

CITY COUNCIL AGENDA ITEM

Date: April 19, 2021

To: Honorable Mayor and City Council Members

From: Lori Grigg Bluhm, City Attorney
Nicole F. MacMillan, Assistant City Attorney

Subject: Charvelle Carter v. Shearer et. al.



On Friday, April 16, 2021, a lawsuit was filed against two Troy Police Officers (one identified, the other named as “John Doe”) as well as the Louis Vuitton store and a Louis Vuitton sales clerk (identified as “Jane Doe”). It was filed in the federal court (Eastern District of Michigan), and assigned to Judge Terrence Berg.

On April 6, 2021, Troy police officers were dispatched to the Louis Vuitton store at Somerset Mall. Store personnel reported that Plaintiff attempted to make a purchase, but the store’s credit card system showed that the card was stolen both times it was run. The Troy police officers investigated the matter, and Plaintiff was temporarily detained as the officers attempted to verify the validity of the credit card. The Officers were unable to immediately communicate with the credit card issuer, and released Plaintiff from the scene, but temporarily retained the credit card until receiving confirmation of the status.

After sending out a media press release, Plaintiff subsequently filed this lawsuit, alleging that the individual Troy police officers violated her constitutional rights (4th and 14th Amendment), and also a separate claim of false arrest. She has also sued the Louis Vuitton store, and “Jane Doe,” which is presumably the sales clerk handling the transaction. She is seeking punitive damages, and damages for her embarrassment, loss of reputation, etc. She does not claim any physical damages.

The proposed resolution authorizes the City Attorney’s Office to defend the Troy Police Officers. Please let us know if you have any questions or concerns.

UNITED STATES DISTRICT COURT
IN THE EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

'21 APR 19 AM 10:33

CHARVELLE CARTER,

Case No.

Plaintiff,

vs.

Hon.

TROY POLICE OFFICER SHEARER and
TROY POLICE OFFICER JOHN DOE,
in their individual capacities,
LOUIS VUITTON NORTH AMERICA, INC.,
and JANE DOE,
Jointly and Severally,

Defendants.

ERNST CHARARA & LOVELL, PLC

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COMPLAINT AND JURY DEMAND

COMPLAINT

Plaintiff, by Counsel, in support of her complaint states as follows:

VENUE AND JURISDICTION

1. Plaintiff was at all times relevant hereto, a citizen of the United States and State of Michigan residing in the Eastern District of Michigan.
2. The cause of action arose in the City of Troy, Michigan Eastern District of Michigan.
3. The City of Troy is a municipal corporation and political subdivision of the State of Michigan.
4. Defendant Shearer was at all times relevant hereto a Troy Police Officer acting under color of state law, and pursuant to the policies, practices, customs, and usages of the Troy Police Department and is being sued in his individual capacity.
5. Defendant John Doe was at all times relevant hereto, a Troy Police Officer acting under color of state law, and pursuant to the policies, practices, customs, and usages of the Troy Police Department and is being sued in his individual capacity.
6. Defendant Jane Doe was at all times relevant hereto residing in the Eastern District of Michigan.
7. Defendant Louis Vuitton North America, Inc. is a foreign profit corporation incorporated in the State of Delaware, headquartered in the State of New York, doing business in the City of Troy, State of Michigan.

8. The federal claims brought herein are cognizable under the United States Constitution and 42 U.S.C. §1983. Accordingly, jurisdiction is conferred by 28 USC § 1331 as this matter involves a federal question.
9. The state law claims brought herein are cognizable under Michigan law and supplemental jurisdiction is conferred by 28 USC § 1367 at these claims form part of the same case or controversy.

FACTUAL ALLEGATIONS

10. On April 6, 2021, Lathrup Village resident Charvelle Carter, an African American woman, alum of Wayne State University and business owner, attempted to make a \$2,500 purchase at the Louis Vuitton store at the Sommerset Mall in Troy, Michigan, using her Mastercard debit card issued from Michigan First Credit Union (her bank).
11. Ms. Carter used her card on multiple occasions without incident.
12. However, Ms. Carter had issues with her Mastercard debit card on Apr 4, 2021, which was linked to her checking account, so she called her bank before attempting the purchase from Louis Vuitton to ensure that the transaction could be completed but was placed on hold by an automated system.

13. She then used her phone to check her bank account status and noticed that although she had more than sufficient funds in her account to cover her anticipated purchase, there was an outstanding overdraft fee.

14. She paid the required minimum fee and approached a white sales associate, Defendant Jane Doe, to make her debit card purchase while she continued to hold for a bank representative.

15. Ms. Carter's debit card was declined.

16. While still on hold with the bank, Ms. Carter paid the balance of the overdraft fee, believing that the outstanding balance was the reason her card was declined.

17. Ms. Carter then requested that Defendant Jane Doe attempt to charge her debit card again.

18. The card declined for a second time and Ms. Carter continued to hold for a bank representative, she apologized to Defendant Jane Doe for the inconvenience and told her she was going to talk to her bank representative to resolve the issue.

19. Ms. Carter could see Defendant Jane Doe's computer screen when her debit card was declined and at no point did a prompt appear indicating that the card was stolen; the prompt indicated only that it had been declined.

20. Ms. Carter then sat down inside the store and waited on hold for a bank representative.

21. Unbeknownst to Ms. Carter, Defendant Jane Doe and/or her supervisor then called Troy Police and/or Somerset security, or caused them to be called, and falsely reported that Ms. Carter attempted to make a purchase with a stolen credit card.

22. Ms. Carter's debit credit card had her name on it and had not been reported as stolen by her or her bank or Mastercard.

23. Defendant Jane Doe and/or her supervisor did not call police and falsely report an attempt to make a purchase with a stolen credit card when similarly situated white patrons' debit/credit cards were declined.

24. As she was waiting on hold, Ms. Carter noticed Defendant Jane Doe looking nervously around the store.

25.Shortly thereafter, a Somerset security guard entered the store and approached Defendant Jane Doe, stood next to her and appeared to be talking to Jane Doe.

26.Although the store had multiple other patrons, Ms. Carter notice that Jane Doe and the security guard continued to glance at Ms. Carter.

27.Not long after the security guard entered the store, two white Troy Police officers, Defendant Shearer and Defendant John Doe, entered the store.

28.Much to Ms. Carter's horror, embarrassment, and mortification the police defendants immediately approached her and loudly accused her of using a stolen credit card, as she continued to hold on the phone with her bank.

29.Shortly after the police defendants accused Ms. Carter of using a stolen credit card, a bank representative answered the call.

30.Ms. Carter told the police defendants that she was talking to a representative from her bank and told the bank representative that she was being told that her card was reported as stolen.

31.The bank representative told Ms. Carter that she would check into the status of her debit card and put her on hold.

32.As Ms. Carter explained to the police defendants that the debit card belonged to her, had her name on it and was not stolen, the police defendants demanded that she produce identification.

33.Ms. Carter complied and showed them her current, valid driver's license with her picture on it at which time one of the police defendants forcefully grabbed her driver's license out of her hands and demanded to see Ms. Carter's debit card.

34.At that point, Ms. Carter stated she no longer wanted to purchase anything and just wanted to leave.

35.The police defendants told her she was not free to go and one of the police defendants took her card and driver's license and walked to the back of the store while the other remained by her as she continued to hold for a bank representative.

36.The police defendant that walked to the back of the store returned and told Ms. Carter that she was being detained because Jane Doe told him that the card came up as stolen on Louis Vuitton's computer system.

37.That police defendant than instructed told her to end her call to the bank, stating that she might be doing "something suspicious with the bank"

38.Ms. Carter again informed the police defendants that she was on a call with her bank that issued the debit card and refused to end the call and begged the officers to speak with her bank representative.

39.One police defendant then grabbed her wrist and forcefully grabbed her phone from her hand and ended the call with the bank and set the phone down near the chair where Ms. Carter was sitting.

40.The police defendants then told Ms. Carter she was being detained for using a stolen credit card.

41.Ms. Carter continued to be terrified and embarrassed as she stood in the middle of the Louis Vuitton store as other customers and employees watched her as she was detained and accused of using a stolen debit card.

42.One police defendant then walked away toward the back of the store.

43.He returned some time later and indicated that he ran the debit card and that the card chip matched the card number but that there was “no name attached to the card”, although the card clearly had Ms. Carter’s name on it.

44.Shortly thereafter, a bank representative called Ms. Carter’s cell phone, her cell phone rang and she recognized her bank’s phone number.

45. She picked up the phone and tried to answer the call, but defendant police officers again forcefully grabbed the phone from her and ended the call.

46. Ms. Carter again asked the police defendants to call her bank to verify that the card was hers and that it was not stolen.

47. One police defendant then called the Mastercard number on the back of Ms. Carter's card and told Ms. Carter that there were 18 callers in front of him and that if he could not get through to anyone, he was going to arrest her and take her to the Troy Police Department.

48. Ms. Carter begged the police defendant to remain on hold as long as it took.

49. After waiting a period of time, the police defendant hung up and informed Ms. Carter he was confiscating her debit card and left the store with Ms. Carter's card.

COUNT I
CONSTITUTIONAL VIOLATIONS, POLICE DEFENDANTS

50. The actions and/or omissions of the police defendants as described above constitute an unreasonable seizure, arrest, and detention in violation of the Fourth and Fourteenth Amendments to the United States Constitution as they arrested and detained Plaintiff without probable cause.

51.The rights at issue here were clearly established at the time of the constitutional violations, and any reasonable police officer should have been aware of Plaintiff's rights and should have recognized his actions violated said rights.

COUNT II
FALSE ARREST, ALL DEFENDANTS

52.The actions and/or omissions of the police defendants as described above constitute a false arrest in violation of MCL 600.2907 because they acted with malice and there was no probable cause to support an arrest.

53. Defendant Jane Doe instigated a false arrest when she and/or her supervisor falsely reported that Ms. Carter's debit card was reported as stolen, in violation of MCL 600.2907.

54.Defendant Jane Doe and/or other agents of Defendant Louis Vuitton were acting in the course and scope of their employment when they instigated the false arrest.

55.Defendant Louis Vuitton is vicariously liable as *respondeat superior* for the false arrest.

COUNT III
DENIAL OF EQUAL PUBLIC ACCOMMODATIONS,
DEFENDANTS JANE DOE AND LOUIS VUITTON

56. Defendant Jane Doe denied Ms. Carter the full and equal enjoyment of the goods, services, facilities, privileges, advantages, or accommodations of a place of public accommodation in violation of the Elliott-Larsen Civil Rights Act, MCL 37.2101 et seq., and MCL 750.146.

57. Defendant Jane Doe and/or other agents of Defendant Louis Vuitton were acting in the course and scope of their employment when they denied Ms. Carter the full and equal enjoyment of the goods, services, facilities, privileges, advantages, or accommodations of a place of public accommodation.

58. Defendant Louis Vuitton is vicariously liable as *respondeat superior* for the denial of the full and equal enjoyment of the goods, services, facilities, privileges, advantages, or accommodations of a place of public accommodation.

DAMAGES

59. As a direct and proximate result of the unconstitutional and unlawful actions of the individual and official Defendants as set forth above, Plaintiff was caused the following injuries and damages, past and future, including but not limited to: Mental anguish, mental distress, loss to reputation, embarrassment, humiliation, mortification, fear, anxiety, depression and loss of the enjoyment of life.

60.As a result of the Defendants' reprehensible, wanton, oppressive unconstitutional and unlawful actions and/or omissions, Plaintiff is entitled to recover for the damages and injuries referenced above in the form of economic and non-economic compensatory damages, and is entitled to recover punitive damages on her federal claims and treble damages under MCL 600.2907 for the false arrest, and under MCL 750.147 for the denial of equal public accommodations.

61.Plaintiff is also entitled to recover reasonable costs and attorney's fees under 42 USC § 1988 and MCL 37.2101 et seq.

WHEREFORE, Plaintiff respectfully requests judgment for damages against each Defendant, jointly and severally, in whatever amount a jury shall determine is reasonable, fair and just, plus interest, costs and attorney's fees.

JURY DEMAND

Plaintiff hereby demands trial by jury on all issues allowed by law.

Respectfully submitted,

ERNST CHARARA & LOVELL, PLC

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