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**THE UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA**

DAVID MCNEELY, an individual,

Plaintiff,

vs.

CITY OF SPARKS; PETER LOESCHNER;
KEVIN DACH; CHRIS CRAWFORTH, and
DOES I-X

Defendants.

CASE NO.:

COMPLAINT FOR DAMAGES

1. 42 USC §1983
2. Failure to Train
3. Municipal Liability Ratification
4. Supervisor Liability
5. Deprivation of Rights
6. Intentional Infliction of Emotional Distress

[DEMAND FOR JURY TRIAL]

COMPLAINT

COMES NOW, Plaintiff, DAVID MCNEELY, who brings this action by and through the undersigned attorney of record SIGAL CHATTAH, ESQ. of CHATTAH LAW GROUP, and hereby complains and alleges against Defendants as follows:

INTRODUCTION

This civil rights action under 42 USC §1983 seeks compensatory and punitive damages from Defendants for violating various rights under the United States Constitution and state law in

1 connection with the unlawful seizure and distribution of private information obtained in violation
2 of Plaintiff, David McNeely’s constitutional rights.

3 This Complaint alleges that police officers employed by the City of Sparks violated
4 McNeely’s First and Fourth Amendment Constitutional rights to privacy and to be free from
5 unlawful searches and seizures.

6 The evidence will establish that the officers were trained to act in precisely the manner
7 they acted and, thus, were trained to do precisely the wrong thing. If the officers had been
8 properly trained in the fundamental principles of search and seizure and safekeeping private
9 information, this incident would not have happened. In short, the officers’ actions were contrary
10 to proper police practices. Sparks’ police practices were diametrically opposed to proper police
11 procedures, out of synch with the rest of the police profession, and plainly unconstitutional.

12 Sparks police engaged in deliberate and wrongful conduct and compromised police
13 protocol violating McNeely’s constitutional rights for the purpose of promoting and engaging in
14 a sensational story with a public figure; to wit, Reno City Mayor Hillary Schieve.
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16 JURISDICTION AND VENUE

17 1. This action arises under Title 42 of the United States Code (“U.S.C.,” 42 U.S.C.
18 §1983 and §1988). Jurisdiction is conferred upon this Court by Title 28 U.S.C §1331.

19 2. Venue is proper in the Northern District of Nevada pursuant to 28 U.S.C.
20 §1391(b) because the unlawful acts and practices alleged herein occurred in Northern Nevada,
21 which is within this judicial district.

22 THE PARTIES

23 3. Plaintiff DAVID MCNEELY, (hereinafter, “McNeely”; Plaintiff, *inter alia*) is a
24 resident of Carson City, Nevada, who at all times relevant herein was working as a private
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1 investigator in Northern Nevada. McNeely owns 5-Alpha Industries, a Nevada licensed private
2 investigation firm.

3 4. Defendant City of Sparks (“Sparks”) is a municipal governmental entity duly
4 incorporated under the laws of the State of Nevada. Under its authority, Defendant Sparks
5 operates the Sparks Police Department (“SPD” *inter alia*), and is, and was at all relevant times
6 mentioned herein, responsible for the actions and/or inactions and the policies, procedures and
7 practices/customs of the employees of SPD.

8 5. Defendant CHRIS CRAWFORTH, (hereinafter “Crawforth”) is and was, at all
9 times relevant herein, the police Chief with Sparks Police Department and was employed by
10 SPD. Crawforth was personally involved in the acts that deprived David McNeely of his
11 particular rights and to be free from deliberate indifference, causing his damages. Crawforth at
12 all relevant times hereto, was acting under color of state law, and is sued in his individual
13 capacity.

14 6. Defendant PETER LOESCHNER, (hereinafter “Loeschner”) is a police officer/
15 detective with Sparks Police Department at all times relevant, was employed by the SPD.
16 Loeschner was personally involved in the acts that deprived David McNeely of his particular
17 rights and to be free from deliberate indifference and caused his damages. Loeschner at all
18 relevant times hereto, was acting under color of state law, and is sued in his individual capacity.
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20 7. Defendant KEVIN DACH, (hereinafter “Dach”) is a police officer/ detective with
21 Sparks Police Department at all times relevant, was employed by the SPD. Dach was personally
22 involved in the acts that deprived David McNeely of his particular rights and to be free from
23 deliberate indifference and caused his damages. Dach at all relevant times hereto, was acting
24 under color of state law, and is sued in his individual capacity.
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1 8. Plaintiff is, at the time of the filing of this Complaint, ignorant of the true names
2 and capacities of Defendants Does I-X, and, therefore sue these Defendants by such fictitious
3 names. Plaintiff is informed and believes and thereon alleges that Defendants Does I-X were
4 employed by the SPD at the time of the conduct alleged herein. Plaintiff alleges Defendants Does
5 I-X violated McNeely's civil rights by their deliberate indifference to his privacy and profession
6 and/or encouraged, directed, enabled and/or ordered other Defendants to engage in such conduct.
7 Plaintiff will seek leave to amend his Complaint to state the names and capacities of Defendants
8 Does I-X, when they are identified and ascertained. Does I-X, at all relevant times hereto, were
9 acting under color of state law, and are sued in their individual capacity.

10 9. Plaintiff alleges that the conduct of each Defendant deprived McNeely of his
11 constitutional right to privacy and to be free from unlawful searches and seizures.

12 10. Each of the Defendants caused, and is responsible for, the unlawful conduct
13 directed towards McNeely. Each of the Defendants by participating in the unlawful conduct, or
14 acting jointly and in concert with others who did, authorized, acquiesced, condoned, and
15 approved the unconstitutional conduct by failing to take action to prevent said unconstitutional
16 conduct which resulted in the financial ruin, humiliation and destruction of McNeely's life and
17 livelihood.
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19 11. Wherever reference is made in this Complaint to any act by Defendants, it is
20 alleged that each Defendant was the agent of the others. Defendants were acting within the
21 course and scope of this agency, and all acts alleged committed by any one of them shall also be
22 deemed to mean the acts and failures to act of each Defendant individually, jointly or severally.
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PRELIMINARY STATEMENT

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2 12. This civil rights action seeks compensatory and punitive damages from
3 Defendants for violating various rights under the United States Constitution and state law in
4 connection with the search and seizure of Plaintiff's assets, the violations of his right to privacy
5 and the willful destruction of his reputation and financial well-being.

6 13. This is an action brought under 42 U.S.C. §1983 and the laws of the State of
7 Nevada, to hold CITY OF SPARKS, via its policymaker, Defendant Crawforth and others, and
8 two of its officers accountable for their unreasonable, unlawful, malicious violations of the
9 Plaintiff's rights.

10 14. Following numerous allegations of unscrupulous and unbecoming conduct by
11 Reno Mayor Hillary Schieve, Plaintiff David McNeely was hired as a private investigator as part
12 of an ongoing investigation into said allegations.

13 15. As a standard lawful methodology used in the State of Nevada in the private
14 investigation industry, McNeely placed a GPS mobile tracker on Schieve's vehicle. Said tracker
15 tracked her locations when the car was driven.
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17 16. On or about November 4, 2022, Schieve, was informed that a tracking device, a
18 KLD-1 Black GPS tracker was installed on her vehicle, identified during a routine mechanic's
19 visit.

20 17. Schieve notified the Washoe County Sheriff's office of same and the matter was
21 transferred to Sparks Police Department.

22 18. On or about November 6, 2022, Sparks Police Department began an investigation
23 into the source and origination of the tracking device.
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1 19. Detective Loeschner with Sparks Police Department was tasked with conducting a
2 forensic analysis, while he was assigned to lead the investigation.

3 20. Initially Loeschner was provided with photographs of the device, its location on
4 the vehicle, and a screenshot that the device was associated with a company called Family 1st.

5 21. On November 8, 2022, Detective Kevin Dach, received the device and removed
6 the Subscriber Identity Module (SIM) card. The SIM card had markings on it notifying that it
7 was registered to an AT&T Business.

8 22. Detective Dach then used Cellebrite to conduct the forensic extraction of the SIM
9 card and obtained the phone number associated with the SIM Card.

10 23. On the same day of November 8, 2022, Detective Dach sent administrative
11 subpoenas to AT&T for records related to the SIM card and International Mobile Equipment
12 Identity (IMEI) number.

13 24. Detective Loeschner then authorized and sent administrative subpoenas to both
14 Verizon and Family 1st requesting records, whereby Family 1st notified Defendants that the
15 device was not part of their network.

16 25. Loeschner was subsequently informed that the device has a SIM card and
17 discovered that the card was attached to a phone number and that the SIM card was from AT&T.

18 26. Loeschner then authored an administrative subpoena for AT&T records.

19 27. On November 9, 2023, Dach notified Loeschner that he received information
20 from the sister company of Family 1st, identifying McNeely as the purchaser of the tracker as
21 well as data therefrom.
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1 28. On November 15, 2022¹, Defendants arrived at McNeely’s home, whereby they
2 made representations to McNeely and had discussions with McNeely regarding the GPS device.

3 29. McNeely notified Defendants that they would not receive any information
4 regarding the matter for which he was hired, data absent a warrant or a judicial subpoena.

5 30. Defendants did not know who McNeely’s client was, did not know whether
6 McNeely’s services were engaged in contemplation of litigation; (i.e., part of *sub rosa*), but did
7 know prior to their interview with McNeely, that the tracking device belonged to a private
8 investigator who conducted himself in a lawful manner.

9 31. At the time of McNeely’s interview, Defendants knew that McNeely, as a private
10 investigator, was acting in complete compliance with the laws of the State of Nevada.

11 32. In fact, even after interviewing McNeely on November 15, 2022, Defendants did
12 not know whether McNeely’s work product and identity was a trade-secret and therefore
13 privileged under NRS 49.325.

14 33. Despite same, Defendants had an obligation to keep anonymous, a private
15 citizen’s identity, specifically, a private individual who engaged in completely lawful conduct
16 and unmasked him anyway.

17 34. As delineated in detail *infra*, Defendants engaged in unreasonable and unlawful
18 actions, engaged in a callous indifference to the federally protected rights of Plaintiff.

19 35. Defendants’ actions were not taken in good-faith and were in violation of clearly
20 established law.
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25 ¹ It is significant to note that pursuant to Sparks Police Department report in Case 22-8812, Loeschner notes that the interview at McNeely’s home occurred on November 16, 2022, whereas body cam footage has the time-stamped date at November 15, 2022 at 13:40-14:14 hrs.

1 36. There were absolutely no grounds for unmasking McNeely in light of the fact that
2 McNeely's acts were completely lawful. Defendants' actions were unnecessary, unreasonable,
3 unlawful, and unjustified.

4 **THE ADMINISTRATIVE SUBPOENAS**

5 37. On November 8, 2022, Sparks Police Department sent an Administrative
6 Subpoena Duces Tecum to AT&T Wireless in case #22-8812, citing 18 U.S.C §2703; NRS
7 704.201 and NRS 704.202.

8 38. 18 U.S.C §2703 entitled *Required disclosure of customers communications or*
9 *record:*

10 **(a) CONTENTS OF WIRE OR ELECTRONIC COMMUNICATIONS IN ELECTRONIC**
11 **STORAGE.—**

12 A governmental entity may require the disclosure by a provider of electronic
13 communication service of the contents of a wire or electronic communication, that is in
14 electronic storage in an electronic communications system for one hundred and eighty
15 days or less, only pursuant to a warrant issued using the procedures described in the
16 Federal Rules of Criminal Procedure (or, in the case of a State court, issued using State
17 warrant procedures and, in the case of a court-martial or other proceeding under chapter
18 47 of title 10 (the Uniform Code of Military Justice), issued under section 846 of that
19 title, in accordance with regulations prescribed by the President) by a court of competent
20 jurisdiction. A governmental entity may require the disclosure by a provider of electronic
21 communications services of the contents of a wire or electronic communication that has
22 been in electronic storage in an electronic communications system for more than one
23 hundred and eighty days by the means available under subsection (b) of this section.

24 **(b) CONTENTS OF WIRE OR ELECTRONIC COMMUNICATIONS IN A REMOTE**
25 **COMPUTING SERVICE.—**

(1) A governmental entity may require a provider of remote computing service to disclose
the contents of any wire or electronic communication to which this paragraph is made
applicable by paragraph (2) of this subsection—

- (A) without required notice to the subscriber or customer, if the governmental
entity obtains a warrant issued using the procedures described in the Federal
Rules of Criminal Procedure (or, in the case of a State court, issued using
State warrant procedures and, in the case of a court-martial or other
proceeding under chapter 47 of title 10 (the Uniform Code of Military
Justice), issued under section 846 of that title, in accordance with regulations
prescribed by the President) by a court of competent jurisdiction; or
(B) with prior notice from the governmental entity to the subscriber or customer if
the governmental entity—

- 1 (i) uses an administrative subpoena authorized by a Federal or State
- 2 (ii) obtains a court order for such disclosure under subsection (d) of this
- 3 section; except that delayed notice may be given pursuant to section
- 4 2705 of this title.

5 39. It is clear that both under 18 U.S.C §2703 and §2705, Defendants failed to meet

6 the requirements therein, since they failed to give Plaintiff notice of the subpoena nor was there a

7 warrant or a judicial subpoena issued in this matter.

8 40. Defendants also cited to NRS 704.201 and NRS 704.202, which did not apply nor

9 provide them with any authority to issue subpoenas under said statutes.

10 41. NRS 704.201 entitled *Investigation by law enforcement agency: Issuance of*

11 *subpoena to public utility for name and address of person listed in records of customers* provides

12 1. To further a criminal or civil investigation, the chief executive officer of a law

13 enforcement agency of this State or a command officer designated by the chief executive officer

14 may issue a subpoena to a public utility **for the name and address of a person listed in the**

15 **records of the customers of the public utility.**

16 2. The subpoena must:

17 (a) If available, contain the social security number of the person about whom the

18 subpoena is made;

19 (b) Contain a statement that the subpoena is made to further a criminal or civil

20 investigation being conducted by the agency; and

21 (c) Be signed by the chief executive officer of the law enforcement agency or the

22 command officer designated by the chief executive officer.

23 3. As used in this section, “command officer” means an officer in charge of a department,

24 division or bureau of the law enforcement agency.

25 [Emphasis added]

42. It is significant to note that NRS 704.201 limits the information that an

administrative subpoena allowed Defendants to obtain, to the name and address of a person listed

in the records.

43. According to the subpoenas sent by Defendants, the request was made for the

“call detail records for the date range of 01/01/2022-1/08/2022” which is beyond the scope of

what was authorized under NRS 704.201.

1 44. While NRS 704.202 provides immunity when an administrative subpoena is
2 followed in good faith, it is clear that the administrative subpoena issued by Defendants in this
3 matter was knowingly, intentionally and with an utter disregard for Plaintiff's constitutional
4 rights, well outside the scope of authorization under any allowable statute.

5 45. Despite the fact that Defendants knew they were not allowed to engage in
6 administrative subpoenas to obtain the information obtained by AT&T Wireless, CELLCO
7 PARTNERSHIP, LLP D/B/A VERIZON WIRELESS, and MATRACK, INC., they did so in
8 violation of McNeely's right to privacy, and engaged in an unlawful search and seizure,
9 specifically knowing that there was no criminal statute which prohibited McNeely's conduct as a
10 private investigator.

11 46. On November 10, 2022, a criminal history check was performed by Defendants
12 on David McNeely, which yielded no prior criminal history.

13 47. On November 10, 2022, Defendants had already been placed on notice that there
14 were no crimes associated McNeely's acts, and therefore no probable cause to secure a warrant
15 or bring criminal charges against him.

16 48. On November 15, 2022, SPD Officers determined that McNeely was a licensed
17 investigator and retired law enforcement officer allowed to engage in the conduct accused of.

18 49. Defendants were also placed on notice that McNeely did not engage in any
19 departure for civil liability under NRS 648 and NAC 648.

20 50. Inconceivably and admittedly, Defendants contacted Federal Agencies and United
21 States Secret Service to obtain any authority or grounds that may lead to the prosecution of
22 McNeely.
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1 51. Defendants engaged in bizarre overzealous investigative overtures and completely
2 trampled on McNeely's civil liberties to ingratiate themselves with Schieve.

3 52. In total, Defendants found no violation of Federal or State law to warrant such
4 intrusive collection of information regarding McNeely or the public dissemination of McNeely's
5 identity therefrom.

6 53. It is significant to note that, not only was the information that was unlawfully
7 subpoenaed beyond the scope of NRS 704.201; Information that Matrack provided included GPS
8 logs that were irrelevant to Schieve, and pertinent to other subjects under other scopes of
9 investigation by McNeely.

10 54. On November 15, 2022, Defendant officers arrived at McNeely's home and
11 conducted an interview, despite the fact that no crime had been committed and they already
12 knew that McNeely was a private investigator.

13 55. McNeely fully cooperated with SPD and disclosed that he had purchased the GPS
14 device and advised Detectives Loeschner and Dach how he placed the device on Schieve's
15 vehicle.
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17 56. McNeely disclosed to SPD detectives that he uses a wide range of methods in his
18 investigations as long as they are within the confines of the law, and that there was never any
19 threat to Schieve.

20 57. McNeely disclosed to SPD detectives that the intent behind the investigation was
21 not to cause harm to anyone; that the motive behind the investigation was political, that the
22 extent of the investigation was utilizing the electronic tracker to look at possible areas where
23 Schieve was alleged to have been frequenting and that no other surveillance methods were used.
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1 58. On November 17, 2022, Defendant officers conducted an interview with Hillary
2 Schieve at Sparks Police Department offices, whereby they unmasked McNeely, despite the fact
3 that McNeely's acts were lawful and constitutionally protected.

4 59. Defendants further disclosed that there were no crimes committed by McNeely,
5 nor were there any civil code violations made by McNeely in the course and scope of his acting
6 as a Private Investigator under NRS 648 and NAC 648.

7 60. Defendant officers advised Schieve that it was common practice in private
8 investigation to utilize tracking devices and that there was no criminal liability for same.

9 61. Defendant officers advised Schieve that McNeely was in law enforcement for
10 over two decades and was very knowledgeable about the law and its perimeters.

11 62. Defendants advised Schieve to hire an attorney to proceed civilly against
12 McNeely and obtain a subpoena by a judge in a civil action to compel disclosure of information
13 from him.

14 63. Defendant police department was personally advised by Schieve that she wanted
15 this matter to be very public, including the disclosure and unmasking of McNeely, an individual
16 who committed no crime nor violated any statutes.

17 64. As a result of this matter, McNeely, a private citizen, formerly law enforcement
18 agent, and private individual working as a private investigator has been exposed publicly, his life
19 destroyed and his business and livelihood compromised.

20 65. Defendants have violated every civil liberty and privacy right McNeely is entitled
21 to as a private citizen engaging in lawful conduct, for the purpose of acquiescing to the whims of
22 a public official.
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1 66. Defendants engaged in a complete suspension of the laws and constitutional
2 requirements to obtain private information when no crime was committed nor civil statute
3 violated for the purpose of patronage of a public official to the detriment of McNeely.

4 67. That Defendants, intentionally and with an utter disregard for the rights of
5 McNeely, unmasked him as a private investigator, disclosed said private information in violation
6 of McNeely's constitutional rights to privacy and his rights against search and seizure.

7 68. That McNeely was entitled to remain anonymous since he violated no laws in the
8 course and scope of his profession and his full cooperation with SPD concluded that there was no
9 threat or harm to Schieve.

10 69. In fact, Defendants had an obligation knowing the circumstances associated with
11 McNeely's retention and the scope of his employment to prevent disclosure of his name and
12 unmasking his identity.

13 70. There was no basis to unmask McNeely, since he neither engaged in wrongful or
14 unlawful conduct nor caused or threatened to cause any harm to Schieve.

15 71. McNeely's First Amendment and privacy rights superseded SPD's right to
16 unmask his identity, as it was unnecessary to disclose same to Schieve, since there was no
17 protection needed nor any wrongdoing to remedy., *See Highfields Capital Mgmt., LP v Doe*, 385
18 *F.Supp.2d* 969 (N.D.Cal. 2005); *See also Fodor v Doe* 2011 WL 1629572 (D. Nev. Apr. 27,
19 2011).

20 72. It is clear that McNeely was entitled to be free from retaliation from engaging in
21 his legal profession of private investigation, utilizing lawful methodologies to conduct private
22 investigations.
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1 73. In reality, SPD did everything in their power to ensure that McNeely was
2 retaliated against including but not limited to the following: 1) Obtaining evidence
3 unconstitutionally through the use and abuse of Administrative Subpoenas; 2) Unmasking his
4 identity to Schieve; 3) Encouraging Schieve to take legal action against McNeely; 4)
5 Encouraging Schieve to contact public officials to pass laws against McNeely's conduct; 5)
6 Encouraging Schieve to violate McNeely's anonymity and publicize McNeely's identity and
7 acts.

8 74. Most significant though, there was absolutely no public interest in disclosing
9 McNeely's identity, allowing for retaliation against him- other than to ingratiate a public official.

10 75. That it is indisputable that Defendants are a government law enforcement agency
11 required to follow protocols whether or not a crime had occurred; and that even after Defendants
12 realized no crime had occurred, they continued engaging in unconstitutional searches and
13 seizures, with no probable cause, abusing the perimeters of an administrative subpoenas.

14 76. As a direct and proximate result of the Defendants' unreasonable and unlawful
15 actions, Plaintiff has suffered and continues to suffer substantial past and future damages, both
16 compensatory and general, including, but not limited to, loss of income, severe emotional
17 distress, mental anguish, embarrassment and humiliation.

18 77. Because Defendants Dach and Loeschner's actions, and possibly other
19 employees, agents, and/or representatives of Sparks Police Department, were "motivated by evil
20 motive or intent" and/or "involve[d] a reckless or callous indifference to the federally protected
21 rights of [the Plaintiff]," an award of punitive damages is appropriate to the fullest extent
22 permitted by law. *See Smith v. Wade, 461 U.S. 30 (1983).*

23 **THE SCHIEVE LAWSUIT**
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1 78. Following the meeting with SPD on November 17, 2022, Hillary Schieve filed a
2 Complaint in the Second Judicial District Court of State of Nevada on December 15, 2023.

3 79. It is significant to note that at the time of filing the lawsuit, Schieve had already
4 been advised by SPD that the installation of the device was lawful and was done in without
5 violating Nevada statutes.

6 80. Schieve was advised that McNeely had acted in complete compliance with both
7 federal civil and criminal laws and laws of the State of Nevada as a private investigator.

8 81. Despite being advised by SPD of this matter, Schieve made it clear that she
9 wanted this matter to be “very public”.

10 82. Schieve also knew that as a public official, her privacy interests are reduced, as
11 she acknowledged in her November 17, 2022 interview with SPD.

12 83. Schieve was also advised by SPD on November 17, 2022, at the outset that the
13 lawful surveillance was done for political purposes.

14 84. But for SPD’s disclosure of McNeely’s identity to Schieve, McNeely’s would not
15 have been subject to the civil action against him for lawful conduct, embarrassment, harassment
16 and humiliation.

17 85. As delineated *infra*, McNeely’s acts were protected under the First Amendment
18 Right to Privacy, Free Speech and Right to Petition.

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20 **FIRST CLAIM FOR RELIEF**
21 **42 USC § 1983**
22 **Violation of First Amendment Right to Privacy, Speech and Petition**
23 **(All Defendants)**

24 86. Plaintiff repeats and realleges all prior paragraphs of this Complaint and
25 incorporates the same by reference herein.

1 87. A person has a privacy interest in avoiding the public disclosure of personal
2 matters. *See In re Crawford*, 194 F.3d 954, 948-49 (9th Cir. 1999).

3 88. Defendants without any legitimate purpose disclosed McNeely’s identity, despite
4 the fact that McNeely, as a licensed private investigator had not committed any crime or engaged
5 in any civil code violations.

6 89. The right to engage in anonymous political conduct is a cornerstone of liberty. *See*
7 *McIntyre v Ohio Elections Comm’n*, 514 U.S. 334, 314-342 (1995) (recognizing that anonymity
8 for fear of official retaliation implicates First Amendment concerns and protections). Political
9 conduct includes the right to work as an investigator to investigate public officials *See Tichin v*
10 *City of Morgan Hill*, 99 Cal. Rpt 3d 661, 678 (2009). Thus, as an exercise of his First
11 Amendment rights, a private investigator has the right to engage in his job and remain
12 anonymous.

13 90. McNeely’s employment as a private investigator is protected under the First
14 Amendment right to petition and free speech, in any context that it was done as a political
15 investigation, which SPD was aware of.

16 91. McNeely’s employment as a private investigator, investigating a public official, is
17 protected non-petitioning conduct as within “the protected ‘breathing space’ of the right of
18 petition since the conduct is (1) incidental or reasonably related to an actual petition or actual
19 litigation or to a claim that could ripen into a petition or litigation and (2) the petition, litigation,
20 or claim is not a sham.” *See Tichin v City of Morgan Hill*, 99 Cal. Rpt 3d 661, 678 (2009).

21 92. The unmasking and public dissemination of McNeely’s identity has subjected him
22 to public humiliation, civil litigation for engaging in completely lawful conduct, public
23 embarrassment and a complete destruction of his livelihood as a private investigator.
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1 93. The First Amendment protects against the disclosure of associational
2 memberships absent a compelling state interest. *NAACP v. Alabama*, 357 U.S. 449 (1958);
3 *accord Int'l Bhd. Of Teamsters, Airline Div. v Allegiant Travel Co., No. 2:14-CV-000043-APG,*
4 *2014 WL 6069851, at *8 (D. Nev. Nov. 12, 2014)*

5 94. The First Amendment protects the right to anonymous political canvassing and
6 donations to charitable organizations, *Watchtower Bible & Tract Soc'y of New York, Inc. v Vill.*
7 *Of Stratton*, 536 U.S. 150 (2002). *See also Buckley v Am.Cons. L. Found, Inc.* 525 U.S. 182
8 (1999), *Americans for Prosperity Found v Bonta*, 141 S. Ct. 2372, 2388 (2021).

9 95. Given the fact that McNeely disclosed to SPD that the investigation was
10 politically motivated, SPD's disclosure of McNeely's identity was a blatant violation of his First
11 Amendment right to privacy and anonymity.

12 96. Furthermore, the fact that McNeely's use of a tracking device was completely
13 legal and authorized in the course and scope of his work as a private investigator demonstrates
14 SPD had no justification for disclosing his personal information in this matter.

15 97. Furthermore, it is well settled law that placement of a GPS device on a vehicle is
16 not a per se intrusion upon seclusion. *See Morgan v Lewis*, 114 N.E.2d 124, 1256 (Neb. 2018) (a
17 private citizen's installation of a GPS tracking device on another individual's motor vehicle to
18 track its movement on public roads insufficient to establish a cause of action for invasion of
19 privacy).

20 98. SPD and all Defendants knew that McNeely, a private citizen as well as
21 a private investigator had complete authority to place the tracking device on Schieve's vehicle to
22 capture information on public streets and highways.
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1 99. As a direct and proximate result of SPD’s violation of his right to privacy,
2 McNeely suffered, severe emotional distress, mental anguish and even economic loss as a result
3 of his interactions with these Defendants.

4 100. The conduct alleged herein was done in reckless disregard of McNeely’s
5 constitutionally protected rights; justifying an award of punitive damages as against the
6 individually named Defendants.

7 101. Accordingly, Defendants and each of them are liable to Plaintiff’s for
8 compensatory damages.

9 102. Plaintiff also seeks statutory attorney fees and costs under this claim.

10 **SECOND CLAIM FOR RELIEF**
11 **42 U.S.C. §1983 –**
12 **Failure to Train**
13 **(As Against City of Sparks)**

14 103. Plaintiff repeats and realleges all prior paragraphs of this Complaint and
15 incorporates the same by reference herein.

16 104. The Fourth Amendment to the United States Constitution protects “[t]he right of
17 the people to be secure in their persons, houses, papers, and effects, against unreasonable
18 searches and seizures.” *U.S. Const. amend. IV*; see also *Carpenter v. United States*, 138 S. Ct.
19 2206, 2214 (2018) (“[T]he Amendment seeks to secure ‘the privacies of life’ against ‘arbitrary
20 power.’” (quoting *Boyd v. United States*, 116 U.S. 616, 630 (1886))).

21 105. It is firmly established that searches or seizures “conducted outside the judicial
22 process, without prior approval by judge or magistrate, are per se unreasonable under the Fourth
23 Amendment—subject only to a few specifically established and well delineated exceptions.”
24 *United States v. Brown*, 996 F.3d 998, 1004 (9th Cir. 2021).

1 106. Defendants used unlawful means to obtain private information about McNeely,
2 protected information that was used in his course and scope of work, disseminated said
3 information, and exposed him to private legal action thereby depriving him of the rights and
4 liberties secured to him by the Fourth and Fourteenth Amendments.

5 107. SPD officers routinely deal with search warrants, criminal laws, probable cause
6 and administrative subpoenas.

7 108. SPD officers routinely deal with the requirements of search warrants and the need
8 for probable cause to have said warrants issued.

9 109. SPD officers understand the ramifications of engaging in unlawful and
10 warrantless searches and seizures.

11 110. SPD Officers routinely engage in issuing administrative subpoenas and know the
12 limitation of information obtainable and authorized to obtain through administrative subpoenas
13

14 111. SPD Officers understand that an administrative subpoena is not a replacement for
15 a search warrant issued with probable cause, signed by a neutral magistrate in accordance with
16 the Fourth Amendment of the United States Constitution.

17 113. SPD is and at all times has been on notice that they must provide proper training
18 to its officers obtaining search warrants and issuance of administrative subpoenas.

19 114. SPD is and at all times has been on notice that it must not publicly disclose
20 information of private citizens engaged in lawful conduct so as to embarrass and humiliate said
21 persons.

22 115. SPD is and at all times has been on notice that it does not provide legal advice nor
23 should it engage in extraordinary measures to see a private citizen, behaving lawfully, be
24 subjected to harassment and humiliated publicly.
25

1 116. SPD is further aware of its need to supervise, train, and discipline its officers
2 concerning compliance with established police policies, practices and guidelines regarding
3 safekeeping of evidence seized during the course and scope of an investigation, especially an
4 investigation that yielded no criminal violations nor violations of civil regulations.

5 117. SPD is and has been aware that its officers have engaged in numerous officer
6 violations involving unconstitutional searches and seizures and warrants issued without probable
7 cause, which could have been reasonably avoided had its officers employed nationally accepted
8 police tactics and techniques.

9 118. Yet despite this knowledge SPD has done nothing to train its officers in such
10 nationally accepted police tactics and techniques, to discipline them for their failures, or to hold
11 them accountable for their gross violations.

12 119. SPD's custom and practice of turning the other way when officers violate
13 individual rights, engaging in unlawful searches and seizures, and refusal to discipline involved
14 officers and/or employ additional training, ensures the likelihood of repeat situations and
15 continuous violations of the rights of citizens.
16

17 120. SPD's failure to provide proper training represents a policy for which Sparks is
18 responsible and for which Sparks is liable.

19 121. SPD's inadequate training demonstrates deliberate indifference on the part of SPD
20 towards McNeely, and others similarly situated, with whom police officers will routinely come
21 into contact.

22 122. In the course and scope of the investigation and dissemination of private
23 information of David McNeely, detectives Dach, Loeschner and both of them, either failed to
24 follow their training or they were improperly trained in how to achieve a complete investigation
25

1 and ensuring that McNeely's rights as a citizen remain protected as no crime was committed and
2 no civil regulations violated.

3 123. SPD's failure to train and supervise Defendants Loeschner and Dach caused the
4 humiliation and economic loss to McNeely and was at all times the moving force in McNeely's
5 humiliation and economic suffering.

6 124. As a direct and proximate result of SPD's failures, McNeely suffered, severe
7 emotional distress, mental anguish, humiliation and even economic loss as a result of his
8 interactions with Defendants.

9 125. The conduct alleged herein was done in reckless disregard of McNeely's
10 constitutionally protected rights; justifying an award of punitive damages as against the
11 individually named Defendants.

12 126. SPD's failure to train Defendants Dach and Loeschner resulted in the intentional,
13 reckless, and callous disregard for the life of McNeely and his constitutional rights.

14 127. The actions of Defendants Loeschner and Dach were willful, wanton, oppressive,
15 malicious, and unconscionable to any person of normal sensibilities.

16 128. Accordingly, Defendants and each of them are liable to Plaintiff for compensatory
17 damages.

18 129. Plaintiff also seeks statutory attorney fees and costs under this claim.

19
20 **THIRD CLAIM FOR RELIEF**
21 **42 U.S.C. §1983 –**
22 **Municipal Liability—Ratification**
23 **(As Against City of Sparks)**

24 130. Plaintiff repeats and realleges all prior paragraphs of this Complaint and
25 incorporates the same by reference herein.

131. A ratification theory may be established in two ways: 1) based on a "pattern" of

1 ratification that constitutes a practice or custom, or (2) based on a single act by an official with
2 policy making authority.

3 132. Upon information and belief SPD ratifies all excessive actions of its police
4 officers.

5 133. Policymakers for City of Sparks, have vigorously defended the City's police
6 officers for obtaining unlawfully seized information of McNeely and the unlawful unmasking of
7 his identity.

8 134. Upon information and belief, policy makers at the SPD have approved and
9 defended the City's police officers in their conduct in obtaining private information through
10 warrantless searches and seizures and gross abuses of the administrative subpoena process.

11 135. Upon information and belief, policy makers at the SPD have a custom and
12 practice of failing and/or refusing to discipline officers involved in systematically and unlawfully
13 seizing evidence.

14 136. Upon information and belief, policy makers at the SPD have a custom and
15 practice of improperly and systematically justifying violations of search and seizure rights that
16 are in fact unjustifiable.

17 137. Upon information and belief, policy makers at the SPD have failed to thoroughly
18 investigate many of its officer search and seizure violations and have a custom and practice of
19 failing to take remedial steps after such violations.

20 138. Upon information and belief, Sparks and SPD have ratified, condoned, approved,
21 and encouraged the use of warrantless searches and seizures by its officers including but not
22 limited to abuse of administrative subpoenas.
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1 146. Defendants' actions violated the constitutional rights guaranteed to McNeely by
2 the Fourth and Fourteenth Amendments of the United States Constitution.

3 147. Defendants' actions were not taken in good-faith and were in violation of clearly
4 established law.

5 148. Defendants intentionally, knowingly and with a wanton disregard for McNeely's
6 constitutional rights used administrative subpoenas to obtain private information and unlawfully
7 disclosed and disseminated said information for the purposes of humiliating him and destroying
8 his livelihood.

9 149. Defendants' actions were unnecessary, unreasonable, unlawful, and unjustified.

10 150. As a direct and proximate result of the Defendants' unreasonable and unlawful
11 actions, Plaintiff has suffered and continues to suffer substantial past and future damages, both
12 compensatory and general, including, but not limited to, loss of income, severe emotional
13 distress, mental anguish, embarrassment and humiliation.

14 151. Because Defendants' actions, and possibly other employees, agents, and/or
15 representatives of the Sparks Police Department, were "motivated by evil motive or intent"
16 and/or "involve[d] a reckless or callous indifference to the federally protected rights of [the
17 Plaintiff]," an award of punitive damages is appropriate to the fullest extent permitted by law.
18

19 152. As a direct, proximate and foreseeable result, Plaintiff suffered damages in an
20 amount according to proof at the time of trial.

21 153. Accordingly, Defendants and each of them are liable to Plaintiff for compensatory
22 damages, punitive damages, and attorney's fees and costs.

23 ///

24 ///

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FIFTH CLAIM FOR RELIEF

42 U.S.C. §1983 –

**Failure to Intervene in Violation of the 4th Amendment of the United States
Constitution**

(All Defendants)

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3
4 154. Plaintiff repeats and realleges all prior paragraphs of this Complaint and
5 incorporate the same by reference herein.

6 155. The Chief of the SPD is the “policymaker” with respect to SPD, as a law
7 enforcement agency. *See e.g., Revene v. Charles County Comm’rs*, 882 F. 2d 870, 874 (4th Cir.
8 1989).

9 156. Municipal liability can attach under *Monell v. Department of Social Services*, 436
10 U.S. 658 (1978), for even a single decision made by a final policymaker in certain circumstances,
11 regardless of whether or not the action is taken once or repeatedly. *See Pembaur v. City of Case*
12 *1:20-cv-00135-TSK 18 Cincinnati*, 475 U.S. 469, 481, 106 S. Ct. 1292, 89 L. Ed. 2d 452 (1986).
13 If an authorized policymaker approves a subordinate’s decision and the basis for it, such
14 ratification would be chargeable to the municipality under Monell. *See City of St. Louis v.*
15 *Praprotnik*, 485 U.S. 112, 127 (1988).
16

17 157. Defendant Crawforth, as the chief of police and policymaker for the City of
18 Sparks, has a custom, pattern, practice, and/or procedure of hiring police officers who he knows
19 have committed acts of constitutional violations and/or have a propensity to do so.

20 158. When these officers inevitably commit acts of violations while working for the
21 SPD, Defendant Crawforth would ratify their unconstitutional acts and assist in covering up the
22 officer’s bad actions by charging members of the community, who fall victim to these officers,
23 of crimes.
24
25

1 159. In the instances cited above, no person or law enforcement officer was in
2 imminent danger and no exigent circumstances existed to engage in unconstitutional conduct.

3 160. Defendant Crawford had a duty to intervene when Defendants Dach and
4 Loeschner were violating McNeely's constitutional rights, which resulted in excessive search,
5 unlawful seizure and humiliation and unmasking of McNeely.

6 161. Defendant Crawford observed and/or had reason to know that violation of
7 McNeely's rights against unlawful search and seizure were being inflicted without a legitimate
8 goal or justification.

9 162. Defendant Crawford had the opportunity and means to prevent the unlawful
10 search and seizure and subsequent disclosure of McNeely's information and identity, and/or
11 additional violations of McNeely's constitutionally protected rights from occurring.

12 163. Not only was Defendant Crawford deliberately indifferent to Defendant Dach
13 and Loeschner's unconstitutional searches and seizures, and subsequent actions, he encouraged
14 and ratified it.

15 164. "The concept of bystander liability is premised on a law officer's duty to uphold
16 the law and protect the public from illegal acts, regardless of who commits them." *See Randall v.*
17 *Prince George's Cty., Md.*, 302 F.3d 188, 203 (4th Cir. 2002). "[A]n officer may be liable under
18 § 1983, on a theory of bystander liability, if he: (1) knows that a fellow officer is violating an
19 individual's constitutional rights; (2) has a reasonable opportunity to prevent the harm; and (3)
20 chooses not to act." *Id.* at 204 (internal footnote omitted).

21 165. As a direct and proximate result of the Defendants' unreasonable and unlawful
22 actions, Plaintiff has suffered and continues to suffer substantial past and future damages, both
23
24
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1 compensatory and general, including, but not limited to, loss of income, severe emotional
2 distress, mental anguish, embarrassment, humiliation.

3 166. Because the Defendants' actions, and possibly other employees, agents, and/or
4 representatives of the SPD, were "motivated by evil motive or intent" and/or "involve[d] a
5 reckless or callous indifference to the federally protected rights of [the Plaintiff]," an award of
6 punitive damages is appropriate to the fullest extent permitted by law.

7 167. As a direct and proximate result of the SPD's customs, patterns, practices, and/or
8 procedures, as stated herein above, the Plaintiff's rights guaranteed to him by the Fourth
9 Amendment of the United States Constitution were violated.

10 168. As a direct and proximate result of the Defendants' unreasonable and unlawful
11 actions, the Plaintiff has suffered and continues to suffer substantial past and future damages,
12 both compensatory and general, including, but not limited to, loss of income, severe emotional
13 distress, mental anguish, embarrassment and humiliation.

14 169. Pursuant to *Monell v. Department of Social Services of New York*, 436 U.S. 658
15 (1978), the City of Sparks and the SPD, through its policymaker, Defendant Crawford (and
16 possibly other policymakers whose identities are not yet known) is liable for the harms and
17 losses sustained by McNeely.
18

19 **SIXTH CLAIM FOR RELIEF**
20 **Intentional Infliction of Emotional Distress**
21 **(Against All Defendants)**

22 170. Plaintiff repeats and realleges all prior paragraphs of this Complaint and
23 incorporates the same by reference herein.

24 171. By disclosing McNeely's private information, and all information unlawfully
25 obtained, despite the commission of no crime or civil infraction, Defendants engaged in actions

1 that were atrocious, intolerable, and so extreme and outrageous as to exceed the bounds of
2 decency.

3 172. Defendants acted with the intent to inflict emotional distress or acted recklessly
4 when it was certain or substantially certain that emotional distress would result from his
5 outrageous conduct.

6 173. Defendants' actions caused McNeely to suffer severe emotional distress as he was
7 and continues to be targeted for no reason, other than engaging in completely lawful conduct in
8 the course and scope of his profession as a private investigator.

9 174. The emotional distress and humiliation Mr. McNeely experienced was so severe,
10 no reasonable person could be expected to endure it.

11 175. As a direct and proximate result of the Defendants' unreasonable and unlawful
12 actions, Plaintiff has suffered and continues to suffer substantial past and future damages, both
13 compensatory and general, including, but not limited to, loss of income, severe emotional
14 distress, mental anguish, embarrassment and humiliation.

15 176. The actions of Defendants against the Plaintiff were carried out with (a) actual
16 malice and/or (b) a conscious, reckless, and outrageous indifference to the health, safety, and
17 welfare of others, thereby justifying an award of punitive damages to the fullest extent permitted
18 by law.

19 WHEREFORE, Plaintiff, David McNeely, demands judgment against the Defendants for:

20 a) Compensatory damages for all past and future economic losses and expenses incurred
21 by the Plaintiff as a result of the Defendants' misconduct;

22 b) General damages for all past and future physical pain, mental suffering, and emotional
23 distress suffered by the Plaintiff;
24
25

1 c) Punitive damages to the fullest extent permitted by law;

2 d) Pre-judgment and post-judgment interest;

3 e) Declare that the Defendants' acts, taken in their official capacities, as alleged above,
4 violate the First and Fourth Amendment to the United States Constitution;

5 f) Declare that the Defendants' acts, taken in their individual capacities, as alleged above,
6 violate the First and Fourth Amendment to the United States Constitution;

7 g) Immediately terminate Defendant Loeschner and Defendant Dach's employment
8 relationship with the SPD, without severance;

9 h) Enjoin Defendants from engaging in hiring practices that result in the hiring of police
10 officers without proper vetting or review

11 i) Order the Defendants to adopt and implement policies, training, accountability systems,
12 and practices to remedy the constitutional and statutory violations described herein;

13 j) Costs incurred in this action and reasonable attorney fees under 42 U.S.C. §1988; and

14 k) Such other further specific and general relief as may become apparent from discovery
15 as this matter matures for trial.
16

17 **PLAINTIFF DEMANDS A TRIAL BY JURY.**

18 Dated this 20th day of November, 2023.

19 CHATTAH LAW GROUP
20

21 /s/ Sigal Chattah

22 SIGAL CHATTAH, ESQ.

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