019, the Missouri Supreme Court heard arguments on Mr. Richey’s Motion to Retax. **Exhibit R.**
190. On the same day, Mr. Richey appeared before Defendant Rellihan for a separate probation violation hearing. The probation violation hearing was reset for February 20, 2019. **Exhibits I, J, and K.**
191. On February 20, 2019, Mr. Richey did not appear for a probation violation hearing and Defendant Rellihan issued a warrant for Mr. Richey’s arrest. **Exhibits I, J, and K.**
192. That same day, the public defender assisting Mr. Richey filed a letter with the Missouri Supreme Court indicating that Defendant Rellihan was not complying with the the January 24 order prohibiting Mr. Richey to attend the court’s “payment review” hearings. **Exhibit W.**
193. On February 21, 2019, Defendant Rellihan canceled the reset April 3, 2019 court date which was rescheduled from the original February 6 court date in defiance of the Missouri Supreme Court’s January order. **Exhibit C.**

194. On March 19, 2019, the Missouri Supreme Court issued an opinion holding that Defendant Rellihan acted in excess of his authority by taxing Mr. Richey's jail board bill as "court costs". **Exhibit T.**
195. The Court further stated that Defendant Rellihan acted inappropriately by incarcerating Mr. Richey for sixty-five days for failure to pay his jail board bill. **Exhibit T.**
196. On March 20, 2019, Defendant Rellihan rescheduled Mr. Richey's probation violation hearing for March 22, 2019. **Exhibits I, J, and K.**
197. On March 22, 2019, Defendant Rellihan rescheduled Mr. Richey's probation violation hearing again and moved it to April 3, 2019. **Exhibits I, J, and K.**
198. On April 3, 2019, Defendant Rellihan scheduled a bench trial for Mr. Richey's September 2018 charges and a hearing regarding the violation of his probation for June 5, 2019. **Exhibit P.**
199. During the June 5, 2019 hearing Defendant Rellihan found Mr. Richey found guilty of two counts and sentenced him to 180 days in jail for a class B misdemeanor of trespass and fifteen days for a class C misdemeanor of third degree assault. **Exhibit U.**
200. Defendant Rellihan also sentenced Mr. Richey to 575 days in jail for violating his probation for his previous misdemeanors. **Exhibit U.**
201. Defendant Rellihan decided to run Mr. Richey's sentences consecutively instead of concurrently. **Exhibit U**
202. Therefore, as a result of the misdemeanor charges, Defendant Rellihan sentenced Mr. Richey for a total of 755 days in jail. **Exhibit U.**

203. Defendant Rellihan's actions were in direct response to Mr. Richey engaging in the protected conduct of appealing the Motion to Retax and seeking a Writ of Prohibition against Defendant Rellihan.
204. Defendant Rellihan's decision to run Mr. Richey's sentencing consecutively instead of concurrently is an adverse action that would chill an ordinary person from filing suit against Defendant Rellihan for fear of retaliation.
205. Mr. Richey seeks a declaratory judgment finding Defendant Rellihan retaliated against him by imposing excessive sentencing after Mr. Richey engaged in protected conduct.

WHEREFORE, Plaintiff prays for the following relief:

- A. This Court enter a Declaratory Judgment that Defendants violated the Plaintiff's Constitutional rights having operated a system of wealth-based detention that kept him in jail because he could not afford to pay jail board bills;
- B. This Court enter a Declaratory Judgment that the actions of the Defendant Judge to be illegal and in violation of Missouri law;
- C. This Court enter an order awarding compensatory damages for the Plaintiff in an amount that is fair, just, and reasonable under the circumstances in such amounts to be determined by a jury;
- D. This Court enter an order awarding Plaintiff punitive damages in such amounts to be determined by a jury;
- E. This Court enter an order awarding Plaintiff attorney's fees and costs of this action; and
- F. Any such other and further relief as the Court deems just and proper.

Respectfully Submitted,

Date Submitted: February 4, 2020

**ARCHCITY DEFENDERS, INC.**

*/s/Michael-John Voss*

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**CERTIFICATE OF SERVICE**

I hereby certify that on February 4, 2020, a true and accurate copy of the foregoing was delivered to the Court and all parties of record via the Casenet e-Filing system.

*/s/Michael-John Voss*