

IN THE UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF PENNSYLVANIA

PATRICIA GRUBBS,	)	Civil Action No.:
	)	
Plaintiff,	)	
	)	<i>Plaintiff's Complaint</i>
v.	)	
	)	
RUSSELL P. MILLER, JR.,	)	
ALLEN CLARKE, and	)	<u>Electronically Filed</u>
SOUTH CONNELLSVILLE BOROUGH,	)	
	)	
Defendants.	)	
	)	
	)	
	)	<b>JURY TRIAL DEMANDED</b>

**COMPLAINT**

AND NOW, comes Plaintiff Patricia Grubbs, by and through her undersigned counsel and the law firm of DODARO, MATTA & CAMBEST, P.C., and files the following Complaint, averring:

**I. INTRODUCTION**

1. Plaintiff Patricia Grubbs brings this action to seek relief for violations of her constitutional rights and statutory protections. Plaintiff was subject to malicious prosecution and asserts additional claims for fabrication of evidence, civil conspiracy to violate constitutional rights, failure to train, municipal liability under *Monell*, and a pendent state law claim for intentional infliction of emotional distress. Plaintiff brings this action pursuant to 42 U.S.C. §§ 1983, and 1988 for relief through compensatory damages, injunctive relief and attorney's fees stemming from Defendants' violations of Plaintiff's rights.

2. As described herein, Patricia Grubbs was the victim of a malicious scheme by the South Connellsburg Borough Chief of Police Russell P. Miller, Jr. Throughout the events giving

rise to these claims, Mrs. Grubbs was acting in the role of a concerned mother attempting to protect her daughter from an abusive relationship with Defendant Clarke. Miller developed a personal vendetta against Mrs. Grubbs and thwarted any attempts she made to ensure her daughter's safety by threatening legal action when she attempted to file police reports regarding Clarke's violent conduct against her daughter. In an opportune moment, Miller made those threats a reality by coordinating with Clarke to fabricate evidence to procure false charges against Mrs. Grubbs. Miller's deliberate and gross misuse of his authority subjects him and the Borough of South Connellsville to liability for violating Mrs. Grubbs' constitutional rights. Clarke in providing the fabricated evidence and urging Miller to file these charges, elevates his role to that of a state actor and subjects him to liability consistent with that role.

## **II. JURISDICTION AND VENUE**

3. This action is brought pursuant to 42 U.S.C. §§ 1983, 1988 and the Fourth and Fourteenth Amendments of the United States Constitution. This Court has jurisdiction over Plaintiff's claims under 28 U.S.C. § 1331 (federal question) and under 28 U.S.C. § 1343(3) (civil rights). This Court has jurisdiction over the Plaintiff's pendent state law claims under 28 U.S.C. §1337 (supplemental jurisdiction) as those claims form part of the same case or controversy under Article III of the United States Constitution.

4. Plaintiff invokes the supplemental jurisdiction of this Court to hear and decide claims arising under state law. All of the events alleged herein occurred within the Commonwealth of Pennsylvania, and all of the parties are residents of the Commonwealth of Pennsylvania.

5. Venue is proper as all claims set forth herein arose in the Western District of Pennsylvania and the Plaintiff is a resident of this District. Venue is found pursuant to 28 U.S.C. § 1391(b).

### **III. PARTIES**

6. Plaintiff Patricia Grubbs (“Mrs. Grubbs”) is an adult who resides in South Connellsville Borough, Fayette County, Pennsylvania.

7. Defendant Russell Miller, Jr. (“Miller”) is currently the Chief of Police for the South Connellsville Borough Police Department and a resident of this District. At all times relevant to this action, Miller acted under color of state law. Presently, Miller is on administrative suspension pending his criminal prosecution in Fayette County for misuse of his authority.

8. Defendant Allen Clarke (“Clarke”) is an adult who resides in South Connellsville Borough, Fayette County, Pennsylvania. Clarke and Mrs. Grubbs’ daughter were involved in a romantic relationship, and are parents to Mrs. Grubbs’ granddaughter.

9. Defendant South Connellsville Borough (hereafter “Borough”) is a municipal corporation constituted and existing under the laws of the Commonwealth of Pennsylvania. The Borough, as a municipality, conducts business from 1503 South Pittsburgh Street, Connellsville, PA 15425, and is charged by statute with administering the government for its jurisdiction. The Borough operates a police department, which was, at all times relevant to this action, under the leadership of Miller.

### **IV. FACTS**

10. During the Spring of 2016, Miller developed a personal vendetta against the South Connellsville Borough Volunteer Fire Department and its supporters. During this time, Miller began routinely abusing his authority in executing a scheme with the objective of harassing these individuals.

11. The Grubbs family is well known in the Borough for their active involvement with the Department and Mrs. Grubbs fell victim to Miller’s plan beginning in May 2016.

12. Bethany Pazicni, Mrs. Grubbs' daughter, was involved in a romantic relationship with Allen Clarke.

13. Throughout the Spring of 2016, Clarke began physically and mentally abusing Miss Pazicni. On multiple occasions, the police were contacted, but Clarke's actions were allowed to continue without substantial consequences because the police protected him.

14. In that regard, it is believed and averred that Clarke avoided serious criminal charges because of his unusually close relationship with Miller and other Borough police officers. Clarke regularly socializes with Miller and Officer Alex Byers ("Byers") even when they are on duty.

15. In one incident occurring on or about May 24, 2016, Clarke became violent towards Miss Pazicni, kicked holes in the walls of her home and caused substantial damage to a vehicle owned by Mrs. Grubbs. Miss Pazicni called the police and fled her residence out of fear that she or her young daughter would be seriously harmed by Clarke.

16. Clarke continued to abuse and threaten Miss Pazicni without any legal repercussions. Mrs. Grubbs requested and was granted a meeting with members of Borough Council in search of some form of protection for her daughter. Defendant Miller was in attendance at the meeting and threatened Mrs. Grubbs with criminal charges if she attempted to file any more police reports against Clarke.

17. Throughout the Summer of 2016, Clarke made frequent threats to kill Miss Pazicni, and on at least one occasion, he grabbed her by her hair and threw her across her kitchen.

18. This incident led Miss Pazicni to file for a Protection from Abuse Order ("PFA") against Clarke. On August 8, 2016, the Court of Common Pleas of Fayette County, Pennsylvania, granted the PFA prohibiting Clarke from abusing, harassing, stalking or threatening Miss Pazicni.

The Order also evicted Clark from Pazicni's residence and awarded sole, temporary custody of their daughter to Miss Pazicni. The PFA required the South Connellsville Police Department to enforce the Order. Based on the PFA Order, the Borough Police Department had the authority to arrest Clarke for his conduct towards Miss Pazicni.

19. Despite the PFA, Clarke continued to victimize Miss Pazicni by threatening to kill her through verbal comments and text messages into September 2016. On one occasion, Clarke told Eric Grubbs, Mrs. Grubbs' husband, that he would kill his entire family.

20. On or about September 7, 2016, Clarke again threatened to kill Miss Pazicni by stating that he would "gut her like a fish." Mrs. Grubbs and Miss Pazicni called the police to report this violation of the PFA Order, but Clarke was not charged and faced no consequences.

21. Throughout this period, Mrs. Grubbs and her daughter repeatedly reported violations of the PFA Order by Clarke to the South Connellsville Police Department. However, the Police, under the directive of Miller, never enforced the PFA Order as required.

22. It is believed and averred that Miller instructed his subordinate officers to ignore any reports from Mrs. Grubbs or Ms. Pazicni. Additionally, Miller told Mrs. Grubbs and Miss Pazicni that "he did not care to hear about any further alleged violations of the Order" and that if any more reports were made, they would face criminal charges.

23. Throughout these events, it is believed that Clarke and Miller began meeting and conspiring to formulate a plan to violate Plaintiff's civil liberties. While Clarke and Miller harnessed their own individual motives, they shared the objective to harm Mrs. Grubbs. Miller wanted to continue his crusade in harassing individuals affiliated with the South Connellsville Volunteer Fire Department and the Grubbs family. Clarke wanted to seek revenge against the family of Miss Pazicni for filing a PFA against him.

24. On September 9, 2017, Clarke petitioned the Court of Common Pleas for his own PFA Order against Miss Pazicni, which was denied.

25. On the same day, Miller, at Clarke's urging, filed three criminal charges against Mrs. Grubbs, all of which were based on fabricated evidence. Mrs. Grubbs was charged with one count of "Terroristic Threats with the Intent to Terrorize Another," one count of "Disorderly Conduct," and one count of "Harassment". A true and correct copy of the criminal complaint is incorporated herein and attached hereto at Exhibit "A."

26. In the Affidavit of Probable Cause, Miller stated the following to support his filing of the charges:

"on or about 09-09-2016, at approximately 15:30 hours, Allen Clarke visited South Connellsville Police Station with a mobile device containing a photograph of Patty Grubbs driving past his residence at which time she made a verbal threat out of the vehicles window "Your (sic) Next" causing alarm to the residents. The Actor has been warned by me several occasions to refrain from driving past the residence and not to engage the residents in any manner. The Actor has also made verbal statements to the victim including "If I Have My Daughter Around Another Woman She'll Blow My Head Off With A Gun". The actor has also had threats conducted by a third party toward the victim, all involved parties have been advised by multiple officer of this department to discontinue this disorderly and harassing behavior."

27. The events alleged in the Affidavit of the Criminal Complaint were completely fabricated by Clarke and Miller. In fact, on September 9, 2016, Mrs. Grubbs was at her residence homeschooling her Autistic grandson. At no point on September 9, 2016, did Mrs. Grubbs drive past Clarke's house, yet alone make the falsely alleged threats towards him.

28. It is believed and averred that the photograph mentioned in the Affidavit was taken by Clarke on September 7, 2016. However, the photograph was actually a picture of Mrs. Grubbs' unoccupied vehicle that was parked a few houses down the street from Clarke's residence.

29. It is further believed that Clarke attempted to utilize this photograph as a basis to obtain an PFA Order against Miss Pazicni. When that attempt failed, Clarke and Miller agreed that they would use the photo, as well as Clarke's fabricated statement as a basis for Miller to file criminal charges against Mrs. Grubbs.

30. Clarke also attempted to utilize the falsely initiated charges as leverage to pressure Miss Pazicni to drop the PFA against him. Clarke stated to Mrs. Grubbs that if Miss Pazicni dropped the PFA Order, he would direct Miller to withdraw the criminal charges against her.

31. Mrs. Grubbs was subject to an unsecured bond in an amount of Five Thousand (\$5,000) Dollars to ensure her attendance at court proceedings taking place over a period of six months. A true and correct copy of UJS Portal Dockets are incorporated herein and attached hereto as Exhibit "B."

32. Consistent with Mrs. Grubbs' claims that the charges filed against her were faslse, the Honorable Judge George M. Joseph, Jr., granted the Fayette County District Attorney's Motion for a Nolle Presequi on March 28, 2017. A true and correct copy of the Motion and Order is incorporated herein and attached hereto as Exhibit "C."

33. Prior to the disposition of Mrs. Grubbs' charges, Miller was charged with one count of "Official Oppression," a violation of the Crimes Code, by the Fayette County District Attorney's Office on October 11, 2016. The allegations that Miller is facing include using his position as Chief of Police to intimidate and stifle the protected free speech of Borough resident Mary Lubich-Riley, who is also affiliated with the South Connellsville Volunteer Fire Department, and attended public meetings to seek redress and raise concerns of police misconduct. Miller charged Lubich-Riley with one count of "Harassment." A true and correct copy of the UJS Portal Docket are incorporated herein and attached hereto as Exhibit "D."

34. Following his arrest, the Borough placed Miller on restricted duty. Upon information and belief, Miller's restrictions do not allow him to wear a uniform, make arrests or issue citations, but he is merely allowed to attend hearings for charges he filed and perform other administrative duties.

35. It is believed and averred that throughout Miller's tenure as Chief of Police, he operated under a policy that resulted in the suppression of the constitutional rights of Borough citizens. His actions of fabricating evidence and maliciously prosecuting these individuals established a pattern throughout his term.

36. In the first known instance evidencing this policy, Miller directed an officer within his police department to file serious criminal charges against Amanda Burnsworth, which were supported by a false Affidavit of Probable Cause that contained a fabricated series of events. Accordingly, each charge was dismissed at a preliminary hearing.

37. Then in the Spring of 2016, Miller falsely arrested Borough resident Kenneth Harshman. Miller threatened Mr. Harshman with serious criminal charges if he did not agree to provide a statement that would implicate other supporters of the Borough's Volunteer Fire Department. Miller had no probable cause to arrest Mr. Harshman at any point, but fabricated evidence to procure Harshman's arrest in order to induce a false witness statement from him while under duress.

38. Later that year, on September 9, 2016, Miller filed charges of "Disorderly Conduct" and "Harassment" against Bethany Pazicni. Both of these charges were filed on the basis of fabricated evidence and dismissed at a summary trial.

39. Even in light of these allegations, Borough Council continues to support Miller and his actions of infringing upon constitutional rights of Borough citizens as evidence by statements

made to the media by Borough Council President during a recent three-part series of articles published in the Herald Standard. True and correct copies of the articles are attached hereto as Exhibit "D."

40. In these articles, Holbrook stated her belief that the Borough has a "very good police department" and that she looks forward to Miller being "vindicated and back to work."

41. Miller abused his authority in prosecuting law-abiding citizens of the Borough and he allowed Allen Clarke free reign to abuse Mrs. Grubbs' daughter throughout the remainder of 2016 and into 2017.

42. Instead of prosecuting Clarke for violations of the PFA Order against him, Miller instead chose to protect him and agree to falsely prosecute Mrs. Grubbs who was acting lawfull to shield her family.

43. Clarke's repeated threats to kill Miss Pazicni and his constant stalking of the Grubbs family received no response from Miller or the Borough Police Department.

44. Clarke's extreme and outrageous behavior of violence towards her daughter and family left Mrs. Grubbs extremely distressed and fearful that significant harm would fall upon her loved ones.

45. Clarke continues to drive past the residences of Mrs. Grubbs and Miss Pazicni in his modified vehicle while blasting his obnoxiously loud exhaust system. These actions are done with the intent of instilling fear.

46. Clarke has been observed socializing with Byers at the police station, with the two working on Clarke's vehicle in the parking lot. The two have also been observed racing their vehicles through the streets of South Connellsville.

47. Miller and Borough council president Karen Holbrook continue to grant Clarke impunity and provide him with certain privileges that other citizens are not afforded. Upon information and belief, Clarke was present at the Borough municipal office meeting privately with Miller and Holbrook on or about May 5, 2017. Clarke's relationship with Borough authorities not only remains strong, but is evidently becoming intertwined with Borough business.

48. During all of these events giving rise to this cause of action, Mrs. Grubbs was left with no authorities to turn to ensure the protection of her family without facing additional baseless charges. Miller's decision to allow a disturbed, violent and unstable individual to run amuck through the Borough of South Connellsville, while Miller targeting Mrs. Grubbs, is another example of how his actions as Chief of Police victimized innocent civilians instead of upholding the law to protect them.

V. CLAIMS

**COUNT I – MALICIOUS PROSECUTION UNDER 42 U.S.C. § 1983**

*Plaintiff vs. Defendant Miller and Defendant Clarke*

49. Mrs. Grubbs hereby incorporates all other paragraphs of this Complaint as if fully set forth herein. 42 U.S.C. § 1983 provides that:

Every person, who under color of any statute, ordinance, regulation, custom or usage of any state or territory or the District of Columbia subjects or causes to be subjected any citizen of the United States or other person within the jurisdiction thereof to the deprivation of any rights, privileges or immunities secured by the constitution and law shall be liable to the party injured in an action at law, suit in equity, or other appropriate proceeding for redress...

50. Mrs. Grubbs is a citizen of the United States and Defendants in this count are persons as pursuant to 42 U.S.C. § 1983 and acted under color of state law.

51. To recover under Section 1983 for malicious prosecution, a plaintiff must show that: (1) defendants initiated a criminal proceeding; (2) the criminal proceeding ended in plaintiff's

favor; (3) the proceeding was initiated without probable cause; (4) defendants acted maliciously or for a purpose other than bringing plaintiff to justice; and (5) plaintiff suffered a deprivation of liberty consistent with the concept of a seizure as a consequence of a legal proceeding.

52. As set forth above, Mrs. Grubbs was subjected to a false criminal proceeding initiated by Clarke and Miller. Clarke fabricated a report and provided the information to Miller, who filed the criminal complaint against Mrs. Grubbs even though he knew the allegations were false.

53. The criminal proceeding ended in Plaintiff's favor when the District Attorney filed and was granted a Motion for Leave to Enter a Nolle Prosequi on March 28, 2017.

54. The criminal proceeding was initiated without probable cause because the evidence of which the charges were based was fabricated, and no additional evidence was ever presented by Clarke or Miller to support them.

55. Defendants Clarke and Miller acted maliciously or for a purposes other than bringing Mrs. Grubbs to justice because they initiated the criminal proceedings to harass Mrs. Grubbs and Clarke attempted to leverage the charges to pressure Mrs. Grubbs' daughter to drop the PFA Order against him.

56. Mrs. Grubbs suffered a deprivation of liberty that is consistent with the concept of a seizure because she was subject to bail in the amount of \$5,000 to ensure her attendance at any court dates. Additionally, Mrs. Grubbs suffered a deprivation of her procedural due process rights guaranteed by the Fourteenth Amendment because Miller and Clarke fabricated evidence in order to initiate the criminal proceedings. Plaintiff is entitled to damages.

WHEREFORE, Plaintiff demands judgement in her favor and against Defendants (at this count) in an amount in excess of \$75,000, plus interest, costs of suit, reasonable attorneys' fees,

punitive damages, and any other relief to which she is entitled and that this Court deems just and proper.

**COUNT II – FABRICATION OF EVIDENCE UNDER 42 U.S.C. § 1983**

*Plaintiff v. Defendant Miller and Defendant Clarke*

57. Mrs. Grubbs hereby incorporates all other paragraphs of this Complaint as if fully set forth herein. 42 U.S.C. § 1983 provides that:

Every person, who under color of any statute, ordinance, regulation, custom or usage of any state or territory or the District of Columbia subjects or causes to be subjected any citizen of the United States or other person within the jurisdiction thereof to the deprivation of any rights, privileges or immunities secured by the constitution and law shall be liable to the party injured in an action at law, suit in equity, or other appropriate proceeding for redress...

58. Mrs. Grubbs is a citizen of the United States and Defendants in this count are persons as pursuant to 42 U.S.C. § 1983 and acted under color of state law.

59. To recover under Section 1983 for a fabrication of evidence claim under the Due Process Clause of the Fourteenth Amendment, a plaintiff must first show that falsified evidence was used as a basis to initiate the prosecution against them.

60. The Plaintiff must prove that there is a reasonably likelihood that, absent the fabricated evidence, the charges would not have been initiated. To establish the reasonably likelihood standard, a plaintiff must draw a meaningful connection between the particular due process injury and the use of fabricated evidence against her.

61. Further, a plaintiff must demonstrate that the fabricated evidence is so significant that it could have affected the outcome of the criminal case.

62. As stated in paragraphs 25 through 30 above, Defendants Miller and Clarke fabricated evidence, which Miller used to initiate criminal charges against Mrs. Grubbs.

63. Without the falsely alleged evidence contained in the fabricated criminal complaint, there exists a reasonable likelihood that these changes would not have been filed because there exists no independent evidence for Miller and Clarke to initiate them. A meaningful connection between the fabricated evidence and the deprivation of Mrs. Grubbs' due process rights exists because without the evidence, those rights would not have been violated.

64. The fabricated evidence affected the outcome of the case, because it was the only evidence used to initiate the criminal proceedings against Mrs. Grubbs. Without it, she would have never been charged and forced to attend court proceedings.

65. Based on this fabricated evidence through the actions of Miller and Clarke, Mrs. Grubbs suffered a deprivation of her procedural due process rights under the Fourteenth Amendment, and Plaintiff is entitled to damages.

WHEREFORE, Plaintiff demands judgement in her favor and against Defendants (at this count) in an amount in excess of \$75,000, plus interest, costs of suit, reasonable attorneys' fees, punitive damages, and any other relief to which she is entitled and that this Court deems just and proper.

**COUNT III – MUNICIPAL LIABILITY UNDER MONELL**

*Plaintiff v. Defendant Borough of South Connellsville*

66. Mrs. Grubbs hereby incorporates all other paragraphs of this Complaint as if fully set forth herein.

67. A municipality may be held liable for its employees' violation of a citizen's constitutional rights under Section 1983, which is generally regarded as a *Monell* claim.

68. To prevail on a *Monell* claim, Mrs. Grubbs must show a policy or custom created by a policy maker that caused the alleged constitutional violation. In order to succeed under this

theory, the Plaintiff must establish an affirmative link between the policy and custom and the particular constitutional violation.

69. Here, the South Connellsville Police Department operated under a municipal policy or custom created by Borough Council and directed through Miller of violating constitutional rights and civil liberties of members of the Fire Department, its supporters and members of the Grubbs family.

70. Miller functioned under a policy where he fabricated evidence and maliciously prosecuted residents of the Borough. This policy is evident because Miller fabricated evidence and initiated baseless criminal charges against Ms. Burnsworth, Mr. Harshman, Miss Pazicni and Mrs. Grubbs.

71. This conduct is evidence that Miller's fabrication of evidence and malicious prosecution is akin to the standard operating procedure of the Borough. Miller never faced disciplinary action by Borough Council, which leads one to believe that they approved of his tactics as pursuant to Borough policy.

72. Upon complaints by residents, including Mrs. Grubbs, and after a request for police assistance, by her and her daughter, Borough Council not only ignored their concerns, but engaged in a policy or custom directed at trampling their constitutional rights.

73. As a direct and proximate result of the Borough policy or custom, Mrs. Grubbs suffered cognizable harm including the violation of her constitutional rights as set forth above.

WHEREFORE, Plaintiff demands judgement in her favor and against Defendants (at this count) in an amount in excess of \$75,000, plus interest, costs of suit, reasonable attorneys' fees, punitive damages, and any other relief to which she is entitled and that this Court deems just and proper.

**COUNT IV – FAILURE TO TRAIN PURSUANT TO 42 U.S.C. § 1983**

*Plaintiff v. Defendant Borough of South Connellsville*

74. Mrs. Grubbs hereby incorporates all other paragraphs of this Complaint as if fully set forth herein. 42 U.S.C. § 1983 provides that:

Every person, who under color of any statute, ordinance, regulation, custom or usage of any state or territory or the District of Columbia subjects or causes to be subjected any citizen of the United States or other person within the jurisdiction thereof to the deprivation of any rights, privileges or immunities secured by the constitution and law shall be liable to the party injured in an action at law, suit in equity, or other appropriate proceeding for redress...

75. Mrs. Grubbs is a citizen of the United States and Defendants in this count are persons as pursuant to 42 U.S.C. § 1983 and acted under color of state law.

76. Based on the facts above, Defendant Miller, as the officer in charge of the department and Borough Council with supervisory authority should have discontinued the use of threatening and coercive tactics and should have acted to train Miller to cease fabricating evidence and maliciously prosecuting citizens, like Ms. Burnsworth, Mr. Harshman, Miss Pazicni and Mrs. Grubbs.

77. The Borough policy makers were on actual or constructive notice that a particular omission in their training program caused Miller to violate Mrs. Grubbs' constitutional rights because there exists a pattern of Miller fabricating evidence and maliciously prosecuting citizens prior to doing so with Mrs. Grubbs.

78. Thus, the conduct of Miller in failing to adhere to department policy evidences that the need for more or indifferent training was so obvious and so likely to lead to the violation of Plaintiff's constitutional rights, that the policymaker's failure to train amounts to deliberate indifference. Thus, Defendant at this count was deliberately indifferent to the rights of Mrs. Grubbs

and other Borough citizens, and their failure correct the problem through effective training or discipline subjects them to liability.

WHEREFORE, Plaintiff demands judgement in her favor and against Defendants (at this count) in an amount in excess of \$75,000, plus interest, costs of suit, reasonable attorneys' fees, punitive damages, and any other relief to which she is entitled and that this Court deems just and proper.

**COUNT V – FAILURE TO SUPERVISE PURSUANT TO 42 U.S.C. § 1983**

*Plaintiff v. Defendant Borough of South Connellsville*

79. Mrs. Grubbs hereby incorporates all other paragraphs of this Complaint as if fully set forth herein. 42 U.S.C. § 1983 provides that:

Every person, who under color of any statute, ordinance, regulation, custom or usage of any state or territory or the District of Columbia subjects or causes to be subjected any citizen of the United States or other person within the jurisdiction thereof to the deprivation of any rights, privileges or immunities secured by the constitution and law shall be liable to the party injured in an action at law, suit in equity, or other appropriate proceeding for redress...

80. Mrs. Grubbs is a citizen of the United States and Defendants in this count are persons as pursuant to 42 U.S.C. § 1983 and acted under color of state law.

81. As fully set forth above, Defendant Borough of South Connellsville failed to adequately supervise Defendant Miller in executing his duties as Chief of Police. The borough allowed Miller free reign to abuse his authority to maliciously prosecute and fabricate evidence against Borough citizens, including Mrs. Grubbs.

82. The Borough's failure to supervise Miller amounted to a deliberate indifference to the fact that such inaction would obviously result in the violation of Mrs. Grubbs' constitutional rights under the Fourth Amendment and the due process clause under the Fourteenth Amendment. Borough Council was on notice because there were instances of citizens complaining about

Miller's conduct at Council meetings, but Miller was never punished until charges were filed against him.

83. Borough Council knew that Miller would confront a situation where he would abuse his authority to infringe upon the constitutional rights of citizens like Mrs. Grubbs, because Miller engaged in a pattern of maliciously prosecuting citizens and fabricating evidence to support those charges.

84. Miller's decision in maliciously prosecuting and fabricating evidence against Mrs. Grubbs is a matter that Miller had a history of mishandling as demonstrated when Miller took the same actions against Ms. Burnsworth, Mr. Harshman and Miss Pazicni.

85. A wrong choice in situations like that of Mrs. Grubbs will almost always cause a deprivation of constitutional rights of Borough citizens. Miller's choice to fabricate evidence to maliciously prosecute citizens like Mrs. Grubbs was certain to cause a deprivation of constitutional rights under the Fourth and Fourteenth Amendments.

86. Defendant Borough's failure to supervise Miller proximately caused the deprivation to Mrs. Grubbs' constitutional rights under the Fourth and Fourteenth Amendments because if the Borough was adequately supervising Miller, Mrs. Grubbs' rights would not have been violated.

WHEREFORE, Plaintiff demands judgement in her favor and against Defendants (at this count) in an amount in excess of \$75,000, plus interest, costs of suit, reasonable attorneys' fees, punitive damages, and any other relief to which she is entitled and that this Court deems just and proper.

**COUNT VI – FAILURE TO INVESTIGATE PURSUANT TO 42 U.S.C. § 1983**

*Plaintiff v. Defendant South Connellsville Borough*

87. Mrs. Grubbs hereby incorporates all other paragraphs of this Complaint as if fully set forth herein. 42 U.S.C. § 1983 provides that:

Every person, who under color of any statute, ordinance, regulation, custom or usage of any state or territory or the District of Columbia subjects or causes to be subjected any citizen of the United States or other person within the jurisdiction thereof to the deprivation of any rights, privileges or immunities secured by the constitution and law shall be liable to the party injured in an action at law, suit in equity, or other appropriate proceeding for redress...

88. Mrs. Grubbs is a citizen of the United States and Defendants in this count are persons as pursuant to 42 U.S.C. § 1983 and acted under color of state law.

89. Borough Council failed to investigate complaints that Defendant Miller was abusing his authority in maliciously prosecuting and fabricating evidence against citizens like Mrs. Grubbs.

90. In failing to investigate, the Borough was deliberately indifferent to the fact that inaction would obviously result in Miller violating Mrs. Grubbs' rights under the Fourth and Fourteenth Amendment. The Borough was on notice that Miller was abusing his authority in this manner because he maliciously prosecuted and fabricated evidence against other Borough citizens. Instead of investigating, the Borough offered their support in comments to the media.

91. The Borough knew that Miller would confront this situation again, which he had a history of mishandling because of his prior conduct in these situations when he maliciously prosecuted and fabricated evidence against Ms. Burnsworth, Mr. Harshman and Miss Pazicni. In these situations, the wrong choice by Miller would frequently cause a deprivation of constitutional rights guaranteed by the Fourth and Fourteenth amendments.

92. Defendant Borough's failure to investigate is a proximate cause to the deprivation of Mrs. Grubbs' Fourth and Fourteenth Amendment rights because had they investigated Miller's conduct upon complaints from Borough citizens, they would have been able to intervene and discipline Miller prior to him infringing the rights of Mrs. Grubbs.

WHEREFORE, Plaintiff demands judgement in her favor and against Defendants (at this count) in an amount in excess of \$75,000, plus interest, costs of suit, reasonable attorneys' fees, punitive damages, and any other relief to which she is entitled and that this Court deems just and proper.

**COUNT VII – CIVIL CONSPIRACY TO VIOLATE CONSTITUTIONAL RIGHTS  
UNDER 42 U.S.C. § 1983**

*Plaintiff v. Defendant Miller and Defendant Clarke*

93. Mrs. Grubbs hereby incorporates all other paragraphs of this Complaint as if fully set forth herein.

94. Defendant Miller and Defendant Clarke engaged in a conspiracy to suppress Mrs. Grubbs' constitutional rights, by meeting and planning to initiated false criminal charges on the basis of fabricated evidence.

95. Miller and Clarke engaged in this conspiratorial acts with the intent to violate Mrs. Grubbs' rights, privileges or immunities and her due process rights as guaranteed by the constitution. By fabricating evidence, they acted with intent to secure the malicious prosecution of Mrs. Grubbs. Miller and Clarke acted in a manner that exceeded any privilege they may have had.

96. Individual Defendants agreed and understood that they would plot, plan, conspire or act in concert, with respect to the deprivation of Plaintiff's rights by fabricating evidence and initiating false criminal charges against her.

97. Miller and Clarke had a meeting of the minds because they agreed to take actions which would further their collective objective of harming Mrs. Grubbs by initiating false criminal proceedings based on their fabricated evidence.

98. Miller and Clarke took affirmative acts in furtherance of the conspiracy by fabricating evidence and initiating false criminal charges against Mrs. Grubbs.

99. Plaintiff suffered serious injuries and damages as a result of Miller and Clarke's conspiracy to violate her constitutional rights.

WHEREFORE, Plaintiff demands judgement in her favor and against Defendants (at this count) in an amount in excess of \$75,000, plus interest, costs of suit, reasonable attorneys' fees, punitive damages, and any other relief to which she is entitled and that this Court deems just and proper.

**COUNT VIII – INTENTIONAL INFILCTION OF EMOTIONAL DISTRESS**

*Plaintiff v. Defendant Miller and Defendant Clarke*

100. Mrs. Grubbs hereby incorporates all other paragraphs of this Complaint as if fully set forth herein.

101. As outlined in the preceding paragraphs, Miller and Clarke engaged in continuous and ongoing conduct aimed at harming Mrs. Grubbs. Such conduct was intentional, reckless and/or willful, extreme and outrageous, without privilege or justification.

102. Miller and Clarke, through their conduct as described above, desired to inflict serious emotional distress upon Mrs. Grubbs and knew, with substantial certainty, that distress to Mrs. Grubbs was a substantial certainty because they intended to cause extreme fear to Mrs. Grubbs and achieved that goal.

103. Miller and Clarke's conduct has been so outrageous in character and so extreme in degree, as to go beyond all possible bounds of decency, such that it is atrocious and utterly intolerable in a civilized society. Their conduct, which meets this standard, included, *inter alia*, subjecting Mrs. Grubbs to extreme fear of arrest, preventing her from protecting her daughter by reporting Clarke's conduct, routine death threats from Clarke concerning her family, and ultimately fabricating evidence to procure her malicious prosecution.

104. Miller and Clarke's conduct was so egregious in nature that it has caused Mrs. Grubbs severe emotion distress, which includes, amongst other things, depression and anxiety.

105. It was foreseeable and certain that Miller and Clarke's conduct would cause Mrs. Grubbs to suffer severe emotion distress because they took their actions with the intent to cause the exact distress that manifested.

106. Mrs. Grubbs severe emotion distress has transformed into physical symptoms and ailments that can be demonstrated by and through competent medical evidence.

107. Miller and Clarke's conduct in causing Mrs. Grubbs' malicious prosecution through their fabrication of evidence was the direct and proximate cause of her severe emotional distress and physical ailments, such that she has suffered compensable harm for injuries as follows:

- a. Gross deprivation of her constitutional rights;
- b. Severe emotional distress, fright, horror and shock;
- c. Anxiety;
- d. Emotional trauma and suffering, crying, depression, hopelessness; and
- e. Gastrointestinal discomfort, nausea, and pain.

WHEREFORE, Plaintiff demands judgement in her favor and against Defendants (at this count) in an amount in excess of \$75,000, plus interest, costs of suit, reasonable attorneys' fees,

punitive damages, and any other relief to which she is entitled and that this Court deems just and proper.

**VI. PRAYER FOR RELIEF**

WHEREFORE, Plaintiff respectfully prays that this Honorable Court grant the following relief:

- a. Issue a permanent injunction:
  - (i). Requiring defendants to abolish reprisal
  - (ii). Requiring removal or demotion of all employees who have violated the law and failed to meet their legal responsibility to promptly investigate complaints or take effective action to stop and deter prohibited police practices against the public;
- b. Issue an order requiring Defendants to retroactively restore Plaintiff to her previous condition, by, among other things, requiring them to issue a public apology;
- c. For such damages as Plaintiff is entitled to under the Civil Rights Act and the Rehabilitation Act;
- d. For other and further damages as may be proven at trial.
- e. For an order commanding Defendants and each of them to cease and desist from any practice which retaliates against Plaintiff because she complained about wrongdoing;
- f. For an award of costs of suit including reasonable attorney's fees, including fees under 29 U.S.C. § 216(b); and for such other and further relief as the Court may consider just and proper;
- g. For a restraining order preventing Defendants from contact with Plaintiff or reprisal against her.

**DEMAND FOR JURY TRIAL**

Plaintiff hereby demands a jury trial for each claim herein for which she has a right to a jury.

Dated: April 28, 2017

Respectfully submitted,

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