

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF MISSOURI  
EASTERN DIVISION

M.A.B.,	)	
	)	
Plaintiff,	)	
	)	
v.	)	No. 4:17-cv-02229-NCC
	)	
OFFICER MICHELLE MASON, <i>et al.</i>	)	
	)	
Defendants.	)	

**Plaintiff's Memorandum of filing of her First Amended Complaint**

Plaintiff M.A.B., by counsel W. Bevis Schock and Hugh A. Eastwood, states for her memorandum of filing of her First Amended Complaint:

1. The Court has ordered that Plaintiff file a First Amended Complaint within fourteen days of October 27, 2017 [ECF Doc. 15].
2. That Order requires Plaintiff to remove references of law in footnotes within her pleading, and, if written evidence is referenced within her pleading, then for her to attach it as an exhibit. Fed. R. Civ. P. 10(c). Here, that written evidence is Defendant Officer Johnston's sworn deposition testimony, which is not confidential nor subject to a protective order. The testimony is filed with redaction of Plaintiff's name by consent of all parties. Given the nature of her claims, Plaintiff is proceeding by her initials by leave of the presiding judge of the Circuit Court of St. Louis County, 21st Judicial Circuit, State of Missouri (where her petition was originally filed before removal by Defendants).
3. Attached as an exhibit is Plaintiff's First Amended Complaint and Plaintiff's Exhibit 1.

Respectfully submitted,

Co-Counsel for Plaintiff

/s/ W. Bevis Schock

W. Bevis Schock, 32551MO  
Attorney at Law  
7777 Bonhomme Ave., Ste. 1300  
St. Louis, MO 63105  
wbschock@schocklaw.com  
Fax: 314-721-1698  
Voice: 314-726-2322

/s/ Hugh A. Eastwood .  
Hugh A. Eastwood, 62058MO  
Attorney at Law  
7911 Forsyth Blvd., Ste. 300  
St. Louis, MO 63105  
[heastwood@eastwoodlawstl.com](mailto:heastwood@eastwoodlawstl.com)  
Fax: 314-863-5335  
Vox: 314-809-2343

CERTIFICATE OF SERVICE

I hereby certify that on 11/07/2017 the foregoing was filed electronically with the Clerk of Court to be served by operation of the Court's CM/ECF system upon all counsel of record

/s/ Hugh A. Eastwood, 62058MO

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF MISSOURI  
EASTERN DIVISION

M.A.B., )  
)  
Plaintiff, )  
)  
v. ) Case No. 4:17-cv-02229-NCC  
)  
OFFICER MICHELLE MASON, )  
OFFICER GREGORY JOHNSTON, and )  
CITY OF MARYLAND HEIGHTS, )  
)  
Defendants. )

**First Amended Complaint for Damages**

**42 U.S.C. §1983 and Missouri state law**

Plaintiff M.A.B., by counsel W. Bevis Schock and Hugh A. Eastwood, states for her First Amended Complaint for Damages pursuant to 42 U.S.C. §1983 and Missouri state law:

**Preliminary Allegations**

**Parties**

1. Plaintiff M.A.B. is a 32-year-old female individual residing in St. Charles County, Missouri. (Because she alleges she was a victim of sexual misconduct she proceeds in this public document by her initials, with a separate document containing her full name already filed under seal. Plaintiff will state her name openly at trial).
2. At all relevant times Defendant Officer Michelle Mason (f/k/a Michelle Skaggs) was a police officer for the City of Maryland Heights, Missouri, a municipality within St. Louis County, Missouri. Plaintiff sues Officer Mason in her individual capacity only.
3. At all relevant times Defendant Officer Gregory Johnston was a police officer for the City of Maryland Heights, Missouri, a municipality within St. Louis County, Missouri.

Plaintiff sues Officer Johnston in his individual capacity only.

4. Defendant City of Maryland Heights, Missouri is a properly formed third-class statutory municipality.

#### **Jurisdiction**

5. Plaintiff brings this civil rights action pursuant to 42 U.S.C. §1983 and §1988 and the Fourth and Fourteenth Amendments to the United States Constitution, and pursuant to Missouri state law.
6. This Court has concurrent jurisdiction with federal district courts over Plaintiff's federal civil rights claim.

#### **Venue**

7. The events complained of occurred in St. Louis County, Missouri.

#### **Color of State Law**

8. At all relevant times each Defendant was acting under color of state law. Particularly, at all relevant times each Defendant acted under color of the laws, statutes, ordinances, regulations, policies, customs and usages of the State of Missouri, and its political subdivisions.

#### **Jury Demand**

9. Plaintiff demands jury trial.

#### **Facts**

10. On April 26, 2016 at approximately 10:22 a.m. Plaintiff was driving southbound along North Lindbergh Boulevard north of Adie Road within the city limits of Maryland Heights.
11. Plaintiff's vehicle is titled in her own name, or, in the alternative, in her own name and

her father's name.

12. Plaintiff was on her way to work in a routine fashion and had driven that route approximately five days per week for the prior two months.
13. Plaintiff's workplace was and is a bar called "Sonny's" in Overland.
14. The weather was clear and dry.
15. The posted speed limit at that location and for several miles further to the north is 40 mph.
16. In the alternative Plaintiff was proceeding at a rate greater than 1 mph but less than 15 mph over the speed limit, or was speeding at 15 miles per hour over the speed limit.
17. Maryland Heights Police Officer Gregory Johnston was on duty at Adie Road, on the southbound side.
18. At that location Officer Johnston was using "LIDAR" for speed enforcement.
19. Officer Johnston had been trained and certified on LIDAR usage by another Maryland Heights officer.
20. That morning Officer Johnston did not calibrate his LIDAR unit, either at that location or elsewhere.
21. That morning Officer Johnston's LIDAR unit was wholly unreliable for meaningful speed detection.
22. Officer Johnston aimed the LIDAR device to the north at Plaintiff's car.
23. Officer Johnston's LIDAR unit stated that Plaintiff's speed was 55 mph.
24. Officer Johnston pulled out behind Plaintiff's car and activated his lights.
25. Plaintiff properly exited Lindbergh at Dorsett Road (also sometimes referred to as "Midland").

26. With the light green Plaintiff properly turned left onto the Dorsett Road overpass that traverses Lindbergh.
27. Plaintiff properly pulled over to the right and stopped in the middle of the overpass.
28. A few months previously Plaintiff had loaned her car to her cousin, Patricia Ann Scaife, so Ms. Scaife could pick up Ms. Scaife's daughter.
29. On information and belief during the loan period Ms. Scaife received a traffic ticket in Kirkwood, Missouri.
30. On information and belief Ms. Scaife did not then appear in court for the ticket, and the court issued a warrant for Ms. Scaife's arrest.
31. On information and belief Ms. Scaife has a criminal history the nature of which is unknown to Plaintiff.
32. Ms. Scaife did not inform Plaintiff of the ticket or the warrant.
33. In connection with Ms. Scaife's warrant, Plaintiff's license plate was tagged in one or more law enforcement databases as having been used in the course of unlawful activity, and Ms. Scaife was tagged as being associated with that vehicle.
34. A few minutes passed while Officer Johnston remained in his car behind Plaintiff's car.
35. On inference during that time Officer Johnston and or Maryland Heights dispatch was running Plaintiff's license plate through two databases, LEWeb (maintained by REJIS) and Crime Matrix (maintained by St. Louis County).
36. On inference, the license tag came up as associated with Ms. Scaife and/or her ticket and warrant.
37. On inference the data base indicated that Ms. Scaife was a dangerous person.
38. Officer Johnston approached the Plaintiff's driver's window and asked for her driver

license and insurance card.

39. Plaintiff stated that her insurance was in electronic format on the GEICO app on her smartphone.
40. Officer Johnston told Plaintiff not to worry about the insurance and to give him her driver's license.
41. Plaintiff gave Officer Johnston her driver license.
42. Officer Johnston then told Plaintiff to get out of the car.
43. Officer Johnston asked if Plaintiff knew why he was asking her to get out of the car.
44. Plaintiff said she did not know.
45. Officer Johnston said: "You are acting nervous".
46. Plaintiff said she was trying to get to work and had the key to the building and needed to get there to open up.
47. On inference by that point Officer Johnston had learned that Plaintiff's vehicle was owned by Plaintiff and Officer Johnston had run Plaintiff's driver license.
48. Plaintiff had no warrants or criminal convictions, although she had been arrested before on two occasions, once for assault when she was a teenager, and she had prior traffic convictions.
49. All such law enforcement contact was minor and/or remote in time.
50. Plaintiff's visage and race did then and do now match her picture on her driver's license, and the other indicia of identification on the license, including gender, height, weight and eye color, were also consistent with Plaintiff as she presented herself to the officer that morning.
51. Officer Johnston believed that Plaintiff was the person on Plaintiff's driver's license, and

had no information to the contrary.

52. On inference Officer Johnston knew by then as a result of his inquiry or dispatch's inquiry that the subject of Ms. Scaife's warrant was not Plaintiff.
53. At that moment in time, Officer Johnston had no probable cause to believe Plaintiff had violated any law other than speeding.
54. Officer Johnston did not know how, if at all, Plaintiff was related to or connected with Ms. Scaiffe, the subject of the warrant.
55. Plaintiff's prior law enforcement contact did not give Officer Johnston cause to believe that Plaintiff was dangerous to him.
56. Officer Johnston asked Plaintiff for her consent to search her car, which she freely gave.
57. Officer Johnston searched Plaintiff's car but found no weapons or contraband.

#### **The Call Out**

58. At some point during the above events Officer Johnston called out on his radio for a specific officer, Officer Mason, to come to the scene to search Plaintiff.
59. Officer Mason was the only female Maryland Heights officer then on duty.
60. Officer Johnston has testified that he called out for a female officer based on the "totality of everything," including:
  - a. The unknown relationship between Plaintiff and the subject of the warrant,
  - b. The criminal history of the subject of the warrant,
  - c. Plaintiff's criminal history, and
  - d. Plaintiff's nervousness when asked about the subject of the warrant.
61. Officer Johnston did not pat down Plaintiff.
62. Officer Mason arrived at the scene.

**Body Cavity Search**

63. Upon her arrival Officer Mason first did a pat down search of Plaintiff.
64. Officer Mason then had Plaintiff sit sideways on the rear passenger side seat of Officer Mason's patrol car.
65. Officer Mason had Plaintiff put her feet on the ground outside.
66. Plaintiff was wearing a long skirt and underwear.
67. Officer Mason told Plaintiff to scoot forward in the seat.
68. Officer Mason knelt on the ground directly in front of Plaintiff.
69. Officer Mason moved her head up under Plaintiff's skirt.
70. Officer Mason moved aside Plaintiff's underwear.
71. Defendant Officer Mason performed a visual search and a tactile body cavity search of Plaintiff, including putting a gloved finger first inside Plaintiff's vagina and then inside Plaintiff's anus.
72. Plaintiff was wearing a form fitting shirt.
73. Officer Mason then had Plaintiff unhook her bra and push the bra up.
74. Officer Mason then went up under Plaintiff's shirt and used her hands to push up Plaintiff's breasts to examine the area under Plaintiff's breasts.
75. On inference Officer Johnston called out for a female officer because he was aware that a strip search was going to occur and he knew a female would be required for such a search.
76. Officer Mason never told Plaintiff that she was about to conduct the search.
77. Officer Mason never asked Plaintiff for consent to conduct the search of Plaintiff's body.
78. Plaintiff did not consent to the search.

79. Officer Mason then told Plaintiff to “put yourself back together and go stand behind your car.”
80. Plaintiff put her clothes back together and went and stood behind her car.
81. Plaintiff had no further contact with Officer Mason.

**No Lawful Cause Strip Search or Body Cavity Search**

82. Missouri law prohibits strip searches and body cavity searches of persons arrested or detained for a traffic offense unless there is probable cause to believe that the subject of the search is concealing a weapon, evidence of the commission of a crime or contraband. RSMo. 544.193.2.
83. Strip searches and body cavity searches of persons arrested or detained for a traffic offense when there is no probable cause to believe that the subject of the search is concealing a weapon, evidence of the commission of a crime or contraband are unreasonable under the Fourth Amendment.
84. Plaintiff was detained for a traffic offense and nothing else.
85. Neither Defendant Officer Mason nor Officer Johnston had probable cause to believe Plaintiff was concealing a weapon, evidence of the commission of a crime or contraband.
86. Neither Defendant Officer Mason nor Officer Johnston had particularized reasonable suspicion to believe Plaintiff was concealing a weapon, evidence of the commission of a crime or contraband.
87. There were no exigent circumstances requiring the search to be conducted without a warrant on a public road situated on an overpass above a busy major public highway.
88. Neither a strip search nor a full body cavity search was necessary for officer safety.
89. Prior to the search Plaintiff was detained but not under arrest, and Plaintiff was not a

convicted prisoner.

90. Missouri law prohibits body cavity searches of a person arrested or detained for a traffic offense absent a search warrant. RSMo. 544.193.4.
91. Neither Officer Johnston nor Officer Mason had a search warrant for Plaintiff's person.
92. Missouri law prohibits body cavity searches of a person arrested or detained for a traffic offense in any place where the search can be observed by any person other than the persons physically conducting the search. RSMo. 544.193.3.
93. A bridge over Lindbergh Boulevard is not a secluded space, although the bridge wall did prevent motorists on Lindbergh from seeing Plaintiff's private parts.
94. Two of Plaintiff's customers later told her that they had driven by and seen her stopped by the police standing by her car while an officer appeared to be going through her car.
95. Missouri law prohibits body cavity searches of a person arrested or detained for a traffic offense by anyone other than a licensed physician, registered nurse, or practical nurse. RSMo. 544.193.4.
96. Neither Officer Johnston nor Officer Mason is a licensed physician, registered nurse, or practical nurse.
97. Missouri law requires that a written report be submitted for a body cavity search. RSMo. 544.193.4.
98. Neither Defendant Officer Mason nor Officer Johnston drafted or submitted a written report as to the body cavity search of Plaintiff that meets the requirement of RSMo. 544.193.5.

#### **The Speeding Ticket**

99. After Plaintiff went and stood behind her car Officer Johnston told her to sit down in her

- car's driver's seat.
100. Plaintiff did so.
  101. Officer Johnston sat in his car for a few minutes.
  102. Officer Johnston approached Plaintiff's driver's side window.
  103. Officer Johnston handed Plaintiff a citation for driving 55 mph with a posted speed limit of "60" mph.
  104. The stated limit of "60" mph is an obvious error, and on inference Officer Johnston meant to write the posted limit to be "40" mph.
  105. Officer Johnston wrote on the ticket that location of the speeding was "upon/at or near (location) Dorsett/Lindbergh", with all words in that quotation except "Dorsett/Lindbergh" being preprinted on the form.
  106. That description of the location of Plaintiff's car when Officer Johnston's LIDAR machine said she was traveling 15 mph over the limit is incorrect because at that time Officer Johnston's LIDAR was pointed north and he was then at Adie Road, approximately three tenths of a mile north of Dorsett.
  107. Officer Johnston wrote on the ticket that the time of the offense was "10:34".
  108. That time is incorrect because Officer Johnston initially called out the stop at 10:22.
  109. The racial profiling report of the stop indicates that both the driver and property had been searched.
  110. Subsequently the municipal prosecutor for Maryland Heights amended the charge to 55/40, and then the day before a scheduled trial on the speeding ticket, he entered *nolle prosequi* on the citation.

**Plaintiff Compliant and Polite at all Times**

111. At all other times throughout the stop Plaintiff was compliant with all directives from law enforcement, and was polite to law enforcement.

**Failure to Train by City**

112. On inference it is extremely likely (or a near certainty) that Maryland Heights officers will routinely engage in speed enforcement and have a situation where a license plate on a detained vehicle will have a person with a narcotics warrant and/or criminal activity associated with the plate, and/or the car, but not with any person in the vehicle.

113. In such a situation after the person or persons in the vehicle have been identified as not being the person or persons with a narcotics warrant and/or criminal activity associated with the plate, there are generally no reasonable, articulate grounds for suspecting a person in the vehicle to possess narcotics, weapons or contraband.

114. The City of Maryland Heights has no policy, written or informal, on what officers should do in such situations, and does not train officers on what to do in such situations. Defendant Officer Gregory Johnston has testified under oath as to this lack of policy and training. *See* Exhibit 1 (Deposition of Defendant Officer Johnston), filed as an exhibit pursuant to Fed. R. Civ. P. 10(c).

115. The risk of unconstitutional strip searches and/or body cavity searches for narcotics and/or contraband is so obvious that the City's failure to train its officers on what searches are permissible in such types of recurring traffic stop situations was the moving force behind the body cavity search of Plaintiff's vagina.

**Damages**

116. Plaintiff suffered and/or continues to suffer:

- a. Unwanted touching,

- b. Humiliation,
  - c. Indignity,
  - d. Disgrace,
  - e. Stress,
  - f. Fear,
  - g. Embarrassment,
  - h. Mental suffering,
  - i. Anxiety over sexual intimacy, and
  - j. Fear of police.
117. The actions of Defendants and each of them proximately caused all the damages Plaintiff suffered.

**Punitive Damages**

118. The actions of Officer Mason in searching Plaintiff's vagina and anus under the circumstances here, and then searching Plaintiff's breasts shocks the conscience and is reprehensible conduct.
119. These actions by Officer Mason were undertaken with knowledge that they violated the United States constitution.
120. The search of Plaintiff's body was also proximately caused by Defendant Officer Johnston who made the call out for a female officer for the search.
121. The purpose of punitive damages is deterrence and retribution.
122. The conduct of each of Defendant Officers Mason and Johnston was unlawful and is capable of repetition, which must be deterred.
123. An award of punitive damages would bear a reasonable relationship to the harm suffered

and to damages in similar cases.

124. As such Plaintiff is entitled to punitive damages against Defendant Officers Mason and Johnston.

**Attorney's Fees and Costs**

125. In pursuit of these claims Plaintiff is incurring reasonable attorney's fees, taxable costs, and non-taxable costs.

**COUNT I**  
**Violation of Civil Rights, 42 U.S.C. §198**  
**Fourteenth Amendment – Substantive Due Process**  
**Against Officer Mason**

126. Plaintiff incorporates all prior paragraphs.
127. The circumstances of the warrantless roadside body cavity search of Plaintiff's vagina and anus, and the search of Plaintiff's breasts, by Defendant Officer Mason was so egregious and so outrageous that it may fairly be said to shock the contemporary conscience.
128. Strip searches must be designed to minimize emotional and physical trauma, and must be conducted in private. If a lawful strip search may be conducted at all, then if it is reasonable for officer safety Officers must transport a suspect apprehended in public to a private facility to conduct the search.
129. In the alternative, there were far less intrusive search methods even if Officer Johnston or Officer Mason had probable cause to believe Plaintiff had narcotics or contraband on her person.
130. Defendant Officer Mason violated Plaintiff's established right to substantive due process.
131. Defendant Officer Mason has no qualified immunity because Plaintiff's right to be free of unreasonable body cavity searches on the side of the road was clearly established at the

time.

132. As a direct result of the actions of Defendant Officer Mason, Plaintiff suffered the damages outlined above.

WHEREFORE Plaintiff M.A.B. prays the Court for judgment under the Fourteenth Amendment for compensatory and punitive damages against Defendant Officer Mason in her individual capacity, costs, attorney's fees and such other relief as the court finds to be just, meet and reasonable.

**COUNT II**  
**Violation of Civil Rights, 42 U.S.C. §1983**  
**Fourth Amendment - Unreasonable Search**  
**Against Officer Mason**

133. Plaintiff incorporates all prior paragraphs.

134. The Fourth Amendment requires that the greater the intrusion, the greater must be the reason for conducting the search. Thus, body cavity searches require a higher level of suspicion than strip searches.

135. The body cavity search of Plaintiff's vagina and anus, and the search of her breasts, by Defendant Officer Mason was an unreasonable and warrantless search under the Fourth Amendment in that:

- a. There was insufficient justification for initiating the search,
- b. The scope of the particular intrusion was unreasonable.
- c. The place in which the search was conducted was unreasonable, and
- d. The manner in which the search was conducted was unreasonable.
- e. Defendant Officer Mason lacked reasonable suspicion or probable cause to search Plaintiff's vagina and anus.
- f. There were no exigent circumstances requiring the search immediately on the side

of the road.

g. There was no exception to the warrant requirement for the search.

136. Whatever particularized suspicion may have been appropriate for Patricia Ann Scaife given her warrant, the Fourth Amendment does not permit that suspicion to transfer to another person, here, Plaintiff.

137. Plaintiff's record is nowhere near sufficiently heinous to justify the roadside search which occurred in this case.

138. Defendant Officer Mason violated Plaintiff's established right to be free of unreasonable body cavity searches.

139. Defendant Officer Mason has no qualified immunity because Plaintiff's right to be free of unreasonable body cavity searches of the sort that occurred here was clearly established at the time.

140. As a direct result of the actions of Defendant Officer Mason, Plaintiff suffered the damages outlined above.

WHEREFORE Plaintiff M.A.B. prays the Court for judgment under the Fourth Amendment for compensatory and punitive damages against Defendant Officer Mason in her individual capacity, costs, attorney's fees and such other relief as the court finds to be just, meet and reasonable.

**COUNT III**  
**Violation of Civil Rights, 42 U.S.C. §1983**  
**Fourteenth Amendment – Substantive Due Process**  
**Against Officer Johnston**

141. Plaintiff incorporates all prior paragraphs.

142. The search of Plaintiff was proximately caused by Officer Johnston making the call out for a female officer to perform a body cavity search.

143. The conduct of Officer Mason was the natural result of the call out of Officer Johnston.

144. Officer Johnston violated Plaintiff's established right to substantive due process.

145. Officer Johnston has no qualified immunity because Plaintiff's right to be free of unreasonable body cavity searches on the side of the road was clearly established at the time.

146. As a direct result of the actions of Officer Johnston, Plaintiff suffered the damages outlined above.

WHEREFORE Plaintiff M.A.B. prays the Court for judgment under the Fourteenth Amendment for compensatory and punitive damages against Defendant Officer Johnston in his individual capacity, costs, attorney's fees and such other relief as the court finds to be just, meet and reasonable.

**COUNT IV**  
**Violation of Civil Rights, 42 U.S.C. §1983**  
**Fourth Amendment**  
**Against Officer Johnston**

147. Plaintiff incorporates all prior paragraphs.

148. Officer Johnston violated Plaintiff's established right to be free of unreasonable body cavity searches.

149. Officer Johnston has no qualified immunity because Plaintiff's right to be free of unreasonable body cavity searches was clearly established at the time.

150. As a direct result of the actions of Officer Johnston, Plaintiff suffered the damages outlined above.<sup>[1]</sup><sub>[SEP]</sub>

WHEREFORE Plaintiff M.A.B. prays the Court for judgment under the Fourth Amendment for compensatory and punitive damages against Defendant Officer Johnston in his individual capacity, costs, attorney's fees and such other relief as the court finds to be just, meet

and reasonable.

**COUNT V**  
**Violation of Civil Rights, 42 U.S.C. §1983**  
**Monell - Failure To Train**  
**Against City Of Maryland Heights**

151. Plaintiff incorporates all prior paragraphs.
152. It is extremely likely (or a near certainty) that Maryland Heights officers will routinely engage in speed enforcement and have a recurring situation where a license plate on a detained vehicle will be connected to a narcotics warrant and/or narcotics criminal activity, but not an occupant of the vehicle.
153. The City of Maryland Heights has no policy on what officers should do in such a recurring type of traffic stop situations, and does not train officers on when it permissible to conduct a body cavity search for narcotics or contraband in such situations.
154. The risk of unconstitutional body cavity searches for narcotics or contraband is so obvious that the City's failure to train its officers on when body cavity searches are permissible in connection with this recurring type of traffic stop made the body cavity search of Plaintiff's vagina highly predictable once Plaintiff's plate was flagged.
155. The City of Maryland Heights was thus deliberately indifferent to the obvious consequence of its policymakers' choice not to train officers on body cavity searches in the context of this highly predictable and recurring type of traffic stop which may show the vehicle is connected to a criminal history of narcotics.
156. The obviousness of the risk means that the City of Maryland Heights was deliberately indifferent whether or not there is was a pattern of similar violations beforehand.
157. The highly predictable and recurring nature of this type of recurring traffic stop event means that the City of Maryland Heights' failure to train led directly to the very

consequence that was so predictable.

158. The City of Maryland Heights, in failing to train its officers against a likely risk of recurring constitutional violations, is liable as a matter of law for the injuries suffered by Plaintiff as a result of the conduct of Defendant Officer Mason in Count I.

WHEREFORE Plaintiff M.A.B. prays the Court for judgment under *Monell* against Defendant City of Maryland Heights for compensatory damages, costs, attorney's fees, and such other relief as the court finds to be just, meet and reasonable.

**COUNT VI**  
**Missouri State Law Claim, RSMo. 544.195**  
**Against Defendant Officer Mason**

159. Plaintiff incorporates all prior paragraphs.
160. Plaintiff suffered actual damages as a direct result of Officer Mason's warrantless body cavity search of her vagina and anus and her breasts in the context of a traffic stop.  
RSMo. 544.195.2.
161. Plaintiff accrued reasonable attorney's fees in bringing this action.

WHEREFORE Plaintiff M.A.B. prays the Court for judgment under the Missouri Strip Search Law against Defendant Officer Mason under the Missouri strip search law for her compensatory and punitive damages, costs, attorney's fees, and such other relief as the court finds to be just, meet and reasonable.

**COUNT VII**  
**Missouri State Law Claim, RSMo. 544.195**  
**Against Defendant Officer Johnston**

162. Plaintiff incorporates all prior paragraphs.
163. Plaintiff suffered actual damages as a direct result of Officer Johnston calling out for a female officer to perform a warrantless body cavity search of her vagina and anus in the

context of a traffic stop. RSMo. 544.195.2.

164. Plaintiff suffered punitive damages as a direct result of Officer Johnston's call out for a warrantless body cavity search of her vagina in the context of a traffic stop. Id.

165. Plaintiff accrued reasonable attorney's fees in bringing this action.

WHEREFORE Plaintiff M.A.B. prays the Court for judgment under the Missouri Strip Search Law against Defendant Officer Johnston for compensatory and punitive damages, costs, attorney's fees, and such other relief as the court finds to be just, meet and reasonable.

Respectfully submitted,

Co-Counsel for Plaintiff

/s/ W. Bevis Schock [SEP]  
W. Bevis Schock, 32551MO  
7777 Bonhomme Ave., Ste. 1300  
St. Louis, MO 63105  
wbschock@schocklaw.com [SEP]  
Fax: 314-721-1698 [SEP]  
Voice: 314-726-2322

/s/ Hugh A. Eastwood  
Hugh A. Eastwood, 62058MO  
7911 Forsyth Blvd., Ste. 300  
St. Louis, Missouri 63105-3825  
[heastwood@eastwoodlawstl.com](mailto:heastwood@eastwoodlawstl.com)  
(314) 809 2343  
(314) 863 5335 Fax

CERTIFICATE OF SERVICE

I hereby certify that on 11/07/2017 the foregoing was filed electronically with the Clerk of Court to be served by operation of the Court's CM/ECF system upon all counsel of record

/s/ Hugh A. Eastwood, 62058MO

1 IN THE CIRCUIT COURT OF THE COUNTY OF ST. LOUIS  
 2 21ST JUDICIAL CIRCUIT  
 3 STATE OF MISSOURI  
 4 CITY OF MARYLAND HEIGHTS, )  
 5 Plaintiff, ) No. 16SL-MJ01079  
 6 vs. )  
 7 [REDACTED] A. [REDACTED] )  
 8 Defendant. )

1 IN THE CIRCUIT COURT OF THE COUNTY OF ST. LOUIS  
 2 21ST JUDICIAL CIRCUIT  
 3 STATE OF MISSOURI  
 4 CITY OF MARYLAND HEIGHTS, )  
 5 Plaintiff, ) No. 16SL-MJ01079  
 6 vs. )  
 7 [REDACTED] A. [REDACTED] )  
 8 Defendant. )

13 VIDEO DEPOSITION OF GREGORY JOHNSTON  
 14 Taken on Behalf of the Plaintiffs  
 15 Thursday, May 4, 2017

8 VIDEO DEPOSITION OF GREGORY JOHNSTON, taken on behalf  
 9 of the Plaintiff, on the 4th day of May, 2017, between the  
 10 hours of eight o'clock in the forenoon and six o'clock in  
 11 the afternoon of that day, in the conference room of the  
 12 offices of Prosecuting Attorney for the City of Maryland  
 13 Heights, 9322 Manchester Road, Rock Hill, Missouri, before  
 14 Jane M. Rich, a Missouri Certified Court Reporter, license  
 15 number 411.

16 APPEARANCES

17 The Plaintiff was represented by Mr. Steven S.  
 18 Fluhr, Prosecuting Attorney for the City of Maryland  
 19 Heights, 9322 Manchester Road, Rock Hill, Missouri 63119.

20 The Defendants were represented by Mr. W. Bevis  
 21 Schock, 7777 Bonhomme, Clayton, Missouri 63105, and Mr.  
 22 Hugh Eastwood, Attorney at Law, 7911 Forsyth, Suite 300,  
 23 Clayton, Missouri 63105.

20 COURT REPORTING ASSOCIATES  
 21 P.O. BOX 440014  
 22 ST. LOUIS, MISSOURI 63144  
 23 314-961-6306  
 24 314-265-4602

24 Reported by: Jane M. Rich, RFR, CSR, OCR

25 Court Reporting Associates

25 Court Reporting Associates

1 -oOo-  
 2 GREGORY JOHNSTON,  
 3 of lawful age, having been first duly sworn to testify to  
 4 the truth, the whole truth, and nothing but the truth,  
 5 deposes and says on behalf of the Plaintiffs as follows:

6 DIRECT EXAMINATION

7 QUESTIONS BY MR. SCHOCK:

8 [Mr. Schock premarked Defendant exhibits].

9 Q Sir, would you please state your full name?

10 A Gregory Johnston.

11 Q Sir, my name is Bevis Schock, it's customary  
 12 in these things for us to state what's called our  
 13 entries of appearance, or our representations.

14 I represent [REDACTED] who is the  
 15 defendant in this traffic ticket.

16 MR. EASTWOOD: Hugh Eastwood, co-counsel for  
 17 [REDACTED]

18 MR. FLUHR: And you want me to identify  
 19 myself, Bevis? That's nice. Steven Fluhr, prosecuting  
 20 attorney for City of Maryland Heights.

21 MR. SCHOCK: And you do not represent the  
 22 witness personally; is that correct?

23 MR. FLUHR: Correct.

24 Q (By Mr. Schock) Sir, can you give me your  
 25 work address only, please?

Court Reporting Associates

1 A It's 11911 Dorsett, Maryland Heights. You  
 2 want the zip code, too?

3 Q Sure.

4 A 63043.

5 Q Sir, how long have you been a police officer?

6 A Approximately, 12 years.

7 Q Have you ever been deposed before?

8 A Just on DWIs.

9 Q Been through a few of those?

10 A A couple, yes.

11 Q I want to go over some ground rules, is that  
 12 okay?

13 A Sure.

14 Q The first ground rule is that if you don't  
 15 understand a question, I would like you to tell me that.  
 16 Will you do that?

17 A Yes, sir.

18 Q Will you try to take turns me with talking, so  
 19 we don't talk over each other?

20 A Yes, sir.

21 Q Will you try to remember to answer yes or no,  
 22 rather than uh-huh, or head nod, things like that?

23 A Yes, sir.

24 Q And if we all make those kinds of mistakes,  
 25 I'll try to note it and we'll correct it as we go along;

Court Reporting Associates

1 is that okay?  
 2 A Okay.  
 3 Q If you want to take a break at any time for  
 4 any reason, will you just let me know?  
 5 A Sure.  
 6 Q Do you understand that if you take a break  
 7 after I ask a question, but before you answer, then the  
 8 record will show that?  
 9 A Yes, sir.  
 10 Q Do you have any reason, whether it's medical  
 11 condition, tiredness, medication, memory problems, why  
 12 you cannot answer questions today clearly, truthfully,  
 13 have a normal dialogue and answer to what happened?  
 14 A No, sir.  
 15 Q Did you examine any documents in preparation  
 16 for today's deposition?  
 17 A Just the citation that was issued.  
 18 Q And you'll see in front of you a set of  
 19 exhibits.  
 20 A I have it.  
 21 Q And Defendant's A is that citation; is that  
 22 right?  
 23 A Yes, sir.  
 24 MR. SCHOCK: Our copy is kind of jammed up a  
 25 little bit. I wonder, Steve, I see he's got the — a

Court Reporting Associates

1 copy maybe has more at the bottom than mine. Would you  
 2 mind making me three or four copies of these if we went  
 3 off the record for a minute. You see how mine is not —  
 4 MR. FLUHR: Yours is kind of high, I guess.  
 5 A It's just missing the name.  
 6 MR. FLUHR: The prosecutor. Signed by my  
 7 buddy, Ross Davis. Okay, sure.  
 8 MR. SCHOCK: Would you mind doing that? Let's  
 9 go off the record real quick, we'll do that.  
 10 [Mr. Schock marked Defendant's Exhibit 1-A].  
 11 MR. SCHOCK: Ready to go back on the record?  
 12 MR. FLUHR: Ready.  
 13 Q (By Mr. Schock) Okay. We're back on the  
 14 record.  
 15 Just for the note, I forgot to turn it on the  
 16 first time, and all we did during that time was swear you  
 17 in, and get your name, address, and who our  
 18 representations, which will all be on Jane's record.  
 19 Sir, give me your post high school education, if  
 20 any?  
 21 A Some college.  
 22 Q Where did you go to college?  
 23 A I started at Baker University.  
 24 Q How many years did you do there?  
 25 A About a year, then I came back to Lindenwood.

Court Reporting Associates

1 Q You said you'd been in — Oh, you went to  
 2 Lindenwood, too, for a while?  
 3 A I transferred back to Lindenwood, yes.  
 4 Q And you did not complete your degree?  
 5 A No, sir.  
 6 Q How many years did you do at Lindenwood?  
 7 A About a year and a half.  
 8 Q You said you've been a police officer for 12  
 9 years. How long have you worked for Maryland Heights?  
 10 A Nine years this month.  
 11 Q What is your current job title?  
 12 A I'm in the patrol division, patrolman.  
 13 Q Have you had any other job title while you've  
 14 been at Maryland Heights?  
 15 A Yes, sir.  
 16 Q Tell me about that.  
 17 A I was previously assigned to the community  
 18 response unit for approximately four and a half years.  
 19 Q What is that?  
 20 A Community response unit is a specialized unit  
 21 within the department. It's — We're tasked with all  
 22 the narcotics investigations, prostitution, special  
 23 assignments as they come up.  
 24 Q Have you ever had a rank higher than  
 25 patrolman?

Court Reporting Associates

1 A No, sir.  
 2 Q You ever been convicted, or pled guilty to a  
 3 felony?  
 4 A No.  
 5 Q You ever pled guilty or been convicted of a  
 6 misdemeanor, excluding traffic tickets, in case you got  
 7 a traffic ticket when you were in college, or something?  
 8 A High school, no. But other than that, no.  
 9 Q I just need to ask you, you're POST licensed?  
 10 A Yes.  
 11 Q How many years have you had that?  
 12 A I guess it will be 12 years this month.  
 13 Q Has that license ever been subject to any  
 14 discipline?  
 15 A No, sir.  
 16 Q You ever been a personal party to a lawsuit,  
 17 somebody sued you, or anything like that?  
 18 A No, sir.  
 19 Q You sued anybody?  
 20 A No, sir.  
 21 Q Have you made any tape recordings of any  
 22 conversations you've had about this subject that we're  
 23 here today to talk about, the [REDACTED] ticket?  
 24 A No, sir.  
 25 Q Have you talked to anybody about this

Court Reporting Associates

1 situation, other than a lawyer representing you?  
 2 A No, sir.  
 3 Q Now you've talked to Mr. Fluhr about it;  
 4 right?  
 5 A Briefly. Today's the first time.  
 6 Q Oh, okay. Have you made any video recordings  
 7 related to this incident?  
 8 A No, sir.  
 9 Q Now I particularly want to ask you whether  
 10 there's any dash cam, or audio recording of the event  
 11 itself?  
 12 A No, sir.  
 13 Q Body cam, anything like that?  
 14 A No, sir.  
 15 Q Does Maryland Heights, as a practice not do  
 16 that, or why was that not done in this case?  
 17 MR. FLUHR: Well, I'll object. It asks two  
 18 questions. Which one do you want answered?  
 19 MR. SCHOCK: Let's go back. Jane would you  
 20 read the first question, please.  
 21 [Reporter read back the last question].  
 22 Q (By Mr. Schock) Let me rephrase the question.  
 23 What is Maryland Height's policy on dash cam videos and  
 24 body cam videos?  
 25 MR. FLUHR: I'll object. This is beyond this

Court Reporting Associates

1 witness's capacity, he's a patrol officer. He's not a  
 2 policy maker, but to the extent that you know, you may  
 3 answer.  
 4 A Okay. As of right now we're not equipped with  
 5 any video, audio recording equipment in our vehicles.  
 6 Q What about for body cameras?  
 7 A Not that I know of. I don't know of anybody  
 8 that has body cameras right now.  
 9 Q In Maryland Heights?  
 10 A In Maryland Heights.  
 11 Q Was there any such camera system in place when  
 12 this happened in April of 2016?  
 13 A No, sir.  
 14 Q Did you make any audio recording of the events  
 15 regarding the stop of [REDACTED] on April 26th,  
 16 2016?  
 17 A No, sir.  
 18 Q I'll just call her [REDACTED] from here on, is  
 19 that okay?  
 20 A Okay.  
 21 Q Your DSN is 1208, is that right?  
 22 A It's 208.  
 23 Q Two 0 eight. As you sit here right now, do  
 24 you remember stopping [REDACTED] on April 26th,  
 25 2016?

Court Reporting Associates

1 A Vaguely, yes.  
 2 Q It was, according to your note here, at  
 3 10:34 a.m., is that the event that you're remembering?  
 4 I think you said vaguely.  
 5 A Yes, sir.  
 6 Q Do you remember what shift you were on that  
 7 day?  
 8 A Days.  
 9 Q Do you remember what time you came in?  
 10 A Yes, sir. We started roll call at 6:30.  
 11 Q Do you remember what you did before the  
 12 encounter with [REDACTED]  
 13 A As far as — I don't understand. You mean  
 14 before the —  
 15 Q I'm asking you what you did in connection with  
 16 with your work at Maryland Heights, what was your  
 17 assignment, your duties that morning until this  
 18 happened?  
 19 A Okay. I was assigned to sector one, I  
 20 believe, which is over in that area of Lindbergh, and I  
 21 was operating the LiDAR laser unit on Lindbergh for  
 22 speed enforcement.  
 23 Q Had you done that all morning?  
 24 A I don't remember how long I was up there. I  
 25 think I did it for a little while. I'm not sure on the

Court Reporting Associates

1 time frame, though.  
 2 Q Do you know whether you did anything else that  
 3 morning, other than take that assignment on Lindbergh?  
 4 A No. It wasn't necessarily an assignment. It  
 5 was just, it was part of normal patrol. I mean, we do  
 6 speed enforcement, you know, throughout the city. It's  
 7 not that I was directed to do that by anybody.  
 8 Q Was it your choice of where to go to do speed  
 9 enforcement that day?  
 10 A Well, my assigned area near my sector, which  
 11 would have been right over in that area.  
 12 Q I understand. I want to talk to you about  
 13 your use of LiDAR. You said you used LiDAR in  
 14 connection with [REDACTED] is that right?  
 15 A Yes, sir.  
 16 Q How long had you used LiDAR in your career?  
 17 How long — I guess let me ask the question correctly.  
 18 When did you start using LiDAR?  
 19 A Probably — Well, I had to be trained on it.  
 20 I wasn't trained on it prior to coming to Maryland  
 21 Heights. Maybe five or six years.  
 22 I don't have my certification with me, so I  
 23 don't remember exactly what date that I was certified on  
 24 the LiDAR.  
 25 Q Did you certify online, or through an actual

Court Reporting Associates

1 live class?  
 2 A It was through a class given by another  
 3 officer.  
 4 Q Was that internal to Maryland Heights?  
 5 A Yes, sir.  
 6 Q You have a certificate for that?  
 7 A Yes, sir.  
 8 Q Do you still have the materials that are —  
 9 from that class?  
 10 A I don't believe so, sir.  
 11 Q How long was the class?  
 12 A I don't recall. I'd have to look at my —  
 13 Q Are we talking a week, we talking a day, an  
 14 afternoon?  
 15 A No. The training's fairly straightforward.  
 16 I mean, the LiDAR's not a very complicated instrument.  
 17 I just don't remember the block. It was probably an  
 18 afternoon, if I had to put a time frame on it.  
 19 Q Did you have any follow-up training ever, or  
 20 is it just a one-time thing?  
 21 A I don't remember having any follow-up  
 22 training.  
 23 Q This is going to be a hard question, but if  
 24 you had to tell me — Let me restate that.  
 25 How many tickets in your career do you think

Court Reporting Associates

1 you've given using LiDAR, best estimate?  
 2 A I couldn't even put a number on it, because we  
 3 use LiDAR as the — for state funded speed grants, but  
 4 we don't operate it. I guess personally operated LiDAR  
 5 tickets, maybe 150, estimate.  
 6 Q So over six years that's 20 or 30 a year,  
 7 about?  
 8 A That sounds about right.  
 9 Q Is there any particular reason you were using  
 10 LiDAR on the morning of this incident?  
 11 I'll just call it that day, okay. We know we  
 12 mean April 26th; right?  
 13 A Sure. I'm sorry. What was your question  
 14 again?  
 15 Q Was there any reason you used LiDAR that day,  
 16 as opposed to any other method of traffic speed  
 17 enforcement?  
 18 A Oh, I find it's — I believe it to be more  
 19 accurate than the other form of radar detection that we  
 20 have.  
 21 Q Is the LiDAR gun that you used that day  
 22 assigned to you particularly, or is it used by a lot of  
 23 people?  
 24 A It's used by several different people. We  
 25 have three of them, I believe, that are assigned to

Court Reporting Associates

1 patrol.  
 2 Q How did it come about that that particular  
 3 unit came into your hands that day?  
 4 A I just retrieved it out of roll call.  
 5 Q Your attorney sent me a piece of paper which  
 6 is Exhibit H, that should be the last page.  
 7 A Okay.  
 8 Q Would you look at that, please.  
 9 A You said Exhibit H, correct?  
 10 Q Yes. It should look like this.  
 11 A Yes.  
 12 Q Okay. Do you recognize that document?  
 13 A Yes.  
 14 Q What is that document?  
 15 A It's the maintenance record for the LiDAR  
 16 unit.  
 17 Q And do you believe that it is the maintenance  
 18 record for the very LiDAR unit that you used in this  
 19 incident?  
 20 A That I can't say for sure. I'm not the one  
 21 that maintains these, these units. It appears to be the  
 22 same.  
 23 Q What makes you think that?  
 24 A The unit number on the LiDAR is L6, which is  
 25 listed at the bottom corner there.

Court Reporting Associates

1 Q It says car unit number. What do you mean by  
 2 car unit number?  
 3 A Again, sir, I don't, I don't do these  
 4 maintenance records, so I'm not sure what that's  
 5 referenced to, but that's — the LiDAR that I took was  
 6 the L6, that I had that day.  
 7 Q What does L6 mean?  
 8 A I don't know.  
 9 Q I mean, is that some kind of, each one has a  
 10 number, there's LiDAR one, LiDAR two, LiDAR three,  
 11 something like that?  
 12 A They're labeled, but I'm not sure what that  
 13 reference is. I don't know if it's just how they  
 14 inventory it, or what the — if that's a model.  
 15 Like I said, I don't maintain them, so I just  
 16 know the one I had was the L-6.  
 17 Q How do you know that?  
 18 A It's labeled. It has L-6 on it.  
 19 Q And you have a present memory that that's the  
 20 one you had that day?  
 21 A Yes, sir.  
 22 Q Did you go through any protocol before you  
 23 started using the LiDAR unit for enforcement on that  
 24 day?  
 25 A As far as?

Court Reporting Associates

1 Q Checking the machine.  
 2 A The machine does an internal check, and aside  
 3 from that, no.  
 4 Q Okay. So tell me what you did for the  
 5 internal check?  
 6 A You just turn it on and it runs through a  
 7 series of tests and ensures that the unit's working  
 8 properly.  
 9 Q Gives you some kind of an okay to go ahead?  
 10 A Uh-huh.  
 11 Q That's all you did?  
 12 A Yes.  
 13 Q Let me have you look at Exhibit G. It shows  
 14 at the top. This is a two-page exhibit, I didn't get  
 15 that stapled, but —  
 16 A What letter did you say, sir? I'm sorry.  
 17 Q G. It's the one right above the one we were  
 18 just looking at.  
 19 A Take these out of the paper clip, it might be  
 20 a little bit easier.  
 21 Q Have you ever seen that document before?  
 22 A It doesn't look familiar to me.  
 23 Q Okay. But if we look at Exhibit H, it says  
 24 it's a Kustom Pro Laser 4. Do you see that at the top  
 25 there?

Court Reporting Associates

1 A Yes, sir.  
 2 Q And what I've given you in Exhibit G is a  
 3 printout about the Kustom, K-u-s-t-o-m, Pro Laser 4; is  
 4 that right?  
 5 A Yes, sir.  
 6 Q Now I want to ask you a question about your  
 7 use of LiDAR. When you use LiDAR, is it your  
 8 understanding that there is a record made internally to  
 9 that machine that relates to your pointing the machine  
 10 at the particular car you're stopping, does the machine  
 11 keep a record of that?  
 12 MR. FLUHR: I'll object. It's beyond this  
 13 witness's expertise. He's only certified to use it.  
 14 You may answer it if you understand it, though.  
 15 A As far as the record, can you clarify for me  
 16 what you —  
 17 Q (By Mr. Schock) Sure. Sure. So — Well,  
 18 let's look at the exhibit. Halfway down you see it says  
 19 easy data log in?  
 20 A Yes, sir.  
 21 Q It says multiple event, recall of previous  
 22 measurements; right? High capacity, internal memory,  
 23 easy export to Excel via USB, for traffic statistical  
 24 analysis; right?  
 25 A Yes, sir.

Court Reporting Associates

1 Q Now my question is, are you — Do you have  
 2 knowledge of whether or not the Pro Laser 4 that you  
 3 were using that day, number L-6, kept any kind of event  
 4 record of the stop related to [REDACTED]  
 5 A Yes. I believe it keeps an event record of  
 6 speed for each car that you, that you operate the LiDAR  
 7 on, but I don't know how long that's retained, or how  
 8 many events that it maintains in its memory.  
 9 MR. SCHOCK: Okay. So Steve, I really need to  
 10 have an inquiry made about that. And we asked —  
 11 MR. FLUHR: Well, you should take the  
 12 deposition of Jeff McClain, because he's the one who  
 13 keeps track of this unit and has better understanding of  
 14 of what its capable of doing. This officer's only been  
 15 trained to point it, or make sure it's working  
 16 accurately, and then utilize it in the field and get  
 17 speed and distance.  
 18 Q (By Mr. Schock) So let me have you go through  
 19 what Mr. Fluhr just said.  
 20 Have you ever downloaded any information from  
 21 that LiDAR machine as to a traffic ticket that you gave?  
 22 A No, sir.  
 23 Q Have you — Do you have any knowledge of its  
 24 internal workings as to how it maintains a record of the  
 25 shots you make towards cars, things like that?

Court Reporting Associates

1 A No, sir.  
 2 Q If you look at the machine, the picture in  
 3 Exhibit G, it shows on the right side, it says 71 and a  
 4 number of feet; right?  
 5 A Yes, sir.  
 6 Q Tell me what those two — First of all, do you  
 7 believe that that is an accurate picture of the machine  
 8 you were using that day?  
 9 A Yes, sir.  
 10 Q Do you think you were using a Kustom Pro Laser  
 11 4?  
 12 A As far as I know, sir, yes.  
 13 Q And there's a printout there that says on the  
 14 picture, 71 miles per hour, 756.1 feet; right?  
 15 A Yes, sir.  
 16 Q And 71 is the speed; right?  
 17 A Uh-huh.  
 18 Q And the 756.1 is the number of feet; right?  
 19 A Yes.  
 20 Q When you have worked with LiDAR, does the gun,  
 21 after you pointed it at a car, does it show that kind of  
 22 information every time?  
 23 A Yes, sir.  
 24 Q Does it have a red dot or something so you  
 25 know you're hitting the car, a particular car?

Court Reporting Associates

1 A A red dot?  
 2 Q Well, how — So let me restate the question.  
 3 So you're holding the gun; right? You're on  
 4 duty to —  
 5 MR. FLUHR: Just ask him how do you use it,  
 6 how does it work?  
 7 Q (By Mr. Schock) How does it work?  
 8 A Okay. So the gun is a lot like a, I don't  
 9 know if you're familiar with an EOTech type sight on a  
 10 rifle, it has a, it has a circle with a target on it and  
 11 you point that at the front of the vehicle.  
 12 It can't do more than one vehicle at a time, and  
 13 you point it specifically at one vehicle to get that speed  
 14 and distance.  
 15 Q Okay. How do you know you're hitting that  
 16 particular vehicle that you want to hit?  
 17 A The LiDAR won't give you a reading if you're,  
 18 if you're off. You have to, you have to get it  
 19 directly.  
 20 Usually you try to aim it around the license  
 21 plate or the front grill of the car, otherwise, it won't  
 22 give you a reading on how fast the car's going.  
 23 Q Is there a dot or something so you know you're  
 24 on it?  
 25 A Yeah. Like I explained, it's a lot like an  
 Court Reporting Associates

1 EOTech is.  
 2 Q I don't know what an EOTech is. Explain that  
 3 to me.  
 4 A An EOTech is like a liser — uh, a liser.  
 5 A, —  
 6 Q Laser.  
 7 A — like on a rifle, so instead of using the  
 8 iron sights on the — If you're going to shoot a rifle,  
 9 instead of using the iron sights, you're using  
 10 electronic, it's called an EOTech, and it's basically,  
 11 it's not really a red dot, it's like a circle, like  
 12 you're — If I pointed out at the door handle, I'm going  
 13 to hit the door handle.  
 14 Q I see.  
 15 A You understand what I'm saying?  
 16 Q And you can see something on the door handle  
 17 to know you're pointing at it?  
 18 A Yes, sir.  
 19 Q And that's how it works with the car you point  
 20 it at?  
 21 A Yes. Yes, sir.  
 22 Q You do that every time?  
 23 A Yes, sir.  
 24 Q All right.  
 25 A That was a complicated way to get to where I  
 Court Reporting Associates

1 was trying to explain to you.  
 2 Q I understand. Do you use the thing by hand,  
 3 or with a tripod, or something?  
 4 A By hand.  
 5 Q Do you normally use it with batteries, or do  
 6 you plug into the car in some way?  
 7 A Batteries.  
 8 Q I'd like to look at the pictures, which are  
 9 Exhibits D1 through 6. So D1, you got it right there.  
 10 And if you look kind of closely, you can see it says  
 11 Lindbergh and it says Dorsett.  
 12 Lindbergh is up and down, and Dorsett is  
 13 east-west with some curves; right?  
 14 A Yes, sir.  
 15 Q Now I wonder if you could tell us where you  
 16 were standing when you used the LiDAR on Miss [REDACTED]  
 17 A Yes, sir. I'd have to — It might be easier  
 18 to show it to you.  
 19 Q Sure.  
 20 A If you have a pen, I can circle where I was.  
 21 Q Sure.  
 22 MR. FLUHR: Here you go. Use a pen. I don't  
 23 know, it's a dark pen, though.  
 24 A So this here would be southbound Lindbergh.  
 25 This is Adie coming onto Lindbergh. There's a ramp  
 Court Reporting Associates

1 right here. [Indicating].  
 2 MR. SCHOCK: Hang on. May I come down and  
 3 look over his shoulder, Steve?  
 4 MR. FLUHR: Yes. Let's get it so you can see  
 5 it on the video, too.  
 6 MR. SCHOCK: Hey, there's a good idea.  
 7 A I don't know how to —  
 8 Q (By Mr. Schock) That's going to be sort of  
 9 complicated.  
 10 A A black pen with —  
 11 Q Let me just come over. May I come over your  
 12 shoulder. I'm not trying to crowd you out.  
 13 A No, no.  
 14 THE REPORTER: I got a red pen.  
 15 A Perfect. So here is, this is southbound  
 16 Lindbergh right —  
 17 Q (By Mr. Schock) I think it's —  
 18 MR. FLUHR: Yeah, that's southbound.  
 19 Q (By Mr. Schock) That's southbound. Okay.  
 20 Yeah, that's right —  
 21 A Southbound.  
 22 Q Yeah, yeah.  
 23 A So this is the ramp that comes from Adie onto  
 24 Lindbergh. There's a shoulder right here where I parked  
 25 my patrol car, and the traffic comes towards that,  
 Court Reporting Associates

1 before the on-ramp. This is Dorsett on-ramp right here.  
 2 [Indicating].  
 3 Q Okay. I understand completely.  
 4 MR. FLUHR: Do you want to hold it up now?  
 5 MR. SCHOCK: Yeah. Let's hold it up to the  
 6 video. Let me get over there.  
 7 MR. FLUHR: Did you mark it with an "X" where  
 8 you are?  
 9 A Circled.  
 10 MR. FLUHR: You circled where you were.  
 11 A Let me make it obnoxious. I'll put it in big  
 12 — I'll color it in for you. [Indicating].  
 13 MR. FLUHR: So the colored spot.  
 14 A Right there. [Indicating].  
 15 MR. FLUHR: Let me see if I can understand  
 16 this myself. That's a big area.  
 17 A Well, as I was explaining, this is Adie here,  
 18 okay, this ramp goes on to — from Adie onto Lindbergh,  
 19 and there's a shoulder right there, where it Vs.  
 20 MR. FLUHR: So you were actually on the ramp,  
 21 is what you're saying?  
 22 Q (By Mr. Schock) Yeah.  
 23 A Yeah. It's not much of a ramp. It's — If  
 24 we're in the area, I could show it to you. I don't know  
 25 if any of these other pictures have it.

Court Reporting Associates

1 No. These are all.  
 2 MR. FLUHR: It's not like a ramp. You're  
 3 saying it happens to be the road that gets you on to  
 4 Lindbergh.  
 5 A It basically Vs right there. You can exit  
 6 Lindbergh on to Adie, or you can get onto Lindbergh from  
 7 Adie, and there's a shoulder right there.  
 8 MR. FLUHR: And Adie is A-d, as in David —  
 9 Oh, you know the road, i-e.  
 10 Q (By Mr. Schock) Okay. Would you hold that up  
 11 so we can look at that on the camera?  
 12 A Sure.  
 13 Q Okay.  
 14 MR. FLUHR: How's that look?  
 15 MR. SCHOCK: It's coming in pretty good. All  
 16 right. Maybe we can set that aside and we'll make  
 17 copies of that one later; is that okay?  
 18 MR. FLUHR: Sure. I'll have to put that on my  
 19 color copier.  
 20 Q (By Mr. Schock) There we go. So how many  
 21 times have you, in your career, done traffic enforcement  
 22 at that entrance of Adie onto Lindbergh?  
 23 A Dozens, if I had to guess. I mean, I don't  
 24 have an exact number for you, but —  
 25 Q Had you ever noted Miss [REDACTED] car

Court Reporting Associates

1 before, on that particular stretch of Lindbergh, when  
 2 you've been working?  
 3 A I don't understand what you're asking.  
 4 Q Sure. So you said you've worked dozens of  
 5 times at that location?  
 6 A Yes, sir.  
 7 Q That's her way to work, I'll represent that to  
 8 you.  
 9 A Okay.  
 10 Q Do you believe you'd ever noticed her car  
 11 going by before?  
 12 A No, sir.  
 13 Q Okay. Did you have any knowledge of that car  
 14 when you — Well, let me back up. Did you use LiDAR on  
 15 her car?  
 16 A Yes, sir.  
 17 Q How fast did it say she was going?  
 18 A Fifty-five.  
 19 Q Did it say the range that you had her at?  
 20 A The feet?  
 21 Q Yes.  
 22 A Yes, sir.  
 23 Q What was that?  
 24 A I don't recall.  
 25 Q Did you have any knowledge, from any source,

Court Reporting Associates

1 that that car had been involved in some kind of  
 2 situation in Kirkwood before that?  
 3 A No, sir.  
 4 Q Is there any kind of a system in Maryland  
 5 Heights where cars that have been targeted, or not  
 6 targeted, identified in any kind of a database as having  
 7 been involved in a prior incident of any kind?  
 8 A Yes, sir.  
 9 Q Tell me about that.  
 10 A I don't know what — Excuse me. Sorry.  
 11 Q You need to take a break?  
 12 A No, sir. I just turning my phone off. Sorry  
 13 about that.  
 14 That the system you're referring to is LPR.  
 15 It's a license plate reader. It picks up on plates,  
 16 license plates that have been entered as a wanted for  
 17 various things, missing persons, things like that.  
 18 Q Did — On the day in question, do you have any  
 19 access to that database?  
 20 A No, sir.  
 21 Q Is there an automatic reader of some kind?  
 22 A Yes, sir. It's equipped with cameras on the  
 23 outside of the car.  
 24 Q I don't understand what you mean. What car?  
 25 A You asking about the LPR?

Court Reporting Associates

1 Q Yes. The LPR, yeah. How does this thing  
 2 work?  
 3 A The LPR's got cameras that are attached to the  
 4 light bars of the car, and as you're traveling around,  
 5 if a license plate has been entered into one of the law  
 6 enforcement databases, it will pop up and you'll get  
 7 basically a hit on it that will say, that you have to  
 8 address.  
 9 You have to click on it and see what the hit is  
 10 for, you know, traffic warrant, stolen vehicle, missing  
 11 person, something like that.  
 12 Q Got it. Did Miss [REDACTED] car hit?  
 13 Well, first of all, did you have such a camera  
 14 on your car?  
 15 A No, sir.  
 16 Q Do you know if her license had ever been hit  
 17 by any other car that had that?  
 18 A Not that — I would have no knowledge of that.  
 19 Q Fair enough. I want to just take you through  
 20 these exhibits. The next one is D2. Is that a picture  
 21 of the license — excuse me, the speed limit at that  
 22 location?  
 23 A I'm sorry. D2 you said?  
 24 Q Yes, sir. Why don't you use the color ones?  
 25 A That's okay. I'm familiar with the area.

Court Reporting Associates

1 This is the speed limit. It's a little further  
 2 north than where we were, but yes.  
 3 Q And the speed limit is 40 throughout  
 4 Lindbergh, that section; correct?  
 5 A Yes, sir.  
 6 Q And if you look at D3, does that show the exit  
 7 ramp at Dorsett?  
 8 A Yes.  
 9 Q Okay. So you're telling me that the LiDAR,  
 10 does it light up in some way to inform you that the  
 11 speed of the car you've hit on is higher than the speed  
 12 limit, or anything, or does it just tell you a number  
 13 and you do what you want after that?  
 14 A Does it?  
 15 Q Is there an alert system that says, hey, this  
 16 one's going fast?  
 17 A No.  
 18 Q Okay. So you point at the car, determine the  
 19 speed from LiDAR, and you decide if you're going to pull  
 20 them over; is that fair?  
 21 A Yes, if they're speeding.  
 22 Q Now this particular day, were you in your  
 23 patrol car using LiDAR, or were you on foot, or how did  
 24 that part work?  
 25 A That was in the patrol car.

Court Reporting Associates

1 Q Okay. And which way was the patrol car  
 2 facing?  
 3 A I was facing east and west on the, on the  
 4 shoulder, where I explained to you.  
 5 Q Okay. So was your car perpendicular to  
 6 Lindbergh?  
 7 A Yes.  
 8 Q And were you still at where that Adie entrance  
 9 is?  
 10 A Yes.  
 11 Q And were you using the LiDAR out of your  
 12 driver's side window?  
 13 A Yes, sir.  
 14 Q Do you have any knowledge of whether the glass  
 15 in the window can cause any problems with the LiDAR  
 16 readings?  
 17 A The window's down. It doesn't read if the  
 18 window's up.  
 19 Q And you got a reading for Miss [REDACTED]  
 20 we've talked about that; right?  
 21 A Yes, sir.  
 22 Q Then what did you do?  
 23 A Directly after that?  
 24 Q Yes.  
 25 A She passed by and I pulled up behind the

Court Reporting Associates

1 vehicle.  
 2 Q Okay. Then what did you do?  
 3 A Activated my lights, she exited on to Dorsett,  
 4 made a left turn, and I believe we stopped right on the  
 5 bridge.  
 6 Q Okay. So let's go through these pictures real  
 7 quick. D3 is the exit for Dorsett on southbound  
 8 Lindbergh; is that correct?  
 9 A Yes, sir.  
 10 Q And D4 is a shot of the ramp; is that right?  
 11 A Yes, sir.  
 12 Q And D5, does that kind of show where you  
 13 stopped on the bridge?  
 14 A I believe so.  
 15 Q Okay. That right-hand lane is kind of a  
 16 shoulder lane; is that right? Not a traffic lane, not a  
 17 through lane?  
 18 A No, it's a shoulder.  
 19 Q It is a shoulder?  
 20 A Yes.  
 21 Q And D6, is that the view out the bridge there  
 22 onto Lindbergh?  
 23 A Yes, sir.  
 24 I'm going to turn this off, if you don't mind.  
 25 Q Sure. So she stopped there. Did you consider

Court Reporting Associates

1 that to be a reasonable time, amount of time for her to  
 2 stop?  
 3 A Yes.  
 4 Q Now what did you do after she stopped?  
 5 A I don't really remember the sequence of the  
 6 stop. I don't know if I ran the inquiry on the plate  
 7 prior to contacting her, or if it was directly after I  
 8 got her license.  
 9 Q Okay. Let's look at her license, that is  
 10 Exhibit C. Does that appear to be the license that she  
 11 gave you?  
 12 A I believe so.  
 13 Q And you said sometimes you run the plate  
 14 before you go approach the driver; is that right?  
 15 A Yes, sir.  
 16 Q Other times you approach the driver and then  
 17 run the plate; is that fair enough?  
 18 A Yes, sir.  
 19 Q You don't remember which order you did it this  
 20 time?  
 21 A No, sir.  
 22 Q Okay. Did you read — So let's first talk  
 23 about the license.  
 24 Do you have a device in your car where you can  
 25 check for warrants on that person, that sort of thing, it

Court Reporting Associates

1 would check their record?  
 2 A Yes.  
 3 Q Did you do that?  
 4 A I did at some point. Like I said, I'm not  
 5 sure when I did the computer inquiry.  
 6 Q That's fine. But you're pretty sure you did  
 7 it?  
 8 A Yes, sir.  
 9 Q You do it every time?  
 10 A For the most part, yes.  
 11 Q What would be a reason why you wouldn't do it?  
 12 A I can't think of a reason why I wouldn't do  
 13 it. I mean, I can't say for certain it happens a  
 14 hundred percent of the time, is what I'm trying to say.  
 15 Q Would you say it's protocol and custom to do  
 16 it?  
 17 A Yes, sir.  
 18 Q So you also ran her license plate; is that  
 19 right?  
 20 A Yes, sir.  
 21 Q Now was that through an in-car system, or by  
 22 calling it into dispatch?  
 23 A I believe it was in-car.  
 24 Q Okay. Do you remember having some  
 25 conversations with dispatch that day?

Court Reporting Associates

1 A I don't remember the conversation with  
 2 dispatch.  
 3 Q With the what?  
 4 A I don't remember what — I don't remember what  
 5 the conversation, other than calling out the traffic  
 6 stop with dispatch.  
 7 Q Okay. I have the dispatch records from that  
 8 day, we can play it in a minute, but I want to first ask  
 9 you if you remember that you actually did read the  
 10 license plate into dispatch?  
 11 A Uh-huh.  
 12 Q Do you remember doing that?  
 13 A We do — That's standard. We do that when we  
 14 stop a car.  
 15 Q What is the purpose of that, as opposed to  
 16 just doing it in your car?  
 17 A So I don't know what exactly you're referring  
 18 to, is when I called out on the traffic stop, or is it  
 19 after —  
 20 Q Okay. Well, let me back up a little bit.  
 21 A Okay.  
 22 Q So I thought I had asked you whether you did  
 23 the check of the license plates through a system that  
 24 was in your car, or whether you did it by reading it  
 25 into dispatch, and I thought you said in your car; was

Court Reporting Associates

1 that not correct?  
 2 A Yes. But I don't remember if I asked dispatch  
 3 to do it. So I guess my confusion is, when we call out  
 4 on traffic, we give them the license plate and the  
 5 location, so I don't know if that's what you're  
 6 referring to, or —  
 7 Q Okay. I didn't know what you did.  
 8 A Oh, okay.  
 9 Q I'm trying to find out.  
 10 A I didn't know if you said I requested them to  
 11 run the plate, because I don't remember if I did that,  
 12 or not.  
 13 Q Okay. Do you have capacity in your car to run  
 14 the person's driver's license record?  
 15 A Yes.  
 16 Q Right in the car?  
 17 A Yes.  
 18 Q Through a computer system?  
 19 A Yes, sir.  
 20 Q It's some state record, or some state  
 21 database, or something; right?  
 22 A Yes.  
 23 Q It shows off if they're a bank robber,  
 24 probably calls for some backup right away?  
 25 A Right.

Court Reporting Associates

1 Q She didn't come back with anything, did she?  
 2 A Not any outstanding warrants that I remember.  
 3 Q Because you would have arrested her if she  
 4 had; right?  
 5 A Right.  
 6 Q So she didn't have any warrants?  
 7 A No, not that I remember.  
 8 Q Okay. And so then this license plate is a  
 9 little different; right?  
 10 A Yes, sir.  
 11 Q Now you also have a database for that that you  
 12 can access from your car; is that right?  
 13 A Yes, sir.  
 14 Q And did you do that in this case?  
 15 A Yes.  
 16 Q You know the name of that database, what it's  
 17 called, or anything?  
 18 A There's two different ones we can use in the  
 19 car. One is LEWeb, I believe it's maintained by REJIS,  
 20 and then the other one is Crime Matrix, which I believe  
 21 is maintained by St. Louis County.  
 22 Q Do you know which one you used in this case?  
 23 A Normally I use both, because you get, you  
 24 know, different information from both.  
 25 Q What did you get back on that, in this case?

Court Reporting Associates

1 A From the license plate?  
 2 Q Yes, sir.  
 3 A The license plate had a warrant attached to  
 4 it, and the person with the warrant had criminal history  
 5 related to narcotics, robbery, other charges.  
 6 Q Okay. Now, did you know that the person  
 7 associated with those crimes was not [REDACTED]  
 8 A The person entered in the computer, no, was  
 9 not [REDACTED]  
 10 Q So she was not the person who was in the  
 11 computer associated with that license plate as having  
 12 problems with the law; true?  
 13 A When you say problems with the law, what do  
 14 you mean?  
 15 Q Well, you just described narcotics, other  
 16 offenses, those are the problems I'm referring to.  
 17 A Sure. Miss [REDACTED] wasn't related to, she  
 18 wasn't related to the computer entry. I didn't know how  
 19 she was associated to the person that was attached to  
 20 the plate.  
 21 Miss [REDACTED] also had some criminal history  
 22 related to assault, traffic arrests, things of that  
 23 nature, so when I ran the plate I wasn't sure of the  
 24 relationship that the two subjects had.  
 25 Q Okay. So your record turned up for Miss

Court Reporting Associates

1 [REDACTED] that she had assault?  
 2 A If I remember right. I don't have the record  
 3 in front of me. She had traffic arrests, and I believe  
 4 some type of domestic assault. I don't remember the  
 5 exact.  
 6 Q Okay. And do you remember calling the license  
 7 plate into dispatch?  
 8 A I mean, again, I don't understand what you're  
 9 asking me.  
 10 Q Well, you did call out the license plate  
 11 letters and numbers to dispatch; true?  
 12 A Yes.  
 13 Q Okay. What's the purpose of that?  
 14 A I explained it already. So when we call out  
 15 on a traffic, we give them the license plate twice, and  
 16 we give them the, usually the description of the car and  
 17 the location of the stop.  
 18 The purpose is, if something bad were to happen,  
 19 they know where we were, who we're out with, it's  
 20 something we can trace. Is that what you're referring to,  
 21 or —  
 22 Q Absolutely. I thought that's what you were  
 23 going to say.  
 24 A Okay.  
 25 Q And the lady said something about this

Court Reporting Associates

1 Kirkwood situation, dispatch, to you; correct?  
 2 A I don't know. She may have.  
 3 Q Okay. All right. Do you remember making a  
 4 decision to get some backup?  
 5 A Yes.  
 6 Q Why did you decide you needed backup?  
 7 A After I ran the history of the person attached  
 8 to the license plate and Miss [REDACTED] I asked her to  
 9 exit. I spoke with her about the relationship of her  
 10 and the person attached to the license plate. I asked  
 11 her for consent to search the car, which she granted,  
 12 consent to search her person, which she also granted, at  
 13 which time I called for a female officer to respond to  
 14 the scene.  
 15 Q Okay. Why did you decide to search her  
 16 person?  
 17 A Mainly, it was, it was more of a pat down. It  
 18 wasn't an in-depth search. There was no — just mainly  
 19 for weapons and that while I was searching the car, is  
 20 more of a safety —  
 21 Q Now why would you need a female for a pat  
 22 down?  
 23 A You don't. You know, it's a pat down that I  
 24 could do, but if we have a female available, there's,  
 25 there's no reason for me to do the pat down if we have a

Court Reporting Associates

1 female that can show up and do it.  
 2 Q Well, there's no — I mean, she's standing out  
 3 there; right? Before the pat down?  
 4 A Yes.  
 5 Q I'm not trying to argue with you, but if she  
 6 had a weapon and decided to use it on you, she could do  
 7 that while the backup was coming; right?  
 8 A Sure.  
 9 Q Does — So you, you requested the female  
 10 specifically to do the pat down; is that correct?  
 11 A Yes. Yes.  
 12 Q Okay. Did you wait for that person to come?  
 13 A For? As far as?  
 14 Q The female officer to come. You didn't  
 15 pat her down until then?  
 16 A Yes.  
 17 Q Let me restate. Did you pat her down before  
 18 that officer came?  
 19 A No.  
 20 Q Did you pat her down at all?  
 21 A No.  
 22 Q Okay. When — And what is the name of the  
 23 officer that came?  
 24 A I believe at the time, and I don't want to try  
 25 to confuse you, but I believe at the time she recently

Court Reporting Associates

1 got married, so it was Skaggs, now it's Mason.  
 2 Q What is the first name?  
 3 A Michelle.  
 4 Q Is that — I think I got the number in my  
 5 notes here, 32 something, 3233; does that sound right?  
 6 A So her DSN's 233. The first number you're  
 7 referring to is the sector that we're assigned to.  
 8 Q Okay. All right. That's why I was confused  
 9 about that. Okay. So I understand now.  
 10 So what did you tell — Was it Mason then?  
 11 We'll call her Officer Mason —  
 12 A Sure.  
 13 Q — that was her name then. What did you tell  
 14 Officer Mason about [REDACTED]  
 15 A As far as I remember, we didn't really have  
 16 any in-depth conversation.  
 17 Q Did you observe Miss Mason do the pat down of  
 18 Miss [REDACTED]  
 19 A No, sir.  
 20 Q What were you doing when that happened?  
 21 A I believe — I don't remember if I was in the  
 22 car, or if I was searching her car at the time.  
 23 I make it a practice when the female officer  
 24 arrives and begins her search, that's really not of my  
 25 concern at the time, so I let her do that, the pat down,

Court Reporting Associates

1 or whatever, whatever kind of search she's going to do at  
 2 the rear of my car, or her car, and, you know, I do other  
 3 things.  
 4 Q Do you recall where the pat down occurred, in  
 5 terms of whether it was in her car, your car, on the  
 6 street, whatever?  
 7 A I know it wasn't in a car. I don't see any  
 8 reason why she'd put her in the car. But you'd have to  
 9 speak to Officer Mason about that. I don't — I wasn't  
 10 paying attention to that.  
 11 Q Okay. Does Officer Mason have — Did you ever  
 12 convey any information to Officer Mason about the  
 13 speeding ticket itself?  
 14 A Not that I remember.  
 15 Q And you did not observe the pat down?  
 16 A No, sir.  
 17 Q How do you know it was a pat down, as opposed  
 18 to a strip search?  
 19 A We don't do strip search. I've never asked,  
 20 in 12 years as a policeman, for anybody to get strip  
 21 searched on the side of the road, nor would I ever do  
 22 that.  
 23 Q But in this case you have no personal  
 24 knowledge of what happened?  
 25 A I've worked with Officer Mason for several

Court Reporting Associates

1 years, and the practice of our department is not to  
 2 strip search people on the side of the road.  
 3 Q Is there a formal written policy about that in  
 4 Maryland Heights?  
 5 A Yes, sir.  
 6 Q Does that policy say don't do it? What does  
 7 it say?  
 8 A It's not that we can't do it. There's certain  
 9 protocol that you have to follow, and I'd have to review  
 10 it. Strip searches are normally done at the station  
 11 with the consent of the person that's being searched.  
 12 Q You remember what Miss [REDACTED] was wearing  
 13 that day?  
 14 A No, sir.  
 15 Q Do you know if there's a picture of her that  
 16 day? Any picture taken in connection with this stop?  
 17 A No, sir. Not that I am aware of. Are you  
 18 talking about by our department?  
 19 Q By anybody?  
 20 A No. Not that I am aware of.  
 21 Q Let me show you the racial profile, and it's  
 22 Exhibit E.  
 23 A Okay.  
 24 Q Your name's at the bottom. Can you tell me  
 25 what that document is?

Court Reporting Associates

1 A This, the racial profiling report.  
 2 Q Okay. Did you prepare that?  
 3 A Yes.  
 4 Q And do you prepare that in all stops?  
 5 A Yes, sir.  
 6 Q And I want to take you down to seven. It says  
 7 was a search initiated? And the box checked is yes.  
 8 Did you check that box?  
 9 A Yes.  
 10 Q And you said consent?  
 11 A Yes, sir.  
 12 Q How did she consent?  
 13 A I don't remember the conversation verbatim  
 14 with Miss [REDACTED] but she granted verbal consent.  
 15 Q And it says in number eight what was searched,  
 16 and it was driver and property; right?  
 17 A Yes, sir.  
 18 Q Do you consider a pat down to be a search?  
 19 A No, sir.  
 20 Q Well, it says that she was searched, so that  
 21 sounds like more than a pat down. Can you explain that?  
 22 A Well, what I say, I guess in my reference to  
 23 the pat down, you were speaking of a strip search, which  
 24 is not something that we do.  
 25 Officer Mason may have checked her pockets, but

Court Reporting Associates

1 I'm pretty certain of whatever she was wearing, but that  
 2 would have been the extent of it.  
 3 There was no, no strip search that occurred on  
 4 the side of the road.  
 5 Q Okay. When you searched her vehicle, did you  
 6 go through the doors, glove box, and the rear trunk, and  
 7 all that?  
 8 A I mean, I can't remember the exact search, but  
 9 I'm sure I looked through the car.  
 10 Q Okay. Didn't find any contraband or anything?  
 11 A No, sir.  
 12 Q Saw no need for dog?  
 13 A No, sir.  
 14 Q Do you have dogs at Maryland Heights?  
 15 A Yes.  
 16 Q It says duration of the search, zero to 15  
 17 minutes. Do you know how long it lasted?  
 18 A Not exactly, no.  
 19 Q Do you know roughly?  
 20 A The traffic stop itself was only 21 minutes  
 21 total, so it couldn't have been that long.  
 22 Q Okay. Let's go to the ticket, which is  
 23 Exhibit A1. We're going to use your nice one here.  
 24 [Indicating].  
 25 A Okay.

Court Reporting Associates

1 Q So I'm going to kind of go through this in  
 2 some detail. The uniform citation, there's a number at  
 3 the top. That's just the number of the ticket you  
 4 received; is that right?  
 5 You got a book?  
 6 A Well, these are computer generated.  
 7 Q Oh, of course.  
 8 A So the same kind of deal, they just — it's a  
 9 way to keep a record.  
 10 Q I understand. And it's got the court address,  
 11 and the computer, you have one of those little  
 12 computers, devices that prints out the ticket?  
 13 A The printed ticket, yes.  
 14 Q You enter the data and then it prints it out?  
 15 A Yeah.  
 16 Q Fair enough?  
 17 A Yes, sir.  
 18 Q Okay. And so the court date and the court  
 19 time, was that automatic?  
 20 A Yes.  
 21 Q Then there's a date of the incident and the  
 22 date of the time. Was that the time that the — you  
 23 allege that she was speeding, or is that the time that  
 24 the thing printed out?  
 25 A That would have been the time the ticket was

Court Reporting Associates

1 generated, most likely.  
 2 Q So in other words, the ticket, the event might  
 3 have been a little earlier than that, fair enough? Few  
 4 minutes?  
 5 A The time I called out on the traffic stop was,  
 6 I believe at 10:22.  
 7 Q Yeah, we have that in Exhibit F as the first  
 8 call. So the next — We're on about the fifth line  
 9 down. It says highway class. That's not filled out;  
 10 right?  
 11 A Where we at?  
 12 Q Okay. You see the date, it says on or about,  
 13 one, two, three, four, fifth line down, not counting  
 14 this ticket number.  
 15 A Oh, okay.  
 16 Q It says highway class, that's not filled out;  
 17 right?  
 18 A Right.  
 19 Q Do you know why that's not filled out?  
 20 A No, sir.  
 21 Q Does Lindbergh have a class, or —  
 22 A Yes, sir.  
 23 Q Okay. You just didn't fill it out, or  
 24 whatever?  
 25 A I guess I just missed the box.

Court Reporting Associates

1 Q No problem. Then it says Dorsett — It says  
 2 upon, at, or near, and then open paren, location,  
 3 closed, location, Dorsett-Lindbergh. Did you fill that  
 4 in?  
 5 A Yes.  
 6 Q Why did you write that?  
 7 A That's where the stop occurred. And I mean,  
 8 the speeding violation was in the vicinity of Dorsett  
 9 and Lindbergh, that's a very small area there.  
 10 Q Well, the actual incident happened north of  
 11 Adie; right?  
 12 A Somewhat north of Adie, yes.  
 13 Q You were pointing northbound; right?  
 14 A Right.  
 15 Q So you said you didn't recall the range?  
 16 A Right.  
 17 Q But the event did not happen, the speeding,  
 18 the alleged speeding did not happen at Dorsett and  
 19 Lindbergh; is that a fair statement?  
 20 A It says at or near the location, so I'd say it  
 21 was fairly close. I mean, we're talking about an area  
 22 of probably 200 feet, 300 feet. I mean, that's not a  
 23 big intersection there.  
 24 Q Well, okay. Let's go back to the picture, D1.  
 25 A There we go. This picture you have here in

Court Reporting Associates

1 D3?  
 2 Q Yes.  
 3 A That's basically right after you enter onto  
 4 Adie, and you can see Dorsett and Lindbergh from that  
 5 intersection right there.  
 6 Q Okay. Well, my understanding on D1 is where  
 7 you put your, the one right here. [Indicating].  
 8 A Okay.  
 9 Q You put your "X" up where that Adie Y is, and  
 10 it shows going into Lindbergh; right?  
 11 A Right.  
 12 Q And in fact, where you — where the LiDAR says  
 13 she was speeding, allegedly, is north of that; right?  
 14 A Somewhat north of it, yes.  
 15 Q Okay. All right. That's all I wanted to  
 16 know.  
 17 A Okay.  
 18 Q Did you get her address information off of her  
 19 driver's license?  
 20 A I believe so.  
 21 Q Okay. And is this something you type it in,  
 22 you have to hit the letters one-by-one, or something?  
 23 A As far as how it —  
 24 Q Yeah. How you do the entry of the data.  
 25 A No. It gets — In our, in our ITI system in

Court Reporting Associates

1 our cars, it gets moved over from the license  
 2 information.  
 3 Q That cuts down on errors, I bet?  
 4 A Well, you'd hope so.  
 5 Q Okay. It's automatic. Date of birth, nothing  
 6 there of any importance; right? You wrote down the car;  
 7 right?  
 8 A Yes, sir.  
 9 Q Nothing there of any consequence; right?  
 10 A Yes, sir.  
 11 Q All that information correct, to the best of  
 12 your knowledge?  
 13 A Yes, sir.  
 14 Q Okay. Then you wrote driving 55, posted speed  
 15 limit 60; right?  
 16 A Yes. Yes, sir.  
 17 Q Now, can you explain why you — Well, first of  
 18 all, was that generated automatically, or did you have  
 19 to enter that?  
 20 A No. I had to enter that.  
 21 Q Okay. And — Is that correct?  
 22 A No, sir.  
 23 Q Okay. Do you have any reason why the error  
 24 occurred?  
 25 A Just a clerical error, so oversight.

Court Reporting Associates

1 Q So it should have said what?  
 2 A Forty.  
 3 Q And then you — a detection method you wrote  
 4 other; right?  
 5 A Yes, sir.  
 6 Q And what did you mean by other?  
 7 A There's no box on here for the LiDAR, so we,  
 8 we mark other.  
 9 Q Okay. And that ordinance number, is that the  
 10 speeding ordinance for that location? It's the next  
 11 line.  
 12 A That's generated, I believe, so —  
 13 Q Oh, that's automatic on the machine?  
 14 A Yes, sir. You have to pick the violation and  
 15 then it automatically populates.  
 16 Q Okay. Then you've got your name and your  
 17 badge number, and the date, and all that; right?  
 18 A Yes, sir.  
 19 Q Now I noticed the prosecutor's signature, it  
 20 says Ross Davis; right?  
 21 A Yes, sir.  
 22 Q Did that — One of the problems is that my  
 23 document, my Exhibit A, as opposed to the Exhibit A1  
 24 doesn't have that name, because I don't go down that far  
 25 on the page.

Court Reporting Associates

1 Did it say Ross Davis in the copy you gave her?  
 2 A That I don't remember. That's all generated,  
 3 that's all populated automatically.  
 4 Q Okay. You know who Ross Davis is?  
 5 A He's our, I guess he's the new prosecuting  
 6 attorney.  
 7 MR. SCHOCK: Okay. So he's replaced you,  
 8 Steve?  
 9 MR. FLUHR: No.  
 10 MR. SCHOCK: You're irreplaceable.  
 11 MR. FLUHR: Well, no, I'm not irreplaceable,  
 12 that's for sure. No. Ross and I are co-prosecutors.  
 13 He's also a prosecutor, too.  
 14 I'll be quite honest with you, I didn't realize  
 15 it's been that long. It's a year already. Seems like  
 16 yesterday, to me.  
 17 MR. SCHOCK: All right. All right. So I'm  
 18 getting close to the end, and I want to read through my  
 19 notes. Okay.  
 20 A All right.  
 21 MR. SCHOCK: Can we go off the record? I want  
 22 to talk to my co-counsel for a second.  
 23 MR. FLUHR: Sure.  
 24 [Whereupon, there was a short break].  
 25 MR. SCHOCK: Back on. Okay. We're back on

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1 the record.  
 2 MR. FLUHR: Did you turn on the video?  
 3 MR. SCHOCK: Yes. Good question, Steve.  
 4 Q (By Mr. Schock) So what database did you use  
 5 to check Miss ██████ record?  
 6 A I believe it would have been both the ones  
 7 that I mentioned to you.  
 8 Q Which are?  
 9 A The LEWeb and the Crime Matrix.  
 10 Q LEWeb?  
 11 A Yes, sir.  
 12 Q Do you know what that — it's L, like Larry,  
 13 E, Edward?  
 14 A The Web. Exactly like it sounds.  
 15 Q W-e-b?  
 16 A Uh-huh.  
 17 Q Do you know what that stands for?  
 18 A No.  
 19 Q Law enforcement web maybe?  
 20 A It would be a good guess, I guess.  
 21 Q And that's in your car?  
 22 A Yes, sir.  
 23 Q And do you know where that data is generated  
 24 from, or you just put it in and see what happens?  
 25 A No. It's generated for — REJIS maintains it,

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1 but you also have access to MULES, which is the state  
 2 database, NITT, which is nationwide inlets.  
 3 Q Is all that in LEWeb?  
 4 A Yes, sir.  
 5 Q So when you checked her on LEWeb, you should  
 6 have gotten everything; fair enough?  
 7 A Not necessarily. Are you comparing the two  
 8 with Crime Matrix and LEWeb, is that what you're asking  
 9 me?  
 10 Q I'm just asking whether LEWeb is  
 11 comprehensive? What could be missed by LEWeb?  
 12 A You know, I'm not sure. I've never really  
 13 compared the two.  
 14 Q So the other one you used is called?  
 15 A Crime Matrix.  
 16 Q And how is that? Who, who — Tell me the  
 17 source of information in Crime Matrix, if you know.  
 18 A I believe it's maintained by St. Louis County.  
 19 That comes up with everything from, if anybody's been  
 20 affiliated with a gang, any — have they been arrested,  
 21 associated through a different address, if they've been  
 22 FIR'd.  
 23 Q What's FIR'd?  
 24 A Field interview report.  
 25 Q So it's a little more in-depth about events in

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1 St. Louis County, would you say?  
 2 A Both of them have their pluses and minuses. I  
 3 mean, it's not all inclusive in either one, I guess is  
 4 what I'm trying to tell you.  
 5 Q And you have said, I believe, that  
 6 Miss ██████ came up with an assault, or something?  
 7 A I believe it was some kind of a domestic. I  
 8 don't have the record in front of me.  
 9 Q How much did that contribute to the decision  
 10 to have officer, is it Mason, I believe what it was,  
 11 come?  
 12 A Yes.  
 13 Q How much did it contribute to that?  
 14 A Just that one charge?  
 15 Q Yes.  
 16 A Just I would say it was factored in.  
 17 Q If you had to say all the factors that  
 18 contributed to your decision to bring in Officer Mason,  
 19 what would you tell me?  
 20 A Just the totality of everything, the — I  
 21 don't know the — I didn't know, I wasn't aware of the  
 22 relationship between her and the subject that was  
 23 attached to her vehicle, the subject that was attached  
 24 to her vehicle had some pretty lengthy history, some  
 25 pretty serious crimes. ██████ herself had some

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1 history.  
 2 I don't remember our exact conversation. The  
 3 only thing that stands out to me is, I believe she was a  
 4 little nervous while I was speaking to her about the  
 5 information that was attached to her license plates.  
 6 Q Okay. Do you believe nervousness around a  
 7 police officer is grounds, probable cause to detain  
 8 someone?  
 9 A You mean nerve — I don't understand the  
 10 question.  
 11 Q Well, most everybody's nervous around  
 12 policemen, aren't they, when they're getting stopped?  
 13 A I wouldn't say that's true. I mean, a lot of  
 14 people don't have anything to worry about, they're not  
 15 nervous. It's a normal, you know.  
 16 Q Why did you have her get out of the car?  
 17 A Everything I just told you.  
 18 Q Okay. Would — If, if there had been no  
 19 problem with the car coming up, would you have had her  
 20 get out of the car, or have her stay in the car and just  
 21 give her a ticket and go on her way?  
 22 A What do you mean no problem with the car, as  
 23 in the other person attached to the car?  
 24 Q Correct.  
 25 A I believe that would have factored in. I

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1 can't say. I mean, that's not the way the situation  
 2 played out, so I can't say for sure.  
 3 Q Okay. Fair enough. Is there any policy  
 4 written as to how you decide in Maryland Heights whether  
 5 to ask a person to step out of their car, as opposed to  
 6 letting them just stay in their car during a traffic  
 7 stop?  
 8 A There may be. I don't know for sure.  
 9 Q Is there a custom and practice about that?  
 10 Do any kind of, ideally you'd sort of do it that  
 11 way, because that's the way we always do it, is what I  
 12 would call a custom and practice.  
 13 A No, sir. Every stop is different. I mean,  
 14 you take in everything that happens during the stop, and  
 15 the information you gather, and, you know, make a  
 16 decision based off that.  
 17 Q Okay. I want to talk to you a little bit  
 18 about this consent. Did you ask her if you could search  
 19 her body?  
 20 A I don't remember our exact conversation. I'm  
 21 speaking generally when I ask for consent, I let her  
 22 know there was a female officer that was going to come  
 23 and search her as far as her pockets, pat down, make  
 24 sure she didn't have any weapons, anything in her  
 25 pockets, and that would have been the extent of it.

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1 Q Did you do anything to protect yourself during  
 2 the time, after you decided to have this pat down occur  
 3 and the female officer arrive?  
 4 A As far as?  
 5 Q Well, the concern was that she had a weapon;  
 6 right? That's why you pat them down; fair enough? And  
 7 for contraband?  
 8 A Yes.  
 9 Q Those are the two reasons, those are the two  
 10 things you're looking for, contraband and weapons; fair?  
 11 A Yes, sir. Yes, sir.  
 12 Q And in this stop you decided that she needed  
 13 to be patted down; right?  
 14 A Yes, sir.  
 15 Q And was there any concern you had that she had  
 16 a weapon?  
 17 A Oh, I mean, you don't know. I mean, how am I  
 18 supposed to know if she has a weapon, or not.  
 19 Q That's my point. That's why you're checking;  
 20 right?  
 21 A Right.  
 22 Q Now my question is, there was a time lapse  
 23 between the time when you decided that she needed to be  
 24 patted down, and that Officer Mason came; correct?  
 25 A Yes, sir.

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1 Q What did you do to protect yourself in case  
 2 she had a weapon and decided to use it on you during  
 3 that time?  
 4 A I mean, what we normally do.  
 5 Q Which is what?  
 6 A It's a possibility on every stop, I spoke with  
 7 her, I watched her movements. I mean, I had my eyes on  
 8 her, I knew what she was doing.  
 9 I mean, obviously, that's a risk of the job. If  
 10 she has a weapon and decides to use it before Officer  
 11 Mason gets there, then I'd have to act.  
 12 I didn't do anything out of the ordinary. I  
 13 guess I don't, I don't know if you're — I don't know what  
 14 you're asking me.  
 15 Are you asking me if I took any other actions?  
 16 Q Yes.  
 17 A Not anything outside the norm.  
 18 Q Do you believe you had the lawful authority to  
 19 pat her down yourself?  
 20 A Yes. A pat down, yes.  
 21 Q But you did not do that; is that correct?  
 22 A Yes, sir.  
 23 Q And you don't remember what she was wearing?  
 24 A I don't.  
 25 Q You don't remember whether it was bulky

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1 clothes, or more close-fitting type clothes?  
 2 A I don't remember.  
 3 Q What were you doing and what was she doing  
 4 while you were waiting for the other officer to arrive?  
 5 A I don't recall specifically, exactly what I  
 6 was doing.  
 7 Q That LiDAR machine, as to date and time,  
 8 sometimes machines like that have what's called drift,  
 9 so it will be — it will say it's 10:34 on the LiDAR  
 10 machine, but it's really 10:55, or something like that.  
 11 In other words, it's losing a day, a minute every month,  
 12 or something.  
 13 Do you remember whether that particular LiDAR  
 14 machine was accurate as to the time and date?  
 15 A No, sir. You'd have to speak to the officer  
 16 who maintains it.  
 17 Q Is there any custom and practice in your  
 18 department, or written policy regarding what one does as  
 19 an officer when there is a hit of this nature as to the  
 20 license plate, that is, the license plate is associated  
 21 with another person, not the driver, who has some kind  
 22 of criminal conduct associated with it?  
 23 A So can you ask the question one more time? I  
 24 think I understand what you're saying, but I'm not sure.  
 25 Q So in this particular case you figure out

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1 pretty fast that [REDACTED] has a driver's  
 2 license, she's who she is, looks like her; right?  
 3 You checked to make sure it looked like her;  
 4 fair enough?  
 5 A Yes.  
 6 Q It was her; right?  
 7 A Right.  
 8 Q And that her car, that license plate had  
 9 associated with it another person who had engaged in  
 10 some kind of criminal conduct; right?  
 11 A Yes, sir.  
 12 Q Is there any custom and practice, or written  
 13 policy in your department as to what to do under those  
 14 circumstances?  
 15 A Not that I am aware of, no.  
 16 Q So would you call that officer discretion?  
 17 A I, I don't know what you're asking what I had  
 18 discretion on. As far as the actions I took, or —  
 19 Q Yes. Have her get out of the car, pat her  
 20 down, all the things that occurred?  
 21 A Normally what occurs is, if I were to run the  
 22 plate and dispatch was made aware of the warrant, they  
 23 would send a second unit automatically.  
 24 I don't remember the chain of events. I don't  
 25 know if dispatch was aware of the warrant, if I was aware

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1 of the warrant before I called for Michelle. I'm not  
 2 sure.  
 3 MR. SCHOCK: Okay. I understand. Don't  
 4 remember. Okay. So those are all our questions, and  
 5 I'm really appreciative of your time Officer Johnston.  
 6 Do you want to go over reading?  
 7 MR. FLUHR: Yes. Okay. You have the right to  
 8 read this deposition to make sure that the court  
 9 reporter has accurately recorded your answers. You  
 10 can't change your answers, but you could make sure that  
 11 what she recorded was accurate, or you can trust this  
 12 court reporter, who's been working many years, well,  
 13 great reputation, and say I'll waive my signature, I  
 14 believe she will be accurate.  
 15 THE WITNESS: I think I'll go ahead and waive.  
 16 MR. FLUHR: All right.  
 17 [SIGNATURE OF THE WITNESS WAIVED BY AGREEMENT  
 18 OF COUNSEL AND CONSENT OF THE WITNESS].  
 19  
 20  
 21  
 22  
 23  
 24  
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Court Reporting Associates

1 CERTIFICATE  
 2 I, JANE M. RICH, a Certified Court Reporter,  
 3 within and for the State of Missouri, license #411, do  
 4 hereby certify that pursuant to notice there came before  
 5 me in the conference room of the offices of the  
 6 Prosecuting Attorney for the City of Maryland Heights,  
 7 9322 Manchester Road, Rock Hill, Missouri,  
 8 GREGORY JOHNSTON,  
 9 who was first duly sworn to testify to the truth and  
 10 nothing but the truth of all knowledge touching and  
 11 concerning the matters in controversy in this cause; that  
 12 the witness was thereupon examined, and signature of the  
 13 witness waived by agreement, and that this deposition is a  
 14 true and accurate record of the testimony given by the  
 15 witness.  
 16 I further certify that I am not of counsel, nor  
 17 attorney for either of the parties to said suit, nor  
 18 related, nor interested in any of the parties or their  
 19 attorneys.  
 20 IN WITNESS WHEREOF, I have hereunto set my hand  
 21 this 11th day of May, 2017.  
 22 \_\_\_\_\_  
 23 Jane M. Rich, CCR No. 411.  
 24  
 25

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