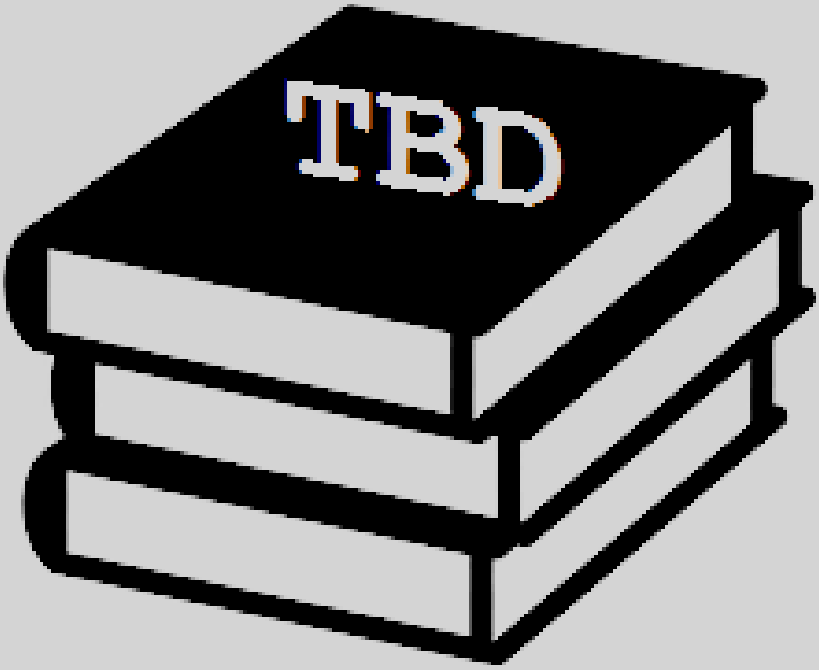
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IN THE CIRCUIT COURT OF THE SECOND JUDICIAL CIRCUIT, IN AND FOR LEON COUNTY, FLORIDA

REBEKAH JONES,

Plaintiff,

v. Case No.: 2020 CA 002349

RICK SWEARINGEN, individually, and in his official capacity as Commissioner of The FLORIDA DEPARTMENT OF LAW ENFORCEMENT; NOEL PRATTS, individually; and FDLE AGENT JOHN DOE, individually.

Defendants.

_____/

COMPLAINT

On December 7, 2020, Plaintiff Rebekah Jones awoke to the sound of law enforcement pounding on her door. They entered her home with guns drawn, terrorizing her family. They were there to execute a search warrant for her electronics devices; however the basis of the warrant was a sham to punish Plaintiff for her protected speech. Her termination from the Florida Department of Health after refusing to falsify data generated a great deal of media coverage much to the dismay of the State. The Plaintiff brings this Complaint seeking damages and equitable relief against Defendants for violating her rights under the First, Fourth, and Fourteenth Amendments, as well as state law.

JURISDICTION, VENUE, PARTIES

1. This action for damages in excess of $30,000, and for equitable and ancillary relief arises under the First, Fourth, and Fourteenth Amendments to the United States Constitution, all enforced under 42 U.S.C. § 1983, and under the common law of Florida.

2. All events and transactions material hereto occurred in Tallahassee, Leon County, Florida.

3. Plaintiff Rebekah Jones is a female citizen of the United States who has resided in Leon County, Florida, at all times material hereto.

4. Defendant Rick Swearingen (Swearingen), as Commissioner of the Florida Department of Law Enforcement (FDLE), is the chief executive officer of FDLE and the department's agency head. At all times material hereto he has been a resident of Leon County, Florida and transacts business in Leon County. FDLE has its headquarters in Leon County. Swearingen authorized and approved obtaining and serving a search warrant on Plaintiff's home. He is sued in both his individual and official capacities, though in his official capacity he is sued for prospective injunctive relief only.

5. Defendant Noel Pratts (Pratts) is a ranking agent at FDLE. He is officer in charge of FDLE's investigation of Plaintiff. He prepared an affidavit seeking a

search warrant of Plaintiff's home and led as many as eight armed officers in a raid on Plaintiff's home on December 7, 2020.

6. FDLE Agent John Doe was one of the officers in the raid. While Plaintiff stood with her hands up on her doorstep after exiting her home, he, for no legitimate purpose, committed a battery on Plaintiff by repeatedly running his hands up and down her ribs and by gripping and holding her sides.

CONDITIONS PRECEDENT

7. All conditions precedent to this action have occurred or been performed, waived, or excused.

GENERAL ALLEGATIONS

8. Plaintiff initiated a whistle blower complaint at the Florida Commission on Human Relations (FCHR), which is on the verge of ripening for eligibility to take to court. The whistle blower complaint arises from the Florida Department of Health (DOH) firing Plaintiff for refusing to falsify statistics on a "dashboard" she had created for DOH, documenting the incidence of COVID-19 infections in Florida. Following these unlawful instructions would require not only falsifying data in the dashboard, but also falsifying data in the underlying sources and deleting correct data.

9. Plaintiff's firing captured a great deal of media attention nationally and in Florida, much of it negative toward Governor Ron DeSantis, who is widely believed to have had a hand in the firing.

10. FDLE is a Cabinet agency, so Swearingen can technically be fired only by the Cabinet, but precedent shows a governor being able unilaterally to remove a Commissioner, as shown in the case of then-Governor Rick Scott removing Commissioner Gerald Bailey through the instrumentality of his General Counsel Peter Antonacci. Accordingly, FDLE Commissioners are sensitive to the attitudes and preferences of governors.

11. Governor DeSantis openly denounced Plaintiff in the most vitriolic and vituperative manner in the furor following her firing and on later occasions. His antagonism to Plaintiff has been so widely publicized that any state official would be familiar with it, including Swearingen and Pratts.

12. After her firing, Plaintiff set up a non-governmental COVID-19 dashboard of her own, doing all that is done by the state counterpart she had created and more, except with scrupulously accurate and honest data. Plaintiff's website has been popular with scientists, medical professionals, and interested lay people around the nation. Her earlier and lesser site earned the praise of famed Whitehouse task force physician, Dr. Deborah Birx.

13. DeSantis has been openly furious about Plaintiff's work because it exposes the ongoing falsification, suppression, and misleading that are salient features of the State's data reporting about COVID-19. He has not missed any opportunity to heap vilification and obloquy on Plaintiff in the public media.

The Raid

14. On the morning of December 7, 2020, a team of approximately seven FDLE agents and one Tallahassee Police Department (TPD) officer (the only female officer in the raid), appeared at Plaintiff's home and milled about in the yard for a time without announcing their presence. The TPD officer wore a body cam. It appears she was the only one so equipped.

15. Plaintiff received a phone call from an agent stating, "This is officer [name]. I'm here at your house. I wanted to know if anybody is here. I'm trying to make contact with somebody." Plaintiff was still in bed and believed the agents were there to arrest her. She began to make preparations for arrest – dressing accordingly, gathering her husband and two children into an upstairs bedroom, making arrangements with them for being without her for whatever time she would be gone, and trying to contact her lawyers to ask what to do.

16. The agents eventually pounded on the door and demanded entry, with one holding a sledgehammer. Plaintiff opened the door within 39 seconds of the first time an agent shouting at the door mentioned a search warrant. She appeared

at a window adjacent to the door within that time and an agent pointed a gun within inches of her face through the window.

17. Plaintiff opened the door and placed her hands in the air. An agent grabbed her arm and pulled her out to the doorstep. He demanded to know who was in the house. Plaintiff said it was her husband and two children. Two agents, with guns drawn, rushed into the residence and stood at the bottom of the stairs, bellowing for Plaintiff's husband to come down, pointing their guns up the stairs. The husband appeared at the top of the stairs holding a two-year-old girl in his arms, with the 11-year-old boy by his side. The agents lowered the guns to let them descend. The family members were terrified and traumatized.

18. Outside, several agents and the TPD officer remained gathered on the doorstep. Defendant Agent John Doe gripped Plaintiff's midsection from behind while she still had her hands up. He ran his hands up and down her ribs and grasped her sides just below her breasts and held her. She flinched in his grip, but otherwise stood peacefully with her hands up, as she had been doing when he laid hands on her.

19. The seven to eight agents wandered in, out, and around inside and outside of the residence for about 2 hours, giving Plaintiff the search warrant and an inventory of what they took as they left. They took Plaintiff's computers, storage media, and cell phone.

20. Plaintiff had placed a video camera on a pole aimed at her door. It captured her being pulled out the door with her hands up, the agents running in, pointing their guns up the stairs, and bellowing the wrong name of Plaintiff's husband and demanding that he come down.

21. The TPD officer's body cam shows events outside the house from arrival of the law enforcement team, on through the exit of Plaintiff and then her husband and children from their home.

22. Defendant Swearingen, stung by an avalanche of denunciation of him and his agents in the media, released an unredacted version of the TPD body cam video, with audio. That video contains numerous mentions of Plaintiff's home address, her phone number, her license tag, and the 11 year-old child's age, grade, and school. Defendant Swearingen also released an unredacted copy of Pratt's affidavit in support of the search warrant, again containing Plaintiff's full address and phone number as well as a photo of her home. He also released an agent's call log from the scene.

23. Often in litigation, these three items, the body cam video, the search warrant affidavit, and the call log, are produced only after a court order and then in redacted form. These precipitous and reckless releases of personal information caused Plaintiff to receive harassing phone calls and hate mail. She had to change her phone number and hire an armed guard to protect her home. She has been placed

in such fear for her and her family's safety that she is pulling up roots and moving out of state.

The Warrant

24. On November 10, 2020, Pratts, according to his affidavit, received information from a DOH official, Derrick Smith, from the Bureau of Preparedness and Response, that someone had "gained access to a multi-user account group 'StateESF-8.Planning' and sent a group text stating the following.: 'it's time, to speak up before another 17,000 people are dead. You know, this is wrong. You don't have to be part of this. Be a hero. Speak out before it's too late. – From StateESF8.Planning.'"

25. Pratts claimed to have traced the message to Plaintiff's IP address, "through the use of investigative resources." Neither the judge signing the search warrant for Plaintiff's home, nor the public has been informed of what "investigative resources" Pratt used. DeSantis, at a press conference claimed that Pratt issued a subpoena to Comcast, but that does not square with Pratt's affidavit.

26. Pratt stated that he is a Certified Cyber Crimes Investigator with much training and education in cyber-crimes. However, his affidavit makes no mention of having taken into account the possibility of Plaintiff's IP address having been "spoofed," before accusing her of criminal hacking, though IP spoofing is a common practice that might be perpetrated by a relatively unsophisticated computer user. Nor

did he consider how unlikely is the notion that Plaintiff would want or need to post anything anonymously to a small group after having appeared on national TV news shows dozens of times and in every major media outlet nationally and in Florida.

27. Pratt ignored the body of law and scientific opinion finding that an IP address is not a reliable enough indicator to justify a search warrant or an arrest.

28. DeSantis stated, "There was an intrusion of a very sensitive system. It's an Emergency Alert System. If somebody gets a hold of that, they can do a lot of damage. I mean you could really frighten a lot of elderly people, other vulnerable populations."

29. However, neither DeSantis, nor DOH, nor FDLE has been able to designate any rule, policy, or classification that made this emergency alert system restricted in any way. There is nothing anywhere that defines or designates the forum as confidential, limited to certain users, or restricted in any way.

30. A report from a technology news site, *Ars Technica*, said that readers of Reddit discovered that the Department of Health's private messaging system that Jones allegedly accessed had published the email address and password and posted it in at least seven pdf files that were widely available on the Internet to anyone who had the address.

31. Following FDLE's raid on Plaintiff's home on December 7, 2020, and the *Ars Technica* report on December 9, 2020, the *Miami Herald* found the user

name and password still available on the DOH website on the evening of December 9, 2020, but gone by December 11, 2020. *Florida Today*, in an article of December 10, 2020, reported that, as of that very morning, the username and password for the system were on a document that was publicly available on a Department of Health site.

32. The fact that DOH made the site available to anyone in the world who had internet access and a computer and that DOH did nothing to restrict access to the site or declare it to be of limited access, is the same as an open invitation for anyone in the world to access and contribute to the site.

33. Under these circumstances, no reasonable officer would regard accessing the site to be a crime under § 815.06(2)(a), Florida Statutes, which makes such access a crime by a user only if, "he or she willfully, knowingly, and without authorization: (a) Accesses or causes, to be accessed any computer, computer system, computer network, or electronic device with knowledge that such access is unauthorized." There is no possibility that access could be unauthorized when the DOH website, in seven places, describes how anyone can access the site with no indication that access is restricted in any way.

34. It is not even theoretically possible that whoever sent the message committed a crime, so there is no possibility that a legitimate search warrant could issue to find out whether Plaintiff sent the message.

35. Accordingly, the search warrant was obtained in bad faith and with no legitimate object or purpose. The search warrant was never valid and would never had been signed if a fair presentation of the facts had been given to Judge Joshua Hawkes, who signed the warrant.

36. Jones is neither the author nor the sender of the message at issue.

37. FDLE, seeking to ingratiate itself to DeSantis, sought to silence Plaintiff's online speech by confiscating her computer and to discover her confidential sources and other information by seizing her cell phone. That was the motive for obtaining the search warrant, not the ridiculous notion that FDLE believed Plaintiff sent the message at issue and that it would have been illegal so to do.

38. The premise of obtaining the search warrant was to find out whether Plaintiff sent one email to the DOH emergency listserve on November 10, 2020. That is a very small mission that could be quickly completed.

39. Still, the Pratts affidavit is couched in terms more appropriate for a search of major organization for many items over many years in a large pattern of criminal activity.

Materials Seized

40. The raid robbed Plaintiff of her entire data and reporting infrastructure. The firing and the contumely from DeSantis not only took her job, but made her

unemployable. Plaintiff was making a living off her free-lance scientific and journalistic endeavors. The raid, at least temporarily, took that from her, as was the plan of FDLE.

41. These free-lance scientific and journalistic endeavors were Plaintiff's business and her livelihood. Plaintiff's readers/followers count on uninterrupted upkeep of her site. Failure to maintain the site causes irreparable harm to Plaintiff's business. The raid put Plaintiff out of business, at least, temporarily.

42. The items taken in the search include all Plaintiff's privileged written communications with her attorneys, all her protected work product materials from her DOH whistleblower case, and all her confidential sources from her work on her legal case and from her journalistic endeavors.

43. The attorney handling the criminal aspects of Plaintiff's case, Stephen S. Dobson, III, has placed FDLE on formal and affirmative notice that the seized items contain materials privileged under both the attorney/client and work-product privileges. FDLE failed to respond to the notice or provide any assurances that it would shield Plaintiff's privileged information from governmental inspection.

44. On December 3, 2020, the day the judge signed the search warrant, the *South Florida Sun-Sentinel* published the most detailed expose yet of the concealment, manipulation, falsification, and delay in reporting COVID-19 data under the DeSantis regime. The *Sun-Sentinel* and other media have long been

making such reports, based in part on confidential sources inside government, much to the vexation of DeSantis and his team. It was easier to contrive an excuse to raid the home of a solo publisher like Plaintiff than to raid the offices of a major newspaper or TV network in search of the identity of those confidential sources.

45. Because there was no possible crime committed, the search warrant was improvidently issued and is of no legal force. Plaintiff will promptly file and serves a motion for injunctive relief compelling immediate return of her property and erasure and divestiture of any materials copied from the seized items.

46. Plaintiff further seeks herein compensatory and punitive damages against all except Swearingen in his official capacity, for whom no damages are sought. Plaintiff seeks additional equitable relief barring future depredations.

47. Defendants' actions violated clearly established law.

48. Plaintiff has had to retain counsel to vindicate her rights in this matter and owes a reasonable attorney's fee.

COUNT I – FIRST AMENDMENT
(Against Swearingen and Pratts)

49. Plaintiff incorporates Paragraphs 1- 48.

50. Plaintiff exercised her First Amendment rights by creating a website featuring a dashboard documenting the incidence of COVID-19 in Florida and the failures of the DeSantis regime in managing public health and the nefarious efforts of that regime to manipulate, falsify, conceal, and delay information about the virus.

51. Plaintiff engaged in protected First Amendment activity by posting on social media and participating in interviews on CNN, MSNBC, local Florida stations, and in print media of every variety and in criticizing the DeSantis regime in those media.

52. The obtaining of a search warrant and the execution of that warrant on Plaintiff's home was state action and was taken under color of law.

53. The obtaining of the search warrant and execution thereof were done in retaliation for Plaintiff's exercise of First Amendment rights and for the purpose of obstructing Plaintiff's publishing enterprise and chilling her communication by seizing her property and instilling fear for her freedom and the safety of herself and her family.

54. Pre-existing law gave the individual Defendants fair warning that their actions violated Plaintiff's Constitutional rights.

55. Defendants' actions have chilled Plaintiff's exercise of First Amendment right to freedom of speech.

56. Plaintiff has suffered damages for the unlawful conduct of Defendants.

COUNT II – FOURTH AMENDMENT
(Against Swearingen and Pratts)

57. Plaintiff incorporates Paragraphs 1- 48.

58. Defendants engaged in an unlawful and unreasonable search of Plaintiff's home and an unlawful seizure of her computers, cell phone, and storage media.

59. The search and seizure lacked probable cause.

60. An objectively reasonable law enforcement officer would know that no arguable probable cause existed to conduct the search and seizure.

61. Alternatively, the search warrant was overbroad and did not specifically describe the things to be seized; instead allowing Defendants to confiscate all of Plaintiff's communication devices and thereby impose a prior restraint on Plaintiff's speech.

62. An objectively reasonable law enforcement officer would know that a warrant for all items on various electronic devices without any restriction as to time, media, subject, or persons involved is overbroad and constitutionally unreasonable.

63. The execution of the search warrant was unreasonable.

64. An objectively reasonable law enforcement officer would know that no show of force or brandishing weapons towards children was necessary or reasonable in relation to the items sought.

65. The search is further unreasonable because Defendants refused to take any steps to protect attorney client communications and work product material.

66. The search and seizure were performed under color of law and as state action.

67. Pre-existing law gave the individual Defendants fair warning that their actions violated Plaintiff's Constitutional rights.

68. Plaintiff has suffered damages as a result of the unlawful conduct of Defendants.

COUNT III – FOURTEENTH AMENDMENT
(Against Swearingen and Pratts)

69. Plaintiff incorporates Paragraphs 1- 48.

70. The unlawful forced entry into Plaintiff's home and the confiscation of her computers, storage media, and cell phone were a deprivation of liberty and property without due process of law.

71. Acting under color and authority of state law, Defendants held Plaintiff and her family in unlawful custody for at least two hours on the strength of a completely bogus search warrant, thus depriving her of liberty while they unlawfully took possession of and ransacked her home under the horrified watch of her and her family.

72. Defendants seized Plaintiff's computers, cell phone, and storage media, thus depriving her of property.

73. Pre-existing law gave the individual Defendants fair warning that their actions violated Plaintiff's Constitutional rights.

74. Plaintiff has suffered damages as a result of the unlawful conduct of Defendants.

COUNT IV – BATTERY
(Against John Doe)

75. Plaintiff incorporates Paragraphs 1- 48.

76. Defendant Doe without consent, authorization, or legitimate basis grabbed Plaintiff's midsection, ran his hands up and down her ribs, and gripped her sides just below her breasts.

77. At the time of this battery, Plaintiff was standing with her hands up on her doorstep, surrounded by law enforcement officers, posing no possible threat or danger to anyone. There was no law enforcement purpose for the assault on Plaintiff. The touching was against Plaintiff's will.

78. Defendant Doe acted for his own gratification, but used his authority as a state law enforcement agent to touch Plaintiff's body in a way that would earn him a slap in the face in any other circumstance.

79. Plaintiff has suffered damages as a result of the unlawful conduct of Defendant.

PRAYER FOR RELIEF

WHEREFORE Plaintiff prays that this Honorable Court grant relief as follows.

A. That this Court take jurisdiction of this matter;

B. That compensatory and punitive damages be awarded against all individual Defendants;

C. Leave to amend to seek punitive damages on all counts for which such leave may be necessary;

D. That an injunction be granted against Defendant Swearingen in his official capacity compelling immediate return of all Plaintiff's property seized pursuant to the search warrant and erasure and divestiture of all material from Plaintiff's computers that Defendants have copied;

E. Prejudgment interest;

F. Attorney's fees and costs pursuant to 42 U.S.C. § 1988 and applicable Florida law;

G. Such other and further relief as may be necessary and appropriate to make Plaintiff whole.

JURY DEMAND

Plaintiff demands trial by jury on all claims so triable.

VERIFICATION

I declare under penalty of perjury that the facts stated herein are true.

/s/ Rebekah Jones
Rebekah Jones

Respectfully submitted this 20th day of December 2020,

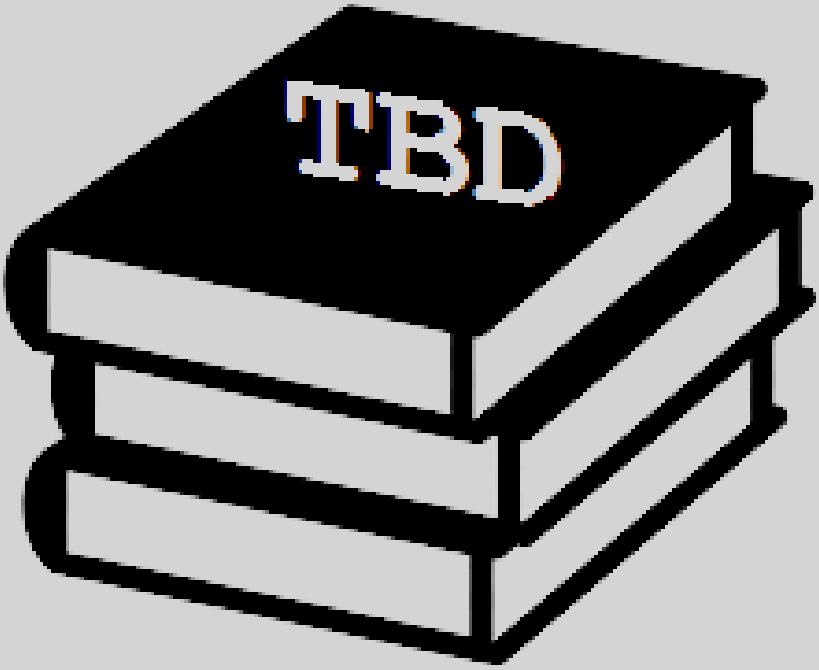
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