

**IN THE CIRCUIT COURT OF THE FOURTEENTH JUDICIAL CIRCUIT
IN HOLMES COUNTY, FLORIDA**

JEAN BIELAT,

Plaintiff,

Case No.: 18-ca-314

v.

**SHERIFF JOHN TATE, HOLMES COUNTY JAIL,
and SGT. JERRY DONALD SELLERS,**

Defendants.

COMPLAINT

Plaintiff, JEAN BIELAT, by and through her undersigned attorney sues Defendants SHERIFF JOHN TATE, HOLMES COUNTY JAIL, and SGT. JERRY DONALD SELLERS ("SELLERS"), and state as follows:

JURISDICTION AND GENERAL FACTS

1. This is an action for damages which exceeds the sum of fifteen thousand (\$15,000.00) dollars.

2. Plaintiff, Jean Bielat, was and is at all material times hereto a resident in Pinellas County, Florida but was housed in the Holmes County Jail, a state entity located in Holmes County, Florida.

3. Defendant, Sheriff John Tate, was at all material times to this action the Sheriff of Holmes County and was responsible for the management of the Holmes County Jail.

4. Defendant, Sgt. Jerry Donald Sellers, was at all material times hereto a resident of Holmes County, Florida and employed by the Holmes County Jail.

5. Venue is proper in this county because Defendants, Holmes County Jail and Sgt. Sellers, are state entities located in Holmes County and the acts complained of herein occurred in Holmes County, Florida.

6. On several occasions, including or about September 1, 2016, Plaintiff was molested by former guard, Sellers. At that time and place, Sellers was acting within the course and scope of his employment with the Sheriff's office/jail and used his role as a guard to isolate Plaintiff and force her to partially disrobe in his presence and to then touch her inappropriately. Defendant Sellers conduct was a felony under Florida law. § 951.221(1), Fla. Stat. (2015).

7. Defendant Sheriff Tate knew or should have known of the propensity of Sgt. Sellers to abuse inmates and his/his office's failure to act on that constitutes deliberate indifference to Plaintiff's health and well-being.

8. Upon information and belief, Defendant Sellers also similarly abused other female prisoners.

9. Sheriff Tate/the jail is liable for Sgt. Sellers's conduct because upon information and belief: 1) there was a history of abuse that put a responsible supervisor on notice of the need to correct the conduct engaged in by Sgt. Sellers, 2) the Sheriff's/jail's customs or policies resulted in deliberate indifference to prisoner's constitutional rights to not be subjected to sexual abuse by guards while in custody, and/or 3) there are sufficient facts (known and/or to be identified in discovery) to support an inference the Sheriff/jail directed subordinates to act unlawfully or at least knew that subordinates acted unlawfully and failed to stop them from doing so.

10. To the extent this is a case against a state agency or subdivision and requires notice to the Sheriff/Jail and the State of Florida, Department of Financial Services, said notice has been provided and has expired. See Exhibit A.

COUNT I – BATTERY (Sellers)

11. Plaintiff incorporates by reference the allegations contained in paragraphs 1-10 as if set forth fully herein.

12. Sellers intended to touch Plaintiff in a sexually and inappropriate manner.

13. Sellers did actually touch Plaintiff.

14. The contact initiated by Sellers was harmful to Plaintiff.

15. As a further direct and proximate result of Sellers's conduct, Plaintiff has been damaged.

WHEREFORE, based upon the foregoing, Plaintiff respectfully requests that this Court to enter a judgment against Sellers for compensatory damages, plus interest, taxable costs and such other and further relief as the Court may deem just and proper.

COUNT II – INTENTIONAL INFLICTION OF EMOTIONAL DISTRESS (Sellers)

16. Plaintiff incorporates by reference the allegations contained in paragraphs 1-10 as if set forth fully herein.

17. The above described conduct of Sellers was intentional or reckless and he knew that emotional distress would likely result from his misconduct.

18. Sellers's verbal and physical sexual behavior towards Plaintiff, an individual over whom he had total control, was so outrageous in character and so extreme in degree as to go beyond all bounds of decency and is regarded as atrocious and utterly intolerable in a civilized community.

19. Sellers's conduct caused Plaintiff to suffer severe emotional distress.

20. As a further direct and proximate result of Sellers's conduct, Plaintiff has been damaged.

WHEREFORE, based upon the foregoing, Plaintiff respectfully requests that this Court to enter a judgment against Sellers for compensatory damages, plus interest, taxable costs and such other and further relief as the Court may deem just and proper.

COUNT III – NEGLIGENCE (Sellers)

21. Plaintiff incorporates by reference the allegations contained in paragraphs 1-10 as if set forth fully herein.

22. As Plaintiff's guard, Sellers owed Plaintiff a duty of reasonable care with respect to the provision of his employment.

23. Sellers breached the duty of reasonable care by, among other things:

(a) Engaging in inappropriate sexual behavior and conduct with an individual that he was guarding;

24. As a direct and proximate cause of Sellers's breach, Plaintiff has suffered damages.

WHEREFORE, based upon the foregoing, Plaintiff respectfully requests that this Court to enter a judgment against Sellers for compensatory damages, plus interest, taxable costs and such other and further relief as the Court may deem just and proper.

COUNT IV – VICARIOUS LIABILITY (Sheriff Tate/Holmes County Jail)

25. Plaintiff incorporates by reference the allegations contained in paragraphs 1-10 as if set forth fully herein.

26. Sellers was employed by Sheriff Tate/Holmes County Jail as a guard.

27. Sheriff Tate/Holmes County Jail acknowledged that Sellers would act for it as a guard.

28. Sellers accepted this undertaking to act as a guard for Holmes County Jail.

29. Holmes County Jail had control over the actions of Sellers.

30. Sellers committed the tortious acts in the course and scope of his employment with Holmes County Jail.

31. As a result, Holmes County Jail is vicariously liable for the tortious acts of Sellers.

WHEREFORE, based upon the foregoing, Plaintiff respectfully requests that this Court to enter a judgment for compensatory damages against Sheriff Tate/Holmes County Jail, plus interest, taxable costs and such other and further relief as the Court may deem just and proper.

COUNT V – NEGLIGENT HIRING (Sheriff Tate/Holmes County Jail)

32. Plaintiff incorporates by reference the allegations contained in paragraphs 1-10 as if set forth fully herein.

33. Sheriff Tate/Holmes County Jail was required to make an appropriate investigation regarding the qualifications and credentials of Sellers prior to hiring him as a guard to inmates.

34. Sheriff Tate/Holmes County Jail failed to exercise reasonable care in the hiring process that led to Sellers's employment. Either it should not have hired him, or it is liable for hiring him when he was not an adequate candidate to be placing helpless female inmates in his unsupervised custody.

35. As a direct and proximate cause of Sheriff Tate/Holmes County Jail's negligent hiring of Sellers, Plaintiff has suffered damages.

WHEREFORE, based upon the foregoing, Plaintiff respectfully requests that this Court to enter a judgment against Sheriff Tate/Holmes County Jail for compensatory damages, plus interest, taxable costs and such other and further relief as the Court may deem just and proper.

COUNT VI – NEGLIGENT SUPERVISION (Sheriff Tate/Holmes County Jail)

36. Plaintiff incorporates by reference the allegations contained in paragraphs 1-10 as if set forth fully herein.

37. Sellers served as a guard for Holmes County Jail.

38. In his capacity as a guard for Holmes County Jail, Sellers provided supervision to Plaintiff.

39. Sheriff Tate/Holmes County Jail knew or had reason to know that it had the sole and complete responsibility to control and supervise its employees, including Sellers, and Sheriff Tate/Holmes County Jail knew or should have known of the necessity, the opportunity, and the requirement to exercise its control and supervision over Sellers.

40. Holmes County Jail had a duty to exercise reasonable care and control and supervision over Sellers and to prevent them from causing harm to others, such as Plaintiff.

41. Holmes County Jail breached its duty to the Plaintiff by failing to exercise reasonable care in its control and supervision over Sellers.

42. As a direct and proximate result of Holmes County Jail's negligent supervision, Plaintiff has suffered damage.

WHEREFORE, based upon the foregoing, Plaintiff respectfully requests that this Court to enter a judgment against Sheriff Tate/Holmes County Jail for compensatory damages, plus interest, taxable costs and such other and further relief as the Court may deem just and proper.

COUNT VII - § 1983 LIABILITY (Sellers)

43. Plaintiff incorporates by reference the allegations contained in paragraphs 1-10 as if set forth fully herein.

44. All of Sgt. Sellers's actions with respect to Plaintiff's sexual abuse while she was an inmate were actions under color of state law.

45. Sgt. Sellers's sexual misconduct against Plaintiff violated her constitutional rights.

46. Plaintiff was injured and harmed by Sgt. Sellers's violation of her rights under color of state law.

WHEREFORE, based upon the foregoing, Plaintiff respectfully requests that this Court to enter a judgment against Sgt. Sellers for compensatory damages, plus interest, taxable costs and such other and further relief as the Court may deem just and proper.

Plaintiff hereby demand trial by jury.

COUNT VIII - § 1983 LIABILITY (Sheriff Tate)

47. Plaintiff incorporates by reference the allegations contained in paragraphs 1-10 as if set forth fully herein.

48. All of Sgt. Sellers's actions with respect to Plaintiff's sexual abuse while she was an inmate were actions under color of state law.

49. Sgt. Sellers's sexual misconduct against Plaintiff violated her constitutional rights.

50. Sheriff Tate has supervisory liability for the conduct of Sgt. Sellers as a result of his (or his office's) deliberate indifference to the conduct of Sgt. Sellers, which directly led to and caused Plaintiff's harm.

Respectfully submitted this 19th day of September, 2018.

PERRY & YOUNG, P.A.

**By: /s/ Harold R. Mardenborough, Jr.
Harold R. Mardenborough, Jr., Esq.
Florida Bar No.: 947172
200 Harrison Avenue
Panama City, FL 32401
Phone: (850) 215-7777
Fax: (850) 215-4777
hmardenborough@perry-young.com
mmangieri@perry-young.com
Attorney for Plaintiff**

EXHIBIT A

PERRY & YOUNG

ATTORNEYS AT LAW

Larry Perry
Admitted in FL, AL & GA

2612 W 15th St, Panama City, FL 32401
Phone: (850) 215-7777 Fax: (850) 215-4777
www.Perry-Young.com

Christopher A. Young

Certified Article Number
9314 8699 0430 0043 5539 87

SENDER'S RECORD

February 20, 2017

Holmes County Jail
Attention: Captain Moore
3207 Lonnie Lindsey Road
Bonifay, FL 32425

Re: Our Client
Date of Loss
Our Case Number

Jean Bielat
September 1, 2016
16-8844

Dear Sir/Madam:

Please find enclosed a copy of the Notice of Claim by Jean Bielat for an incident which occurred on September 1, 2016. Please give her claim your immediate attention.

Please contact me with any questions or concerns you may have.

Sincerely,

Harold R. Mardenborough

Harold R. Mardenborough, Jr.

HM/TT

VIA CERTIFIED MAIL RETURN REQUESTED

Holmes County Jail
Attention: Captain Moore
3207 Lonnie Lindsey Road
Bonifay, FL 32425

VIA CERTIFIED MAIL, RETURN RECEIPT REQUESTED

Florida Department of Financial Services,
Division of Risk Management
200 East Gaines Street
Tallahassee, Florida 32399-0338

NOTICE OF CLAIM PURSUANT TO §768.28, FLORIDA STATUTES

Pursuant to the provisions of §768.28, Florida Statutes:

Jean Bielat

Address: 17400 Gulf Blvd, Apt. A6, Redington Beach, Florida 33708

Date of birth: [REDACTED]

Place of birth: [REDACTED]

Social Security Number: [REDACTED]

Does hereby give notice and present a claim against Holmes County Jail for personal injuries. Her injuries and claim arise out of the sexual abuse and misconduct of Holmes County Jail employees, including but possibly not limited to Sgt Donald Sellers, while she was an inmate.

At the time of the incidents in the Fall of 2016 Jean Bielat, resided at the jail. She has since been released and is currently residing at 17400 Gulf Blvd, Apt. A6, Redington Beach, Florida 33708, but all communication should be through counsel.

Ms. Bielat is represented in this matter by attorney Harold R. Mardenborough at the law firm of Perry & Young, P.A., 200 Harrison Avenue, Panama City, Florida 32401. Any response to this claim should be directed to their attention. If you know of any other person or entity you deem to be responsible in any manner for the injury of Ms. Bielat, you should inform the claimant and her attorney of such person immediately.

There exist no prior adjudicated unpaid claims in excess of \$200. She demands \$200,000.00 for the physical assault and battery, the sexual abuse and misconduct, and the emotional and psychological effects these have had on her.


Jean Bielat

Harold R. Mardenborough, Esq.
Attorney for Claimant, Jean Bielat

2/3/18
Date

2/16/18
Date

**UNITED STATES
POSTAL SERVICE**

Date Produced: 02/26/2018

WALZ GROUP:

The following is the delivery information for Certified Mail™/RRE item number 9314 8699 0430 0043 5539 87. Our records indicate that this item was delivered on 02/22/2018 at 10:52 a.m. in BONIFAY, FL 32425. The scanned image of the recipient information is provided below.

Signature of Recipient :

Delivery Section	
Signature	X <i>Glenda Sellers</i>
Printed Name	<i>Glenda Sellers</i>

Address of Recipient :

Delivery Address	<i>3207 Lonnie Lindsey Dr.</i>
------------------	--------------------------------

Thank you for selecting the Postal Service for your mailing needs. If you require additional assistance, please contact your local post office or Postal Service representative.

Sincerely,
United States Postal Service

Information in this section provided by Walz Group, LLC.

Original Recipient Information:

Holmes County Jail
Attention: Captain Moore
3207 Lonnie Lindsey Road
Bonifay, FL 32425

Reference Number: Bielat Case: 16-8844

PERRY & YOUNG

ATTORNEYS AT LAW

Larry Perry
Admitted in FL, AL & GA

2612 W 15th St, Panama City, FL 32401
Phone: (850) 215-7777 Fax: (850) 215-4777
www.Perry-Young.com

Christopher A. Young

Certified Article Number

9314 8699 0430 0043 5530 31

SENDER'S RECORD

February 20, 2017

Florida Department of Financial Services
Division of Risk Management
200 East Gaines Street
Tallahassee, Florida 32399-0300

Re: Our Client
Date of Loss
Our Case Number

Jean Bielat
September 1, 2016
16-8844

Dear Sir/Madam:

Please find enclosed a copy of the Notice of Claim by Jean Bielat for an incident which occurred on September 1, 2016. Please give her claim your immediate attention.

Please contact me with any questions or concerns you may have.

Sincerely,

Harold R. Mardenborough

Harold R. Mardenborough, Jr.

HM/TT

VIA CERTIFIED MAIL RETURN REQUESTED

Holmes County Jail
Attention: Captain Moore
3207 Lonnie Lindsey Road
Bonifay, FL 32425

VIA CERTIFIED MAIL, RETURN RECEIPT REQUESTED

Florida Department of Financial Services,
Division of Risk Management
200 East Gaines Street
Tallahassee, Florida 32399-0338

NOTICE OF CLAIM PURSUANT TO §768.28, FLORIDA STATUTES

Pursuant to the provisions of §768.28, Florida Statutes:

Jean Bielat

Address: 17400 Gulf Blvd, Apt. A6, Redington Beach, Florida 33708

Date of birth: [REDACTED]

Place of birth: [REDACTED]

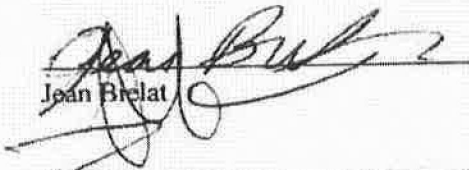
Social Security Number: [REDACTED]

Does hereby give notice and present a claim against Holmes County Jail for personal injuries. Her injuries and claim arise out of the sexual abuse and misconduct of Holmes County Jail employees, including but possibly not limited to Sgt Donald Sellers, while she was an inmate.

At the time of the incidents in the Fall of 2016 Jean Bielat, resided at the jail. She has since been released and is currently residing at 17400 Gulf Blvd, Apt. A6, Redington Beach, Florida 33708, but all communication should be through counsel.

Ms. Bielat is represented in this matter by attorney Harold R. Mardenborough at the law firm of Perry & Young, P.A., 200 Harrison Avenue, Panama City, Florida 32401. Any response to this claim should be directed to their attention. If you know of any other person or entity you deem to be responsible in any manner for the injury of Ms. Bielat, you should inform the claimant and her attorney of such person immediately.

There exist no prior adjudicated unpaid claims in excess of \$200. She demands \$200,000.00 for the physical assault and battery, the sexual abuse and misconduct, and the emotional and psychological effects these have had on her.


Jean Bielat

2/3/18
Date

Harold R. Mardenborough, Esq.
Attorney for Claimant, Jean Bielat

2/16/18
Date



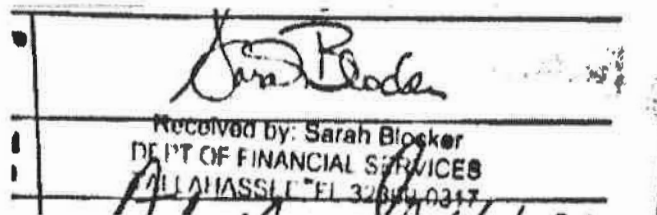
**UNITED STATES
POSTAL SERVICE**

Date Produced: 03/05/2018

WALZ GROUP:

The following is the delivery information for Certified Mail™/RRE item number 9314 8699 0430 0043 5530 31. Our records indicate that this item was delivered on 02/26/2018 at 08:05 a.m. in TALLAHASSEE, FL 32314. The scanned image of the recipient information is provided below.

Signature of Recipient :



Address of Recipient :



Thank you for selecting the Postal Service for your mailing needs. If you require additional assistance, please contact your local post office or Postal Service representative.

Sincerely,
United States Postal Service

Information in this section provided by Walz Group, LLC.

Original Recipient Information:
Florida Department of Financial Services
Division of Risk Management
200 East Gaines Street
Tallahassee, FL 32399-0300

Reference Number: Bielat Case: 16-8844