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CONSTITUTIONAL STATUTORY PROVISIONS

FIRST AMENDMENT- Prevents the government from making laws respecting an establishment of religion; prohibiting the free exercise of religion; or abridging the freedom of speech, the freedom of the press, the freedom of assembly or the right to petition the government for redress of grievances.

~Thus, the First Amendment exists so that the government cannot dictate nor censor the speech of individuals~ by Janine Mohr

SEVENTH AMENDMENT- In Suits at Common law where the value exceeds a certain dollar value (twenty dollars); the right of a trial by jury shall be preserved, and no fact tried by a jury shall be otherwise reexamined in any court of the United States except the accordance's to the rules of common law.

~The Seventh Amendment part of the Bill of Rights is based on Traditional English Common Law where juries were made up of people without legal experience. The Anti-Federalists supported adding civil juries to the Constitution to prevent corruption and overreach by the federal government. ~

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FOURTEENTH AMENDMENT- Ratified in 1868, granted citizenship to all people born or naturalized in the United States, including formerly enslaved people. It also extended the rights and liberties of the Bill of Rights to this group, and established the following protections:

- . Equal Protection – The 14th Amendment establishes that all citizens are entitled to equal protection under the law and that no state can deprive a person of life, liberty or property without the due process of law.
- . Voting Rights The government can punish states that restrict citizens' right to vote.
- . Social Justice The 14TH Amendment is central to the fight for racial equality and many other social justices.

Civil Rights The 14th Amendment has been used by the Supreme Court to shape civil rights and liberties in America.

- . Incorporation of the Bill of Rights – The 14th Amendment incorporated the protections guaranteed by the Bill of Rights to both federal and state authority.

Rep. Thaddeus Stevens (Republican from Pennsylvania):

"The Fourteenth Amendments] allows Congress to

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correct the unjust legislation of the states, so far that the law that operates upon one man shall operate equally upon all. Whatever law punishes white man for a crime shall punish the black man precisely in the same way and the same degree. Whatever law protects the white man shall afford equal protection to the black man”.

No state shall make or enforce any law which shall abridge the privilege or immunities of a citizen of the United States; nor deny to any person within its jurisdiction the equal protection of the laws.

In 1853, Frederick Douglass delivered a speech that included his visions of birthright citizenship and the rights of African Americans. The birthright citizenship principle would later be enshrined into the law with the passage of the Fourteenth Amendment:

[B]y birth, we are American Citizens; by the principles of the Declaration of Independence, we are American Citizens, by the facts of history; and the admissions of American statesmen, we are the American citizens; by the hardships and trials endured; by the courage and fidelity displayed by our ancestors in defending the liberties and in achieving the independence of our land, we are American citizens.⁵

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Historian Eric Foner describes the impact of the Fourteenth Amendment

The whole question of what citizenship is, who is a citizen and what rights come along with it. That was central to the political conflict in reconstruction⁸⁷...

The Reconstruction Amendments are the effort of the Republican Congress and indeed of Africans themselves, to put into the Constitution the basic idea of equality for all Americans. It is important to remember that ideal didn't exist before the Civil War. Remember, the Dred Scott decision, 1857, said no black person can be a citizen, only white people can be citizens of the United States.

This was a country with strong beliefs in liberty, but with a strong racial barrier excluding non-whites from enjoyment of many of those liberties. And so reconstruction is an effort to shatter those boundaries and to create a new republic "The Second Founding". It really transforms the Constitution, not just adding a few things here and there but to try to implement this principle of equal rights for all Americans.

EQUAL PROTECTION CLAUSE- *part of the first section of the Fourteenth Amendment, which also states that no state can deprive any person of life, liberty, or property without the due process of law.*

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1. *What it does - Requires the government to have a valid reason for treating people differently*
2. *When it applies – Applies to laws and official actions that treat similarly – situated people differently*
3. *How it applies – The government's reason must be compelling for certain classifications, like race, religion, and voting*
4. *When does it apply – The government only needs a rational basis for other distinctions like occupation*

DUE PROCESS NOUN

Definition of due process

- 1: *a course of formal proceedings (such as legal proceedings) carried out regularly and in accordance with the established rules and principles.*
 - *called also procedural due process*
- 2: *a judicial requirement that enacted laws may not contain provisions that result in the unfair, arbitrary, or unreasonable treatment of an individual*
 - *called also substantive due process*

DUE PROCESS CLAUSE – *a provision in the Fifth and Fourteenth*

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Amendments of the United States Constitution that protects Life, Liberty, and Property from government interference. The clause guarantees that the government must follow certain procedures before depriving a person of these rights. The clause also protects fundamental rights, even if the government follows the proper procedures.

42 U.S.C 1983 is a civil rights law that allows individuals to sue state or local officials, or others acting "under color of state law"

. An action is "under color of state law" when the person is exercising the authority given to them by the government and the action is taken with the appearance that the government authorized it.

. The 11th Amendment prohibits lawsuits by private citizens against states in federal courts due to sovereign immunity

"Men of God"

Fed. R. Civ. P. 5(d)(1)(A) – Filing. (1) *Required Filings, Certificate of Service. (A) Papers after Complaint.* Any paper after the complaint that is required to be served must be filed no later than a reasonable time after service. But disclosures under Rule 26(a)(1) or (2) and the following discovery requests and responses must not be filed until they are used in the proceedings or the court orders filing: depositions, interrogatories, request for documents or

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tangible things or to permit entry on land, and request for admission.

Fed. R. Civ. P. 26(a)(1)(A)(i)(ii)(iii)(iv) – (a)
Required Disclosures. (1) Initial Disclosure. (A) In General. Except as exempted by Rule 26(a)(1)(B) or as otherwise stipulated or ordered by the court, a party must without awaiting discovery request, provide to the other parties:

- (i) the name and if known, the address and telephone number of each individual likely to have discoverable information – along with the subjects of that information – that the disclosing party may use to support the claims or defenses, unless they would be used solely for impeachment;
- (ii) a copy – or a description by category and location – of all documents, electronically stored information, and tangible things that the disclosing party has in its possession, custody, or control and may use to support its claims or defenses, unless the use would be solely for impeachment;
- (iii) a computation of each category of damages claimed by the disclosing party – who must also make available for inspection and copying as under Rule 34 the documents or evidentiary material, unless privileged or protected from disclosure, on which each

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computation is based, including materials bearing on the nature and extent of injuries suffered; and

- (iv) for inspection and copying as under Rule 34, any insurance agreement under which an insurance business may be liable to satisfy all or part of a possible judgement in the action or to indemnify or reimburse for payments made to satisfy the judgement.

Fed. R. Civ. P. 33(a)(1) – *In General.*

- (1) *Number.* **Unless otherwise stipulated or ordered by the court**, a party may serve on any other party no more than 25 written interrogatories, including discrete subparts. Leave to serve additional interrogatories may be granted to the extent consistent with Rule 26(b)(1) and 2.

Rule 3.02 Civil Case Management

- (a) **REQUIREMENTS.** In every proceedings except in a proceeding described in (d) , the parties:
 - (1) Must conduct the planning conference required by the Federal Rules of Civil Procedure in person, by telephone, or by comparable means and

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- (2) Must file a case management report using the standard form on the courts website.
- (b) TIMING. The parties must file the case management report:
 - (1) Within forty days after any defendant appears in an action originating in this court,
 - (2) Within forty days after the docketing of an action removed or transferred to this court, or
 - (3) Within seventy days after the service on the United States attorney in an action

against the United States, a United States agency, a United States officer sued in an official capacity, in connection with a duty performed on behalf of the United States.
- (c) SCHEDULING ORDER. After consideration of the case management report, the judge must enter an order setting deadlines and scheduling the case for trial.
- (d) EXCEPTIONS. These proceedings are excepted from the requirements in (a):

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- (1) an action in which the judge enters a special scheduling order at the outset;**
- (2) an action for review on an administrative record unless the action is under the Employee Retirement Income Security Act of 1974;
- (3) a forfeiture action in rem arising under a federal statute;
- (4) an application for habeas corpus or another proceeding to challenge a criminal conviction or sentence;
- (5) a pro se action by a person in the custody of the United States, a state, or state subdivision;
- (6) an action to enforce or quash an administrative summons or subpoena;
- (7) An action by the United States to recover benefit payments;
- (8) An action by the United States to collect on a student loan guaranteed by the United States;
- (9) A proceeding ancillary to a proceeding in another court;

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- (10) an action to confirm or enforce an arbitration award; and
- (11) an appeal of an order or judgment by a bankruptcy judge.

Rule 3.03 Disclosure Statement

- (a) DISCLOSURE STATEMENT. With the first appearance, each party must file a disclosure statement identifying:
 - (1) each person – including each lawyer, association, firm, partnership, corporation, limited liability company, subsidiary, conglomerate, affiliate, member, and other identifiable and related legal entity – that has or might have an interest in the outcome; and
 - (2) each entity with publicly traded shares or debt affected by the outcome;
 - (3) each additional entity likely to actively participate, including in a bankruptcy proceeding the debtor and each member of the creditors' committee; and
 - (4) each person arguably eligible for restitution

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(b) **CERTIFICATION.** The disclosure statement must include this certification. "I certify that, except as disclosed, I am unaware of an actual or potential conflict of interest affecting the district judge or the magistrate judge in this action, and I will immediately notify the judge in writing within fourteen days after I know of a conflict."

Rule 3.04 Notice of a Deposition or a Subpoena Duces Tecum

A deposition by oral examination or written question and a subpoena duces tecum require fourteen days' written notice.

28 U.S.C 455(a) – Disqualification of a justice, judge, or magistrate judge Any Justice, Judge, or Magistrate Judge of the United States shall disqualify himself in any proceeding in which his impartiality might reasonably be questioned

28 U.S.C 1332 Diversity of Citizenship – Personal Injury - (a) The district courts shall have original jurisdiction of all civil actions where the matter in controversy exceeds the sum or value of 75,000, exclusive of interest and cost, and is between

–
(1) Citizens of different states;

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- (2) citizens of a state and citizens or subjects of a foreign state, except that the district courts shall not have original jurisdiction under this subsection of an action between citizens of a State and citizens or subjects of a foreign state who are lawfully admitted for permanent residence in the United States and are domiciled in the same state;
- (3) citizens of different States and in which citizens or subjects of a foreign state are additional parties; and
- (4) a foreign state, defined in section 1603(a) of this title, as plaintiff and citizens of a State or of different states

(b) Except when express provision thereof is otherwise made in statute of the United States, where the plaintiff who files the case originally in the Federal courts is finally adjudged to be entitled to recover less than the sum or value of 75,000, computed without regard to any setoff or counterclaim to which the defendant may be adjudged to be entitled, and exclusive of interest and costs, the district court may deny cost to the plaintiff and, in addition, may impose cost on the plaintiff.

- (c) **For the purposes of this section and section 1441 of this title -**

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(1) A corporation shall be deemed to be a citizen of every State and foreign state by which it has been incorporated and of the State or foreign state where it has its principal place of business, except that in any direct action against the insurer of a policy or contract of liability insurance, whether incorporated or unincorporated, to which action the insured is not joined as a party- defendant, such insurer shall be deemed a citizen of –

(A) every State and foreign state of which the insured is a citizen;

(B) every State and foreign state by which the insurer has been incorporated; and

(C) The State or foreign state where the insurer has its place of business; and

(2) The legal representative of the estate of a decedent shall be deemed to be a citizen only of the same State as the decedent, and the legal representative of an infant or incompetent shall be deemed to be a citizen only of the same State as the infant or incompetent.

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(a) Generally. –

Except as otherwise expressly provided by Act of Congress, any civil action brought in a State court of which the district courts of the United States have original jurisdiction, may be removed by the defendant or the defendants to the district court of the United States for the district and division embracing the place where, such an action is pending.

(b) Removal Based on Diversity of Citizenship.

- (1) In determining whether a civil action is removable on the basis of jurisdiction under section 1332(a) of this title, the citizenship of defendants sued under fictitious names shall be disregarded.
- (2) A civil action otherwise removable solely on the basis of jurisdiction under section 1332(a) of this title may not be removed if any of the parties in interest properly joined and served as defendants is a citizen of the United States, in which such action is brought.

(c) Joinder of Federal Law Claims AND State Law Claims. –

- (1) If a civil action includes –

- (A) A claim arising under the Constitution, laws, or treaties of the

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United States (within the meaning of section 1331 of this title), and

- (B)** a claim not within the original or supplemental jurisdiction of the district court or a claim that has been made nonremovable by statute,

the entire action may be removed if the action would be removable without the inclusion of the claim described in subparagraph (B).

- (2)** Upon removal of an action described in paragraph (1), the district court shall sever the actions all claims described in paragraph (1)(B) and shall remand the claims to the State court from which the action was removed. Only defendants against whom a claim described in paragraph (1)(A) has been asserted are required to join in or consent to the removal under paragraph (1).

(d) Action Against Foreign States.

Any civil action brought in a State court against a foreign state as defined in section 1603(a) of this title may be removed by the foreign state to the district court of the United States for the district and division embracing the place where such action is pending. Upon removal by the action shall be tried by the court without jury.

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where removal is based upon this subsection, the time limitation of section 1446(b) of this chapter may be enlarged at any time for cause shown.

(e) Multiparty, Multiforum Jurisdiction. –

(1) Notwithstanding the provisions of subsection (b) of this section, a defendant in a civil action in a State court may remove the action to the district court of the United States for the district and division embracing the place where the action is pending if –

(A) the action could have been brought in a United States district court under section 1369 of this title; or

(B)

the defendant is a party to an action which is or could have been brought, in whole or in part, under section 1369 in a United States district court and arises from the accident as the action in State court, even if the action to be removed could not have been brought in a district court as an original matter.

The removal of an action under this subsection shall be made in accordance with section 1446 of this title, except that

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a notice of removal may also be filed before trial of the action in State court within 30 days after the date on which the defendant first becomes a party to an action under section 1369 in a United States district court that arises from the same accident as the action in State court, or at later time with leave the district court.

- (2) Whenever an action is removed under this subsection and the district court to which it is removed or transferred under section 1407(j)^[1] has been made a liability determination requiring further proceedings as to damages, the district court shall remand the action to the state court from which it had been removed for the determination of damages, unless the court finds that, for the convenience of parties and witnesses and in the interest of justice, the action should be retained for the determination of damages.
- (3) Any remand under this paragraph (2) shall not be effective until 60 days after the district court has issued an order determining liability and has certified its intention to remand the removed action for the determination of damages. An appeal with the respect to the liability determination of damages. An appeal with the respect to the

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liability determination of the district court may be taken during that 60 day period to the court of appeals with appellate jurisdiction over the district court. In the event a party files such an appeal, the remand shall not be effective until the appeal has finally been disposed of. Once the remand has become effective, the liability determination shall not be subject to further review by appeal or otherwise.

- (4) Any decision under this subsection concerning remand for the determination of damages shall not be reviewable by appeal or otherwise.
- (5) An action removed under this subsection shall be deemed to be an action under this subsection 1369 of this title for the purpose of this section and sections 1407, 1697, and 1785 of this title.
- (6) Nothing in this subsection shall restrict the authority of the district court to transfer or dismiss an action on the ground of inconvenient forum.

(f) Derivative Removal Jurisdiction

The court to which a civil action is removed under this section is not precluded from hearing and determining any claim in such

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civil action because the state court from which such civil action is removed did not have jurisdiction over the claim.

28 U.S.C 1911- The Supreme Court may fix the fees to be charged by its clerk.

The fees of the clerk, cost of serving process, and other necessary disbursements incidental to any case before the court, may be taxed against the litigants as the courts direct.

Rule 38(a) – For docketing a case on a petition for a writ of certiorari or on appeal or for the docketing any other proceeding, except a certified question or a motion to docket and dismiss an appeal under rule 18.5, \$300

28 U.S.C 1254 (1) – Cases in the Courts of Appeal may be reviewed by the Supreme Court by the following methods (1) By writ of certiorari granted upon the petition of any party to any civil or criminal case before or after rendition of Judgement or decree.

Torts/Personal Injury 320 Assault, Libel, & Slander - Action alleging intentional acts of assault, libel, trade libel, or slander by a private party (excludes a governmental agency)

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TITLE XLVI CRIMES CHAPTER 836 DEFAMATION, LIBEL THREATENING LETTERS AND SIMILAR OFFENSES

SECTION 11

836.11 Publications which tend to expose persons to hatred, contempt, or ridicule prohibited -

- (1) It shall be unlawful to print, publish, distributed, cause to be printed, published or distributed by any means, or in any manner whatsoever, any publication, handbill, dodger, circular, booklet, pamphlet, leaflet, card, sticker, periodical, literature, paper or other printed material which tends to expose any individual or any religious group to hatred, contempt, ridicule or obloquy unless the following is written thereon;
 - (a) The true name and post office address of the person, firm, partnership, corporation or organization causing the same to be printed, published or distributed; and,
 - (b) If such name is that of a firm, corporation or organization, the name and post office address of the individual acting in its behalf in causing such printing, publication or distribution.

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Title XXXVI BUSINESS ORGANIZATIONS CHAPTER 621: PROFESSIONAL SERVICE CORPORATIONS AND LIMITED LIABILITY COMPANIES

SECTION 07

621.07 Liability of officers, agents, employees, shareholders, members, and corporation or limited liability company. —Nothing contained in this act shall be interpreted to abolish, repeal, modify, restrict, or limit the law now in effect in this state applicable to the professional relationship and liabilities between the person furnishing the professional services and the person receiving such professional service and to the standards for professional conduct; provided, however, that any officer, agent, member, manager, or employee of a corporation or limited liability company organized under this act shall be personally liable and accountable only for negligent or wrongful acts or misconduct committed by that person, or by any person under that person's direct supervision and control, while rendering professional service on behalf of the corporation or limited liability company to the person for whom such professional services were being rendered; and provided further that the personal liability of shareholders of a corporation, or members of a limited liability company, organized under this act, in their capacity as shareholders or members of such corporation or

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limited liability company, shall be no greater in any aspect than that of a shareholder-employee of a corporation organized under chapter 607 or a member-employee of a limited liability company organized under chapter 605. The corporation or limited liability company shall be liable up to the full value of its property for any negligent or wrongful acts or misconduct committed by any of its officers, agents, members, managers, or employees while they are engaged on behalf of the corporation or limited liability company in the rendering of professional services.

Art iii Sec. 2 c1. 1 U.S Constitution

The judicial power shall extend to all cases, in law and equity, arising under this Constitution, the Laws of the United States, and Treaties made, or which shall be made, under their Authority; -to all Cases affecting Ambassadors, other public Ministers and Consuls;-to all Cases of admiralty and maritime Jurisdiction;-to Controversies to which the United States shall be a Party; - to Controversies between two or more States; - between State and Citizens of another State, - between Citizens of different states, - between Citizens of the same State claiming Lands under Grants of different States, and between a State, or the Citizens thereof, and foreign States, Citizens or Subjects.

ANNOTATED

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**APPENDIX B – CASE MANAGEMENT REPORT
INTRODUCED BY THE DEFENDANT AFTER
CASE MANAGING WITH THE PLAINTIFF
BEFORE CASE MANAGEMENT ORDER BY
MAGISTRATE JUDGE THOMAS G. WILSON
ENTERED 9/21/2023**

UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF FLORIDA
TAMPA DIVISION

RAFAEL BELTRE,
Plaintiff,

V. Case No. 8:23-cv-01554-JLB-TGW
FIT GUYS WALK, LLC d/b/a
PLANET FITNESS,

Defendant.

Uniform Case Management Report

The goal of this case management report is to “secure the just, speedy, and inexpensive determination of the action. See Fed. R. Civ. P. 1. Under Local Rule 3.02(a)(2), this case management report should be used in all civil cases except those described in Local Rule 3.02(d). Individual judges may have additional case management preferences that can be found under each judge’s name on the

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Court's website, flmd.uscourts.gov/judges/all.

1. Date and Attendees

The parties may conduct the planning conference, in person, by telephone, or by comparable means[.]” See Local Rule 3.02(a)(1).

The parties conducted the planning conference on September 8, 2023. Theodore Wagenblast, Esq., and Rafael Beltre attended the conference.

2. Deadlines and Dates

The parties request these deadlines and dates;

| Action or Event | Date ■ |
|-----------------|--------|
|-----------------|--------|

| | |
|---|------------|
| Deadline for providing mandatory initial disclosures. See Fed. R. Civ. P- 26(a)(1). | 10/25/2023 |
|---|------------|

| | |
|--|------------|
| Deadline for moving to join a party, see Fed. R. Civ. P. 14, 19, and 20 or amend the pleadings, see Fed. R. Civ. P. 15(a). | 10/25/2023 |
|--|------------|

| | |
|---|------------|
| Plaintiffs' deadline for disclosing any expert report. See Fed. R Civ P 26(a)(2). | 12/22/2023 |
|---|------------|

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The Plaintiff would like to address the expert disclosure deadline with the Court during the preliminary pre-trial conference.

Defendant's deadline for disclosing any expert report. 1/22/2024

Deadline for disclosing any rebuttal expert report. 2/15/2024

Deadline for completing discovery and filing any motion to compel discovery. See 'Fed. R. Civ. P. 37; Middle District Discovery {2021}. 3/15/2024

Deadline for moving for class certification, if applicable. See Fed R Civ. P. 23(c). n/a

Deadline for filing any dispositive and Daubert motion. See Fed. R. Civ. P. 56. (Must be at least five months before requested trial date.) 3/15/2024

Deadline for participating in mediation. See Local Rules, ch. 4.
Enter mediator's name, address, and phone number. 3/21/2024

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Date of the final pretrial meeting. See Local

Rule 3.06(a).

5/25/2024

Deadline for filing the joint final pretrial statement, any motion in limine, proposed jury instructions, and verdict form. See Local Rule 3.06(b). (Must be at least seven days before the final pretrial conference.)

7/1/2024

Date of the final pretrial conference. See Fed. R. Civ. P. 16(e); Local Rule 3.06(b).

7/15/2024

Month and year of the trial term.

9/15/2024

The trial will last approximately 4-5 days and be

☐ jury.

☒ non-jury. ☐

Of note, the Plaintiff has requested that 4-5 days be requested for the non-jury trial. The Defendant does not believe this trial will last more than 1-2 days at most.

3. Description of the Action

This claim arises from an incident involving the Plaintiff, RAFAEL BELTRE, which occurred at Planet Fitness on September 15, 2021.

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During this visit, an altercation or dispute arose between the Plaintiff and an employee of Planet Fitness which resulted in the police being called and a trespass warning being issued.

After receiving a trespass warning by the police, the Plaintiff returned to the Planet Fitness location again on September 16, 2021. The police were called, and the Plaintiff was arrested for trespassing.

The Plaintiff alleges that the trespass warning was issued due to intentionally false misrepresentations made by the employees of the Defendant. The Defendant denies the Plaintiffs allegations. Moreover, the Defendant maintains that it had the express right to terminate the Plaintiffs membership for any reason permissible by law and elected to do so, and as the Plaintiff defied a direct police directive to not enter the Fowler Planet Fitness, resulting in an arrest for trespass, the Plaintiff lacks any cognizable claim.

4. Disclosure Statement

[x] The parties have filed their disclosure statement as required by Federal Rule of Civil Procedure 7.1 and Local Rule 3.03

5. Related Action

[x] The parties acknowledge their continuing duty

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under Local Rule 1.07(c) notify the judge of a related action pending in the Middle District or elsewhere by filing a Notice of a Related Action." No notice need be filed if there are no related actions as defined by the rule.

6. Consent to a Magistrate Judge

"A United States magistrate judge in the Middle District can exercise the maximum authority and perform any duty permitted by the Constitution and other laws of the United States." Local Rule 1.02(a). With the parties' consent, a district judge can refer any civil matter to a magistrate judge for any or all proceedings, including a non-jury or jury trial 28 U.S.C. § 636(c).

The Court asks the parties and counsel to consider the benefits to the parties and the Court of consenting to proceed before a magistrate judge. Consent can provide the parties certainty and flexibility in scheduling. Consent is voluntary, and a party for any can decide not to consent and continue before, the district judge without adverse consequences. See Fed. R. Civ. P. 73(b)(2).

☒ The parties do consent and file with this case management report a completed Form AO 85 "Notice, Consent, and Reference of a Civil Action to a

APPENDIX B

Magistrate Judge,” which is available on the Court’s website under “Forms.” For Discovery purposes only.

☐ The parties do not consent.

7. Preliminary Pretrial Conference

☐ The parties do not request a preliminary pretrial conference before the Court enters a scheduling order.

☒ The parties do request a preliminary pretrial conference.

8. Discovery Practice

The parties should read the Middle District Discovery Handbook, available on the Court’s website at flmd.uscourts.gov/civil-discovery-handbook, to understand discovery practice in this District.

☒ The parties confirm they will comply with their duty to confer with the opposing party in a good faith effort to resolve any discovery dispute before filing a motion. See Local Rule 3.01(g); Middle District Discovery (2021) at § I.A.2

9. Discovery Plan

The parties submit the following discovery plan under Rule 26(f)(2);

APPENDIX B

- A. The parties agree to the timing, form, or requirement for disclosures under Rule 26(a);

☒ Yes.

☐ No; instead, the parties agree to these changes;

- B. Discovery may be needed on these subjects; Damages, Liability Causation.

- C. Discovery should be conducted in phases;

☐ No

☐ Yes

The Plaintiff has requested that this box be checked yes due to concerns regarding his ability to continuously conduct discovery throughout the case without limitation. Counsel for the Defendant does not believe there to be any need for discovery to be conducted in phases in this case.

- D. Are there issues about disclosure, discovery, or preservation of electronically stored information?

APPENDIX B

☐ No

☐ Yes.

The Plaintiff has requested that this box be checked yes due to concerns regarding the Defendant's preservation of video or audio records from the Planet Fitness location for September 15, 2021, through September 16, 2021. Counsel for the Defendant does not believe there to be any issues about the disclosure, discovery, or preservation of electronically stored information. No such video or audio recording exists.

E. [x] The parties have considered privilege and work-product issues, including whether to ask the Court to include any agreement in an order under Federal Rule of Evidence 502(d).

The Plaintiff would like to address this further with the Court during the preliminary pre-trial conference.

F. The parties stipulate to changes to the limitations on discovery imposed under the Federal Rules of Civil Procedure and Local Rule 3.04 or other limitations:

APPENDIX B

[X] No.

[] Yes; describe the stipulation.

10. Request for Special Handling

☐ The parties do not request special handling.

☐ The parties request special handling.
unilaterally requests special handling.

☒ *unilaterally requests special handling.
Specifically, the Plaintiff is unilaterally
requesting special handling. The Defendant
does not believe this case requires special
handling.*

**11. Certification of familiarity with the
Local Rules**

[x] The parties certify that they have read
and are familiar with the Court's Local
Rules.

12. Signatures

| | |
|--------------------------|--------------------------------|
| <u>/s/ Rafael Beltre</u> | <u>/s/ Theodore Wagenblast</u> |
| <u>Pro Se Plaintiff</u> | <u>Attorney for Defendant</u> |

**APPENDIX C – CASE MANAGEMENT ORDER
BY MAGISTRATE JUDGE THOMAS G. WILSON
FOLLOWING ORDER DENYING
PRELIMINARY HEARING ON CASE
MANAGING AND CONSULTATION BY
PLAINTIFF AND DEFENDANTS
FILED: 9/29/2023**

**UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF FLORIDA
TAMPA DIVISION**

RAFAEL BELTRE,
Plaintiff,
V. Case No. 8:23-cv-1554-JLB-TGW
FIT GUYS WALK, LLC
d/b/a PLANET FITNESS,
Defendant

**CASE MANAGEMENT AND SCHEDULING
ORDER**

THIS CAUSE came on for consideration of the scheduling of pre-trial proceedings and trial. The proposed deadlines and trial-related dates in the Uniform Case Management Report (Doc. 27) are acceptable.

1. Pre-trial Deadlines: The parties are directed to meet the following time limits:

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APPENDIX C

- a. Deadline for Moving to Join a Party is October 25 2023.
- b. Deadline for providing mandatory initial disclosures is October 25, 2023.**
- c. Deadline for serving expert disclosures for the plaintiff is December 22, 2023, and the defendant's expert reports shall be disclosed no later than January 22, 2024. Rebuttal reports are due by February 15, 2024.
- d. Discovery cut-off date is March 15, 2024.
- e. Discovery-related motions must be filed no later than March 15, 2024.
- f. Deadline for filing dispositive motions is March 15, 2024.
- g. Pre-trial conference is scheduled for September 3, 2024, at 11:00 a.m., in Courtroom 12A, United States Courthouse, 801 North Florida Avenue, Tampa, Florida. The parties shall file a joint pretrial statement in accordance with Local Rule 3.06.
g. A non-jury trial is set to begin on September 16, 2024, at 9:30 a.m.. Courtroom 12A, United States Courthouse, 801 North Florida Avenue, Tampa, Florida.

**APPENDIX D - REQUEST FOR PRELIMINARY
HEARING ON CASE MANAGEMENT DENIED
BY MAGISTRATE JUDGE THOMAS G. WILSON
FILED: 9/29/2023**

UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF FLORIDA
TAMPA DIVISION

RAFAEL BELTRE,
Plaintiff,

V.

CASE NO. 8;23-cv-]554-JLB-TGW
FIT GUYS WALK, LLC
d/b/a PLANET FITNESS,
Defendant.

ORDER

THIS CAUSE came on for consideration upon the
plaintiffs Request for Hearing on Case Management
(Doc. 24). The planning conference occurred on
September 8, 2023, and the Case Management
Report was filed (Doc, 27).
It is, therefore, upon consideration,

ORDERED;

APPENDIX D

That the Request for Hearing on Case Management
(Doc. 24)
is DENIED as MOOT.

DONE and ORDERED at Tampa, Florida,
This 29th, day of September, 2023.

THOMAS G, WILSON
UNITED STATES MAGISTRATE
JUDGE

**APPENDIX E – FINAL ORDER DENYING
MOTION TO APPOINT COUNSEL BY
MAGISTRATE JUDGE THOMAS G. WILSON
FILED 10/19/2023**

UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF FLORIDA
TAMPA DIVISION

RAFAEL BELTRE

Plaintiff,

V. CASE NO. 8:23-cv-1554-T-30TGW
FIT GUYS WALK, LLC,
Defendant.

_____/

ORDER

THIS CAUSE came on for consideration upon the plaintiffs Response/Request for Reconsideration of the Order denying the plaintiffs Motion to Appoint Counsel (Doc. 35). The plaintiff alleges appointment of counsel is warranted due to his limited income (id-)- As indicated in the court's previous Order (Doc. 33), appointment of counsel in a civil case is not a constitutional right, but rather a privilege that is justified only by exceptional circumstances. Poole v. Lambert, 819F.2d 1025, 1028 (11th Cir. 1987). The following factors are among those to be considered in determining whether exceptional circumstances

APPENDIX E

exist: (1) the merits of the plaintiffs claim, (2) whether the claim is factually or legally so complex as to warrant the assistance of counsel, (3) the plaintiffs efforts to obtain counsel, and (4) the plaintiffs financial ability to retain counsel. *Id.*; *Holt v. Ford*, 862 F.2d 850, 853 (11th Cir. 1989). The plaintiff does not satisfy these four requirements.

It is, therefore, upon consideration,

ORDERED:

That the plaintiff s Response/Request for reconsideration of the Order denying the plaintiffs Motion to Appoint Counsel (Doc. 35) is

DENIED.

DONE and ORDERED at Tampa, Florida,
this day of 19th October 2023.

THOMAS G. WILSON
UNITED STATES MAGISTRATE JUDGE

**APPENDIX F – PUBLIC NOTICE REGARDING
DISCOVERY DATED OCTOBER 1, 1999
GIVEN BY THE CLERKS WITH
INTERROGATIVES AND
INITIAL DISCLOSURES BACK TO PLAINTIFF
UPON MOTION TO STRIKE
DATE ENTERED: 11/09/2023
MODIFIED TEXT: 11/14/2024**

UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF FLORIDA
OFFICE OF THE CLERK

*EMBLEM OF AUTHENCITY
OF THE UNITED STATES MIDDLE
DISTRICT COURT OF FLORIDA
OMITTED*

October 1, 1999

PUBLIC NOTICE REGARDING DISCOVERY

Local Rule 3.03 prohibits the filing of discovery material. Discovery items not permitted by local rules will not be accepted by the Clerk's Office. Any discovery material that is either dropped off in a depository box or sent to the Court by US Mail or some other form of delivery service will be returned

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to the sender. The portion of the Local Rules addressing the non-filing of discovery material is printed below for reference.

RULE 3.03 WRITTEN INTERROGATORIES; FILING OF DISCOVERY MATERIAL; EXCHANGE OF DISCOVERY REQUEST BY COMPUTER DISK

(b) The original of the written interrogatories and a copy shall be served on the party to whom the interrogatories are directed, and copies on all other parties. No copy of the written interrogatories shall be filed with the Court by the party propounding them. The answering party shall use the original of the written interrogatories for his answers and objections, if any; and the original shall be returned to the party propounding the interrogatories with copies served upon all other parties. The interrogatories as answered or objected to shall not be filed with the Court as a matter of course, but may later be filed by any party in whole or in part if necessary to presentation and consideration of a motion to compel, a motion for summary judgment, a motion for injunctive relief, or other similar proceedings.

(b) Notices of the taking of oral depositions shall not be filed with the Court as a matter of

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course (except as necessary to presentation and consideration motion to compel); and transcripts of oral depositions shall not be filed unless and until requested by a party or ordered by the Court.

(d) Requests for the production of documents and other things, matters disclosed pursuant to Fed. R. Civ. P. 26, and requests for admission, and answers and responses thereto, shall not be filed with the Court as a matter of course but may later be filed in whole or in part if necessary to presentation and consideration of a motion to compel, a motion for summary judgment, a motion for injunctive relief, or other similar proceedings.

Your cooperation in complying with the Local Rules is appreciated, Any questions regarding this practice should be directed to the Clerk's Office in which your case is filed.

| | |
|-----------------------|----------------|
| Jacksonville Division | (904) 549-1900 |
| Tampa Division | (813) 301-5400 |
| Ocala Division | (352) 369-4860 |
| Orlando Division | (407) 835-4200 |
| Ft. Myers Division | (239) 461-2000 |

Revised: June 6, 2007

**APPENDIX G- ORDER ON FILING OF
INITIAL DISCLOSURES UPON MOTION TO
STRIKE BY THE COURTS BY
MAGISTRATE JUDGE THOMAS G.
WILSON FILE DATE: 11/13/2024**

UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF FLORIDA
TAMPA DIVISION

RAFAEL BELTRE.

V.

Case No. 8:23-cv-J 554-TGW

FIT GUYS WALK, LLC
d/b/a PLANET FITNESS,

ORDER

THIS CAUSE came on for consideration upon the parties' filing of discovery (Docs. 37, 38, 39). Discovery is not, as a matter of course, to be filed in the court docket. Middle District Discovery (2021) at I.C. It may be filed when necessary to the presentation and consideration of a motion. Id. It is, therefore, upon consideration,

ORDERED;

APPENDIX G

That the Clerk is directed to **STRIKE** from the record the defendant s Rule 26(a) Initial Disclosures (Doc. 37), the plaintiffs "Request for Introductory of Interrogative Forms' (Doc. 38), and the plaintiffs Initial Disclosures for Pretrial Deadlines (Doc. 39). DONE and ORDERED at Tampa, Florida, this 13 day of November, 13 2023.

THOMAS G. WILSON
UNITED STATES MAGISTRATE JUDGE

**APPENDIX H- MAGISTRATE JUDGE THOMAS
G. WILSON ORDER FOR DISMISSAL FOR
FAILURE TO STATE A CAUSE OF ACTION
FILED: 11/28/2023**

UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF FLORIDA
TAMPA DIVISION

RAFAEL BELTRE,
Plaintiff,

V. Case No. 8:23-cv-1554-TGW
PLANET FITNESS, etc.
Defendant.

ORDER

This cause came on for consideration upon Defendant Planet Fitness' 12(b)(6) Motion to Dismiss Plaintiffs Complaint for Failure to State a Cause of Action (Doc. 12) and the plaintiffs Objection to Dismissal (Doc. 34).

The plaintiff alleges in his complaint that a dispute with the defendant's employees over purported violations of the defendant's membership policy culminated in the plaintiff being improperly arrested for trespassing (Doc. 1). He asserts that the defendant's actions violated 42 U.S.C. 1983 (id., pp. 1,4).

The defendant argues meritoriously that the

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complaint fails to state a claim upon which relief may be granted. Therefore, the motion will be granted, and the case dismissed.

I.

Under Federal Rule of Civil Procedure 12(b)(6), a complaint may be dismissed for “failure to state a claim upon which relief can be granted.”

“To survive a motion to dismiss, a complaint must contain sufficient factual matter, accepted as true, to ‘state a claim to relief that is plausible on its face.’” *Ashcroft v. Iqbal*. 556 U.S. 662, 678 (2009) (citation omitted). “While a complaint attacked by a Rule 12(b)(6) motion to dismiss does not need detailed factual allegations, a plaintiff’s obligation to provide the ‘grounds’ of his ‘entitle[ment] to relief requires more than labels and conclusions, and a formulaic recitation of the elements of a cause of action will not do.” *Bell Atlantic Corp. v. Twombly*. 550 U.S. 544, 555 (2007). Thus, a complaint must contain more than an unadorned, the-defendant unlawfully-harmed-me accusation. *Ashcroft V. Iqbal, supra*. 556 U.S. at 678.

Moreover, although “allegations of a pro se complaint [are held] to less stringent standards than formal pleadings drafted by lawyers this leniency does not give a court license to serve as de facto counsel for a

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party, or to rewrite an otherwise deficient pleading in order to sustain an action.” Campbell v. Air Jamaica Ltd., 760 F.3d 1165, 1168-69 (11th Cir. 2014); see also GJR Investments, Inc. v. County of Escambia, Fla., 132F.3d

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1359, 1369 (11th Cir.1998).

II..

The plaintiff filed a “Complaint for Violation of Civil Rights,” alleging that the defendant is liable under 42 U.S.C. 1983 for “the falsifying and blatant disregard and misconduct of numerous employees ... [who] caused a false trespass to be issued, which later led to my incarceration” (Doc. 1, pp. 1, 4). The plaintiffs accusations are cryptic, conclusory, and fail to allege with specificity the alleged wrongdoing, as required by Rule 8(a)(2) of the Federal Rules of Civil Procedure. *Id.* (The complaint must be “a short and plain statement of the claim showing that the pleader is entitled to relief”); *see McNeil v. United States*, 508 U.S. 106, 113 (1993) (Pro litigants must comply with procedural rules that govern pleadings.).

In all events, construing the allegations in the light most favorable to the plaintiff, the complaint does not state an actionable claim under §1983. See Ashcroft v. Iqbal, supra, 556 U.S. at 678 (To survive a motion to

APPENDIX H

dismiss, a complaint must contain sufficient factual matter, accepted as true, to state a claim to relief that is plausible on its face.). The complaint allegations, in fact, show that the defendant is not subject to a lawsuit under §1983.

Section 1983 imposes liability on anyone who, under color of state law, deprives a person "of any rights, privileges, or immunities secured by the Constitution and laws." Therefore, to establish a claim under §1983, a plaintiff must prove that (1) the defendant deprived him of a right secured under the Constitution or federal law and (2) such deprivation occurred under color of state law. Arrington v. Cobb County, 139 F.3d 865, 872 (11th Cir. 1998).

The plaintiff's complaint does not satisfy either prong of a § 1983 claim. As to the first element, the plaintiff predicates his §1983 claim on the defendant's alleged violation of Florida Statute §621.07 (Doc. 1, p. 4), which makes a company liable for negligent or wrongful acts or misconduct of its employees while rendering professional services. Thus, the complaint does not allege the deprivation of a right secured under the Constitution or federal law. See Arrington v. Cobb County, supra, 139 F.3d at 872.

Furthermore, even if the plaintiff could show such a violation, he does not establish the second prong of the

APPENDIX H

§1983 analysis, which requires that the deprivation of a right secured under the Constitution or federal law occur “under color of state law.” *Id.*

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“A defendant acts under color of state law when [it] deprives the plaintiff of a right through the exercise of authority that [it] has by virtue of [its] government office or position. The dispositive question is whether the defendant was exercising the power [it] possessed based on state authority or was acting only as a private individual. Butler v. Sheriff of Palm Beach County, 685 F.3d 1261, 1265 (11th Cir. 2012).

There is no conceivable basis in the complaint for finding that the defendant is a “state actor” who is subject to liability under §1983 has the plaintiff asserted such an allegation in the complaint. The defendant is a privately-owned fitness company. As best as can be discerned, the plaintiff alleges that the defendant wrongfully attempted to expel him from its business establishment for purported violations of the defendant’s membership policy, and the defendant called the police to remove him from the fitness center when the plaintiff refused to leave [see Docs. 1, 34).

Even assuming that the defendant acted wrongfully, these allegations do not state a cognizable §1983 claim because the wrongful conduct is that of a private actor. See Focus on the Family v. Pinellas Suncoast Transit

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Authority. 344 F.3d 1263, 1277 (11th Cir.2003) (The “under-color-of-state-law element of § 1983 excludes from its reach merely private conduct, no matter how

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discriminatory or wrongful.”).

It is also noted that there are “rare circumstances [under which] a private party be viewed as a ‘state actor’ for section 1983 purposes.” *Rayburn ex rel.*

Rayburn ex rel. Rayburn v. Hogue. 241 F.3d 1341, 1347 (11th Cir. 2001). However, none of those circumstances is present here.

To qualify as a “state actor” under § 1983, one of the following three tests must be satisfied: (a) a “state compulsion test,” wherein the state has coerced or significantly encouraged the violative conduct; (b) a “public function test,” wherein private parties perform a public function that is traditionally the exclusive prerogative of the state; or (c) a “nexus/joint action test,” wherein the state is in a position of interdependence with the private party, such that the state and private actor are essentially joint participants in an enterprise. *Id.*

None of these tests are applicable because the plaintiff places fault for his alleged harm squarely on the private actors, i.e., the defendant’s employees.

Specifically, the complaint alleges that it was “the falsifying and blatant disregard and misconduct of numerous employees ... [that] caused a false trespass

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to be issued" (Doc. 1, p. 4). Furthermore, there is no basis to conclude that the defendant was performing a public function that is

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traditionally the exclusive province of the state simply by calling the police for assistance. See Gallagher v. Neil Young Freedom Concert, 49 F.3d 1442, 1454 (10th Cir. 1995) (Citizens who made complaints to police officers that resulted in arrests were not state actors.). Nor is there a basis for finding that the state was a joint participant with the defendant in the alleged wrongdoing, especially considering the plaintiffs allegation that it was the "employees of the franchise [that] caused a false trespass to be issued" (Doc. 1, p. 4). In sum, the plaintiff's complaint also fails to state a claim upon which relief may be granted because he cannot satisfy the "state actor" requirement for liability under §1983.

The plaintiff additionally alleges in his opposition memorandum that the defendant violated his First Amendment rights (Doc. 34, p. 4). Even if this contention were included in the complaint, it does not state a cognizable claim. Specifically, the plaintiff alleges that his "willingness to express [his] innocence in this matter w[as] taken from [him]" (id.). This allegation apparently relates to an argument

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between the plaintiff and the defendant regarding whether the plaintiff violated the defendant's membership policy (*see id.*). These circumstances do not state a First Amendment violation.

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Finally, it is evident, based on these glaring defects, that any attempt by the plaintiff to replead the complaint would be futile. Therefore, the complaint will be dismissed without leave for the plaintiff to amend the complaint. *See Sibley v. Lando*, 437 F.3d 1067, 1073 (11th Cir. 2005) (Leave to amend need not be provided where any amendment would be futile.).'

It is, accordingly,

ORDERED:

That Defendant Planet Fitness' 12(b)(6) Motion to Dismiss Plaintiffs Complaint for Failure to State a Cause of Action (Doc. 12) is granted: The Clerk is DIRECTED to CLOSE the case and enter judgment in favor of the defendant and against the plaintiff.

DONE and ORDERED at Tampa, Florida, this 27 "day of November, 2023.

THOMAS G. WILSON
UNITED STATES MAGISTRATE JUDGE

APPENDIX H

■ The defendant also argues in its Motion to Dismiss that the plaintiff's complaint is barred by res judicata. Since a decision is made on the merits, the res judicata argument is moot. 8

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OPINIONS OF THE UNITED STATES COURT
OF APPEALS OF THE ELEVENTH CIRCUIT
PANEL JUDGE(S) JILL PRYOR, BRANCH,
AND BLACK, CIRCUIT JUDGE DATE:8/28/2024

[DO NOT PUBLISH]

In the
United States Court of Appeals
For the Eleventh Circuit

No. 23-14094
Non-Argument Calendar

RAFAEL BELTRE,

Plaintiff-Appellant,

versus

FIT GUYS WALK, LLC,
d.b.a. Planet Fitness,

Defendant-Appellee.

Appeal from the United States District Court
for the Middle District of Florida
D.C. Docket No. 8:23-cv-01554-TGW

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Opinion of the Court

23-14094

Before JILL PRYOR, BRANCH, and BLACK,
Circuit Judges.

PER CURIAM:

Rafael Beltre, proceeding *pro se*, appeals the dismissal of his complaint against Fit Guys Walk, LLC. He asserts the district court erred in dismissing his complaint because he used the forms provided by the district court, did not seek the same relief as in his prior arbitration action, and alleged that Fit Guys Walk acted under a Florida statute. He also contends the district court erred in denying his motion for appointment of counsel and in striking interrogatories and initial disclosures he filed on the court's docket. After review, we affirm the district court.¹

I. DISMISSAL

"To state a claim under 42 U.S.C § 1983, a plaintiff must allege facts showing that the defendant, acting under color of state law,

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deprived it of a right protected by the Constitution or by a federal statute.” *Club Madonna, Inc. v. City of Miami Beach*, 924 F.3d 1370, 1378 (11th Cir. 2019). Section “1983 only provides for claims to redress State action.” Rayburn ex rel. Rayburn v. Hogue, 241 F.3d 1341, 1347 (11th Cir. 2001). Private parties qualify as state actors only if:

¹ Beltre’s “Motion of Amendment,” construed as a motion to amend his brief or file a supplemental brief, is DENIED.

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(1) the State has coerced or at least significantly encouraged the action alleged to violate the Constitution (State compulsion test); (2) the private parties performed a public function that was traditionally the exclusive prerogative of the State (public function test); or (3) the State had so far insinuated itself into a position of interdependence with the private parties that it was a joint participant in the enterprise (nexus/joint action test). *Id.* (quotations and alterations omitted). Furthermore, “[s]ection 1983 is no source of substantive federal rights. Instead, to state a section 1983 claim, a plaintiff must point to a violation of a specific federal right.”

APPENDIX I

Whiting v. Traylor, 85 F.3d 581, 583 (11th Cir. 1996) (citations omitted), *abrogated on other grounds by Wallace v. Kato*, 549 U.S. 384, 389–90 (2007).

The district court did not err in dismissing Beltre's complaint. *See Castro v. Sec'y of Homeland Sec.*, 472 F.3d 1334, 1336 (11th Cir. 2006) (reviewing dismissal for failure to state a claim *de novo*, accepting the allegations in the complaint as true and construing them in the light most favorable to the plaintiff). As an initial matter, the basis of Beltre's complaint is unclear. While the form he was using presupposed the claim was brought under § 1983 or *Bivens*, he selected neither § 1983 or *Bivens* on the form and the website maintained by the district court does not state the particular form is only for § 1983 complaints. *See All Forms – Litigants without Lawyers Forms*, United States District Court Middle

District of Florida,
<https://www.flmd.uscourts.gov/forms/all/litigants-without-lawyers-forms> (last accessed July 26, 2024). (providing various fillable form complaints on the website, including a "Complaint for Violation of Civil Rights (Non-Prisoner)" but not stating any form is to

APPENDIX I

be used only for § 1983 actions). On the contrary, Beltre, on his civil cover sheet, cited that he was filing under Florida Statute § 621.07.² Besides his use of the "Complaint for Violation of Civil Rights (non-Prisoner)" form, the only indication that Beltre intended to bring a claim under § 1983 was that he alleged that Fit Guys Walk acted under color of state law because it "acted under Florida Statute 621.07."

Liberalizing construing his complaint, Beltre may have intended to bring claims under either § 1983 or Florida Statute § 621.07. *See Albra v. Advan, Inc.*, 490 F.3d 826, 829 (11th Cir. 2007) (stating pleadings by pro se litigants are liberally construed). First, under § 1983, Beltre would have to allege "that [Fit Guys Walk], acting under color of state law, deprived [him] of a right protected by the Constitution or by a federal statute." *Club Madonna*, 924 F.3d at 1378. Beltre did not "point to a violation of a specific federal right" because his vague and conclusory factual allegations make it impossible to determine the basis of his complaints. *Ashcroft v. Iqbal*, 556 U.S. 662, 678 (2009) (stating courts are not required to give credence to conclusory allegations); *Whiting*, 85 F.3d at 583.

² Florida statute § 621.07 delineates when individual constituents are liable and when their limited liability company or corporation is liable. Fla. Stat. § 621.07

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Opinion of the Court

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His later explanation that he was deprived of rights under the First and Fourteenth Amendments because his “willingness to express [his] innocence in the matter [was] taken from” him is not properly considered in deciding the motion to dismiss, as it does not appear in the complaint itself. *See Fin. Sec. Assur., Inc. v. Stephens, Inc.*, 500 F.3d 1276, 1284 (11th Cir. 2007) (stating unless the plaintiff incorporates another document by reference in their complaint, “we do not consider anything beyond the face of the complaint and documents attached thereto when analyzing a motion to dismiss”).

Nor did Beltre allege Fit Guys Walk was a state actor. *See Rayburn*, 241 F.3d at 1347. He did not allege that Fit Guys Walk was a part of the government. He alleged that Fit Guys Walk acted under color of state law because it “acted under Florida Statute 621.07.” That statute, however, merely delineates liability and does not: (1) coerce Fit Guys Walk; (2) show Fit Guys Walk performed a traditional state function; or (3) show the state was in a joint enterprise with Fit Guys Walk. *See id.* He also seems to allege Fit Guys Walk provided false information about him to law enforcement. However,

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he does not allege the state coerced Fit Guys Walk to do so, nor is providing information to law enforcement traditionally an exclusive state function, nor does it show the state was in a joint enterprise with Fit Guys Walk. *See id.* Thus, the district court did not err in dismissing the complaint to the extent Beltre brought a § 1983 claim.

If, in the alternative, Beltre alleged a claim under Florida Statute § 621.07, then dismissal was also appropriate. If the suit was

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brought under a Florida statute, the district court would have lacked subject matter jurisdiction as he alleged a violation of Florida law and Beltre alleged that he and Fit Guys Walk were citizens of the same state. 28 U.S.C. §§ 1331-32 (providing federal courts have jurisdiction over actions brought pursuant to federal law and actions “where the matter in controversy exceeds the sum or value of \$75,000” and the litigants are “citizens of different States”). Thus, the district court did not err in dismissing Beltre’s complaint.

II. APPOINTMENT OF COUNSEL

“Appointment of counsel in a civil case is not a

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constitutional right. It is a privilege that is justified only by exceptional circumstances.” *Wahl v. McIver*, 773 F.2d 1169, 1174 (11th Cir. 1985) (citation omitted). “In determining whether to appoint counsel, the district court typically considers, among other factors, the merits of the plaintiff’s claim and whether the claim is factually or legally so complex as to warrant the assistance of counsel.” *Holt v. Ford*, 862 F.2d 850, 853 (11th Cir. 1989). Generally, civil litigants must be indigent in order to warrant appointment of counsel. *Id.*

The district court did not abuse its discretion in denying Beltre’s motion for appointment of counsel or his motion to reconsider that denial. *See Bass v. Perrin*, 170 F.3d 1312, 1320 (11th Cir. 1999) (stating denials of motions for appointment of counsel are reviewed for abuse of discretion and “[t]he district court has broad discretion”). The district court did not commit a clear error of judgment in concluding that Beltre’s circumstances were not exceptional, despite his indigency and the potential need for

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Opinion of the Court

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discovery, as his claim, the vagueness of his own allegations aside, is not factually or legally complex and was likely to be meritless. *See Yellow Pages*

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Photos, Inc. v. Ziplocal, LP, 846 F.3d 1159, 1163 (11th Cir. 2017) (“An abuse of discretion occurs when a district court commits a clear error of judgment, fails to follow the proper legal standard or process for making a determination, or relies on clearly erroneous findings of fact.”); *Holt*, 862 F.2d at 853.

III. DISCOVERY

District courts have “the inherent power to police [their] docket.” *Mingo v. Sugar Cane Growers Co-op. of Fla.*, 864 F.2d 101, 102 (11th Cir. 1989). This includes the ability to strike pleadings “to enforce its orders and ensure prompt disposition of legal actions.” *State Exch. Bank v. Hartline*, 693 F.2d 1350, 1352 (11th Cir. 1982). Generally, discovery materials “must not be filed until they are used in the proceeding or the court orders filing.” Fed. R. Civ. P. 5(d)(1)(A). The parties instead must give to or serve on each other those materials, including initial disclosures and interrogatories. *Id.* R. 26(a)(1)(A), 33(a)(1). Local rules in the Middle District of Florida require parties to file disclosure statements. M.D. Fla. Local R. 3.03. Those rules also require the parties to give each other 14 days’ *notice of depositions and subpoenas duces tecum*. *Id.* R. 3.04.

The district court did not abuse its discretion in striking the interrogatories and initial disclosures

APPENDIX I

Beltre filed. *See Cliff v. Payco Gen. Am. Credits, Inc.*, 363 F.3d 1113, 1121 (11th Cir. 2004) (reviewing discovery rulings for abuse of discretion); *State Exch. Bank*, 693 F.2d at 1352 (reviewing for abuse of discretion a district court's

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Opinion of the Court

23-14094

decision to strike pleadings). The district court is empowered to control its own docket and all relevant rules and orders, including those cited by Beltre, prohibit the general filing of discovery documents and instead direct that they be directly exchanged between the parties, or are silent on the matter. *See Mingo*, 864 F.2d at 102; Fed. R. Civ. P. 5(d)(1)(A), 26(a)(1)(A), 33(a)(1). Similarly, the local rule requiring notice be given before depositions does not require that interrogatories or initial disclosures be filed. M.D. Fla. Local R. 3.04. While local rules require the filing of disclosure statements, neither of the stricken documents was a disclosure statement. M.D. Fla. 3.03.

AFFIRMED.

APPENDIX J
ON PETITION FOR REHEARING OR
PETITION FOR REHEARING EN BANC
DENIED **DATE: 10/17/2024**

In the
United States Court of Appeals
For the Eleventh Circuit

No. 23 – 14094

RAFAEL BELTRE,

Plaintiff Appellant,

versus

FIT GUYS WALK LLC,
d.b.a Planet Fitness,

Defendant- Appellee

APPENDIX J

Appeal from the United States District Court
Middle District of Florida
D.C Docket No. 8:23-cv-01554 – TGW

2 Order of the Court 23-14094

ON THE PETITION(S) FOR REHEARING AND
PETITION(S) FOR REHEARING EN BANC

BEFORE JILL PRYOR, BLACK, AND BRANCH,
CIRCUIT JUDGES.

PER CURIAM:

The petition for rehearing en banc is DENIED, no judge in regular active service on the court having requested that the court be polled on a rehearing en banc. FRAP 35. The petition for rehearing en banc is also treated as a petition for rehearing before the panel and is DENIED. FRAP 35, IOP 2.

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APPENDIX K

SUMMARY AND DIRECT NARRATIVE ON THE NIGHT OF BOTH INCIDENTS

The night of the incident was not the origin of the negligence, recklessness, and misconduct from Fit Guys Walk llc. d/b/a Planet Fitness, as it was just the plot to several scenarios prior to the night of the incident and others yet to come. The first day of arrival to the club (9/11/2021) was rough around the edges to begin with, for it seemed to be more of a mission than a welcoming to the fitness club. The group of members associated at the time were waiting promptly upon my arrival at the home club. As they stood there appearing to be unaware of my arrival, I approached subtly and mentioned to employee # 1(name unidentified) that I was looking into signing up with the home fitness club, as I was already aware of Planet Fitness's policies and procedures in signing up for a membership because of prior fitness clubs. He didn't seem to be too responsive as it appeared to be that he was unsure and hesitant with his responses. Quickly after he stated that the means to sign up with the home fitness club would be online and online only, (as I begged to differ and stated to employee # 1 (name unidentified) that I have been to numerous planet fitness clubs and my means of initiating with the center was by signing up directly with the club). Regardless of the fact employee # 1(name

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unidentified) disregarded my request and insisted that he would not initiate in the process of signing me up himself and that my only means of signing up with their specific club would be through whatever methods set through their website on the internet. As there was no other necessity in discussion, I left the club and continued with my commencement with the fitness club on another occasion. On the next overview of the fitness center the membership agreement that was presented through the internet was reviewed, and upon final review, the membership was finalized, and the agreement was set, (*or was it*). On the next visit to the club (9/12/2021), employee # 2 (name unidentified) seemed to be more attentive to the situation and explained to me several of the perks that their home club specifically had to offer along with all the benefits for black card members. After going over these perks and benefits, we spoke briefly about the check-in process, and it was mentioned that the scan in process was not as necessary, (as the impression was that their emphasis was on facial recognition by front desk camera). After introduction to the club, the next couple of days at the club was getting acquainted with the home club along with other locations within the district to familiarize with the area. On 9/14-15/2021 around -----am/pm in the night/morning, I had entered the home club and passed briefly by the front desk and employee # 3

Appendix K

(identified as Jamie Reams), who was potentially the front desk receptionist was performing maintenance in the front of the fitness center close to the entrance, (as it was not definitive whether or not she was paying attention to the customers walking in and out of the club). At this point, after a couple of hours into the usage of the gym (now confirmed and known to be 9/15/2021 heading closer into the end of the session), it appeared to be, to my knowledge, that the employee(s) shift was now well established, and were no mentions by any associates of any issues regarding check-ins as the shift was now heading from the later hours of the night shift and into the later shift of the early morning. After finishing my workout, I had walked over to the front desk where employee # 4 (identified as Halie Bennett) was now located (unknown of whether or not there were two employees working at the time or if there was a change of shift), and I proceeded to ask employee # 4 (identified as Halie Bennett) questions about specific items that their home club offered. It seemed to be that employee # 4 (identified as Halie Bennett) was relatively new, as she was a little unfamiliar with the products (products being different variety of sport drinks, protein shakes, and vital waters that were offered at the specific location that were being sold) and was unaware of pricing either. Immediately after conversating with the employee # 4 (identified

Appendix K

as Halie Bennett), she had put to attention that her fellow employee (at the time unknown later recognized as employee # 3; identified as Jamie Reams} who from what it seemed to be the co-worker who was working the shift with her currently) was more aware of the items and prices and she was going to inquire with her co-worker on this. I then proceeded to the front of the shower/locker room to wait where employee # 4 (identified as Halie Bennett) immediately followed and put to attention that her co-worker was doing maintenance in the men's locker room. I then proceeded to mention and gesture to her if she would like for me to get the co-worker for her and she mentioned and gestured right back to me Ok and proceeded toward the direction of the front desk. As I proceeded into the men's locker room, I noticed in the immediate area of the locker room straight ahead from the entrance was empty. The entrance to the shower was immediately to the right and parallel to the locker area with several showers lined straight to the left of the entrance to the shower area and a sink and toiletry area lined straight to the right of the entranceway. In entering the shower area, the employee, (who was now identified as employee # 3; Jamie Reams) was at the second to last shower facing the wall, and as she turned toward her right abruptly, she got startled as she appeared to be unaware of there being another

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presence behind her. Now that she was conscious of her surroundings, I proceeded to tell her that her co-worker needed some elaboration on some items and pricing. After I mentioned this to her, she proceeded to exit the shower area and rushed right passed me at the entranceway of the shower area. Once she exited the locker room, I proceeded to follow her back towards the front desk area where now both employee # 4 (Halie Bennett), employee # 3 (Jamie Reams), and I (Plaintiff) were located. Now that everyone was fully aware and knowledgeable of the situation, I went on to appoint and direct to employee # 3 (identified as Jamie Reams) the items that I was questioning employee # 4 (identified as Halie Bennett) on pricing about, and she proceeded to respond with promotional prices and individual pricing on the other items. Once it was clear on what the prices on all items were, I then stated to both employees (as they were both still at the front desk area) that I would be taking an item (specifically a Gatorade) and if it was alright for me to pay at the end of my session, being as that I still needed to shower and that I would be using the massage area as well and I was still not positive whether or not I would be purchasing any other items before the end of my tenure, (as my methods of payments were in my vehicle and I would pay for the item(s) when my session was finished). At this point both employee # 3 (identified as Jamie Reams) & 4 (identified as

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Halie Bennett) both replied and gestured that it was fine, and that there were no issues on their end but that I would have to wait on the shower for several minutes because employee # 3 (identified as Jamie Reams) was looking into finishing maintenance in the men's locker room. In knowing now that Employee # 3 (identified as Jamie Reams) was heading back to the men's locker room to finish her procedures, I headed to the vehicle and grabbed all my personals and headed back to the inside of the fitness center, where now at this point, I proceeded to wait by the gym area close to the locker room until Employee # 3 (identified as Jamie Reams) was finished. Now that maintenance was over, I proceeded to the men's locker room to shower. As I was exiting the men's locker room, I was met by two Officers (now identified as Officer Allison Atkins and Officer Daniel Furner) stating that they had received a call from an employee stating that there had been a stolen item, and that the culprit was in the men's locker room. I said to the officer that I did not understand what they were talking about and explained to them what was mentioned to the employees prior to me heading towards the locker room. In the officers insisting what the employees stated, I went on to mention to the officers that if they would escort me to the front desk, that I would surely clear out the situation with them and the employees at the front desk. We reached the front desk and at this point Employee # 4 (identified as

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Halie Bennett) was at the front desk and I stated to her, did you call the police and tell them that I stole an item as I then proceeded to reiterate what we had spoken about at the front desk prior to me re-entering the men's locker room to shower. After mentioning this, employee # 4 (identified as Halie Bennett), with a vague stare into space away from eye contact stayed silent and did not respond. I then stated once again trying to get a response from the employee # 4 (identified as Halie Bennett) Did or did I not state to both you and your coworker that I would be paying for the items when I was done with my session, and again there was no response. Officer Daniel Furner then stated to leave the situation alone as there was no response and there was no more reason for badgering the employee. I then turned to the officer and stated that I would be returning to my vehicle to retrieve my method of payment and the officers escorted me to the vehicle. When the method of payment was retrieved, we then proceeded back into the fitness center where I then made payment via card and received confirmation of payment. At that point the officers escorted me out of the fitness center and issued a card with a reference # and the name of the officer on the card with a verbal trespass warning (that was allegedly called in and spoken to the manager from one of the employees in between them calling the police and verbal trespass warning), which was instilled

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immediately by the "Managers" authorization and consent and then enforced by the officers until further notice pending investigation. After receiving intel, I left the scenario and proceeded to my next destination. Shortly after the night of the trespass warning I received an email from an anonymous email labeled info@myiclubonline.com with a message from Planet Fitness stating "Your document is attached" with a mailing address stating 5681 E. Fowler Avenue Tampa Fl 33617 and a contact number stating 813-898-8993 for Planet Fitness. On the bottom of the message there is a document .pdf that reads Member Cancellation or Freeze Form with the "Last Day to use Club" stated 9/16/2021 with the Managers name on the bottom that states Carmen Menendez and a signature that reads "Manager". By mid-day, on the following day, I reached out to Planet Fitness Home Club via telephonic communication and spoke to employee # 5 (name unknown). The mentions were on the subsidiary form that was sent by email to the employee and on the updated status of the membership with the Home Club. Upon mentioning this to employee # 5 (name unknown), the employee responded that there were no problems, and that the current status on the membership was active and that it was ok to proceed to the Home Club. Shortly after, on the night of 9/16/2021 around 11:00 pm I had entered the Home Club and approached the

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front desk. Employee # 6 (identified as Andra Benjamin) was the front desk attendee at the time. In going into signing in for the session, Employee # 6 (identified as Andra Benjamin) directed my attention towards a picture that was flashed by the front desk camera prior to my recent visit, which stated member flagged with a picture of me posted on the top. I responded to the employee that I had called in earlier in the afternoon and spoke to one of the other members from the Home Club and that he mentioned that there were no problems, and everything was OK, and that my membership was still active, so How Could This Be! He then in a distant and avoiding matter stated again that this information was what was given to him by the Manager. From there I restated what employee # 5 (name unknown) mentioned earlier (of my membership being active) and then proceeded to scroll through my phone to show him the subsidiary form that was allegedly signed by the Manager stating, "Last Day To Use Club" 9/16/2021. Immediately after he stated again this was what was provided by the manager, ignoring what was presented to him. From there I went to mention on to employee # 6 (identified as Andra Benjamin) that I had already received word from employee # 5 (name unknown) several hours ago, and that my membership according to what employee # 5 (name unknown) had mentioned, was still active upon me

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calling in to the home club several hours from me coming in for my session, and that as far as the manager was concerned, the final word to my acknowledgment was what was given to me by email in the subsidiary. From there he repeatedly directed attention to the anonymous picture stating member flagged on the bottom of it. After this, being that the conversation was getting redundant, I stated to Employee # 6 (identified as Andra Benjamin) that I would be using the Home Club for the duration of the time that was stated in the subsidiary form and from what was mentioned earlier by employee # 5{name unknown}; (membership being active). At this point there was no conversation as I separated from the front desk and proceeded to the locker room to proceed with the remainder of my usage with the Home Club. Shortly after me entering the locker room an officer (identified as Michael Landry) entered the locker room followed by several other officers. After showing the officers the subsidiary form and explaining to the officer(s) the situation, the officer to my immediate left (identified as +Courtney Baldwin*in footage) had reached for my arm, followed by the officer to my immediate right (identified as Michael Landry) and proceeded to shove me towards the lockers from which at this point the remaining officers (identified as Office Colby Dbiers and Jay Meyers other 00x unidentified) followed up resulting in a trespass in conveyance and

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an incarceration. Upon adjudication being withheld by Judge Scott Farr, information from the temple terrace police department was requested to which was given in briefs through dispositioning pending all other disclosure given through arbitration that the temple terrace police dept. did not provide in its entirety for whatever purpose unmentioned. After reviewing all disclosure, it was then noticed that not only were there false statements given to police authority verbally, but written statements that were disclosed were also given, as now a clear descriptive overview was now acknowledgeable. In reading into the statements, employee # 3 (identified as Jamie Reams) goes on to state and expresses in the written statements on forms received and drafted by planet fitness that she felt threatened as she was confronted before questions were asked about the items and pricing, which doesn't give any rationality or logic to her claim in the reasoning for purpose in proceeding into notifying police department, as this was the principles into her claim for the employee calling the police on the forms, and not of an item being stolen (regardless of the fact that the situation being acknowledged, agreed upon, and understood beforehand prior to the employee calling law enforcement (allegedly unknown of my request by the employees). In reviewing the comments and all other statements by both employee # 3 (identified as Jamie Reams) & 4 (identified as Halie Bennett),

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action was then taken, and both video and audio surveillance were requested for all of the days included in this matter to clarify and give full descriptive understanding of the actual facts in the matter by both Planet Fitness and the temple terrace police dept; and in the court of law. At first it was mentioned by Planet Fitness through legal representation that "No video seems to exist on either day", which would be typical in a scenario where fault is at hand and would not give any logic if in fact what they say about a "crime being committed" being true. Then shortly after, body cam footage was requested from the temple terrace police dept. It was acknowledged at this point that there was nobody cam footage available for the incident, as they only save recordings that were relevant to a crime of importance and delete everything that they deem unnecessary to their proceedings. After meticulously stating common grounds as to why they didn't see relevance in a situation where an alleged crime is being committed, a fellow officer of the police organization went into further reviewing the situation with the evidence dept. at the temple terrace police dept. and it was now acknowledged that there was one scenario "available", which pinpoints back to the initial confrontation before incarceration and this only. Though there are conflict of interests between statute of limitations on video surveillance, audio surveillance, and time

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limits as to when to file lawsuits, because of insinuating circumstances, after overviewing the entire matter at hand, it was now clear and evident that the day of initial accusations and alleged crime was being avoided by all parties leading and conspiring to current and present situation at hand. The fact of the matter is this, if rules and regulations that are instilled are lenient on one's behalf, they should be set to accommodate the situation not to incriminate. On the night of the alleged crime (crime being a stolen item), if there were any suspicions on whether or not I was a member of the fitness club, the employee working on the night of the shift had more than enough time to question whether or not I was a member of the club, and if in fact unknowledgeable of me being a member or signing in could have at any time throughout the workout session asked if I was a member and/or if I had signed in either during my session or upon me approaching the counter after the matter was under control and acknowledged. In this not being a question at hand would give high probability in this not being a matter of issue. It would seem that if this were the case, it would be highly probable that this could be a method to cause and give reasons for probable cause of another matter. In being so, hypothetically speaking, saying probable cause did give reason for suspicion which led to a disarray of unknown thoughts by the employee, regardless of the

Appendix K

fact, employee # 3 goes on to state in the report written by employee # 3 on the forms drafted by planet fitness that her being startled and feeling threatened was the cause in fact on what her primary concern was that lead her to contact law enforcement in the first place. If this is the case, the question at hand should have been the subject of the matter and not pertaining to another subject outside of what it was she states to be the problem initially (or both) written in the statement & report. It is highly probable that in spite of the fact that employee # 3 not having a real justifiable cause would give an ascertain on the matter that the employee lied about an item being stolen to give probable cause in calling law enforcement out of frustration. In not being a proven fact, the video surveillance on the night of trespass warning would have given the employee proof of what it is she claims to be the issue on both matters. Standard safety procedures should have been taken by planet fitness regardless if this in fact was true as well. Planet Fitness sensibly being aware of the situation, should have raised a red flag in saving whatever footage period whether it be video or audio for precautionary reasons and for purposes that pertain to a crime being committed. On the other hand, it is highly sensible and probable, if not factual, that if the employee was lying about the situation about an item being stolen, it is very likely that the

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incorporation would keep this information discreet or even as to go as far as erasing all evidence if it's not a benefactor to their cause, and would in fact bring incrimination on their end.. On another occasion, the officers of the temple terrace police dept. also go on to mention that their body cam footage was limited to the day of the actual trespass and nothing else because of the initial day of trespass being evidential for purposes of a crime being committed and didn't see it necessary to save footage on the initial night of the origin of an alleged crime that was being committed. It's clear without saying that not only would something of this sort of nature be insufficient to the ones being privileged in the matter, but highly deficient upon standards as well, for this is what evidence of an alleged crime is used for principally and the purposes of what body cam footage is/was intended for and should be looked over and observed from beginning of ones accusation's to the end, not narrowed, opinionated and subject to ones own perspective. In being so, from employee # 1's (name unidentified) disregards and indifference in signing me up for the membership, employee # 2 (name unidentified) passive ways and leniency in sign-in policies, employee # 3's (identified as Jamie Reams) deceptive and misleading information which later led to false statements both verbal and written, employee # 4's (identified as Halie Bennett) plot leading into deceptive incrimination, employee # 5's

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name unidentified) deceptive or misleading information on status of membership, employee # 6's (identified as Andra Benjamin) disregards to current membership policies at the time in conspiracy to the membership cancelation and/or freeze form what was allegedly sent and signed by the manager (identified as Carmen Menendez) sensibly, and in mind, should give way to more than just mere negligence. These events outside of membership policies and according to the law should be looked into rationally and put into perspective to what in actuality was going on at this fitness club (by a court of law). On another note, the night of the actual trespass prior to receiving this footage is a typical case of a total lack in regard to professionalism, not to mention customer care and teamwork. After receiving knowledge of the final say of account status through email in subsidiary form provided, the account should have clearly been noted by either the manager or one of the members of the team in their system well after any document(s) were officially sent to any party(ies) regardless of face, gender and/or greed. The final word on any bond whether agreement or contract should be premeditated, secured and well understood by all parties that are involved in commencing policies and procedures before any issuances to the common public and/or consumers, regardless of who the party is, and if in fact what is binding through all agreements,

Appendix K

contracts, and/or subsidiaries. If it is true that the subsidiary which reads "Last Day To Use Club" 9/16/2021 was allegedly signed by the Manager, employee # 5 should have had this information available upon me calling in to check on status of the membership in my membership log. Even so, if the information was not provided before me contacting the fitness center on 09/16/2021 at approximately 00:00 (time of afternoon shift unidentified), employee # 5 still went on to confirm that the account was active, and it was a green light for usage of the club which is further confirmation and perceived to be more of an elaborate detail description of the club status. In arriving to the club on the night of 9/16/2021, the status of the club activity should have been well noted by this time and documented at this point, being as that the message was allegedly spread from the manager to one shift, then the other. On the other hand, hypothetically speaking , if it is in fact true that employee # 6 was not aware of the membership status and was only going by information relayed by whomever it may have been, somewhere along the lines it was plotted, from the manager sending the subsidiary form by email in consent to the last day of usage of the club, to employee # 6 giving message of a total adverse situation, to what was conspired. In being that the information that was allegedly provided to employee # 6 had to have come from some source in order for

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employee # 6 to be acknowledgeable of the situation, or to even have that type of information, would signify that employee # 6 was aware and acknowledgeable of the situation in circumstances as well, and if was not, this would insinuate that communication levels between employees and management was poor to none, and would of have to have received this information from another source regardless, in which if this was the case would have been from the employee(s) working the shift immediately before his shift, who were the ones who gave the ok and mentioned account status was still active and in that case, somewhere along those lines there was a lie in deception from one or the other (or both), in conspiring to the events, which obviously is poor in policy, procedure, and far from unintentional. Regardless of whether it was the manager or any one of the employees conceiving this intrusion, the incorporation as a whole should be held liable to the fullest extent permitted by law for this negligence, reckless indecency, and acts of wrongful conduct, outside of policy and procedures in breach of contract through agreement and subsidiaries.

On the night of..... *Written by Rafael Beltre*

APPENDIX L

- | | |
|---|---|
| <input type="checkbox"/> 442 Employment | <input type="checkbox"/> 550 Civil Rights |
| <input type="checkbox"/> 443 Housing Accommodations | <input type="checkbox"/> 555 Prisoner Condition |
| <input type="checkbox"/> 445 Amer. w/ Disabilities – Employment | <input type="checkbox"/> 560 Civil Detainee Conditions of Confinement |
| <input type="checkbox"/> 446 Amer. w/ Disabilities – Other | LABOR |
| <input type="checkbox"/> 448 Education | <input type="checkbox"/> 710 Fair Labor Standards Act |
| FORFEITURE/ PENALTY | <input type="checkbox"/> 720 Labor/ Management Relations |
| <input type="checkbox"/> 625 Drug Related Seizure of Property 21 USC 881 | <input type="checkbox"/> 740 Railway Labor Act |
| <input type="checkbox"/> 690 Other | <input type="checkbox"/> 751 Family and Medical Leave Act |
| IMMIGRATION | <input type="checkbox"/> 790 Other Labor Litigation |
| <input type="checkbox"/> Naturalization Application | <input type="checkbox"/> 791 Employment Retirement Income Security Act |
| <input type="checkbox"/> Other Immigration Actions | |
| BANKRUPTCY | PROPERTY RIGHTS |
| <input type="checkbox"/> 422 Appeal 28 USC 158 | <input type="checkbox"/> 820 Copyrights |
| <input type="checkbox"/> 423 Withdrawal 28 USC 157 | <input type="checkbox"/> 835 Patent – |
| SOCIAL | |

APPENDIX L

SECURITY

- ☐ 861 HIA
(1395ff)
- ☐ 862 Black Lung
(923)
- ☐ 863 DIWC/
DIWW (405(g))
- ☐ 864 SSID Title
XVI
- ☐ 865 RSI
(405(g))

OTHER

STATUTES

- ☐ 375 False
Claims Act
- ☐ 376 Qui Tam
(31 USC
3729(a))
- ☐ 400 State
Reappointment
- ☐ 410 Antitrust
- ☐ 430 Banks and
Banking
- ☐ 450 Commerce
- ☐ 460 Deportation
- ☐ 470 Racketeer
Influenced
And Corrupt

Abbreviated

New Drug
Application

- ☐ 840 Trademark

FEDERAL

TAX SUITS

- ☐ 870 Taxes
(U.S Plaintiff or
Defendant
- ☐ 871 IRS -
Third Party
26 USC 7609

Organizations

- ☐ 480 Consumer
Credit (15 USC
1681 or 1692)
- ☐ 485 Telephone
Consumer
Protection Act
- ☐ 490 Cable/Sat TV
- ☐ 850 Securities/
Commodities
Exchange
- ☐ 890 Other
Statutory
Actions

APPENDIX L

- | | |
|---|---|
| <input type="checkbox"/> 891 Agricultural Acts | <input checked="" type="checkbox"/> 950 |
| <input type="checkbox"/> 893 Environmental Matters | Constitutionality of State Statutes |
| <input type="checkbox"/> 895 Freedom of Information Act | |
| <input type="checkbox"/> 896 Arbitration | |
| <input type="checkbox"/> 899 Administrative Procedure Act/ Review or Appeal of Agency Decision | |
-

V. ORIGIN (*Place an "X" in One Box Only*)

- | | |
|--|--|
| <input type="checkbox"/> 1 Original Proceeding | <input type="checkbox"/> 2 Removed from State Court |
| <input type="checkbox"/> 3 Remanded from Appellate Court | <input type="checkbox"/> 4 Reinstated or Reopened |
| <input type="checkbox"/> 5 Transferred from Another District (specify) | <input type="checkbox"/> 6 Multidistrict Litigation - Transfer |
| <input type="checkbox"/> 8 Multidistrict Litigation Direct File | |
-

VI. CAUSE OF ACTION

Cite the U.S Civil Statute under which you are filing
(Do not cite jurisdictional statutes unless diversity.

621.07 Florida Statute

Brief description of cause **Falsifying of**
information both written and spoken and the
disregard of information given along with the
mistreatment and misconduct of numerous
employees.

APPENDIX L

**VII. REQUESTED IN COMPLAINT: ☐ CHECK
IF THIS IS A CLASS ACTION UNDER 23,F.R.Cv.P**

DEMAND \$ *FULL PROPERTY VALUE*

CHECK YES only if
demanded in complaint:

JURY DEMAND:

☒ YES ☐ NO

**VIII. RELATED CASE(S) IF ANY (*SEE
INSTRUCTIONS*)**

JUDGE _____

DOCKET NUMBER _____

DATE _____

SIGNATURE OF ATTORNEY OF RECORD

FOR OFFICE USE ONLY