



## **INTRODUCTION**

1. This is a lawsuit brought under 42 U.S.C. § 1983 and 42 U.S.C. § 1988 against the City of Newport and its police officer for the violation of Plaintiff Rettig's constitutional rights under the First and Fourth Amendments. Newport police officers retaliated against Rettig for exercising his right to free speech by unlawfully entering a private residence, detaining, and arresting him without probable cause.

## **PARTIES**

2. Plaintiff Brandon Rettig ("Rettig") is a resident of Newport, Kentucky.
3. Defendant City of Newport ("Newport") is a municipal corporation located in Campbell County.
4. Defendant Ronald Lalumandier is a police officer employed by the City of Newport, and he is named here in both his official and individual capacities.
5. Newport and Defendant Lalumandier shall be collectively referred to as "Defendants."
6. At all times relevant to this Complaint, Defendants were acting under the color of law.

## **JURISDICTION AND VENUE**

7. This Court has jurisdiction over all Defendants because this Action is brought under 42 U.S.C. § 1982 and 42 U.S.C. § 1988, and this Action is brought primarily under federal law.
8. Plaintiff also state claims under the laws of the Commonwealth of Kentucky. These claims are inherently related to the other claims in this case, over which this Court

has original jurisdiction, that they are a part of the same case or controversy under Article III of the United States Constitution. Accordingly, this Court has supplemental jurisdiction of these claims under 28 U.S.C. § 1367.

9. Venue is proper in this Court because the transactions, occurrences, and injuries happened in Newport, Kentucky.

### **STATEMENT OF FACTS**

10. Rettig is a resident of Newport, Kentucky.
11. On June 8, 2024, police officers were situated outside an apartment complex where Rettig resides.
12. The officers were responding to an incident unrelated to Rettig.
13. Multiple police cars were present with lights on, creating a noticeable scene in the vicinity of the complex.
14. Rettig, who officers suspected was on the balcony of his girlfriend's apartment at the complex, was allegedly able to observe the activity below.
15. Rettig directed remarks toward the officers from the balcony that the officers took offense to.
16. Rettig did not utter fighting words or threatened to harm anyone.
17. Defendant Lalumandier threatened who he believed was Rettig, stating, "Keep it up, I'll take your ass to jail."
18. Defendant Lalumandier also stated, "I got keys to your apartment," implying he had access to the private building.
19. The officers seemed to become agitated because of comments they believed Rettig was expressing.

20. Three officers, including Defendant Lalumandier, then made the decision to enter the apartment building without consent.
21. The apartment building remains locked and is only accessible via key card access.
22. Defendant Lalumandier used a key card to gain access to the building.
23. The key card seems to have belonged to the officer who was a former tenant of the building.
24. Defendant Lalumandier no longer had lawful authority to access the building.
25. The apartment complex is private property, with access strictly limited to current residents and their invitees, as well as authorized personnel.
26. It is not open to the public, and people from off the street may not enter the property at any time.
27. The building is instead a secure apartment complex.
28. The officers proceeded to use the elevator to reach the floor where Rettig's girlfriend's apartment is located.
29. They then approached the door of Rettig's girlfriend's apartment.
30. Rettig lived in the building also.
31. The officers knocked loudly and waited outside for a few minutes.
32. No one from inside the apartment responded to the officers' knocking.
33. No resident of the apartment consented to the officers' entry into the building.
34. Rettig then approached the officers in the hallway near his girlfriend's apartment door, attempting to ascertain the reason for their presence.
35. The officers then began questioning Rettig regarding his presence and actions.
36. Rettig further explained that his girlfriend, the apartment's tenant, was not at home at the time.

37. Initially, one of the officers appeared to question whether Rettig was indeed the individual on the balcony, as Rettig had changed his shirt since making his comments.

38. The officers intensified their engagement with Rettig.

39. The officers began asking Rettig if he was drinking, and one officer stated he could smell alcohol.

40. Defendant Lalumandier then informed Rettig that he was under arrest.

41. Officer Lalumandier proceeded to place Rettig in handcuffs.

42. Rettig was arrested inside the hallway of the apartment complex.

43. The officers stated the reason for the arrest was public intoxication under KRS §222.202(1).

44. The statute states the following:

(1) A person is guilty of alcohol intoxication when he appears in a public place manifestly under the influence of alcohol to the degree that he may endanger himself or other persons or property, or unreasonably annoy persons in his vicinity.

45. In the citation, the officer stated that the hallway was “open to the public.”

46. This is a material misrepresentation of fact, and the officers knew this was not true.

47. Indeed, there is body cam footage where one officer must use a key card to both enter the building, as well as use the elevator to ascend to Rettig’s floor.

48. Thus, the hallway is, in fact, private property, accessible only to residents and authorized persons.

49. Rettig was located entirely within private property at the time of his arrest.

50. The officers had no lawful right to access the building or to arrest Rettig within the private confines of the complex.

51. Upon information and belief, Defendant Lalumandier, who is no longer a resident in the building, used a keycard to unlawfully gain access into the building without consent.

52. Regardless, the mere fact that the officer still maintained his keycard after moving out of the complex does not mean that the building is open to the general public.

53. The only people who may or should gain access to the building are tenants or their lawful invitees.

54. Rettig's alleged conduct throughout the incident was lawful because he was in private property at all relevant times, and it is not alleged that any of his speech constituted a fighting word or other form of unprotected speech.

55. The officers merely wanted to arrest him because they wanted to punish him for engaging in speech that they did not appreciate.

56. It is common sense that a person may drink alcohol while in the boundaries of his apartment complex that he is a lawful invitee of.

57. According to Defendants' absurd application of the relevant law to this matter, an officer could arrest a person for drinking one too many beers on his own driveway because the mail carrier may also use the driveway to approach the mailbox.

58. It is clearly not "public" intoxication to drink on private property when you are lawfully upon that private property.

59. The officers were clearly misapplying a law to punish what they deemed as speech they did not appreciate.

60. The officers escorted Rettig from the building in handcuffs.

61. Rettig was then placed inside of a police vehicle and taken into custody.
62. Rettig suffered injuries requiring medical attention because of Defendants.
63. Charges were filed against Rettig, but they were later dismissed.
64. Upon information and belief, Defendant Lalumandier was not reprimanded or punished for his actions.
65. Defendants' actions were conducted according to policy or poor training from those with the decision-making authority to train the officers.
66. Those with the proper decision-making authority ratified the Defendants' actions, and they further failed to discipline the officers for arresting a person in his own residence without probable cause to punish speech.

### **STATEMENT OF CLAIMS**

#### **Count I – First Amendment - Retaliation**

67. Rettig restates all previous paragraphs.
68. The First Amendment protects individuals' rights to express speech, including criticism and objections toward police conduct.
69. Rettig allegedly made critical statements to the Officer Defendants that those officers did not appreciate.
70. This critical speech is protected by the First Amendment.
71. In response, Defendants retaliated against Rettig, seized him, and arrested him in retaliation for protected speech.
72. Rettig suffered damages.
73. Defendants damaged Rettig, and Rettig is entitled to injunctive relief, declaratory judgment, compensatory damages, nominal damages, attorney fees, and costs against all Defendants.

**Count II – Fourth Amendment – Malicious Arrest, Malicious Prosecution,  
Excessive Force, and Unlawful Seizure of Person**

74. Rettig restates all previous paragraphs.

75. The Fourth Amendment guarantees the right against unreasonable searches and seizures, including the protection against arrest without probable cause.

76. The Fourth Amendment promises the right against incarceration and malicious prosecution for charges that are not supported by sufficient evidence or probable cause.

77. The Fourth Amendment protects people from excessive force used in conjunction with police actions.

78. Defendants violated Rettig's Fourth Amendment rights by arresting him without probable cause, engaging in malicious prosecution, cuffing him at his own residence, and unlawfully seizing his person.

79. The actions of Defendants in arresting and prosecuting Rettig were performed with malice, as evidenced by their disregard for the facts and circumstances that demonstrated Rettig had not committed any crime.

80. Defendants further used excessive force because they handcuffed and restrained Rettig for refusing to provide information that Defendants were never actually entitled to.

81. Rettig is entitled to injunctive relief, declaratory judgment, compensatory damages, nominal damages, attorney fees, and costs against all Defendants.



**Count III – Battery**  
**(against the Officer Defendants)**

82. Rettig restates all previous paragraphs.

83. Defendants had no lawful authority or probable cause to arrest or otherwise confine Rettig.

84. Regardless, Defendants cuffed and battered Rettig.

85. Defendants acted maliciously and in conscious disregard for Benson's rights.

86. As a result, Rettig suffered damages.

87. Rettig is entitled to injunctive relief, declaratory judgment, compensatory damages, nominal damages, attorney fees, costs, and punitive damages.

**DEMAND FOR RELIEF**

**WHEREFORE**, Rettig respectfully requests that this Court issue judgment in his favor on all counts and award him the following relief:

- a. Compensatory damages;
- b. Injunctive relief;
- c. Interest;
- d. Punitive damages against individual Defendants in individual capacities;
- e. An order declaring that Defendants' actions were unconstitutional;
- f. Nominal damages;
- g. Attorney fees;
- h. Costs and expenses; and
- i. Any and all other relief available.

Respectfully Submitted,

**/s/ Robert L. Thompson**

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**JURY DEMAND**

Plaintiff demands a jury on all triable issues.

**/s/ Robert L. Thompson**

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