

UNITED STATES DISTRICT COURT DISTRICT OF NEVADA

JOSE DECASTRO,  
Plaintiff,

v.

CLARK COUNTY, NEVADA;  
JUDGE ANN E. ZIMMERMAN, in her individual capacity;  
JUDGE MICHELLE LEAVITT, in her individual capacity;  
AGNES BOTELHO, Deputy District Attorney, in her individual capacity;  
BRANDEN BOURQUE, Officer, LVMPD, in his individual capacity;  
JOHN DOE BAILIFF, in his individual capacity;  
JOHN DOES 1-10, in their individual capacities,  
Defendants.

**COMPLAINT FOR DAMAGES**

(42 U.S.C. § 1983 – First Amendment Retaliation and Right to Assemble; Fourth Amendment Unlawful Search; Fifth and Fourteenth Amendment Due Process; Sixth Amendment Violation of Public Trial; Equal Protection; Monell Liability)

**I. INTRODUCTION**

This is a case about systemic failure. About institutional retaliation against a man who dared to expose the daily abuses of a police force, and the coordinated effort by judges, prosecutors, and courtroom officers to shut him down. This action is brought against two judges, a prosecutor, an officer, and three courtroom bailiffs—each of whom participated in, approved of, or failed to prevent clear constitutional violations.

Plaintiff Jose DeCastro is a nationally known constitutional rights advocate. In 2023 and early 2024, his YouTube platform reached over 40 million monthly views, regularly exposing excessive use of force and constitutional violations by LVMPD officers. His footage documented traffic stops, public detentions, and abusive tactics. The response was not reform—it was retaliation.

From the courtroom to the holding cell, that retaliation took coordinated form. On March 15, 2023, Plaintiff was arrested for filming a traffic stop. A misdemeanor charge followed. What should have been a citation—if that—unfolded into a multi-stage constitutional breakdown.

Judge Ann E. Zimmerman, whose connection to law enforcement was personal and visible, presided. Her bias was immediate. When Plaintiff asked to avoid trial dates that interfered



with his interstate travel, she snapped “Too bad,” with no inquiry or compromise. When he asked to use standby counsel, she accused him—without basis—of trying to delay. She ignored exculpatory evidence, adopted false officer testimony, and sentenced him to six months in jail—a punishment she had never imposed on any other defendant for obstruction under NRS 197.190 in her entire judicial career. That departure from her own history was no accident. It was personal. It was political. And it was unconstitutional.

The pretrial courtroom itself was hostile. Plaintiff was harassed by bailiffs for turning to speak with his supporters before trial. The bailiffs interrupted his peaceful assembly, falsely accused him of violating decorum, and then—without legal basis—reported him to the judge. That report further poisoned the judge’s view before proceedings even began. Their conduct was not isolated but reflective of an accepted courtroom culture in which suppression of criticism was enforced through intimidation and institutional loyalty.

Officer Branden Bourque, the arresting officer, then committed perjury. He falsely claimed that Plaintiff did not comply or back up when ordered. Bodycam footage and photographs proved otherwise. Bourque’s lie was central to the conviction. It was presented under oath, adopted without scrutiny, and used to justify a sentence that was not just unjust—it was unconstitutional.

After conviction, the DA reversed sentencing recommendations. The judge reviewing the appeal vacated the bond hearing altogether. Supporters were barred from a public courtroom. Plaintiff’s conviction was later overturned. But by then, he had spent four months in jail. He missed his cousin’s death. His platform collapsed. The damage was done.

This is not a story about isolated misconduct. It is about a local justice system that responded to public scrutiny not with accountability, but with punishment. Plaintiff was not just a critic—he was a target. And each branch of the system played its part.

## **II. JURISDICTION AND VENUE**

This Court has jurisdiction pursuant to 28 U.S.C. §§ 1331 and 1343.

Venue lies in this District under 28 U.S.C. § 1391(b), as all events occurred in Clark County, Nevada.

## **III. PARTIES**

Plaintiff Jose DeCastro is a California resident, entrepreneur, and educator in constitutional law.

Defendant Clark County is a municipal entity within the State of Nevada.



Defendant Ann E. Zimmerman is a Clark County judge, sued in her individual capacity for conduct taken outside the scope of judicial immunity.

Defendant Michelle Leavitt is a Clark County judge, sued in her individual capacity.

Defendant Agnes Botelho is a Clark County Deputy District Attorney, sued in her individual capacity.

Defendant Branden Bourque is a LVMPD Police Officer, sued in his individual capacity.

Defendant JOHN DOE BAILIFF is sued in his individual capacity for unlawful conduct undertaken while acting under color of law during a judicial proceeding.

Defendants JOHN DOES 1–10 are sued in their individual capacities for unknown persons who, under color of law, denied members of the public—including Plaintiff’s supporters—access to an otherwise open courtroom during a public appeal bond hearing.

#### **IV. FACTUAL ALLEGATIONS**

During a pretrial scheduling hearing, Plaintiff appeared telephonically while represented by attorney Michael Mee. Officer Branden Bourque requested to delay trial due to personal family matters and further asked the court to schedule proceedings for Mondays and Fridays. Plaintiff regularly travels between Henderson, Nevada and Los Angeles, California; leaving on Fridays and returning on Mondays. Therefore Plaintiff stated to the court, "Tuesday, Wednesday, or Thursday works better for me". Judge Zimmerman immediately responded, "Too bad," making no inquiry into the reason for Plaintiff’s request and refusing to make any reasonable accommodation. This pretrial hearing exchange, reflected her early bias and antagonism.

At trial, when Plaintiff requested the assistance of attorney Michael Mee as standby counsel, Judge Zimmerman denied the request and stated, "this is just yet another attempt by the defendant to delay the trial." That accusation was false. Plaintiff never sought to delay trial. In fact, it was Officer Bourque who had repeatedly requested continuances. Judge Zimmerman’s statement further demonstrated her prejudgment of Plaintiff and hostility toward his right to counsel.

On March 15, 2023, Plaintiff was arrested by LVMPD while filming a traffic stop from a lawful distance. He was charged with obstruction and resisting.

Plaintiff’s trial was held on March 19, 2024, before Judge Ann E. Zimmerman. Prior to the proceeding, Plaintiff was ordered to surrender his phone and undergo a physical search despite passing through courthouse security.



The justification for the search was not safety but fear of recording. No exigency existed. The search violated Plaintiff's Fourth Amendment rights.

The execution of the search was violent and humiliating. Bailiffs physically poked, jabbed, and twisted Plaintiff's clothing and body.

In response, Plaintiff verbally objected and described one bailiff as a "pig."

Judge Zimmerman responded not with detachment, but with personal animus. She declined to recuse herself, proceeded to trial, and imposed a six-month jail sentence.

Prosecutor Botelho, who had recommended a suspended sentence, reversed course one week later at the bond hearing, demanding incarceration without any new facts.

Judge Leavitt, presiding over the appellate review, vacated the bond hearing process entirely. No review occurred. No record was made. No findings were issued.

A comprehensive review of Clark County Justice Court records confirms that Judge Ann E. Zimmerman has never imposed jail time for obstruction under NRS 197.190 in any other case. Multiple defendants—including State of Nevada v. Jeremiah Roberts, State of Nevada v. Shannon Watley, State of Nevada v. Alescia Monae Dean, and State of Nevada v. Richard Hernandez—faced the same charge before Judge Zimmerman and had their cases dismissed, denied, or otherwise resolved without incarceration. Plaintiff is the only known individual sentenced to six months in jail for obstruction by Judge Zimmerman. This dramatic departure from her uniform sentencing history further evidences her bias and intent to punish Plaintiff for his public criticism and exposure of law enforcement misconduct. No review occurred. No record was made. No findings were issued.

Plaintiff's cousin Joshua died while Plaintiff was incarcerated. Plaintiff was not permitted to see him before death despite being housed within the same county.

Plaintiff's online education and media enterprise collapsed. He lost more than \$700,000 in revenue, over 90% of product sales, and irreversible damage to his brand.

On February 14, 2024, while awaiting trial in the March 2023 case, Plaintiff was again arrested by LVMPD in Clark County. He was conducting peaceful First Amendment activity when officers unlawfully detained and arrested him. This second arrest occurred despite the County's full knowledge of his pending trial and public profile as a civil rights advocate. It reflected a continuation of targeted enforcement against Plaintiff, further exposing the County's failure to supervise, train, or restrain its personnel.

## **V. CLAIMS FOR RELIEF**

Count I: First Amendment Retaliation



Defendants punished Plaintiff for speech protected under the First Amendment. Actions taken by Zimmerman, Botelho, and Leavitt were motivated by Plaintiff's public advocacy, criticism of authority, and verbal expression.

Plaintiff was further denied the right to assemble peacefully with his supporters in a public courtroom prior to trial. Just before proceedings began, Plaintiff was seated on a bench speaking with three supporters who had come to attend his hearing. Plaintiff turned slightly, placed his knee on the bench, and engaged in quiet conversation about the trial. Multiple bailiffs—including John Doe Bailiff 1 and John Doe Bailiff 2—interrupted and ordered Plaintiff to face forward, claiming without legal basis that Plaintiff was “not sitting properly.”

When asked what law was being violated, the bailiffs offered no statutory citation. Plaintiff recorded this interaction via audio. At the time, Plaintiff was documenting the pretrial conference he was holding with his supporters while seated in the courtroom benches. The recording captures the bailiff's demand and Plaintiff's attempt to clarify what law or rule had been violated. The abrupt and unjustified interference by courtroom officers disrupted Plaintiff's exercise of his right to assembly and preparation before trial. This intrusion compounded the emotional harm and unbalanced Plaintiff during the critical moments leading into testimony. Their intervention disrupted Plaintiff's ability to assemble and conference with his supporters before trial. This intrusion was not based on safety, courtroom decorum, or judicial instruction. It was targeted, unauthorized interference with Plaintiff's First Amendment right to assemble.

When Plaintiff refused to face forward and end the assembly, one of the bailiffs left the courtroom and proceeded to the back to speak with the presiding judge. This ex parte communication occurred before the trial began and further prejudiced Judge Zimmerman against Plaintiff. The bailiff's decision to alert the judge—based on Plaintiff quietly conferencing with supporters—exemplifies the hostility and bias that tainted the trial from the outset. It served to escalate the retaliation already unfolding against Plaintiff for exercising protected rights.

## Count II: Fourth Amendment – Unlawful Search

Judge Zimmerman ordered a physical search of Plaintiff with no legal justification.

The search was not based on probable cause, incident to arrest, or safety exigency. Blatant violation of Fourth Amendment rights for the purpose of suppressing filming—not an exigent circumstance.

Judge Zimmerman's order was not a judicial ruling but an administrative action, executed outside a hearing or courtroom proceeding.



This action is not protected by judicial immunity under *Forrester v. White*, 484 U.S. 219 (1988), which distinguishes between adjudicative and administrative functions.

Ordering a physical search of an individual for non-safety reasons after a security check is not a judicial act. It is extrajudicial, personal, and punitive in nature.

#### Count III: Fifth and Fourteenth Amendment Due Process

Plaintiff was denied a neutral tribunal and post-conviction hearing.

Zimmerman imposed a sentence based on personal offense. Leavitt vacated Plaintiff's bond hearing entirely.

#### Count IV: Sixth Amendment – Public Trial Access

Plaintiff's supporters were denied access to an otherwise public courtroom during the appeal bond hearing.

Agents acting under color of law—named as John Does 1–10—deprived Plaintiff of his right to a public hearing.

At least three of Plaintiff's supporters arrived fifteen minutes before court was scheduled to begin. A court bailiff told them the hearing had already occurred and turned them away. This representation was false. Plaintiff has obtained sworn declarations confirming the time of their arrival and their denial of access.

Plaintiff believes the court may attempt to justify this exclusion by citing threats; if such threats existed, they were never substantiated or presented for judicial review. Their existence remains dubious at best.

Even if there had been credible concerns, due process is not discretionary; public trial access is a core constitutional guarantee. The Sixth Amendment does not yield to administrative fear. Even Guantánamo detainees receive due process. See *Boumediene v. Bush*, 553 U.S. 723 (2008).

#### Count V: Equal Protection

Plaintiff was uniquely incarcerated for a misdemeanor conviction historically punished with fines or suspended sentences.

No similarly situated defendant received such treatment.

#### Count VI: Monell Liability (Clark County)

Clark County maintained policies, practices, or customs of:

a. Tolerating retaliatory judicial conduct;



- b. Allowing prosecutors to alter sentencing stances based on politics or personal offense;
- c. Failing to provide appellate due process;
- d. Failing to train or supervise staff on First and Fourth Amendment compliance.

Clark County was deliberately indifferent to the constitutional violations committed by its judiciary and prosecutorial personnel, despite the public nature of Plaintiff's prosecution and media coverage surrounding the conviction.

These failures reflect not isolated mistakes but an entrenched policy of indifference to retaliation, speech suppression, and unconstitutional courtroom conduct.

No corrective action was taken by the County following the publicized violation of Plaintiff's rights, despite ample notice and the reversal of the conviction.

Clark County's failure to implement corrective policies was further evidenced by Plaintiff's February 14, 2024 arrest. Rather than institute safeguards, County officials and LVMPD personnel continued their pattern of retaliatory action.

Additionally, County courtroom personnel—including bailiffs acting under official authority—interfered with Plaintiff's lawful assembly and then escalated the situation by engaging in ex parte communication with Judge Zimmerman before trial. This prejudicial conduct contributed directly to the hostility Plaintiff faced during his prosecution. No disciplinary action was taken, no policy corrected, and no training implemented to prevent this from recurring. Such institutional tolerance further evidences Clark County's deliberate indifference to constitutional violations carried out by its judiciary and staff.

Clark County trained, supervised, and employed each of the named Defendants. The conduct alleged was not the product of isolated misconduct, but of an institutional apparatus that responded to scrutiny with suppression. These failures infected every level of courtroom process—from bailiff to bench.

#### Count VII: False Light Invasion of Privacy

Defendants, through acts and omissions, knowingly contributed to the publication of multiple misleading media reports that portrayed Plaintiff in a false light.

These reports included repeated references to conduct taken out of context, mischaracterizations of Plaintiff's motives, and omissions of exculpatory facts.

The resulting portrayal of Plaintiff as an unstable, dangerous, or frivolous individual was misleading, humiliating, and deeply damaging.

Defendants acted with actual malice or reckless disregard for the truth, knowing the impression being created would fuel reputational destruction.



These actions caused emotional distress, business losses, and ongoing public perception harm.

#### Count VIII: First Amendment – Interference with Right to Assemble

Plaintiff was engaging in peaceful pretrial assembly and discussion with three supporters inside the courtroom before trial commenced.

Multiple bailiffs, including John Doe Bailiff 1 and John Doe Bailiff 2, interrupted the conversation and ordered Plaintiff to face forward and stop conversing, claiming without any legal authority that he was not sitting properly.

When Plaintiff asked for a legal basis, none was provided. The bailiff's unjustified interference was captured on audio by Plaintiff, who was recording his lawful pretrial discussion. One of the bailiffs left the courtroom to report the interaction to the judge, contributing to prejudicial bias before the first witness was called.

This conduct violated Plaintiff's First Amendment right to peaceful assembly and conference in a public forum and directly contributed to the emotional destabilization and unfairness of his trial.

#### **VI. REPUTATIONAL AND ECONOMIC INJURY**

Plaintiff suffered extensive reputational damage due to media coverage amplified by Clark County's actions.

Plaintiff's business collapse was the direct result of wrongful detention and character assassination in widely circulated public reports.

These reputational losses materially reduced his earning potential, viewership credibility, and online platform engagement.

Clark County failed to mitigate the damage despite full knowledge of the media impact and overturned conviction.

The damage to Plaintiff's brand is ongoing and irreversible without public correction and accountability.

The false narrative was spread through at least six published articles in the Las Vegas Review-Journal, including two front-page stories.

Clark County's silence in the face of known misinformation constitutes tacit endorsement of the harm caused.



Officer Branden Bourque, while acting under color of law, knowingly made materially false statements under oath during Plaintiff's trial, including that Plaintiff failed to comply with orders to back up.

These statements were knowingly false. Body-worn camera footage, photographs, and appellate findings directly contradicted Bourque's claims.

Bourque's false testimony was central to securing a conviction. His fabricated account of the encounter served as the basis for a six-month jail sentence—an outcome that deviated from every comparable obstruction case Judge Zimmerman had handled.

The fabrication of evidence and delivery of false testimony violated Plaintiff's rights under the Fifth and Fourteenth Amendments to due process of law and resulted in direct harm, including wrongful incarceration, emotional trauma, and reputational loss.

## **VII. DAMAGES**

Plaintiff seeks full compensation for:

- a. Extensive reputational harm amplified by press coverage and government silence;
- b. Psychological and emotional trauma due to unlawful incarceration, public targeting, and exclusion from the deathbed of his cousin;
- c. Economic loss, including:
  - i. A documented 95% drop in Plaintiff's YouTube viewership in the one year following his wrongful incarceration, directly impacting monetization and platform engagement;
  - ii. Estimated \$700,000+ in lost earnings from merchandise sales and advertising revenue due to the sudden and retaliatory incarceration;
- d. The continued degradation of public trust in Plaintiff's brand and ability to rebuild his advocacy platform;
- e. Irreparable time lost with loved ones, professional partnerships, and legal standing as a constitutional educator.

Plaintiff further seeks punitive damages for the willful, malicious, and coordinated acts by multiple branches of Clark County government, including but not limited to:

- a. Retaliation for First Amendment-protected speech and assembly;
- b. Deliberate Fourth Amendment violations via unlawful search and detainment;
- c. Fabrication of testimony and systemic abuse of judicial process;
- d. Institutional tolerance of these actions through failure to train, supervise, or correct those responsible.

## **VIII. PRAYER FOR RELIEF**



WHEREFORE, Plaintiff respectfully requests that this Court enter judgment in his favor and against all Defendants, and award the following relief:

Compensatory damages in the amount of \$29,000,000, broken down as follows:

- a. \$700,000 in direct lost income over a 14-month period;
- b. \$5,000,000 for reputational harm, lost goodwill, and permanent brand damage;
- c. \$8,000,000 for emotional distress, psychological trauma, and loss of familial companionship;
- d. \$1,000,000 for business disruption and customer abandonment;
- e. \$5,300,000 for loss of future earning potential across digital platforms, livestreams, and public engagements;
- f. \$10,000,000 for Fourth Amendment violations, unlawful incarceration, and deprivation of liberty;

Monell damages in the amount of \$20,000,000 for Clark County's systemic failure to supervise, train, and correct constitutional violations committed by its judiciary, bailiffs, and prosecutors;

Punitive damages against Defendants Zimmerman, Botelho, and Leavitt for malicious, retaliatory, and constitutionally shocking conduct;

Punitive and compensatory damages against Officer Branden Bourque for knowingly providing false testimony and fabricating evidence during Plaintiff's trial;

Damages against courtroom bailiffs for violating Plaintiff's First Amendment right to assemble, interfering with his pretrial conference with supporters, and prejudicing the presiding judge before trial;

Declaratory relief affirming that Plaintiff's First, Fourth, Fifth, Sixth, and Fourteenth Amendment rights were violated, and that the March 2024 conviction and incarceration were unconstitutional;

A formal written apology from Clark County and the Clark County District Attorney's Office to be delivered to Plaintiff and filed in the public record;

A public apology printed in the Las Vegas Review-Journal and published on the Clark County website acknowledging the wrongful prosecution, sentencing, and incarceration of Plaintiff;

A court-ordered press release from Clark County acknowledging that the conduct of its judges, bailiffs, and prosecutors violated Plaintiff's constitutional rights;



A full retraction and correction by the Las Vegas Review-Journal of at least six articles—two of which were front-page stories—that mischaracterized Plaintiff's legal standing, misrepresented courtroom conduct, and contributed to reputational and economic harm;

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

And any other relief this Court deems just and proper in the interest of justice.

Respectfully submitted,

/s/ Jose DeCastro

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Plaintiff, Pro Se

LETTER TO JUDGE BELOW