

UNITED STATES DISTRICT COURT  
MIDDLE DISTRICT OF FLORIDA  
ORLANDO DIVISION

CASE NO. \_\_\_\_\_

MANUEL MARTINEZ and EVELYN VAZQUEZ,  
his wife,

Plaintiffs,

vs.

CITY OF ST. CLOUD, FLORIDA, a Florida Municipality,  
and WILLIAM WAGER, individually,

Defendants.

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**COMPLAINT**  
**(Jury Trial Demanded)**

Plaintiffs, Manuel Martinez and Evelyn Vazquez, hereby sue Defendants, City of St. Cloud, Florida, a Florida Municipality, and William Wager, individually, and allege:

**GENERAL ALLEGATIONS**

1. This is an action brought pursuant to the provisions of 42 U.S.C. § 1983 and 1988 and Fourth and Fourteenth Amendments to the United States Constitution, together with state law claims.

2. This Court has jurisdiction of this action pursuant to provision 42 U.S.C. § 1983, 28 U.S.C. § 1343 and 28 U.S.C. § 1331. Jurisdiction over the state law claims is based upon the supplemental jurisdiction of this Court, pursuant to 28 U.S.C. § 1367.

3. At all times material hereto, Plaintiffs, Manuel Martinez and Evelyn Vazquez, were and still are a married couple and residents of Osceola County, Florida, and the United States of America.

4. At all times material hereto, the City of St. Cloud, Florida was a municipal corporation located within the confines of Osceola County, Florida.

5. At all times material hereto, William Wager was a resident of Osceola County, Florida, and a police officer with St. Cloud Police Department, an agency of the City of St. Cloud.

6. At all times material hereto, Officer Wager was acting in the course and scope of his employment with the City of St. Cloud and under the color of law, unless otherwise indicated.

7. On or about March 11, 2025, Plaintiffs, Manuel Martinez and Evelyn Vazquez, furnished the City of St. Cloud and Department of Financial Services with written notice of claim via certified mail – return receipt requested pursuant to Section 768.28, Florida Statutes.

8. Plaintiffs, Manuel Martinez and Evelyn Vazquez, have complied with all the conditions precedent, including the conditions precedent set forth in Section 768.28, Florida Statutes, prior to filing this civil action.

9. Plaintiffs, Manuel Martinez and Evelyn Vazquez, have retained the undersigned counsel and agreed to pay them reasonable attorney's fees to represent them in this action.

**STATEMENT OF FACTS**

10. On March 22, 2024, the Plaintiff, Manuel Martinez, 71 years old, was at his home in a residential neighborhood in St. Cloud, Florida, when he received a phone call from someone with the City of St. Cloud, Florida asking him to come outside of his home to speak to the police about an altercation that had happened earlier in the day at a restaurant.

11. Unbeknownst to the Plaintiff, the City of St. Cloud had deployed numerous officers around his home, many of them armed with semi-automatic rifles, in addition to their side arms and tasers.

12. In broad daylight, the Plaintiff exited the front door of his home holding nothing but his cell phone, which he ultimately placed in his pants pocket.

13. St. Cloud police approached him with their guns drawn and pointed at him, screaming orders at him. They yelled at him to get down on the ground and he went down on his knees with his now empty hands in plain view and was in a submissive position.

14. A dog being held by one of the officers (Wager) was barking at him in an aggressive manner.

15. The dog (K-9 Koda) bit and shook the Plaintiff on his own front lawn while he was already on the ground, on his knees, unarmed.

**COUNT I – SECTION 1983**  
**CLAIM AGAINST WILLIAM WAGER FOR EXCESSIVE USE OF FORCE**

Plaintiff, Manuel Martinez, sues Defendant, William Wager, and hereby realleges, readopts, and reincorporates Paragraphs 1 through 15 above as if fully set forth herein.

16. Even though the Plaintiff was visibly unarmed and already on his knees in a submissive position, Officer Wager ordered his canine (Koda) to attack the Plaintiff.

17. Wager purposely used this trained canine force against this 71 year old man in his own yard knowing that the dog would bite him.

18. The Plaintiff maintains that this use of force under the above circumstances was objectively unreasonable as the Plaintiff was in a submissive position on the ground and was not posing a threat to him, other law enforcement present, or anyone else.

19. The canine use of force resulted in serious injuries to this 71 year old man, requiring immediate hospitalization and ultimately surgery.

20. As a direct and proximate result of the acts described herein, in violation of Plaintiff's Fourth and Fourteenth Amendment rights, the Plaintiff suffered serious physical injury, costs of hospitalization and medical care, disability, scarring, pain and suffering, and other damages.

**WHEREFORE**, Plaintiff, Manuel Martinez, demands judgment against Defendant, William Wager, as follows:

- a. for compensatory damages;
- b. for punitive damages;
- c. for costs of this action and attorney's fees pursuant to Provisions of 42 U.S.C. § 1983 and § 1988; and
- d. any further relief as allowed by law due to the unlawful conduct of Officer Wager.

**COUNT II – STATE LAW CLAIM**  
**AGAINST THE CITY OF ST. CLOUD, FLORIDA**  
**NEGLIGENCE**

Plaintiff, Manuel Martinez, sues the Defendant, City of St. Cloud, Florida, and hereby realleges, readopts, and reincorporates Paragraphs 1 through 15 above as if fully set forth herein.

21. The City of St. Cloud, Florida employee that was handling the dog, (Koda), which was owned by the City, was negligent and careless in the handling of the dog and failed to have sufficient control of the animal as he approached Mr. Martinez. The dog was able to get away from the employee far enough to grab, bite and shake Mr. Martinez with its jaws closed around his arm and shoulder.

22. As a direct and proximate result of the negligent handling of the dog by the City employee, the dog bit and shook the Plaintiff, causing physical injury, pain and suffering, costs of hospitalization and medical care, scarring, and other damages.

**WHEREFORE**, Plaintiff, Manuel Martinez, demands judgment for damages against the Defendant, City of St. Cloud, Florida, together with costs of this civil action, and any further relief this Court deems appropriate.

**COUNT III**  
**STATE LAW CLAIM AGAINST WILLIAM WAGER**  
**FOR BATTERY**

Plaintiff, Manuel Martinez, sues the Defendant, William Wager and hereby realleges, readopts, and reincorporates Paragraphs 1 through 5 and Paragraphs 7 through 15 above as if fully set forth herein.

23. Defendant, William Wager, acting in his individual capacity, used the dog he was controlling as a weapon to touch the Plaintiff against his will and without his consent by instructing this trained animal to bite him while he was in a submissive position and not a threat to anyone. This act of violence was carried out by Wager with deliberate indifference to the Plaintiff's health, safety and welfare.

24. As a direct and proximate result of the aforementioned act, the Plaintiff sustained lacerations, puncture wounds, and other injuries requiring hospitalization and, ultimately, surgery, together with pain and suffering, mental anguish, costs of medical care and other damages.

**WHEREFORE**, Plaintiff, Manuel Martinez, hereby demands judgment for damages against Defendant, William Wager, together with the costs of this action and any further relief this Court deems just and appropriate.

**COUNT IV**  
**LOSS CONSORTIUM CLAIM ON BEHALF**  
**OF PLAINTIFF, EVELYN VAZQUEZ**

Plaintiff, Evelyn Vazquez, sues the Defendants, City of St. Cloud, Florida and William Wager, individually, and alleges:

25. Plaintiff, Evelyn Vazquez, hereby realleges, readopts, and reincorporates Paragraphs 1 through 24 of this Complaint above as if fully set forth herein.

26. That as a direct and proximate result of the injuries and damages suffered by her husband, Manuel Martinez, by the actions of the Defendants, Plaintiff, Evelyn Vazquez, was caused to suffer in the past and will suffer in the

future the loss of her husband's services, companionship and consortium, mental and emotional anguish, and other damages.

**WHEREFORE**, the Plaintiff, Evelyn Vazquez, hereby demands judgment for damages against Defendants, City of St. Cloud, Florida and William Wager, individually, together with costs of this civil action and any further relief this Court deems appropriate.

**DEMAND FOR JURY TRIAL**

Plaintiffs, Manuel Martínez and Evelyn Vazquez, hereby demand a jury trial in this action.

**DATED** this 2<sup>nd</sup> day of October, 2025.

s/ Daniel P. Faherty  
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