

1 **COMP**
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11 **UNITED STATES DISTRICT COURT**
 12 **DISTRICT OF NEVADA**

13 JESUS CARVAJAL,

Case No.:

14 PLAINTIFF,

15 VS.

16 CITY OF LAS VEGAS, NEVADA; LAS VEGAS
 17 METROPOLITAN POLICE DEPARTMENT
 18 (LVMPD); CLARK COUNTY; CLARK
 19 COUNTY DISTRICT ATTORNEY'S OFFICE;
 20 STEVE WOLFSON; SAMUEL MARTINEZ;
 21 ERIC CHARASKA; OPAL DEEDS; JOSEPH
 22 LOMBARDO,

COMPLAINT

JURY TRIAL DEMANDED

23 DEFENDANTS.

24 COMES NOW the Plaintiff, JESUS CARVAJAL, by and through his
 25 counsel, MICHAEL J. MCAVOY AMAYA, ESQ., and TIMOTHY E. REVERO,
 26 ESQ., of MCAVOY AMAYA & REVERO, ATTORNEYS, and for his claims for relief
 27 against Defendants, and each of them, jointly and severally, based upon
 28 knowledge, information, and reasonable belief derived therefrom, allege,
 complain, and state as follows:

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I.
JURISDICTION AND VENUE

1. This Court has subject matter jurisdiction pursuant to 28 U.S.C. §§1331 and 1343 over Plaintiff's causes of action arising under 42 U.S.C. § 1983 and due to the deprivation of rights, privileges, and immunities secured to Plaintiff under the First, Fourth, Fifth and Fourteenth Amendments to the United States Constitution.

2. This Court has supplemental jurisdiction over Plaintiff's causes of action arising under Nevada state law pursuant to 28 U.S.C. § 1367.

3. Venue lies in the Southern Division of the United States District Court for the District of Nevada pursuant to 28 U.S.C. § 1391(a)(1) and 28 U.S.C. § 1391(b)(2) because one or more Defendants is a political subdivision of the State of Nevada, and because the underlying acts, omissions, events, injuries and related facts upon which the present action is based occurred in Clark County, Nevada.

II.
PARTIES

4. Plaintiff JESUS CARVAJAL is, and always herein mentioned was, a United States citizen and a resident of Clark County, Nevada.

5. Defendant CITY OF LAS VEGAS is a governmental entity organized and existing under the laws of the State of Nevada and is a political entity of the State of Nevada.

6. Defendant CLARK COUNTY is a governmental entity organized and existing under the laws of the State of Nevada and is a political entity of the State of Nevada.

7. At all times, Defendant CITY OF LAS VEGAS possessed the power and authority to adopt policies and prescribe rules, regulations, and practices

1 affecting all facets of the training, supervision, control, employment,
2 assignment and removal of individual members of the Las Vegas Metropolitan
3 Police Department (hereinafter, "LVMPD") and of its employees, agents,
4 contractors and/or servants. In this case, Defendant CITY OF LAS VEGAS acted
5 through agents, employees, servants, and contractors, including its
6 policymakers, including Defendants JOSEPH LOMBARDO.

7 8. At all times, Defendant CLARK COUNTY possessed the power and
8 authority to adopt policies and prescribe rules, regulations, and practices
9 affecting all facets of the training, supervision, control, employment,
10 assignment and removal of individual members of the Clark County District
11 Attorney's Office (hereinafter, "CCDA"), and of its employees, agents,
12 contractors and/or servants. In this case, Defendant CLARK COUNTY acted
13 through agents, employees, servants, and contractors, including its
14 policymakers, including Defendants STEVE WOLFSON.

15 9. Defendant STEVE WOLFSON was at all times relevant to this
16 action the District Attorney of CCDA and was acting under color of state law.
17 He is sued in this action in his individual capacity as to Plaintiff's claims arising
18 under 28 U.S.C. § 1983, and is sued in his individual capacity and official
19 capacity as to Plaintiff's state law claims.

20 10. Defendant SAMUEL MARTINEZ was at all times relevant to this
21 action a Deputy District Attorney of the CCDA and was acting under color of
22 state law. He is sued in this action in his individual capacity as to Plaintiff's
23 claims arising under 28 U.S.C. § 1983 and is sued in his individual capacity and
24 official capacity as to Plaintiff's state law claims.

25 11. Defendant JOSEPH LOMBARDO was at all times relevant to this
26 action the Sheriff of LVMPD and was acting under color of state law. He is sued
27 in this action in his individual capacity as to Plaintiff's claims arising under 28
28 U.S.C. § 1983 and is sued in his individual and official capacity as to Plaintiff's
state law claims.



1 12. Defendants Eric CHARASKA and Opal D (collectively as “LVMPD
2 Officers”) are and were, at all times relevant to this action, police officers
3 employed by CITY OF LAS VEGAS and were acting under color of state law.
4 They are sued in their individual capacities as to Plaintiff’s claims arising under
5 28 U.S.C. § 1983 and are sued in their individual and official capacities as to
6 Plaintiff’s state law claims.

7 13. Plaintiff are informed, believe, and thereon allege that all
8 Defendants were the agents, employees, contractors and/or co-conspirators of
9 the other Defendants, and each of them were acting within the course and scope
10 of their agency, employment, and/or concert of action, and are vicariously
11 liable, jointly and severally, for the actions, inactions, and/or omissions of
12 themselves and of the other Defendants, which proximately resulted in the
13 physical, emotional, and future damages to the Plaintiff as herein alleged.

14 **III.**
15 **NATURE OF THE ACTION**

16 14. This is an action for money damages, declaratory, and injunctive
17 relief brought pursuant to 42 U.S.C. § 1983 and 1988, the First, Fourth, Fifth
18 and Fourteenth Amendments to the United States Constitution, and under the
19 laws of the State of Nevada, against the named Defendants, police officers of the
20 LVMPD and the CCDA, in their individual and official capacities, against the
21 CITY OF LAS VEGAN and CLARK COUNTY, and against DOES 1-40.

22 **IV.**
23 **ALLEGATIONS**

24 **A. INTRODUCTION**

25 15. This case involves the wrongful arrest of Plaintiff Jesus Carvajal by
26 the LVMPD in violation of his constitutional rights.
27



1 16. Plaintiff was arrested by the LVMPD's Vice Unit on the morning of
2 August 9, 2018, and charged with nine (9) counts including: (1) FIRST
3 DEGREE KIDNAPPING WITH USE OF A DEADLY WEAPON; (2) SEXUAL
4 ASSAULT WITH USE OF A DEADLY WEAPON; (3) IMPERSONATION OF AN
5 OFFICER; (4) FIRST DEGREE KIDNAPPING; (5) SEXUAL ASSAULT; (6)
6 IMPERSONATION OF AN OFFICER; (7) FIRST DEGREE KIDNAPPING; (8)
7 ATTEMPT SEXUAL ASSAULT WITH USE OF A DEADLY WEAPON; and (9)
8 IMPERSONATION OF AN OFFICER. *See* Criminal Complaint, attached as
9 **Exhibit 1**, at 1-3.

10 17. At the time of his arrest for the above charges, the LVMPD's Vice
11 Unit was under investigation by the Federal Bureau of Investigation ("FBI") for
12 serious police misconduct involving the LVMPD Vice Unit relating to the
13 protection of pimps, arresting their competition, and certain Vice Detectives
14 being sexually involved with prostitutes in the Las Vegas area that compromised
15 the prosecution of numerous defendants by the CCDA's office.

16 18. While the FBI investigation into the LVMPD's Vice Unit was
17 pending, numerous Las Vegas prostitutes began reporting they had been
18 assaulted by an individual who was about five (5) foot seven (7) inches tall,
19 Hispanic male adult, with a muscular build, driving a Dodge Charger, using the
20 phone number 702-355-4151 to contact them to set up meetings with them, and
21 once the victims entered the car he represented himself as a LVMPD Vice Unit
22 officer named Lee and threatened to take them into jail if they did not have sex
23 with him for free.

24 19. The LVMPD's policy and practice of concealing police misconduct
25 led the Defendant LVMPD Vice Unit officers alleged herein to cut corners in the
26 investigative process to find a suspect outside of the LVMPD to prevent the
27 matter from becoming part of the FBI investigation into the Vice Unit, because
28 each of the victims had alleged a LVMPD Vice Unit officer had assaulted them.
This ultimately led to the LVMPD officers arresting Plaintiff with no evidence to



1 support probable cause that Plaintiff had committed the crimes he was
2 ultimately charged with.

3 20. The Defendant officers misrepresented facts in the warrant
4 application for Plaintiff's arrest, failed to disclose material evidence and facts
5 known by the officers to the issuing judge, and concealed exculpatory evidence
6 for months that resulted in Plaintiff's wrongful arrest and confinement in
7 violation of his constitutional rights.

8 **B. The Warrant Application.**

9
10 21. On August 8, 2018, LVMPD Vice Detective Eric CHARASKA,
11 P#13212, applied for a warrant to arrest Plaintiff and search his home.
12 Defendant CHARASKA declared that on June 28, 2018, Detective CHARASKA
13 and Detective Opal DEEDS, P#14750, received information of a female who
14 claimed she had performed fellatio on a male who identified himself as an
15 undercover police officer. The female was identified as Lindsay Rowe, date of
16 birth January 23rd, 1991. Detective DEEDS spoke with Rowe on the phone, as
17 she lives out of state. A digital recorded interview was conducted with Rowe
18 after obtaining Rowe's consent. *See* Warrant Application/Declaration, attached
19 as **Exhibit 2**, at 2-3.

20 22. According to Detective CHARASKA, Rowe reported that she was
21 working as a prostitute in the downtown Las Vegas area between April 1, 2018
22 and May 31, 2018. Rowe had posted an online advertisement offering sexual
23 service for a fee and received a response from a male who set up an
24 appointment to meet with her. The male called Rowe several times from the
25 phone number 702-355-4151 and told her he was waiting at a nearby 7-Eleven
gas station.

26 23. Rowe met the male who verbally identified himself as "Lee." Lee
27 and Rowe agreed upon a price for sex. Lee told Rowe she had solicited an



1 undercover Metro police officer and he was working with his squad to identify
2 pimps in the area. Lee questioned Rowe and asked who Rowe's pimp was and
3 Lee said that if Rowe did not tell Lee, Lee would arrest her. Rowe provided Lee
4 with a name Rowe made up. Lee then asked if Rowe was going to be in danger if
5 Lee released Rowe. Lee said Lee's main focus was to target pimps and Lee was
6 concerned Rowe would be in danger. Prior to dropping Rowe off, Lee told Rowe
7 to save Lee's number as Lee and call Lee if Rowe was ever in danger and Lee
8 would also tell Rowe vice detectives were working in her area.

9 24. Rowe contacted Lee an unknown time later and Lee came to
10 Rowe's room at Super 8 Motel, located at 1213 South Las Vegas Boulevard, Las
11 Vegas, Nevada 89104. Once in her room, Lee removed a set of handcuffs, a
12 badge, a gun, a radio from his waistband placing them on the nightstand. Lee
13 told Rowe she had to perform fellatio on Lee or he was going to take her to jail.
14 Rowe complied and performed fellatio on Lee due to fear of being taken to jail.
15 Shortly after the incident, Rowe changed her phone number and was not in
16 contact with Lee thereafter.

17 25. Rowe described Lee's vehicle as a dark Dodge Charger and recalled
18 hearing a police radio while she was in the vehicle. Rowe described Lee as a
19 clean cut, Hispanic male, approximately 5'8" in height. Rowe told Detectives
20 CHARASKA and DEEDS that Rowe had a friend who had a similar incident
21 with the male who said he was an undercover vice detective and identified
22 himself as Lee. Rowe did not provide the friend's information; however, Rowe
23 did state that Lee had forced the friend to have sexual intercourse with Lee
24 without a condom or he would arrest her.

25 26. On August 7, 2018 at approximately 0430 hours Jacqueline
26 Hodgson, date of birth February 15, 1988 called 9-1-1 to report a male had
27 attempted to sexual assault her.

28 27. Detective J. Santiago, P#4948, responded and conducted a
digitally recorded interview. CHARASKA gave a summary of the interview:



1 Hodgson was working as a prostitute in the area of Tropicana Boulevard and
2 Polaris Avenue, Las Vegas, Nevada 89118. Hodgson was approached by an
3 unknown male in a silver Dodge Charger. The driver agreed to pay Hodgson a
4 fee of \$120 for sexual intercourse and Hodgson got into the vehicle. The male
5 identified himself as Lee and drove to the rear of 4525 Hacienda then parked
6 behind the business. Lee stated he chose this area because he knew there was
7 no security there.

8 28. Once parked, both Lee and Hodgson got into the backseat of the
9 vehicle and Lee told Hodgson he wanted sex without a condom. Hodgson
10 refused and Lee pulled up his shirt as if Lee were retrieving money from his
11 pocket. Once Lee's shirt was lifted, Hodgson observed the handle of a knife
12 tucked in his waistband. Lee identified himself as a police officer and told
13 Hodgson she was under arrest. Hodgson jumped out of the vehicle into the
14 front of the apartment complex yelling for help. Lee briefly ran after Hodgson
15 but got back into his vehicle and drove eastbound through the business
16 complex. Responding patrol officers were unable to locate the vehicle. Hodgson
17 described Lee as a dark skinned Hispanic or Hawaiian male, having short hair,
18 and well-manicured beard.

19 29. On August 7, 2018 Detective CHARASKA and Detective DEEDS
20 received information from Officer K. Kirkegard, P#14138, that two females
21 reported similar incidents to him. The first female was identified as Angela
22 Alexander and was brought to Downtown Area Command for interview. The
23 second female was identified as Alisha Williams and was in custody at Las
24 Vegas City Jail. Detective CHARASKA and Detective DEEDS conducted a
25 digitally recorded interview with Angela Alexander, date of birth July 12, 1966,
26 at the Downtown Area Command. Below is the summary of that interview and
27 is not verbatim unless quoted:

28 30. On or about February 20th, 2018 Alexander was walking home
from 5th Street Pub, located at 906 South 6th Street, Las Vegas, Nevada 89101.



1 Alexander was approached by an unknown male driving a silver Dodge Charger.
2 The male offered a ride and due to the rainy weather, Alexander accepted. The
3 male identified himself as Lee and asked if she would have sexual intercourse
4 with him for money? Alexander declined and Lee told Alexander Lee was an
5 undercover vice detective. Lee told Alexander Lee had probable cause to arrest
6 her and she needed to work for him to avoid arrest. Lee told Alexander to save
7 his number in Alexander's phone under the name Lee and provided a phone
8 number of 702-355-4151. Lee told Alexander she needed to answer the phone
9 whenever he called and do what he says. Alexander agreed and was able to exit
10 the vehicle. She received one text message from Lee later that night that read,
11 essentially, "are you sure you're ok?" Alexander has not had contact with Lee
12 since.

12 31. Alexander described Lee as a Hispanic or Filipino male,
13 approximately 30 years. Alexander said he had a muscular build and a short
14 mustache and goatee. Alexander still had Lee's number saved in her phone and
15 was able to show detectives. The contact read, "Lee 702-355-4151."

16 32. Detective CHARASKA conducted a digitally recorded interview of
17 Alisha Williams, date of birth March 4th, 1977, at Las Vegas City Jail, and
18 provided a summary of the interview to the issuing judge:

19 33. Between April 1st and April 30th, 2018 Williams was working as a
20 prostitute near El Cortez Hotel and Casino at 651 East Ogden Avenue, Las
21 Vegas, Nevada 89101. Williams was approached by an unknown male driving a
22 dark blue Dodge Charger and offered her a ride. Williams got into the vehicle
23 and the driver introduced himself as Lee. Lee and Williams agreed upon the
24 price of \$60 for sexual intercourse. Lee drove to the area of 6th and Bonneville.
25 Once parked, Lee told Williams he was an undercover detective and worked
26 human trafficking. Lee told Williams he would not arrest her if she had sexual
27 intercourse with him. Lee performed vaginal sexual intercourse with Williams
28 without a condom and Lee ejaculated inside of Williams's vagina. Once Lee was



1 finished, Lee provided Williams with his phone number and told her he would
2 take her jail if Williams did not answer Lee's calls.

3 34. Since the assault, Lee has called Williams several times, but she did
4 not answer. Williams recalled seeing Lee again between the dates of May 17th
5 and May 19th, 2018 in the downtown area. Lee was driving the same vehicle
6 and attempted to flag Williams down, but Lee was unable to leave the area.
7 Williams described Lee as a Hispanic male with a muscular build and well
8 groomed.

9 35. On August 8th, 2018 Detective CHARASKA received insurance
10 claim information from LVMPD Investigative Specialist, K. Redmann, 6478. An
11 insurance claim was filed with Homeowners Insurance for the address of 9368
12 Pine Needle Ridge Street, Las Vegas, Nevada 89178. A records check returned
13 that a Dodge Challenger bearing Nevada registration RS4293, VIN
14 2C3CDYAG4DH569435, and a Dodge Caliber, 1B3HB48B170317459, bearing
15 Nevada registration 314YVB. A records check of the Caliber returned the
16 registered owner as Carvajal, Jesus Eduardo, date of birth 06/26/1984, social
17 security number xxx-xx-9538, 10#6054693. Carvajal has a Nevada driver's
18 license, which is number 1703880154, which has the listed address of 9368 Pine
19 Needle Ridge Street, Las Vegas, Nevada 89178.

20 36. According to Detective CHARASKA, a mugshot of Carvajal was
21 obtained and matched the general description of Lee. A photo line-up was
22 conducted with victim Jacqueline Hodgson by Detectives G. Flores and J.
23 Santiago. After being read the photo line-up witness instructions, Hodgson
24 picked Carvajal out of the line-up with 100% certainty.

25 37. Social media was queried for Carvajal and photographs were
26 located of him holding various firearms while wearing police style body armor
27 and a vest.

28 38. A second photo line-up was conducted with the victim Alisha
Williams by Detective J. Gatus and C. Schallipp at Las Vegas City Jail. After



1 being read the photo line-up witness instructions, Williams picked Carvajal out
2 of the line-up with 100% certainty.

3 39. Surveillance was started at 9368 Pine Needle Ridge Street, Las
4 Vegas, Nevada 89178 at approximately 2200 hours on August 8, 2018. The
5 Dodge Caliber belonging to Carvajal was in the driveway of the residence. Both
6 the photo line-ups were conducted while detectives were on surveillance of the
7 house.

8 40. Based on the above representations Detective CHARASKA
9 asserted there was probable cause to arrest Plaintiff and search his residence of
10 9368 Pine Needle Ridge Court, Las Vegas, Nevada 89179 because Carvajal's
11 vehicle, a Dodge Caliber not a Dodge Charger, was registered there and is the
12 address listed on his driver's license.

13 41. According to CHARASKA, a reasonable person would tend to
14 believe that the items sought to be seized would be contained there and
15 Carvajal's Dodge Caliber could be mistaken for a Charger by a reasonable
16 person in low light conditions.

17 42. The Dodge Challenger registered to Najera-Lozano, Luis, VIN
18 number 2C3CDYAG4DH569435, due to this vehicle being registered to the
19 same address as Carvajal and could also be mistaken for a Dodge Charger by a
20 reasonable person in low light conditions.

21 43. Detective CHARASKA sought to seize the body of Carvajal for the
22 purpose of arresting and charging him with Sexual Assault with Deadly
23 Weapon, Kidnapping with Deadly Weapon, and False Impersonation of a Public
24 Officer, with firearms to include handguns, shotguns, rifles, spent casings, live
25 ammunitions for the same. Firearm accessories such as magazines, cylinders,
26 cleaning materials, paperwork associated with the ownership of firearms due to
27 Carvajal using the firearm in the commission of the Sexual Assault and
28 Kidnapping of Rowe and using them to falsely impersonate himself as a police
officer. An unknown model knife because Carvajal did use a knife in the



1 attempted Sexual Assault. A police style badge/shield, police style radio,
2 handcuffs, police style body armor, and other items one could use to identify
3 themselves as a police officer since Carvajal did identify himself using several of
4 these items in the above events.

5 44. Electronic devices to include cell phones, hard drives, computers
6 since Carvajal did contact the victims via phone and lure them to locations to
7 sexual assault them.

8 45. According to Detective CHARASKA he knew, through CHARASKA
9 's training and experience these items tend to store records which would tend to
10 prove or disprove the account of the victims. Epithelial cells from the mouth of
11 Carvajal to be collected via buccal swab for comparison to DNA evidence
12 collected from victims at a later date. And a thorough microscopic examination
13 and documentation of the vehicles to discover trace evidence to include, but not
14 limited to fingerprints, blood/hair fibers, and bodily fluid samples since the
15 Sexual Assault did occur in the vehicle.

16 46. Detective CHARASKA represented to the issuing Judge that the
17 nighttime warrant was necessary because we originally got this case in June we
18 only had one victim. Over the last day we've had two more victims come
19 forward and one additional one which was a victim a day and a half ago. We just
20 identified who he was at about 9 pm tonight. We set up on the residence, saw
21 that his vehicle was there, and I had detectives go and do photo line-ups with
22 the victim that was at City Jail and the other victim, they both ID'd him.

23 **C. The Documents Produced During Discovery In Plaintiff's**
24 **Criminal Case Demonstrate That Detective CHARASKA**
25 **Misrepresented Numerous Facts To Judge Issuing The**
26 **Warrant For Plaintiff's Arrest And Search Of Plaintiff's Home.**

27 47. Defendants misrepresented numerous facts to the Judge that
28 issued the search warrant in this case.



1 48. First, Detective CHARASKA misrepresented to the issuing Judge
2 on numerous occasions that two of the alleged victims had identified Plaintiff in
3 a photo lineup “with 100% certainty.” See **Ex. 2**, at 6. This was a
4 misrepresentation of fact.

5 49. Jacqueline Hodgson was presented with a six-pack photo lineup
6 and identified Plaintiff with 100% certainty. See Arrest Report and Supporting
7 Documents, attached as **Exhibit 3**, at 15-17.

8 50. Alisha Williams, however, was not 100% sure that Plaintiff was the
9 individual who had assaulted her claiming to be a Vice Detective. *Id.* at 18-19.
10 Indeed, the arrest report expressly states that “A second photo line-up was
11 conducted with victim, Alisha Williams by Detectives J . Gatus and C. Schallipp
12 at Las Vegas City Jail, after being read the photo line-up witness instructions,
13 Williams picked Carvajal out of the lineup with 80% certainty.” *Id.* at 31.
14 Williams was not 100% certain that Plaintiff was the individual that had
15 assaulted her and Detective CHARASKA intentionally misrepresented that fact
16 to the issuing Judge in support of a probable cause determination.

17 51. Further, Detective CHARASKA stated in his warrant application
18 that Hodgson had told officers that the suspect had identified himself as “Lee.”
19 See **Ex. 2**, at 4. However, the report produced by the officer that responded to
20 the call on August 7, 2018, Officer Joseph Weghorst, repeatedly refers to the
21 suspect as an “unknown Male suspect,” and does not once include a reference to
22 the name “Lee.” See Hodgson Case Report, attached as **Exhibit 4**, at 2.

23 52. The written statement prepared by Hodgson on August 7, 2018,
24 also includes no reference to the name “Lee.” See **Ex. 2**, at 13-14.

25 53. Plaintiff’s expert produced a report in the criminal case. See Vesp
26 Report, attached as **Exhibit 5**, at 1. As part of his investigation, Vesp
27 interviewed Hodgson and reported the following:

28 In both the Arrest Report and the Search Warrant Declaration,
 Detective CHARASKA P#13212 states that the suspect identified



1 himself to Ms. Hodgson as, "Lee". This appears to be a false
2 statement. In the handwritten statement completed after the
3 incident by Hodgson, she never says that the male gave her his name
4 and the name, "Lee" is never mentioned. In the ICR narrative
5 completed by Officer Joseph Weghorst the name, "Lee" is never
6 mentioned. Officer Weghorst consistently refers to the suspect as an,
"Unknown male suspect". *When I interviewed Ms. Hodgson and
asked her if the male gave her his name, she stated, "No". Id.*
(emphasis added).

7 54. Detective CHARASKA misrepresented to the issuing judge that
8 Hodgson had told police responding to the incident that the suspect had
9 identified himself as "Lee."

10 55. Detective CHARASKA also withheld significant information
11 pertinent to the issue of probable cause from the issuing judge. During Vesp's
12 interview with Hodgson, Hodgson informed Vesp that just two hours after
13 Hodgson had identified Plaintiff in the photo lineup AND while the police were
14 surveilling Plaintiff's residence:

15 Ms. Hodgson felt so compelled that the same male suspect in a
16 small silver SUV (Possibly a Nissan or a Ford Escape - She
17 kept comparing it to the small yellow SUV cabs seen in town)
18 tried to solicit her at Tropicana Ave and Polaris Ave.
19 approximately two hours after she identified Jesus Carvajal in
20 the photo line-up. She was so sure she called the detective to
confirm they had him in custody. We now know that at that
same time, police had Carvajal under surveillance awaiting
SWAT to serve the Search Warrant. *Id.* at 63.

21 56. Defendants concealed from the issuing judge the fact that
22 Hodgson, the only victim to actually identify Plaintiff as the suspect with 100%
23 certainty, had told Defendants that Hodgson had just seen the *actual*
24 perpetrator looking for new victims the night of Plaintiff's arrest while
25 Defendants were surveilling Plaintiff's home, with Plaintiff inside of it.

26 57. Detective CHARASKA's declaration also describes a link between a
27 homeowners Insurance Claim and the address at 9368 Pineneedle Ridge St. Las



1 Vegas, NV 89178 (The rental home of the defendant Jesus Carvajal and his
2 girlfriend Sunshine Thayer). *See Ex. 2*, at 5. However, Detective CHARASKA
3 failed to apprise the issuing judge the insurance Claim hit was produced by
4 running a phone number used by the suspect 702-355-4151, through an open
5 source database called ClaimSearch. That search did not identify Plaintiff, or his
6 girlfriend Sunshine Thayer as being connected with that number. Rather, the
7 search identified the owners of the rental home Yasmin Berta Aguilar and Luis
8 Arturo Najera-Lozano who are two of eight people that are attached to the
9 phone number through these type of open source databases.

10 58. Detective CHARASKA intentionally concealed from the issuing
11 judge the fact that Dodge Challenger supposedly registered to Plaintiff's
12 residence was that of his landlord, who did not reside in the home, and Plaintiff
13 had no access to that vehicle. Further, despite the Dodge Challenger not being
14 registered to Plaintiff, or his girlfriend, or the two residents of the home,
15 Defendants included the Dodge Challenger in the list of vehicles to search, but
16 do not appear to have searched this vehicle during the investigation. *See Ex. 2*,
17 at 2.

18 59. Detective CHARASKA failed to apprise the issuing judge that at
19 the time of the execution of the search warrant as well as the time of the
20 physical arrest of Jesus Carvajal, there had been no connection between the
21 phone number 702-355-4151 and Carvajal, or his girlfriend, who were the only
22 two residents of the home.

23 60. Detective CHARASKA also failed to apprise the judge that one of
24 the alleged victims, Lindsay Rowe, had also been presented with a six pack line-
25 up on August 1, 2018 and the morning of August 9, 2018 and that both times
26 Rowe was "100% positive none of the men are him." *See Rowe Line-up Emails*,
27 attached as **Exhibit 6**, at 1-3. At least one of these line-ups included Plaintiff's
28 photo.

61. Detective CHARASKA also informed the issuing judge that "Social



1 media was queried for Carvajal and photographs were located of him holding
2 various firearms while wearing police style body armor and a vest.” *See Ex. 2,*
3 at 6. CHARASKA failed to inform the judge that these pictures were of Plaintiff
4 with his professional paintball team in full paintball gear and masks, some
5 which have the words “paintballphotography.com” printed on the bottom. *See*
6 *Social Media Photos*, attached as **Exhibit 7**, at 1-6.

7 62. Detective CHARASKA also misrepresented to the issuing judge that
8 Angela Alexander had told Detectives the suspect was driving a “silver Dodge
9 Charger.” *See Ex. 2*, at 4. The case report for Angela Alexander states that the
10 suspect approached her in a “silver four-door vehicle,” not a Dodge Charger. *See*
11 *Alexander Case Report*, attached as **Exhibit 8**, at 1. The transcribed interview
12 notes of Alexander’s interview reflect that Alexander could not identify the
13 model of vehicle but did remember it was “a newer, smaller car.” *See Alexander*
14 *Interview Notes*, attached as **Exhibit 9**, at 2. Alexander did not remember if
15 the car was silver or white, informed police that she suffers from seizures and
16 memory loss, but thought the car was “four-door.” *Id.* at 3.

17 63. Detective CHARASKA also failed to apprise the issuing judge two
18 the victims had described the suspect as short. Specifically, CHARASKA’s
19 declaration only includes Rowe’s description of the suspect as being
20 “approximately 5’8” in height.” *See Ex. 2*, at 3. However, Hodgson also
21 described the suspect as being “5’7” tall in her written statement to police. *See*
22 **Ex. 3**, at 14.

23 64. Detective CHARASKA also misrepresented to the issuing judge that
24 multiple victims described the suspect as having a “muscular build.” *See Ex. 2,*
25 at 5. While the Alexander case report clearly states that Alexander described the
26 suspect as having a “muscular build,” the Williams case report includes no such
27 description. *See Williams Case Report*, attached as **Exhibit 10**, at 1-2.

28 65. Detective CHARASKA also failed to apprise the issuing judge that
Plaintiff is six (6) foot two (2) inches tall, a full six (6) inches taller than the



1 suspect described by two of the victims in this case, and over 290 pounds. *See*
2 **Ex. 7**, at 5; *see also* Additional Social Media Photos, attached as **Exhibit 11**, at
3 1.

4 66. In sum, Detective CHARASKA misrepresented to the issuing judge
5 that two of the victims had identified Plaintiff in a line-up with 100% certainty
6 when only one of the witnesses had.

7 67. Detective CHARASKA misrepresented to the judge that all the
8 witnesses had identified the suspect as “Lee,” when Hodgson had not been
9 provided the suspect’s name.

10 68. Detective CHARASKA failed to apprise the judge that Hodgson had
11 contacted the police investigating the matter to inform police Hodgson had seen
12 the suspect that evening while the police were surveilling Plaintiff’s residence
13 with Plaintiff’s inside.

14 69. Detective CHARASKA failed to inform the judge that one of the
15 victims had been presented with two photo line-ups, at least one including
16 Plaintiff, and was 100% certain none were the suspect.

17 70. Detective CHARASKA mislead the judge into believing someone
18 residing the home located at 9368 Pine Needle Ridge Street, Las Vegas, Clark
19 County, Nevada had a connection to the phone number identified by the
20 victims.

21 71. Detective CHARASKA mislead the judge into believing Plaintiff
22 had access to a Dodge Challenger that was owned by Plaintiff’s landlord and
23 never stored at the home.

24 72. Detective CHARASKA mislead the judge into believing all the
25 victims had described the suspect driving a Dodge Charger, which CHARASKA
26 said could be mistaken for a Dodge Caliber or Challenger in low light, when one
27 of the witnesses did not inform police the suspect was driving a Dodge Charger.

28 73. Detective CHARASKA failed to apprise the judge that two of the
victims had described the suspect as being 5’7” or 5’8” when Plaintiff is 6’2”.



1 74. Detective CHARASKA mislead the judge into believing that
2 multiple victims had described the suspect as having a muscular build, when
3 only one of the victims had given that description.

4 75. Detective CHARASKA mislead the judge into believing photos of
5 Plaintiff with his professional paintball team were actually photos of Plaintiff
6 “holding various firearms while wearing police style body armor and a vest.” See
7 **Ex. 2**, at 6.

8 76. Detective CHARASKA ’s misrepresentations to the judge who
9 issued the warrant were intended to mislead the judge into believing there was
10 consistency in the description the victims had given regarding the suspect’s
11 appearance, the identification of Plaintiff in the photo line-ups, the vehicle the
12 suspect was driving, and Plaintiff’s access to police gear used to impersonate a
13 police officer, while simultaneously concealing the fact that Plaintiff did not
14 meet the physical description of the suspect, did not have access to the Dodge
15 Charger described by 3 of 4 of the victims, nor access to a vehicle that looked
16 like a Charger, and that Defendants had failed to find any connection between
17 Plaintiff and the phone number used by the suspect.

18 77. The entire police probable cause theory hinged on Plaintiff’s social
19 media paintball team photos and the notion that merely because Carvajal
20 rented the home owned by Yasmin Aguilar and Luis Najero-Lozano, who owned
21 a Dodge Charger and were linked to the number identified by the victims, that
22 somehow was sufficient probable cause to arrest Plaintiff for sexual assault,
23 kidnapping, and impersonating a police officer.

24 78. Detective CHARASKA ’s misrepresentations and omissions to the
25 judge that issued the probable cause warrant violated Plaintiff’s constitutional
26 rights resulting the unlawful search of his home, unlawful seizure of his person
27 and property, and denial of due process.

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3 **D. AFTER PLAINTIFF’S ARREST DEFENDANTS CONCEALED EXCULPATORY**
4 **EVIDENCE FROM PLAINTIFF’S CRIMINAL DEFENSE COUNSEL THAT**
5 **RESULTED IN PLAINTIFF’S UNLAWFUL EXTENDED CONFINEMENT**
6 **WHILE THE ACTUAL PERPETRATOR CONTINUED TO VICTIMIZE**
7 **WOMEN IN LAS VEGAS.**

8 79. Because the victims in this case had alleged they had been sexually
9 assaulted by a LVMPD Vice Unit officer, combined with already saturated
10 media exposure stemming from the FBI investigation into the LVMPD Vice
11 Unit for allegedly protecting pimps, arresting their competition, having sex with
12 prostitutes, and coercing witness testimony, Plaintiff’s criminal case had a
13 significant amount of media exposure from the onset of the case. For this
14 reason, Defendant LVMPD issued an immediate press release relating to
15 Plaintiff’s arrest, which was posted on the LVMPD website and Twitter Account
16 just one day after Plaintiff’s arrest. *See* LVMPD Press Release, attached as
17 **Exhibit 12**, at 1.

18 80. The LVMPD press release announced to the public that “On August
19 9, 2018 detectives arrested Carvajal and booked him into the Clark County
20 Detention Center where he currently faces charges of: “Sexual assault with a
21 deadly weapon, sexual assault, attempt sexual assault with a deadly weapon,
22 kidnapping (x3) and false impersonation of a Public Officer (x3). *Id.* A booking
23 photo of Carvajal was included with both the press release, and the Twitter post.
24 *See* Twitter Post Photos, attached as **Exhibit 13**, at 1-2.

25 81. After Defendants’ unlawfully arrested Plaintiff and publicly
26 defamed him as a rapist, Defendants LVMPD and the CCDA failed to disclose
27 significant exculpatory evidence that ultimately resulted in Plaintiff’s prolonged
28 unconstitutional confinement resulting in Plaintiff losing his job, his home, his
car, and his girlfriend.

82. Plaintiff had his 72-hour hearing on August 13, 2018. *See* Criminal



1 Case Transcripts, attached as **Exhibit 14**, at 1. At the time of the hearing the
2 Assistant District Attorney prosecuting the case, Samuel MARTINEZ, Esq.,
3 informed the Court: “there is a fair amount of discovery that we're still in the
4 process of obtaining.” *Id.* at 1. Plaintiff’s preliminary hearing had to be
5 postponed as a result.

6 83. Another hearing was held on August 15, 2018, and the Court again
7 delayed the bail hearing and probable cause hearing because Plaintiff’s defense
8 counsel was “still receiving discovery from the State. You need that in formation
9 and discovery in order to make your argument on the bail setting. It's my
10 understanding that information is still coming in.” *Id.* at 3.

11 84. Another hearing was held on August 22, 2018. *Id.* at 4. At this time
12 Plaintiff’s counsel and investigator had uncovered significant evidence that
13 Plaintiff was not guilty of the crimes alleged and was willing to share their
14 information with the State. *Id.* The State *still* had not produced its discovery.

15 85. It was not until October 19, 2018 the CCDA produced the full
16 amount of discovery relevant to the case. *See* Hendron Emails with CCDA,
17 attached as **Exhibit 15**, at 1-8. Included in this email were forwarded two email
18 exchanges between lead investigator, LVMPD Vice Unit detective CHARASKA
19 and one of the victims, Lindsay Rowe, dated August 1, 2018, where Rowe
20 informed CHARASKA that she was 100% sure nobody in the lineup she was
21 provided were the suspect. *Id.* at 7. Hendron’s email detail a long list of missing
22 discovery and the fact that the LVMPD had not been responding to the requests.
23 *Id.*

24 86. Around the time of the October 19, 2018 email exchange, Plaintiff’s
25 defense counsel was provided with a second email between CHARASKA and
26 Rowe regarding a second line-up, where Rowe again is “100% positive none of
27 the men are him.” *See* Second Rowe Line-up Email, attached as **Exhibit 16**, at
28 1. This email was the date of Plaintiff’s arrest, August 9, 2018. *Id.*

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4 **E. TOMMY LEE PROVOST’S ARREST AND THE DISMISSAL OF ALL**
5 **CHARGES AGAINST PLAINTIFF.**

6 87. On October 21, 2018, LVMPD received a call of a sexual assault
7 victim H.R. See Provost Arrest Documents, attached as **Exhibit 17**, at 6.

8 88. H.R., a prostitute, alleged that she had been picked up by a
9 Hispanic male adult driving a gray Dodge Charger. *Id.* The suspect identified
10 himself as a police officer and threatened to take H.R. to jail if she did not have
11 sex with him for free. *Id.* H.R. complied. *Id.* H.R. provided police with a license
12 plate number that lead to the arrest of Tommy Lee Provost, the owner of a gray
13 Dodge Charger. *Id.* at 4.

14 89. On October 22, 2018, the CCDA dropped all charges against
15 Plaintiff. See **Ex. 14**, at 11.

16 **F. AFTER DISMISSAL OF THE CHARGES AGAINST PLAINTIFF, CCDA**
17 **STEVE WOLFSON EXTORTED PLAINTIFF TO SECURE THE DROPPING**
18 **OF PLAINTIFF’S APPLICATION FOR ATTORNEY’S FEES PURSUANT TO**
19 **NRS 41.0393.**

20 90. On November 16, 2018, Plaintiff received a decision from the
21 Nevada Department of Employment Training and Rehabilitation (“DETR”) for
22 unemployment benefits because he had lost his job. See DETR Denial Decision,
23 attached as **Exhibit 18**, at 1-2. DETR determined Plaintiff was not entitled to
24 employment benefits because his employer, an Amazon distributor, told DETR
25 that he was “discharged because you were incarcerated. The employer reported
26 you were incarcerated for criminal behavior. You acknowledged the allegation.
27 Failure to report to work because you were incarcerated due to your off-duty
28 behavior, is considered to be misconduct in connection with the work.” *Id.* at 1.



1 91. On November 21, 2018, Plaintiff's defense counsel filed an
2 Application pursuant to NRS 41.0393 seeking attorney's fees. See Application
3 for Fees, attached as **Exhibit 19**, at 1-15. The motion laid out the extreme lack
4 of evidence the LVMPD and CCDA had against Plaintiff, the misrepresentations
5 made in the warrant application, and sought fair and reasonable fees of
6 \$10,088.23. *Id.* at 4-15, 21.

7 92. After the motion was filed but before the State filed a response, a
8 meeting between Plaintiff's defense counsel, Lance Hendron, Plaintiff's expert
9 investigator Gavin Vesp, and Clark County District Attorney Steve WOLFSON
10 was scheduled. See Emails RE Meeting with WOLFSON, attached as **Exhibit**
11 **20**, at 1. It is unknown at this time who initially requested the meeting.
12 However, Hendron contacted an employee of the CCDA, Allison Williams,
13 informing her that he and Vesp were able to meet on December 6, 2018 at 10:30
14 am. *Id.*

15 93. After this meeting with WOLFSON and other attorneys for the
16 CCDA, Hendron and Vesp informed Plaintiff that he was going to lose the
17 Application for Fees, and WOLFSON had told them, essentially, if Plaintiff did
18 not drop the motion the CCDA would oppose the sealing of Plaintiff's criminal
19 record meaning that a criminal case accusing Plaintiff of being a rapist would be
20 public record despite Plaintiff's acquittal, which had already lost Plaintiff his job
21 and unemployment benefits. See **Ex. 18**, at 1.

22 94. On January 13, 2019, Plaintiff contacted Hendron to inform him
23 that he had "decided to drop the motion against the DA and move forward on
24 sealing my record," but wanted to see confirmation from WOLFSON
25 "acknowledging that they will be sealing my record. I have only emails of you
26 following up with them, but none of their responses. The way everything has
27 played out unfortunately I don't trust them or the system." See **Ex. 20**, at 3.

28 95. On January 15, 2019, Hendron "spoke with Assistant District
Attorney, Christopher Lalli this afternoon. I explained that we want to proceed



1 with getting your record sealed and dropping the motion for attorney's fees. I
2 explained at the last court hearing the minimal court record regarding your
3 matter other than dismissing the case and nothing outlining the factual
4 innocence. He has been in communication with Mr. WOLFSON.” *Id.* at 3.

5 96. CCDA Steve WOLFSON, through threats and intimidation, coerced
6 Plaintiff’s defense counsel to drop the Application for Attorney’s Fees and
7 threatened to oppose any effort of Plaintiff to seal his records, which had already
8 lost him both employment and unemployment benefits, unless Plaintiff
9 dropped the Application for Attorney’s fees against the CCDA’s Office.

10 **G. Plaintiff’s Has Sustained Serious Damages And His Entire Life**
11 **Has Been Ruined By Defendants’ Wrongful Arrest,**
12 **Unconstitutional Confinement And Malicious Prosecution.**

13 97. After Plaintiff was unlawfully arrested, confined, maliciously
14 prosecuted and defamed by Defendants Plaintiff was terminated from Plaintiff’s
15 job as a manager with an Amazon distributor and was not able to obtain new
16 equal employment.

17 98. Plaintiff’s vehicle, the Dodge Caliber, was towed and auctioned by
18 the LVMPD without notice or due process while Plaintiff was in jail.

19 99. Plaintiff was unable to pay his credit cards, and loans resulting in
20 default and destroying of his credit.

21 100. Plaintiff is still forced to pay car payments on the car that
22 Defendants auctioned while he was unlawfully confined.

23 101. Plaintiff has suffered irreparable damage to his reputation and
24 Defendants have still failed to take down the twitter post that included his
25 photograph and press release accusing him of being a rapist.¹

26 102. Plaintiff has suffered humiliation, serious emotion distress, and

27 ¹ <https://twitter.com/lvmpd/status/1028008034646151168> (LVMPD Twitter page as of 08/08/2020)



1 physical stress.

2 103. Plaintiff has been harassed by people who know him on the
3 internet and left horrible comments on his social media.

4 104. Numerous new articles were printed that included Plaintiff's photo
5 and the allegations against him.

6 105. Plaintiff's CCW license was, and is, revoked.

7 106. Plaintiff lost his savings paying for his legal defense, lost his house,
8 and lost his girlfriend.

9 **FIRST CLAIM FOR RELIEF**

10 **(VIOLATION OF CIVIL RIGHTS UNDER 42 U.S.C. 1983 UNLAWFUL ENTRY**
11 **INTO AND SEARCH OF PLAINTIFF'S HOME AND SEIZURE OF PLAINTIFF'S**
12 **PERSONAL PROPERTY WITHOUT PROBABLE CAUSE IN VIOLATION OF THE**
13 **FOURTH AMENDMENT TO THE UNITED STATES CONSTITUTION)**

14
15 107. Plaintiff hereby repeats, realleges, and incorporates by reference
16 his entire Complaint as though fully restated herein.

17 108. Defendant CHARASKA in his individual capacity and under color
18 of law as the officer in charge of the investigation resulting in Plaintiff's arrest,
19 knowingly, intentionally, wantonly and maliciously plotted to, and executed a
20 plan to obtain a warrant for the search of Plaintiff's home and seizure of
21 Plaintiff and his property via misrepresentations and omissions of material
22 facts to the issuing judge.

23 109. A claim for unlawful arrest or imprisonment is cognizable under §
24 1983 as a violation of the Fourth Amendment, provided the arrest was without
25 probable cause or other justification. *See Larson v. Neimi*, 9 F.3d 1397, 1400
26 (9th Cir. 1993). Probable cause exists when an officer has reasonably
27 trustworthy information of facts and circumstances that are sufficient to justify
28 a reasonably cautious person's belief that an offense has been or is being



1 committed. *Stoot v. City of Everett*, 582 F.3d 910, 918 (2009) (citing *Brinegar*
2 *v. United States*, 338 U.S. 160, 175-76, 69 S. Ct. 1302, 93 L. Ed. 1879 (1949)
3 (internal quotation marks omitted)). A plaintiff may maintain a Fourth
4 Amendment false arrest claim where “the officer who applied for the arrest
5 warrant ‘deliberately or recklessly made false statements or omissions that
6 were material to the finding of probable cause.’” *Smith v. Almada*, 640 F.3d
7 931, 937 (9th Cir. 2011) (quoting *KRL v. Moore*, 384 F.3d 1105, 1117 (9th Cir.
8 2004)).

9 110. Defendant CHARASKA deliberately and recklessly made false
10 statements and omissions to the judge issuing the search warrant that were
11 material to probable cause.

12 111. As a direct and proximate result of Defendants’ actions, as alleged
13 above, Plaintiff has been harmed has suffered, and will suffer loss of wages,
14 salary, contractual benefits, loss of personal reputation, loss of personal
15 property, and certain other incidental and consequential economic expenses
16 and losses, and will continue to suffer such actual damages in an amount
17 according to proof at trial.

18 112. As a further and proximate result of Defendants’ unlawful conduct,
19 Plaintiff has become mentally upset, distressed and aggravated requiring
20 medical treatment. Plaintiff claims emotional distress damages in an amount to
21 be proven at trial.

22 113. The above-alleged unlawful conduct constitutes oppression, fraud,
23 malice, recklessness, evil intent, and/or deliberate indifference to Plaintiff’s
24 federally protected rights thereby entitling Plaintiffs to an award of punitive
25 damages. *Smith v. Wade*, 461 U.S. 30, 103 S. Ct. 1625, 75 L. Ed. 2d 632 (1983).

26 114. Plaintiffs has incurred reasonable attorneys’ fees and costs in
27 prosecuting this matter in an amount to be established at trial and is entitled to
28 recovery of attorney’s fees pursuant to statute. *See* 42 U.S.C.A. § 1988(b).



SECOND CLAIM FOR RELIEF

(VIOLATION OF CIVIL RIGHTS UNDER 42 U.S.C. 1983

FALSE ARREST AND FALSE IMPRISONMENT)

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2
3
4
5 115. Plaintiff hereby repeats, realleges, and incorporates by reference
6 his entire Complaint as though fully restated herein.

7 116. Defendant CHARASKA in his individual capacity and under color
8 of law as the officer in charge of the investigation resulting in Plaintiff’s arrest,
9 knowingly, intentionally, wantonly and maliciously plotted to, and executed a
10 plan to obtain a warrant for the seizure of Plaintiff’s person via
11 misrepresentations and omissions of material facts to the issuing judge.

12 117. A claim for unlawful arrest or imprisonment is cognizable under §
13 1983 as a violation of the Fourth Amendment, provided the arrest was without
14 probable cause or other justification. See Larson v. Neimi, 9 F.3d 1397, 1400
15 (9th Cir. 1993). Probable cause exists when an officer has reasonably
16 trustworthy information of facts and circumstances that are sufficient to justify
17 a reasonably cautious person's belief that an offense has been or is being
18 committed. Stoot v. City of Everett, 582 F.3d 910, 918 (2009) (citing Brinegar v.
19 United States, 338 U.S. 160, 175-76, 69 S. Ct. 1302, 93 L. Ed. 1879 (1949)
20 (internal quotation marks omitted)). A plaintiff may maintain a Fourth
21 Amendment false arrest claim where “the officer who applied for the arrest
22 warrant 'deliberately or recklessly made false statements or omissions that were
23 material to the finding of probable cause.’” Smith v. Almada, 640 F.3d 931, 937
24 (9th Cir. 2011) (quoting KRL v. Moore, 384 F.3d 1105, 1117 (9th Cir. 2004)).

25 118. Defendant CHARASKA deliberately and recklessly made false
26 statements and omissions to the judge issuing the search warrant that were
27 material to probable cause.

28 119. After Plaintiff’s arrest, Defendants withheld substantial exculpatory
evidence from Plaintiff’s defense counsel that was in their possession



1 and which made it impossible for Plaintiff's counsel to effectively argue
2 his right to bail, and lack of probable cause at his preliminary hearing
3 in violation of his due process rights.

4 120. At the bail hearing on August 22, 2018, Defendant MARTINEZ
5 made material misrepresentations of fact to Justice Court Judge addressing
6 Plaintiff's request for own recognizance release, telling the Judge that two
7 victims had identified Plaintiff in a line-up with 100% certainty:

8 MR. MARTINEZ: Your Honor, this is simply a case of a defendant
9 that is going out, taking advantage, and raping prostitutes under the
10 guise of impersonating a police officer; a vice detective more
11 specifically. Now two out of three victims, who have absolutely no
12 relation to each other, never met, never spoken to each other, 100
13 percent identified the defendant as the individual that raped them at
14 either knife point, gunpoint or impersonating a vice detective. Now
15 that in itself, sexually assaulting multiple people, is a danger to the
16 community, but when you couple that with someone who is
17 pretending to be and throwing himself out there to be a police
18 officer, that increases the danger even more because that completely
19 annihilates the trust that the public has with those who lawfully
20 carry those badges, who are sworn to protect us. *See Ex. 14*, at 9:10-
21 25.

22 121. Defendant MARTINEZ had possession of the Arrest Report and
23 was aware that the report stated that only one of the victims had identified
24 Plaintiff to 100% certainty, while the other stated she was "picked Carvajal out
25 of the lineup with 80% certainty." *See Ex. 3*, at 10.

26 122. Defendant MARTINEZ's misrepresentation to Judge Goodman was
27 made to ensure Plaintiff would not be released on his own recognizance and
28 resulted in Plaintiff being placed on house arrest. *See Ex. 14*, at 20.

123. As a direct and proximate result of Defendants' actions, as alleged
above, Plaintiff has been harmed has suffered, and will suffer loss of wages,
salary, contractual benefits, loss of personal reputation, loss of personal
property, and certain other incidental and consequential economic expenses
and losses, and will continue to suffer such actual damages in an amount



1 according to proof at trial.

2 124. As a further and proximate result of Defendants' unlawful conduct,
3 Plaintiff has become mentally upset, distressed and aggravated requiring
4 medical treatment. Plaintiff claims emotional distress damages in an amount to
5 be proven at trial.

6 125. The above-alleged unlawful conduct constitutes oppression, fraud,
7 malice, recklessness, evil intent, and/or deliberate indifference to Plaintiff's
8 federally protected rights thereby entitling Plaintiffs to an award of punitive
9 damages. *Smith v. Wade*, 461 U.S. 30, 103 S. Ct. 1625, 75 L. Ed. 2d 632 (1983).

10 126. Plaintiffs has incurred reasonable attorneys' fees and costs in
11 prosecuting this matter in an amount to be established at trial and is entitled to
12 recovery of attorney's fees pursuant to statute. See 42 U.S.C.A. § 1988(b).

13
14 **THIRD CLAIM FOR RELIEF**

15 **(VIOLATION OF CIVIL RIGHTS UNDER 42 U.S.C. 1983 MALICIOUS**
16 **PROSECUTION OF PLAINTIFF IN VIOLATION OF THE FOURTEENTH**
17 **AMENDMENT AND NEVADA COMMON LAW)**

18 127. Plaintiff hereby repeat, reallege, and incorporate by reference his
19 entire Complaint as though fully restated herein.

20 128. "[F]ederal courts rely on state common law for elements of
21 malicious prosecution." *Leonetti v. Bray*, 774 F. App'x 417, 418 (9th Cir. 2019).

22 129. In Nevada, the elements of malicious prosecution are ""(1) want of
23 probable cause to initiate the prior criminal proceeding; (2) malice; (3)
24 termination of the prior criminal proceedings; and (4) damage." *LaMantia v.*
25 *Redisi*, 118 Nev. 27, 30, 38 P.3d 877, 879 (2002).

26 130. Defendants CHARASKA, DEEDS, WOLFSON, and MARTINEZ, in
27 their individual capacities and acting under color of law initiated criminal



1 proceedings against Plaintiff without probable cause and secured a warrant for
2 Plaintiff's arrest via misrepresentations and omission of material fact.

3 131. After Plaintiff's arrest, Defendants withheld substantial exculpatory
4 evidence from Plaintiff's defense counsel that was in their possession and which
5 made it impossible for Plaintiff's counsel to effectively argue Plaintiff's right to
6 bail, and Defendants' lack of probable cause at Plaintiff's preliminary hearing in
7 violation of Plaintiff's due process rights.

8 132. At the bail hearing on August 22, 2018, Defendant MARTINEZ
9 made material misrepresentations of fact to Justice Court Judge Goodman who
10 was addressing Plaintiff's request for own recognizance release, telling the
11 Judge that two victims had identified Plaintiff in a line-up with 100% certainty:

12 MR. MARTINEZ: Your Honor, this is simply a case of a defendant
13 that is going out, taking advantage, and raping prostitutes under the
14 guise of impersonating a police officer; a vice detective more
15 specifically. Now two out of three victims, who have absolutely no
16 relation to each other, never met, never spoken to each other, 100
17 percent identified the defendant as the individual that raped them at
18 either knife point, gunpoint or impersonating a vice detective. Now
19 that in itself, sexually assaulting multiple people, is a danger to the
20 community, but when you couple that with someone who is
21 pretending to be and throwing himself out there to be a police
22 officer, that increases the danger even more because that completely
23 annihilates the trust that the public has with those who lawfully
24 carry those badges, who are sworn to protect us. See Ex. 14, at 9:10-
25 25.

26 133. Defendant MARTINEZ had possession of the Arrest Report at the
27 time of this hearing and was fully aware that the report stated that only one of
28 the victims had identified Plaintiff to 100% certainty, while the other stated she
29 was "picked Carvajal out of the lineup with 80% certainty." See Ex. 3, at 10.

30 134. Defendant MARTINEZ's misrepresentation to Judge Goodman was
31 made to ensure Plaintiff would not be released on his own recognizance and
32 resulted in Plaintiff being placed on house arrest. See **Ex. 14**, at 20.

33 135. Defendants terminated the criminal proceedings when the actual



1 perpetrator sexually assaulted another victim.

2 136. As a direct and proximate result of Defendants' actions, as alleged
3 above, Plaintiff has been harmed has suffered, and will suffer loss of wages,
4 salary, contractual benefits, loss of personal reputation, loss of personal
5 property, and certain other incidental and consequential economic expenses
6 and losses, and will continue to suffer such actual damages in an amount
7 according to proof at trial.

8 137. As a further and proximate result of Defendants' unlawful conduct,
9 Plaintiff has become mentally upset, distressed and aggravated requiring
10 medical treatment. Plaintiff claims emotional distress damages in an amount to
11 be proven at trial.

12 138. The above-alleged unlawful conduct constitutes oppression, fraud,
13 malice, recklessness, evil intent, and/or deliberate indifference to Plaintiff's
14 federally protected rights thereby entitling Plaintiffs to an award of punitive
15 damages. *Smith v. Wade*, 461 U.S. 30, 103 S. Ct. 1625, 75 L. Ed. 2d 632 (1983).

16 139. Plaintiffs has incurred reasonable attorneys' fees and costs in
17 prosecuting this matter in an amount to be established at trial and is entitled to
18 recovery of attorney's fees pursuant to statute. See 42 U.S.C.A. § 1988(b).

19 **FOURTH CLAIM FOR RELIEF**

20 **(VIOLATION OF CIVIL RIGHTS UNDER 42 U.S.C. 1983 DEPRIVATION OF**
21 **LIBERTY AND PROPERTY WITHOUT DUE PROCESS IN VIOLATION OF THE**
22 **FOURTEENTH AMENDMENT)**

23 140. Plaintiff hereby repeats, realleges, and incorporates by reference
24 his entire Complaint as though fully restated herein.

25 141. The due process clause of the Fourteenth Amendment protects
26 individuals against governmental deprivations of "life, liberty or property"
27 without due process of law. *Board of Regents v. Roth*, 408 U.S. 564, 570-71, 92



1 S. Ct. 2701, 33 L. Ed. 2d 548 (1972); *Mullins v. Oregon*, 57 F.3d 789, 795 (9th
2 Cir. 1995). A procedural due process violation has two elements. First, plaintiffs
3 must show that the government has deprived them of life, liberty or property.
4 *Mathews v. Eldridge*, 424 U.S. 319, 332-33, 96 S. Ct. 893, 47 L. Ed. 2d 18
5 (1976). Second, plaintiffs must show that the government deprived them of
6 these constitutionally protected interests without due process of law.

7 142. Defendants CHARASKA, DEEDS, WOLFSON, and MARTINEZ, in
8 their individual capacities and acting under color of law initiated criminal
9 proceedings against Plaintiff without probable cause.

10 143. Defendant CHARASKA secured a warrant for Plaintiff's arrest via
11 misrepresentations and omissions of material fact sworn under oath to the
12 issuing judge.

13 144. After Plaintiff's arrest, Defendants withheld substantial exculpatory
14 evidence from Plaintiff's defense counsel that was in their possession and which
15 made it impossible for Plaintiff's counsel to effectively argue his right to bail, and
16 lack of probable cause at his preliminary hearing in violation of his due process
17 rights.

18 145. At the bail hearing on August 22, 2018, Defendant MARTINEZ
19 made material misrepresentations of fact to Justice Court Judge addressing
20 Plaintiff's request for own recognizance release, telling the Judge that two
21 victims had identified Plaintiff in a line-up with 100% certainty:

22 MR. MARTINEZ: Your Honor, this is simply a case of a defendant
23 that is going out, taking advantage, and raping prostitutes under the
24 guise of impersonating a police officer; a vice detective more
25 specifically. Now two out of three victims, who have absolutely no
26 relation to each other, never met, never spoken to each other, 100
27 percent identified the defendant as the individual that raped them at
28 either knife point, gunpoint or impersonating a vice detective. Now
that in itself, sexually assaulting multiple people, is a danger to the
community, but when you couple that with someone who is
pretending to be and throwing himself out there to be a police
officer, that increases the danger even more because that completely



1 annihilates the trust that the public has with those who lawfully
2 carry those badges, who are sworn to protect us. *See Ex. 14*, at 9:10-
25.

3 146. Defendant MARTINEZ had possession of the Arrest Report and
4 was aware that the report stated that only one of the victims had identified
5 Plaintiff to 100% certainty, while the other stated she was “picked Carvajal out
6 of the lineup with 80% certainty.” *See Ex. 3*, at 10.

7 147. Defendant MARTINEZ’s misrepresentation to Judge Goodman was
8 made to ensure Plaintiff would not be released on his own recognizance and
9 resulted in Plaintiff being placed on house arrest. *See Ex. 14*, at 20.

10 148. Defendants’ malicious actions resulted in Plaintiff’s extended
11 confinement, or denial of liberty, and impounding of Plaintiff’s vehicle, his
12 property.

13 149. Defendants’ then auctioned off Plaintiff’s vehicle, a Dodge Caliber,
14 while he was unlawfully confined in violation of his due process rights, denying
15 Plaintiff his right to his property without due process.

16 150. As a direct and proximate result of Defendants’ actions, as alleged
17 above, Plaintiff has been harmed has suffered, and will suffer loss of wages,
18 salary, contractual benefits, loss of personal reputation, loss of personal
19 property, and certain other incidental and consequential economic expenses
20 and losses, and will continue to suffer such actual damages in an amount
according to proof at trial.

21 151. As a further and proximate result of Defendants’ unlawful conduct,
22 Plaintiff has become mentally upset, distressed and aggravated requiring
23 medical treatment. Plaintiff claims emotional distress damages in an amount to
24 be proven at trial.

25 152. The above-alleged unlawful conduct constitutes oppression, fraud,
26 malice, recklessness, evil intent, and/or deliberate indifference to Plaintiff’s
27 federally protected rights thereby entitling Plaintiffs to an award of punitive
28



1 damages. *Smith v. Wade*, 461 U.S. 30, 103 S. Ct. 1625, 75 L. Ed. 2d 632 (1983).

2 153. Plaintiffs has incurred reasonable attorneys' fees and costs in
3 prosecuting this matter in an amount to be established at trial and is entitled to
4 recovery of attorney's fees pursuant to statute. See 42 U.S.C.A. § 1988(b).

5
6 **FIFTH CLAIM FOR RELIEF**

7 **(VIOLATION OF CIVIL RIGHTS UNDER 42 U.S.C. 1983**

8 **MUNICIPALITY LIABILITY UNDER MONELL)**

9 154. Plaintiff hereby repeats, realleges, and incorporates by reference
10 his entire Complaint as though fully restated herein.

11 155. A local government unit or municipality can be sued as a "person"
12 under § 1983. *Monell v. Dep't of Soc. Servs. of City of New York*, 436 U.S. 658,
13 691-94, 98 S. Ct. 2018, 56 L. Ed. 2d 611 (1978). However, a municipality cannot
14 be held liable under § 1983 solely because it employs a tortfeasor. *Id.* A plaintiff
15 seeking to impose liability on a municipality under § 1983 must identify a
16 municipal "policy" or "custom" that caused his or her injury. *Bd. of the Cnty.*
17 *Comm'rs of Bryant Cnty. v. Brown*, 520 U.S. 397, 403, 117 S. Ct. 1382, 137 L.
18 Ed. 2d 626 (1997) (citing *Monell*, 436 U.S. at 694).

19 156. That at all times relevant herein the LVMPD and the CCDA's office
20 had an unwritten policy, custom and practice of permitting and/or failing to
21 address serious unlawful misconduct by both LVMPD officers and CCDA
22 Deputy District Attorney's.

23 157. That at all times relevant herein the LVMPD and the CCDA's office
24 had an unwritten policy, custom and practice of concealing unlawful
25 misconduct by both LVMPD officers and CCDA Deputy District Attorney's
26 within their ranks through various methods including: (1) refusing to turn over
27 evidence in both criminal and civil cases, even when ordered to do so by courts
28 of the State of Nevada; (2) making misrepresentations of fact to both courts and



1 the media; (3) tampering with investigators and witnesses; (4) extorting
2 individuals into giving up their rights; (5) publicly disclosing the identity of
3 confidential informants; and (6) initiating harassing legal complaints against
4 individuals speaking out against these agencies of the political subdivision of
5 the State of Nevada, Clark County and the City of Las Vegas.

6
7 **A. The FBI Investigation Into The LVMPD Vice Unit**

8
9 158. It is public knowledge the FBI opened an investigation into the
10 LMVPD's Vice Unit, and the agency has publicly admitted the existence of the
11 investigation to the media in Las Vegas on numerous occasions:

12 The Las Vegas Metro Police Department has long known of Judge
13 Tobiasson's allegations. It was implied that crimes committed by
14 Shane Valentine were ignored. This is untrue. Valentine is currently
15 incarcerated based on an investigation conducted by LVMPD which
16 resulted in multiple felony convictions.

17 LVMPD is cooperating with the FBI in their investigation into
18 former VICE personnel. Based on its' own concerns LVMPD has
19 made several changes to staff and operations of the VICE section.

20 The Homeland Security Division is actively investigating associated
21 individuals and allegations.²

22
23 **B. The Prosecution Of Ocean Fleming**

24 159. Ocean Fleming was arrested by LVMPD detectives and charged in
25 2011 with numerous prostitution related offenses.

26 160. Fleming's case was rife with corrupt conduct by both LVMPD
27 officers and CCDA attorneys that ultimately resulted in post-conviction
28 proceedings, the CCDA's recusal from the case, and ultimately the dropping of
most of the charges against Fleming.

² <https://www.8newsnow.com/news/i-team-local-judge-reveals-troubles-with-vice-cops/>



1 161. The CCDA and LVMPD strongly opposed discovery into corruption
2 within their ranks. Despite objections, the 8th Judicial District Court ordered
3 both municipal agencies to produce discovery. *See* Fleming Opp. Mot Quash,
4 attached as **Exhibit 21**, at 1:25-27.

5 162. The LVMPD filed numerous motions to quash subpoenas filed by
6 Fleming's counsel, who opposed the motions noting that the discovery that had
7 already been produced to date demonstrated the following:

8 a. Detectives Beas and Baughman were both having sex with Jessica
9 Gruda, the primary witness against Defendant Fleming, attached
10 Affidavit by Gruda's former roommate. *See Exhibit A - Affidavit of*
11 *Sarah Davey.*

12 b. Detective Baughman, the lead detective in the prosecution of
13 Ocean Fleming, is also believed to have been having a
14 romantic/sexual relationship with the lead prosecutor, Liz Mercer
15 (and Baughman's current wife) during the prosecution and trial of
16 Ocean Fleming in 2012.

17 c. Detective Baughman is also believed to have been involved in a
18 romantic/sexual relationship with Lt. Hughes, his supervisor.

19 d. Detective Gray was involved in the prosecution of Defendant
20 Ocean Fleming and also believed to have been the subject of the
21 investigation.

22 d. Text messages exist between Baughman and a witness prostitute
23 in another case that appear to support claim that Detective
24 Baughman was coaching the witness testimony. *Id.* at 2.

25 163. The relevant facts to Fleming's post-conviction petition relating to
26 the LVMPD's policy, practice and custom of permitting public corruption and
27 concealing it were as follows:

28 1. On April 13, 2017, Sheriff Lombardo admitted that the FBI is
investigating public corruption involving LVMPD'S VICE unit.
See <http://www.lasvegasnow.com/news/i-team-:fbi-probe-leads-to-changes-in-metros-vice-/unit>.

2 2. Sheriff Lombardo further admitted that LVMP has made
sweeping changes to its VICE command and oversight of VICE
detectives as a consequence of the conduct of the subject officers.
Id.

3 3. The same team of LVMPD officers and the same DA (Liz Mercer
who is now married to Detective Baughman) that prosecuted Mr.
Fleming also prosecuted other defendants on eerily identical



1 factual allegations and charges. *Id.* See also
2 <https://knpr.org/knpr/2017-06/why-fbi-investigating-metros-vice-unit>.

- 3 4. Over 100 text messages between former Detective Baughman and
4 a witness in another PIT prosecution support that Detective
5 Baughman was having an improper relationship with another
6 witness prostitute and coaching the witness on the kidnapping
7 charge in that case. See Petition.
8 5. The primary witness who testified against Mr. Fleming, Jessica
9 Gruda, was having sexual relations with both Detectives Beas and
10 Baughman during the prosecution of Mr. Fleming according to
11 her roommate and as set forth in the attached affidavit. Exhibit A,
12 Affidavit of Sarah Davey. *Id.* at 4.

13 164. The Fleming case and the public corruption within the LVMPD and
14 the CCDA's office it unearthed ultimately resulted in a deal between Fleming
15 and the CCDA to drop the majority of the charges against him and a plea of
16 guilty to a far lesser offense, and far less time in jail. See Fleming Order
17 Affirming GPA, attached as **Exhibit 22**, at 1-6.

18 **C. The Prosecution Of Marlon Brown and Judge Tobiasson's**
19 **Investigation Into LVMPD Vice Unit Corruption**

20 165. On August 30, 2014, the LVMPD arrested Marlon Brown for
21 numerous offenses relating to an incident where he shot his girlfriend in the leg.
22 Marlon Lorenzo Brown is a 38-year-old black male adult. On October 22, 2014,
23 the Appellant, Marlon Brown, was charged via Information with seventeen (17)
24 felony counts. After a five-day trial that began on March 6, 2018 and ended on
25 March 12, 2018, Marlon was convicted on twelve (12) felony counts. Marlon was
26 sentenced to an aggregate total of five-hundred and forty (540) months in
27 prison with parole eligibility in one-hundred and seventy-six (176) months.

28 166. Brown's case, like Flemings, was rife with public corruption of the
LVMPD, the CCDA, and the district court Judge Michelle Leavitt, who all
together conspired to secure Brown's conviction in retaliation for owning the



1 Top Notch clothing store, an establishment that allegedly doubled as a night
2 club in the evenings where pimps would allegedly frequent, including Shane
3 Valentine. At this time, Valentine was living with Judge Leavitt's daughter,
4 Morgan Fitzpatrick (now Leavitt), who may have been involved in Valentine's
5 prostitution operation herself.

6 167. Brown's case came up on initial arraignment before Justice Court
7 Judge Melanie A. Tobiasson, who held a preliminary hearing on the matter.
8 Brown was released on bail and house arrest. See State Mot. Remove House
9 Arrest, attached as **Exhibit 23**, at 3.

10 168. In 2015 Judge Tobiasson learned that Shane Valentine, an alleged
11 Las Vegas pimp, was targeting her daughter and another female, both who
12 worked for Brown at the Top Notch clothing store in Chinatown, Las Vegas,
13 Nevada. See Tobiasson Discipline Report, attached as **Exhibit 24**, at 2.

14 169. "Judge Tobiasson reported that she made detectives of the Las
15 Vegas Metropolitan Police Department (Metro) aware of what was going at the
16 Top-Notch clothing store after hours. *Id.* at 6. Tobiasson's daughter had been
17 working for Brown at Top Notch and told her mother (Tobiasson) that Shane
18 Valentine had approached her (Tobiasson's daughter) for the purpose of getting
19 her to work as a prostitute for Valentine. *Id.* Tobiasson began her own
20 investigation into Top Notch after her daughter told Tobiasson of Valentine's
21 activities, and the alleged prostitution related activities at the Top Notch
22 establishment.

23 "Judge Tobiasson was asked when she contacted Metro supervision.
24 She advised that she never actually contacted a supervisor regarding
25 the situation, but she stated she first called Metro in the summer of
26 2015 asking if they had any information about a hookah lounge in
27 Chinatown. Judge Tobiasson further stated that Metro took no
28 action regarding the information she provided." *Id.* at 7.

170. According to Tobiasson, "in December 2015, Valentine made
threats toward her daughter and she contacted the Metro detectives to give



1 them the information. Judge Tobiasson advised that to her knowledge, nothing
2 was ever done regarding the information she provided to Metro.” *Id.* at 8.

3 171. On April 2, 2016, while Brown was on bail, Brown stopped in “at a
4 Hookah Club” (his business Top Notch). See State Opp. Mot Reinstate House
5 Arrest, attached as **Exhibit 25**, at 5. According to police Brown smelled of
6 alcohol so they rearrested him for violation of the terms of his house arrest.

7 172. On May 10, 2016, Brown’s bail and house arrest was reinstated.
8 Brown’s motion to reinstate house arrest cites financial hardship and states that
9 “Mr. Brown recently started his own business [Top Notch] which makes online
10 sales and has a retail location. Mr. Brown has employees that work for him and
11 depend on him for their income. Mr. Brown is vital to the day-to-day operation
12 of this business and remaining in police custody is financially damaging to Mr.
13 Brown and his business.” See Brown Mot. Reinstate House Arrest, attached as
14 **Exhibit 26**, at 4.

15 173. On June 1, 2016, Judge Tobiasson is assigned a domestic violence
16 case involving Valentine where Morgan Leavitt testified at the preliminary
17 hearing. *Id.*

18 174. Later, Tobiasson was assigned another case involving Valintine as a
19 defendant, and told the ethic’s board “that she called the Valentine case and was
20 taken aback when that occurred. Judge Tobiasson reported that she called the
21 prosecutor and public defender to her chambers and explained the situation to
22 them.” See **Ex. 24**, at 8.

23 175. “Judge Tobiasson was not aware that Valentine knew the
24 relationship with her daughter and her at the time. Judge Tobiasson
25 explained her concerns to the attorneys and that she did not want to
26 disclose the conflict unless necessary in effort to protect her
27 daughter. She advised that if the case were not negotiated, she would
28 recuse and have another judge hear the trial. Judge Tobiasson
advised that her intent was not to have any impact in Shane
Valentine's case, but to protect her daughter and herself from him.”
Id.



1 176. “Judge Tobiasson advised that the attorneys indicated the case
2 was negotiated and Valentine intended to plead to the charge and the
3 jail sentence was to be suspended. Judge Tobiasson advised that she
4 asked if the attorneys had any objection to her accepting the
5 negotiated plea and sentence, since a decision of guilt or innocence
6 wasn't required. Judge Tobiasson advised the prosecutor and public
7 defender both agreed that she could accept the plea to dispose of the
8 case that day.” *Id.*

9 177. On July 14, 2016 Tobiasson recused herself from the Valentine
10 matter. *Id.* at 9.

11 178. On September 26, 2016, James Ketchum murders Ezekiel Davis
12 outside of Top Notch, which New 8 reports as “an illegal Chinatown nightclub.”³
13 The police were surveilling the nightclub.

14 179. Top Notch is shut down after this incident.

15 180. On October 2, 2016, LVMPD officers show up to Brown’s residence
16 to inform him he is being taken into custody because his bond was being
17 revoked by his bond company. *See* Brown Pro Se Petition Habeas Corpus,
18 attached as **Exhibit 27**, at 2.

19 181. At the time of Brown’s arrest, no Motion to Exonerate Bond had
20 been filed by the bail company.

21 182. On October 26, 2016, Tobiasson received a call from a Metro
22 detective who advised her that she had been "outed" as a confidential source of
23 information by a LVMPD Officer to the same female who introduced
24 Tobiasson’s daughter to Shane Valentine. *See* **Ex. 24**, at 9.

25 183. On December 21, 2016, the Bond company filed the motion to
26 exonerate bond but includes no explanation why bond was being withdrawn.
27 *See* Mot Exonerate Bond, attached as **Exhibit 28**, at 1-5.

28 184. On January 5, 2017, the exoneration of Brown’s bond is heard
before Judge Elizabeth Gonzalez outside of Brown’s presence, without Brown’s
attorney present. *See* Minutes Exonerate Bond Hearing, attached as **Exhibit**



1 **29**, at 1.

2 185. On January 25, 2017 Brown's new attorney files a motion to release
3 on bond. See Mot. Release on Bond, attached as **Exhibit 30**, at 1. The attorney
4 notes that Brown's bond may have been illegally revoked. *Id.* at 3. The bond
5 company stated to the Court and division managing house arrest that Brown
6 had threatened the person that signed off on his bond and that the person
7 wanted to be removed from the bond. *Id.* The attorney attached an affidavit of
8 Pimkee Rajvongthong, who was the person on the bond, attesting that she
9 "never told the bondsman that I wanted off the bond." *Id.* at 11.

10 186. On February 6, 2017 Brown's new attorney files a motion to clarify
11 his bail status. See Mot Clarify, attached as **Exhibit 31**, at 1. The new attorney
12 notes neither Brown nor his counsel were present at the hearing.

13 187. The LVMPD knowingly and corruptly arrested Brown while he was
14 on lawful bail despite the bail company not having filed a Motion to Exonerate,
15 and the bail company then filed a belated Motion to Exonerate Bond, and the
16 LVMPD, the CCDA, and the Bond company appeared before the court and
17 made misrepresentations regarding the revocation of Brown's bond, which was
18 without good cause, because the individual who had signed the bond had not
19 requested that it be revoked.

20 188. On February 27, 2018, the Brown case is reassigned to Judge
21 Leavitt. See Reassignment to Leavitt, attached as **Exhibit 32**, at 1.

22 189. On March 6, 2018 Brown's trial began.

23 190. On March 12, 2018 Brown's trial ends.

24 191. On April 11, 2018, the State prepares Brown's Pre-Sentence
25 Investigation Report, which expressly states that Brown is the owner of Top
26 Notch Apparel. See PSI Report, attached as **Exhibit 33**, at 3.

27 192. On April 12, 2018, Judge Tobiasson goes public about Valentine,
28 the LVMPD protecting pimps, and trafficking daughters of judges and police,

³ <https://news3lv.com/news/local/chinatown-illegal-nightclub-murder-suspect-caught>



1 and the activities allegedly occurring at the Top Notch Clothing Store. See Ex.
2 10, at 1.

3 193. One of the daughters being targeted by the alleged traffickers that
4 were allegedly linked to the Top Notch Clothing Store was Judge Leavitt's
5 daughter, Morgan Fitzpatrick (now Leavitt), who testified in the domestic
6 violence case involving Valentine. See Transcript Valentine DV Case, attached
7 as **Exhibit 34**, at 6-16.

8 194. Despite the LVMPD officers and the CCDA Deputy District
9 Attorneys involved in the Brown case and the Valentine cases knowing that
10 Brown owned the Top Notch establishment, and that Leavitt's daughter was
11 involved with individuals alleged to be engaging in illegal activities that were
12 also linked to Brown's Top Notch Clothing Store, none of them informed
13 Brown's defense counsel or recommended that Judge Leavitt recuse herself
14 from the case.

15 195. On December 17, 2018 Leavitt enters her judgment of conviction
16 sentencing Brown to 360 months with parole eligibility in 116 months. See JOC,
17 attached as **Exhibit 35**, at 1-5.

18 196. On February 27, 2019 Leavitt enters an Amended Judgment of
19 Conviction and sentences Marlon Brown to 540 months in prison with parole
20 eligibility in 176 months. See Amended JOC, attached as **Exhibit 36**, at 1-5.

21 197. On August 2, 2019, Judge Leavitt recused herself from the Brown
22 case "To avoid the appearance of impropriety and implied bias." See Leavitt
23 Recusal Order, attached as **Exhibit 37**, at 1.

24 198. On December 16, 2019, the Nevada Department of Insurance fined
25 Brown's bond company, Easy Bail, LLC, "as the evidence supports that the
26 Respondents [Easy Bail] caused the early surrender of Brown without good
27 cause as required by statute."
28

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1 **D. The Review Journal Civil Suit For Production Of Public**
2 **Records Relating To The Investigations Into The LVMPD's**
3 **VICE Unit.**

4 200. On November 5, 2018, the Las Vegas Review Journal made a
5 records request to the LVMPD for documents relating to public corruption
6 involving the LVMPD Vice Unit. *See* Review Journal Letter, attached as
7 **Exhibit 38**, at 1-5.

8 200. On November 19, 2018, the LVMPD refused to produce the
9 documents. *See* LVMPD Letter Response, attached as **Exhibit 39**, at 1-7.

10 201. On March 9, 2018, 8th Judicial District Court Judge Scotti ordered
11 LVMPD to produce the public records. *See* Scotti Order 3/9/18, attached as
12 **Exhibit 40**, at 1-9.

13 202. The LVMPD *refused to comply* with Judge Scotti's Order resulting
14 in a second order compelling the LVMPD to produce the records. *See* Scotti
15 Order 9/7/18, attached as **Exhibit 41**, at 1-5.

16 203. The Review Journal case demonstrates the policy, practice and
17 custom of the LVMPD's concealment of police corruption within their ranks.

18 204. The LVMPD and CCDA's policy, practice and custom of concealing
19 police corruption, especially in regards to the Vice Unit, resulted in Defendants'
20 misrepresentations to the judges as alleged herein to find someone to charge
21 with sexually assaulting prostitutes in Las Vegas because those prostitutes had
22 alleged that a LVMPD Vice Unit detective had assaulted them.

23 205. In order to avoid more public scrutiny, and an expanded FBI
24 investigation into the Vice Unit, Detectives CHARASKA and DEEDS made
25 misrepresentations to the judge issuing the search warrant in Plaintiff's case so
26 they could falsely arrest and imprison Plaintiff and announce that they had
27 found the person victimizing the prostitutes, and that it was not a LVMPD Vice
28 officer.



1 206. The policy of corruption and concealment within the LVMPD and
2 the CCDA resulted in the constitutional violations alleged herein, and as such,
3 Clark County is liable for the damages caused to Plaintiff.

4 **E. FAILURE TO TRAIN, SUPERVISE, OR DISCIPLINE LIABILITY**

5 207. Plaintiff hereby repeats, realleges, and incorporates by reference
6 his entire Complaint as though fully restated herein.

7 208. Defendants LVMPD and CCDA owed a duty to citizens, such as
8 Plaintiff, to exercise care in the hiring, training, and supervision of their police
9 force and attorneys, so as to protect citizens from false arrest, false
10 imprisonment, assault, battery, and the like, at the hands of poorly trained,
11 poorly supervised, unwisely hired, or unwisely retained police officers and
12 attorneys.

13 209. Defendants breached that duty by negligently tolerating and/or
14 ratifying the custom, practice or policy of their police officers in detaining,
15 seizing, and arresting citizens without probable cause or reasonable grounds,
16 punishing pretrial detainees, misrepresenting material facts to judges,
17 maliciously prosecuting citizens, and violating citizens' Constitutional rights to
18 due process and to freedom from unreasonable search and seizure, as
19 manifested by Defendants' failure to discipline the officers and attorneys who
20 committed such acts as alleged above; and failing to properly screen individuals
21 who apply to become police officers and attorneys, and failing to remove
22 dangerous police and irresponsible attorneys from their ranks, as manifested by
23 Defendants' failure to conduct an internal investigation and inquiry under the
24 circumstances described herein.

25 210. As a direct and proximate result of Defendants' actions, as alleged
26 above, Plaintiff has been harmed has suffered, and will suffer loss of wages,
27 salary, contractual benefits, loss of personal reputation, loss of personal
28 property, and certain other incidental and consequential economic expenses
and losses, and will continue to suffer such actual damages in an amount



1 according to proof at trial.

2 211. As a further and proximate result of Defendants' unlawful conduct,
3 Plaintiff has become mentally upset, distressed and aggravated requiring
4 medical treatment. Plaintiff claims emotional distress damages in an amount to
5 be proven at trial.

6 212. The above-alleged unlawful conduct constitutes oppression, fraud,
7 malice, recklessness, evil intent, and/or deliberate indifference to Plaintiff's
8 federally protected rights thereby entitling Plaintiffs to an award of punitive
9 damages. *Smith v. Wade*, 461 U.S. 30, 103 S. Ct. 1625, 75 L. Ed. 2d 632 (1983).

10 213. Plaintiffs has incurred reasonable attorneys' fees and costs in
11 prosecuting this matter in an amount to be established at trial and is entitled to
12 recovery of attorney's fees pursuant to statute. See 42 U.S.C.A. § 1988(b).

13 **SEVENTH CLAIM FOR RELIEF**

14 **(NEGLIGENT HIRING, RETENTION, SUPERVISION, AND TRAINING)**

15 214. Plaintiff does hereby repeat, reallege, and incorporate by reference
16 his entire Complaint as though fully restated herein.

17 215. Defendants LVMPD and CCDA owed a duty to citizens, such as
18 Plaintiff, to exercise care in the hiring, training, and supervision of their police
19 force and attorneys, so as to protect citizens from false arrest, false
20 imprisonment, assault, battery, and the like, at the hands of poorly trained,
21 poorly supervised, unwisely hired, or unwisely retained police officers and
22 attorneys.

23 216. Defendants breached that duty by negligently tolerating and/or
24 ratifying the custom, practice or policy of their police officers in detaining,
25 seizing, and arresting citizens without probable cause or reasonable grounds,
26 punishing pretrial detainees, misrepresenting material facts to judges,
27 maliciously prosecuting citizens, and violating citizens' Constitutional rights to
28 due process and to freedom from unreasonable search and seizure, as
manifested by Defendants' failure to discipline the officers and attorneys who



1 committed such acts as alleged above; and failing to properly screen individuals
2 who apply to become police officers and attorneys, and failing to remove
3 dangerous police and irresponsible attorneys from their ranks, as manifested by
4 Defendants' failure to conduct an internal investigation and inquiry under the
5 circumstances described herein.

6 217. As a direct and proximate result of Defendants' actions, as alleged
7 above, Plaintiff has been harmed has suffered, and will suffer loss of wages,
8 salary, contractual benefits, loss of personal reputation, loss of personal
9 property, and certain other incidental and consequential economic expenses
10 and losses, and will continue to suffer such actual damages in an amount
11 according to proof at trial.

12 218. As a further and proximate result of Defendants' unlawful conduct,
13 Plaintiff has become mentally upset, distressed and aggravated requiring
14 medical treatment. Plaintiff claims emotional distress damages in an amount to
15 be proven at trial.

16 219. The above-alleged unlawful conduct constitutes oppression, fraud,
17 malice, recklessness, evil intent, and/or deliberate indifference to Plaintiff's
18 federally protected rights thereby entitling Plaintiffs to an award of punitive
19 damages. *Smith v. Wade*, 461 U.S. 30, 103 S. Ct. 1625, 75 L. Ed. 2d 632 (1983).

20 220. Plaintiffs has incurred reasonable attorneys' fees and costs in
21 prosecuting this matter in an amount to be established at trial and is entitled to
22 recovery of attorney's fees pursuant to statute. See 42 U.S.C.A. § 1988(b).

23 **EIGHTH CLAIM FOR RELIEF**
24 **(Defamation Under Nevada Law)**

25 221. Plaintiff does hereby repeat, reallege, and incorporate by reference
26 his entire Complaint as though fully restated herein.

27 222. That Defendant LVMPD made a false a defamatory statement
28 alleging that Plaintiff was impersonating a LVMPD Vice officer and sexually
assaulting prostitutes in Las Vegas, Nevada.



1 223. That an unprivileged publication of this statement was made to
2 third persons when Defendant published a press release on their website and
3 twitter page with Plaintiff's photograph.

4 224. That Defendants knew the statements were false and unsupported
5 by probable cause or evidence.

6 225. That Defendants were at least negligent in making, and refusing to
7 retract the statements because Defendants had lied to obtain the search warrant
8 to arrest Plaintiff for the crimes charged.

9 226. As a direct and proximate result of Defendants' actions, as alleged
10 above, Plaintiff has been harmed has suffered, and will suffer loss of wages,
11 salary, contractual benefits, loss of personal reputation, loss of personal
12 property, and certain other incidental and consequential economic expenses
13 and losses, and will continue to suffer such actual damages in an amount
14 according to proof at trial.

15 227. As a further and proximate result of Defendants' unlawful conduct,
16 Plaintiff has become mentally upset, distressed and aggravated requiring
17 medical treatment. Plaintiff claims emotional distress damages in an amount to
18 be proven at trial.

19 228. The above-alleged unlawful conduct constitutes oppression, fraud,
20 malice, recklessness, evil intent, and/or deliberate indifference to Plaintiff's
21 federally protected rights thereby entitling Plaintiffs to an award of punitive
22 damages.

23 **PRAYER FOR RELIEF**

24 WHEREFORE, Plaintiff pray that this Court enter a judgment in his favor
25 and against Defendants, jointly and severally, and award:

26 1. General damages in an amount to be proven at trial as to each and
27 every claim herein;

28 2. Exemplary and/or punitive damages in an amount to be proven at
trial as to each and every claim herein,



