UNITED STATES DISTRICT COURT

DISTRICT OF MINNESOTA

Daniel A. Rassier, and Rita Rassier,	**CASE FILE NO.:**
Plaintiffs,	
v.	**COMPLAINT**
JOHN SANNER; PAM JENSEN; STEARNS COUNTY, MINNESOTA; and KEN MCDONALD,	**CIVIL ACTION - LAW** **JURY TRIAL DEMANDED**
Defendants.	

To: Defendants above named and their respective attorneys. This is an action for damages brought pursuant to 42 U.S.C. §§ 1983, and various Amendments to the United States Constitution. The Plaintiff also brings Minnesota common law claims including defamation and intentional infliction of emotional distress.

I. INTRODUCTION; SUMMARY OF CONTENTS

1. This action arises primarily out of the investigation by Minnesota law enforcement agencies of the October 22, 1989 abduction and murder of minor, Jacob Wetterling, a crime that became the highest profile criminal case investigation in state history.

2. For many years, the Stearns County Sheriff's Office (SCSO), under the authority of Stearns County, Minnesota, had investigated high profile criminal cases with little success and had an overall poor crime clearance rate before and after 10/22/89 when compared to other Minnesota law enforcement agencies.

3. In 1989, the Federal Bureau of Investigation (FBI), after a request by local state agencies to become involved, developed solid leads on a suspect who resided in Paynesville, Minnesota, part of Stearns County, for the Wetterling abduction. The FBI determined a connection between the Wetterling abduction and an unsolved kidnap and sexual assault of a boy in Cold Spring, also part of Stearns County, that occurred on January 13, 1989.

4. Investigators eliminated Plaintiff Daniel A. Rassier as a suspect soon after Jacob's abduction due in part to his credible identification of two motor vehicles he witnessed operated by a driver on the farm property where he lived (the abduction occurred near Plaintiffs' long driveway) on 10/22/89, the date of Jacob's abduction. His descriptions were similar to vehicles used by the perpetrator of the 1/13/89 sexual assault and the attempted abductions of boys before and after Jacob's abduction, one right in the same St. Joseph neighborhood where Jacob was abducted.

5. For reasons delineated herein, conflict developed between the FBI, SCSO BCA, and, the Stearns County District Attorney's Office (SCDAO), and these entities thwarted the progress of the FBI which was in the process of solving both crimes in 1990. This conduct allowed the suspect to escape the net, and he was free for almost 26 years. This suspect was definitively determined to be the actual perpetrator of both crimes in September of 2016.

6. Beginning in 2004, Defendants Sanner (he became sheriff of Stearns County in 2003), Jensen, and McDonald, pursued Plaintiff [1], an innocent man and important witness, as a suspect based on a so called abduction-on-foot theory that would lead nowhere in terms of solving the Wetterling crime. These three (the conspirators) did not consult the FBI regarding their theory, and this decision/course of conduct would become the strangest, most embarrassing moment in the annals of Minnesota case criminal investigation for the highest profile Minnesota case to the detriment of Plaintiffs.

7. From 2004 into 2010, the conspirators generated no evidence whatsoever which supported the notion that Plaintiff was responsible for the Wetterling crime. Then, Sanner, Jensen, and McDonald, in 2010, in conspiratorial and malicious and/or reckless fashion, fraudulently and illegally, secured a search warrant from a Stearns County judge for the purpose of engaging in a high profile excavation of Plaintiffs' property, illegally secured personal property from Plaintiffs' home and surrounding out buildings, and then named Plaintiff a "person of interest" meaning "suspect". This conduct included keeping the details of how the warrant was obtained secret from the eyes of the public, the media, and Plaintiffs which details depicted an outrageous violation of both Plaintiffs' civil rights for which no probable cause existed. The conspirators were aware of Plaintiff's credible 10/22/89 vehicle identifications at the time they began their conduct.

8. The purpose of the conspirators' conduct was to deceive the public that the crime had in essence been solved but that law enforcement had not had any "luck" in locating Jacob's body. Their

[1] Reference to "Plaintiff" or "Plaintiff's" in this Complaint will be to Daniel A. Rassier unless otherwise indicated.

conduct led citizens to believe Jacob's remains were buried somewhere on the 168 acre Rassier farm. Another purpose was to assist Sanner with getting re-elected as sheriff of Stearns County. In addition, Plaintiff discovered for the first time in 2016, when the search warrant was unsealed, that the conspirators were engaging in retribution against Plaintiff for his comments to others, including Jacob's mother, that Minnesota law enforcement agencies had blown the investigation. Plaintiff had merely exercised his freedom of speech rights as a Minnesota and United States citizen.

9. From 2004, the conspirators, who headed the Wetterling investigation, did not involve any outside agency such as the FBI and did nothing of substance to assist anyone or any entity in solving the Wetterling crime. They also did not include former, retired FBI investigators who were involved in the very beginning of the investigation and who re-engaged in 2014 at the request of Jacob's parents.

10. When information was publicized recommencing in 2004 of the connection between the January, 1989 Cold Spring sexual assault and the Wetterling abduction, Sanner engaged in a concerted effort with media, publicly and otherwise, and internally within SCSO, to deny the connection because he knew the Cold Spring victim had already made clear that Plaintiff was not his abductor – and that Plaintiff had a lock solid alibi for the evening of 1/13/89. This was just one example of how Sanner manipulated the media for years beginning in 2004 after he became the Sheriff in 2003. Sanner, additionally in 2004, leaked to media the fact that SCSO was now going after Plaintiff.

11. Due to the persistence, intelligence, and professional investigatory efforts of personnel of the FBI from 2014 to 2016, the Cold Spring sexual assault case and the Wetterling abduction case were solved with one-time Paynesville resident Daniel James Heinrich determined to be the perpetrator for both, confirmed with a confession in a federal courtroom in Minneapolis in September of 2016. The FBI could have solved both cases in 1990 but for the incompetence, interference, and lack of cooperation of SCSO, the BCA, and the SCDAO.

12. That although perpetrator Heinrich confessed, he was not ultimately convicted for the Cold Spring assault or the Wetterling abduction which was now determined to be a murder based on the fact Heinrich led law enforcement to Jacob's body – not surprisingly, buried in Paynesville. Sanner actually accepted praise for resolution of the case when in actuality he had engaged in conduct for years to prevent the crime from being solved and had illegally, and in a conspiratorial, intentional, and/or reckless fashion, with Jensen and McDonald, publicly accused an innocent citizen, Plaintiff, causing Plaintiff and his parents great harm. The public had placed their faith in the conspirators to protect them, solve crimes, and not falsely accuse innocent citizens. The conspirators failed miserably in this

task.

13. That in addition to the massive cloud of suspicion that Plaintiff was placed under due to no fault of his own as a result of the malicious, and/or reckless, illegal conduct, and improper motives of the conspirators, as examples, there were these results:

a) The citizens of St. Joseph and the surrounding area were put in mortal fear with the belief that one of their own was a cold blooded child rapist, murderer – with Plaintiff as the perpetrator;

b) A waste of massive resources and taxpayer money for over eleven years on a false, bogus theory;

c) A long, unreasonable delay for resolution of the Wetterling case from an investigative perspective ultimately resulting in the sad scenario that perpetrator Heinrich was not brought to justice for a total of almost 26 years – and never convicted for two kidnappings, two sexual assaults, and the murder of a Stearns County boy;

d) Manipulation of the bereaved parents of minor Wetterling in 2009 to conduct a surreptitious meeting with Plaintiff while the mother was wired which did nothing whatsoever to help solve the case; and

e) Consistent circumvention of efforts by citizens and media who possessed solid information, including the 1/89 Cold Spring assault victim, to kibosh the notion that there was a connection between that assault and Jacob's abduction along with sexual assaults of boys from 1986 to 1988 in Paynesville, Minnesota.

14. That in November of 2012, a Cold Spring police officer was murdered. Defendants Sanner, McDonald, and Jensen, the same conspirators herein, engaged in a course of conduct designed to charge an innocent man (Ryan Larson) with the murder. The actual perpetrator hanged himself in early 2013, left a suicide note confessing to the crime, and the murder weapon, a shotgun, was determined to be owned by the perpetrator and was found on a property that he had access to. But Defendant Sanner has yet to close that case which prevents the public from obtaining those investigation materials. In that regard, although the Wetterling crime was solved in September of 2016, Sanner, almost seven months later, has yet to publicly release the Wetterling investigation materials hampering Plaintiffs' ability to commence this lawsuit and revealing a lack of transparency by SCSO for both cases.

15. That in November of 2016, only after Plaintiffs had retained counsel, Defendant Sanner finally returned some, but not all, of the personal property that had been seized from Plaintiffs including a family heirloom chest that was completely dismantled and destroyed by law enforcement personnel and rendered worthless. Multiple truck loads of top soil were dug up on Plaintiffs' property, damaging Plaintiffs' property, and removed by SCSO personnel.[2] Although no evidence of substance was obtained from the soil, SCSO did not return the soil.

II. JURISDICTION AND VENUE

16. This Court has original and supplemental jurisdiction over this matter pursuant to 28 U.S.C. § § 1331, 1343, 1367, and 42 U.S.C. § 1983, as Plaintiffs' claims are based on rights under the United States Constitution, state law, and common law. Claims under Minnesota law are also pursued by Plaintiffs as delineated herein.

17. Venue in this Court is appropriate since the unlawful practices delineated herein occurred within Minnesota and this federal district.

III. PARTIES

18. Plaintiff Daniel A. Rassier is an adult individual who at all material times resides, and still resides, in St. Joseph, Stearns County, Minnesota at the farm property delineated herein.

19. Plaintiff Rita Rassier is an adult individual who at all material times owns and resides at the farm property delineated herein in St. Joseph, Stearns County, Minnesota.

20. Defendant John Sanner is an adult individual and sheriff of Stearns County, at all relevant times, and was employed by SCSO as a sworn law enforcement officer. All of his actions or inactions were taken under color of state law. He is sued in his individual capacity.

21. Defendant Pam Jensen is an adult individual who at all relevant times was employed by SCSO as a sworn law enforcement officer and captain of that entity. All of her actions or inactions were taken under color of state law. She is sued in her individual capacity.

22. Defendant Ken McDonald is an adult individual who at all relevant times was employed by

[2] The chest and farm property referenced herein are owned by Plaintiff Rita Rassier, Daniel Rassier's mother. At all material times, Mr. Rassier resided with his parents. His father Robert passed away in 2015, while Plaintiff was still being referred to publicly as a person of interest for a heinous crime.

the Minnesota Bureau of Criminal Apprehension as a sworn law enforcement officer. All of Defendant McDonald's actions or inactions were taken under color of state law. He is sued in his individual capacity.

23. Defendant Stearns County, Minnesota is located at the Administrative Center, 705 Courthouse Square, St. Cloud, Minnesota. Defendant County owns and operates the Stearns County Sheriff's Office (SCSO). SCSO is a full service law enforcement agency which operates 24 hours a day, seven days a week.

24. The Minnesota Bureau of Criminal Apprehension (BCA), not a party but the employer of McDonald, is a state investigation entity that at times, when requested, provides investigative services to Minnesota law enforcement agencies such as SCSO. Defendant McDonald's numerous civil rights violations of Plaintiff were committed within the scope and course of his employment with the BCA.

IV. FACTUAL BACKGROUND

A. The Paynesville Sexual Assault of Boys: 1986-1988; The 10/22/89 Jacob Wetterling Abduction and the Connection to the 1/13/89 Cold Spring Assault; Evidence from the Abduction Site

25. Paynesville, Minnesota is located 25 miles southwest of St. Joseph. Paynesville resident Daniel James Heinrich was a narcissistic pedophile who established his hunting ground in Stearns County and began kidnapping and sexually assaulting boys in Paynesville in 1986 into 1988. The assaults were so prevalent that boys in that town came up with the name, "Chester the Molester."

26. SCSO was aware of these assaults since they had a substation in Paynesville, the Tri-County Crime Stoppers program, and dissemination of the facts by Paynesville Police Department (PPD) personnel to SCSO personnel. The Paynesville paper also publicized these assaults, but nothing of substance was ever done by SCSO to find the perpetrator. Heinrich[3] was never criminally charged or even arrested for these.

27. On 1/13/89, a 12 year-old Cold Spring boy was kidnapped by a stranger adult and sexually assaulted. SCSO investigated the matter and almost immediately identified a suspect: Paynesville resident, Heinrich.

[3] Last names will generally be used in this Complaint for space saving reasons except at times for minors such as Jacob Wetterling and Adam Klaphake.

28. This type of crime is very serious, and perpetrators of this type have high recidivism rates so they need to be brought to justice promptly for the public's safety. But after about only one month of investigation, SCSO personnel stopped pursuing Heinrich.

29. SCSO has never provided a public explanation for this cessation of investigation for the 1/13/89 assault. Heinrich was ultimately determined to be the assaulter of the Cold Spring boy and went on to kidnap, sexually assault, and murder Jacob Wetterling nine months later.

30. The Cold Spring victim was an excellent witness and provided numerous details of his assault, the perpetrator, and the perpetrator's car which could best be described as a small to mid-size, blue sedan-type vehicle, meaning a regular car. A competent investigation in 1989, before 10/22/89, would have resulted in Heinrich's arrest, charges, and conviction before Jacob's abduction. SCSO personnel failed in this regard.

31. Heinrich decided to change his hunting ground to St. Joseph and attempted an abduction in late August or early September of 1989, the Klaphake attempt, as noted in Section IV, B(b) on pages 10-11. St. Joseph had three features Heinrich liked: plenty of boys to assault, a small town, and quick egress to an interstate, in this case, I-94, which runs through the entire state of Minnesota extending from Wisconsin into North Dakota and beyond.

32. In the afternoon of October 22, 1989, while operating a tan full size vehicle, Heinrich drove onto Plaintiff's farm property where Plaintiff lived located at 29748 91st Avenue, St. Joseph. Heinrich was in that city trolling for a victim and accidentally stumbled onto the Rassier property, drove approximately one-quarter mile down a driveway, turned his car around by the farmhouse and farm buildings, and headed back from where he entered.

33. It is unclear if Heinrich stayed in St. Joseph up to the time of the abduction of Jacob at about 9:15pm, but he did change cars to a blue small to mid-size sedan, and this was the vehicle he used for the abduction of Jacob likely for fear the tan car was seen earlier.

34. Jacob, his brother, and another boy went to a Tom Thumb store after dark at about 8:30pm with bikes and a scooter. They left the Wetterling home located about a mile south of Plaintiff's driveway. For folks who live in this part of St. Joseph, the only way to leave that area by car is to proceed north past Plaintiff's driveway. The driveway is one-quarter mile in length. The farmhouse and essentially the farm buildings cannot be seen from 91st Avenue, where the abduction occurred.

35. Heinrich was positioned somewhere on 91st Avenue when he saw the boys head north. He then waited for the boys to return and had positioned his vehicle at the end of Plaintiffs' driveway, an area not visible from the farmhouse. Heinrich knew the area from the Klaphake attempt. When the boys came back at about 9:15pm, Heinrich came out of the dark, surprised the boys, asked their ages, and took Jacob. Jacob had no choice but to comply since Heinrich was brandishing a handgun.

36. It was clear from the beginning that this was a pedophile abduction since Heinrich grabbed at the genitalia over the clothing of two of the boys. The nature and detail of this assault was such that it was clearly related to the assaults in Paynesville and the Cold Spring assault, just over nine months before. Law enforcement quickly correlated it with the Cold Spring assault in less than three days. Strangely, SCSO never disclosed the genitalia grabbing facts to the media and the public to make clear that a serial stranger sexual predator was on the prowl for boys in Stearns County. SCSO allowed speculation for years as to the abductor's motivation. This has never been explained to the public.

37. The surface of Plaintiff's driveway on 10/22/89 was such that those wearing shoes and walking on it would leave prints. This was additionally true for tire tracks from motor vehicles. On 10/23/89, an employee of SCSO intelligently made plaster casts of tennis shoes that appeared to be Jacob's and were juxtaposed in such a way to indicate resistance and located by tire tracks that made clear the abductor used a motor vehicle to take Jacob away.[4] Other footprints were identified as being the size of an adult, and their position with the other prints made it clear that they belonged to the abductor.

38. In Heinrich's confession in September of 2016, he noted that he used a car, and after abducting Jacob, headed right for I-94, the on ramp only a few miles from the abduction site. He made a clean get away after leaving Plaintiffs' property and was not even seen by the boys who had gotten away since they ran hard and far from the abduction sight pursuant to Heinrich's directive. Plaintiff witnessed the car abduction after Heinrich had secured Jacob into his vehicle. The shoe prints matched Heinrich's and Jacob's shoes. The tire tracks matched a 1982 blue Ford EXP vehicle Heinrich owned in October of 1989.[5]

39. A Minneapolis Police Department (MPD) K-9 officer (Don Banham) volunteered his time with

[4] The smart investigator was Detective Steve Mund. In 2016, he stated in an interview that there was no question Jacob was taken away with a car. Every investigator of substance on the case in 1989 and 1990 agreed with this contention.

[5] In 2016, the attorneys for the United States in their criminal case against Heinrich for possession of child pornography used the footprint and tire evidence along with DNA from the 1/13/89 Cold Spring assault as the gravamen to support the fact that Heinrich was the sole perpetrator for that assault and the Jacob Wetterling abduction.

a bloodhound K-9 unit a day later and determined that Jacob's scent ended 75 yards into Plaintiffs' driveway which was further, strong evidence that Jacob was taken by motor vehicle. Banham was recognized statewide as an elite K-9 officer.

B. The Vehicles Daniel Rassier Witnessed on 10/22/89 Compared with the 1/13/89 Assault Vehicle, Vehicles used by Heinrich for Attempted Assaults before and after 10/22/89, and Vehicles used by Heinrich for Pedophilic Activities in 1991

40. The tan full size vehicle referenced in Paragraph 32, page 7 herein was seen by Plaintiff through an upstairs window of the farmhouse on 10/22/89 after his dog barked drawing attention to it. He observed the driving pattern through another upstairs window. Both windows were open assisting his ability to also hear the vehicle.

41. Plaintiff provided this detail to law enforcement investigators on 10/23/89, and also described seeing a blue sedan-type vehicle (regular car), smaller than the tan vehicle earlier in the day, during the time frame of the abduction of Jacob Wetterling on that same date.

42. Although it was dark at the time, a farm property light illuminated the area where the blue car operator turned around – with the same driving pattern exhibited as the vehicle earlier in the day. Plaintiff felt confident that although the vehicles were different, the driver was the same, and he made this clear in multiple interviews with law enforcement starting on 10/23/89.

43. Plaintiff's vehicle identifications first described on 10/23/89 were credible and confirmed with investigation by law enforcement. Strangely, however, law enforcement did not publicize what Plaintiff saw in terms of the details of the two vehicles. However, when other attempted abductions occurred after 10/22/89, or when citizens saw suspicious vehicles, this information was immediately disseminated by law enforcement to media, and then promptly printed in the St. Cloud Times (SCT) and other publications throughout the state.

a. The 1/13/89 Cold Spring Abduction

44. The Cold Spring abduction, mentioned herein, involved a victim who survived. He made clear that the abductor's vehicle was a mid-size blue sedan-type vehicle which was consistent with the type of vehicle Plaintiff saw on 10/22/89 during the time of the abduction.

45. When Plaintiff provided the blue car detail in numerous interviews with law enforcement in

1989, he knew nothing about the Cold Spring assault. Strangely, law enforcement never asked him about the Cold Spring abduction vehicle in 1989 or at any time thereafter. However, the conspirators were aware of this evidence when they fraudulently and illegally secured the warrant in 2010, and they mentioned nothing whatsoever about it to Judge Landwehr. This failure was either intentional or reckless.

b. <u>The Attempted Abduction of Adam Klaphake[6] Weeks Before Jacob's Abduction</u>

46. In late August or early September of 1989, 14 year-old Adam Klaphake (pronounced Clop-hockey), who lived on 91st Avenue with his parents, not far from Jacob's home (he was a friend of Jacob), went to the St. Joseph Tom Thumb with a neighborhood friend who was 12 years old.

47. They left Tom Thumb at about 10pm and proceeded to walk home. As they approached 91st Avenue on Baker Street and turned to walk south to the friend's home, a car came toward them traveling southerly at a very high rate of speed on 91st Avenue.

48. They ran and successfully reached the friend's open garage. The vehicle pulled in the driveway – then backed across the street onto another driveway, bright lights activated, which prevented the two boys from seeing the plate number. After a few minutes, the vehicle left.

49. A few days after Jacob's abduction, Adam, the friend, and Adam's father went to the Command Center for the Wetterling abduction. The description given by both boys matched Heinrich and was consistent with a blue mid-size vehicle, the type of car that Heinrich was using in 1989. This was consistent with a blue mid-size sedan-type vehicle of the type used in the 1/13/89 Cold Spring abduction and the abduction of Jacob Wetterling.

50. Adam was questioned by FBI agents at his home within a month of the Command Center interview and then nothing happened for many years up to 2004.

51. In 2004, Adam took the day off from work and went into SCSO to revisit his 1989 statement, and his belief that what happened to him was related to Jacob's abduction. He did this in part due to publicity for the case that year.

52. He met with a deputy and, he believes, Defendant Jensen. Adam suggested that one of them

[6] Mr. Klaphake agreed to use of his name herein. He is now almost 42 years old.

come to the scene with him. Neither accepted this request.[7] Both SCSO representatives seemed to express little interest in what Adam had to say. He also was not given a copy or shown a copy of his statement until 2015. He did specifically request it at the 2004 meeting, but he was told that it could not be found. Strangely, in 2015, Deputy Steve Lehmkul came to see Adam. Adam was finally shown the transcript of his 1989 interview, but he was told that the report of his interview with the FBI in 1989 could not be found along with the report of his visit to SCSO with Jensen and the deputy in 2004. The 1989 report contained detail consistent with Heinrich and his vehicle.

53. Law enforcement never asked Plaintiff about what Adam saw in 1989, or specifically, Adam's description of the blue vehicle. Plaintiff knew nothing about that attempted abduction when he was interviewed in 1989. However, the conspirators were aware of the Klaphake evidence in 2010 when they fraudulently and illegally secured the warrant in 2010, but they mentioned nothing whatsoever about this to Judge Landwehr. This failure was either intentional or reckless.

c. <u>The Vehicle Used for Jacob's Abduction on 10/22/89</u>

54. When Heinrich confessed in a federal courtroom in September of 2016, he admitted he used his 1982 blue Ford EXP for the abduction of Jacob Wetterling on 10/22/89.

55. This blue vehicle matched the description by Adam Klaphake and his friend noted above, the description of the 1989 blue vehicle seen by Plaintiff on 10/22/89, and the blue vehicle referenced in the pedophilic behavior noted in Paragraph 63, page 12. The tire track evidence secured by Detective Mund on 10/23/89 matched the 1982 blue Ford EXP. Plaintiff had told the truth.

56. The tires on the vehicle that witness Kevin used (see Paragraph 90 on page 17), discovered in 2003 that allegedly resulted in the abduction-on-foot (AOF) theory, were not a match to the tire tracks located near the adult footprints (determined to be Heinrich's) and the footprints of Jacob documented by Detective Mund.

57. The conspirators were aware that the Kevin vehicle tire tracks did not match the relevant tire tracks at the time they illegally and fraudulently secured the warrant in 2010, but they failed to advise Judge Landwehr of these facts. This failure was either intentional or reckless.

[7] Had Jensen or the deputy bothered to go the scene with Adam, they would have quickly ascertained why Heinrich failed and how that was relevant to Heinrich's MO on 10/22/89.

d. Heinrich's Attempted Abduction in Roberts, Wisconsin – 11/17/89

58. After 10/22/89, Heinrich had a problem accessing boys in Stearns County due to the unprecedented, massive publicity with the Wetterling abduction. As such, he increased the area of his pedophilic predation. On 11/17/89, less than 30 days after Heinrich had abducted, sexually assaulted, and murdered Jacob Wetterling, he attempted an abduction in Roberts, Wisconsin, a small town similar to St. Joseph in size, physical features, and quick egress to I-94. Roberts was just 10 miles east of the Minnesota border and less than a two-hour drive from Paynesville, just off of I-94, in Wisconsin.

59. Heinrich covered his face for this attempt, like 10/22/89. The boy, a 13 year-old, got away but described the vehicle Heinrich used.[8] The description was very similar to the vehicle Plaintiff saw in the afternoon of 10/22/89: a tan, full size, sedan-type vehicle. The presence of witnesses may have been relevant to this abduction failure. The attempt was near an elementary school.

60. The attempt was publicized in the SCT three days later on 11/20/89. The FBI, realizing the significance of this, sent investigators not once, but twice, to interview the boy in Roberts.

61. Strangely, Plaintiff was never questioned about this attempted abduction and the use of a tan vehicle which clearly tied it into the events of 10/22/89 and also indirectly to 1/13/89. SCSO did the early interviews of Plaintiff but never briefed the FBI regarding the tan vehicle Plaintiff saw earlier in the day, and the two main FBI agents assigned to the Wetterling case when interviewed in 2016 recalled nothing about a tan vehicle in 1989 or 1990. Heinrich was careful not to use the same vehicle he used in the abduction of Jacob for the Roberts' attempt.

62. The conspirators were aware of this attempted abduction less than 30 days after Jacob's abduction which confirmed Plaintiff seeing a tan vehicle mid-afternoon on 10/22/89, confirming his important credibility as an eyewitness, before the warrant was fraudulently and illegally obtained from Judge Landwehr in June of 2010. The conspirators did not disclose these facts of the Roberts, Wisconsin matter to Judge Landwehr. This conduct was either intentional or reckless.

63. Almost immediately when the FBI engaged for the Wetterling abduction in October of 1989 soon after the abduction, they focused on the connection with the 1/13/89 Cold Spring assault. Evidence was accumulated establishing Heinrich as a suspect in both incidents.

[8] The boy was aware of the Wetterling case, and this was his primary impetus to sprint away immediately which arguably saved his life. After the attempt, the driver u-turned and headed south toward I-94.

64. Conflict developed along the lines of inter-agency jealousy with the FBI versus SCSO, the BCA, and SCDAO. The FBI planned an interview of Heinrich in early 1990 which caused members of the agencies listed in this Paragraph to become livid based on its timing.

65. Nonetheless, the FBI proceeded with the interview and had Heinrich taken into custody based on probable cause after the interview was completed. Heinrich was housed in the Stearns County Jail, but he was released the very next day after spending only one night based on directives from SCDAO. This was retribution for the FBI's timing of the Heinrich interview, and a decision supported by SCSO and the BCA.

66. Subsequently, in April of 1990, matches were determined linking the abduction-site footprints to the only tennis shoes Heinrich owned and the tire tracks located near the footprints to his 1982 blue Ford EXP vehicle. The conspirators did not let Judge Landwehr know about this before they fraudentl and illegally obtained the search warrant from her in June of 2010. This conduct was either intentional or reckless.

67. Unbelievably, despite this additional conclusive evidence, Heinrich was not arrested or even named as a person of interest in the Wetterling abduction.

e. <u>Heinrich's Pedophilic Conduct in Paynesville in February of 1991</u>

68. In February of 1991, Heinrich was at it again. But now he was off of law enforcement's radar as noted in as noted in Paragraph 84, page 15 of the Complaint. PPD had received calls from Paynesville citizens about school children seeing a "blue mid-size car driven by a medium size person stopping and watching children or trying to make contact with children." Like the Roberts' incident, Plaintiff was not questioned about this situation – or the car the suspect was using in these incidents.

69. The conspirators were aware of this conduct which further confirmed Plaintiff's credible identification of the blue car on 10/22/89, but they did not let Judge Landwehr know about this before they fraudulently and illegally obtained the search warrant from her in June of 2010. This conduct was either intentional or reckless.

f. <u>Heinrich's Pedophilic Conduct in Paynesville in April of 1991</u>

70. On April 2, 1991, more calls were made to the PPD from Paynesville citizens this time about the driver of a tan colored vehicle "following or watching paperboys on their morning routes." PPD

Officer Lemkuhl[9] arrived and attempted to get SCSO to engage based on his knowledge of Heinrich's connection to Jacob's case and the Cold Spring assault.

71. An SCSO representative named DesMarais, presumed to be a deputy, became involved. Heinrich was pulled over for this suspicious behavior and identified along with his vehicle – a 1984 tan Buick. This was a full size sedan, same color and type of vehicle as what Plaintiff witnessed on 10/22/89 and what the Roberts' attempted abductee witnessed.

72. Plaintiff was never brought to this vehicle or shown a picture of it. It was almost as if for SCSO, Heinrich had dropped off the face of the earth and was irrelevant – even in light of this 1991 conduct which on multiple occasions indicated behavior of a pedophilic nature around boys. It is believed a report was prepared, but nothing else was done by SCSO regarding this 4/2/91 event.

73. The police chief of PPD contacted SCSO about the Paynesville assault of boys in 1989 soon after the Wetterling abduction – and specifically identified Heinrich as a suspect. SCSO never briefed the FBI about this, and a key FBI agent on Wetterling publicly noted years later that the FBI knew nothing about the Paynesville assaults (1986-1988) during the time the FBI was engaged on the Wetterling matter in 1989 and 1990.

74. This 4/2/91 evidence further confirmed Plaintiff's legitimacy as a solid witness, but the conspirators, aware of this in June of 2010, when they fraudulently and illegally obtained the search warrant from Judge Landwehr, failed to tell her about this. This failure was either intentional or reckless.

C. Failure to Charge Heinrich; The Abduction-On-Foot Theory, 2004; Sanner Begins to Manipulate the Media

75. Nothing happened to Heinrich with the evidence developed, and he was not in jail again for his 1989 conduct for almost 26 years. The FBI was hamstrung in the sense that it could not engage the U.S. Attorney for Minnesota because the conduct being investigated did not involve violation of federal law. SCSO took over as the lead investigating entity in 1990 after the FBI was done, a terrible development for those who wanted justice for Jacob Wetterling and his family.

[9] Ironically, Lemkuhl is now employed with SCSO and is a substantive player in the Ryan Larson matter, a civil rights case currently in litigation in this district, and described herein. Also, see Paragraph 52.

76. The SCDA at the time was Roger Van Heel. A mountain of evidence was developed implicating Heinrich with the 1/13/89 Cold Spring assault, but he refused to charge. Spreigl evidence, a long time Minnesota legal concept covering crime similarities, could have been utilized to assist with prosecuting Heinrich for the Wetterling abduction.

D. <u>The Abduction-On-Foot Theory, 2004; Sanner Begins to Manipulate the Media</u>

77. Based on reasonable information and belief, this was never considered by DA Van Heel resulting in a pedophile who had murdered a boy being free for over 26 years to potentially sexually assault and murder boys in and outside of Stearns County.

78. Defendant Sanner became sheriff of Stearns County in 2003, and beginning in 2004, with media, publicly and otherwise, he began to allege that the Cold Spring case and Jacob's case were not connected.

79. He also in that same year developed, with co-conspirators Jensen and McDonald, the so called abduction-on-foot (AOF) theory. Sanner, likely due to campaign promises, felt compelled to make people think he was on to something big to solve the Wetterling case. This was all a facade.

80. The election of a new sheriff gave people the hope that a set of fresh eyes would observe the old investigation materials and would proceed forward with positive developments for solving the Wetterling crime. Sadly, this did not come to fruition and ended up being just the opposite. The AOF theory proved to be a nonsensical investigation concept that not only contradicted the assumptions of all early investigators (see footnote 4, page 8), it resulted in the conspirators (Sanner, Jensen, and McDonald) pointing the finger at innocent Plaintiff, Daniel A. Rassier.

81. Significant events took place in 2004 regarding the history of the Wetterling investigation. First of all, Adam Klaphake went to SCSO to report his long held belief that the creepy event that happened to him and his friend in 1989 before Jacob's abduction was connected to Jacob's abduction (See Paragraphs 51 and 52 on pages 10-11).

82. KARE 11, an NBC affiliate television station located in the Twin Cities, Minneapolis/St. Paul[10], ran a series of stories regarding the alleged connection between the 1/13/89 Cold Spring sexual

[10] St. Cloud, the county seat for Stearns County, is a one-hour drive northwest of Minneapolis. Twin City television stations and print media had covered the Wetterling abduction case closely to the point where that subject was arguably the biggest criminal case story in the history of the Twin Cities.

assault and the 10/22/89 Wetterling abduction. Jared Scheirel, the victim in the Cold Spring assault, went on the record revealing his identity – and opined he felt there was a connection. Sanner downplayed any connection. The reporter was Rick Kupchella.

83. Sanner claimed in February of 2004 – in media interviews – that "a driver" had been found. This was a reference to witness "Kevin" who admitted to driving on the Rassier driveway after hearing police scans about Jacob's abduction on 10/22/89.

84. It is unclear why Sanner, Jensen, and McDonald thought this was significant because Kevin's vehicle did not eradicate the important footprint and tire evidence mentioned herein which clearly tied Heinrich physically to the crime scene.

85. Kevin admitted that he never walked on the Rassier property that day. The tires for his vehicle would not be a match for Heinrich's 1982 blue Ford EXP, something else the conspirators failed to tell Judge Landwehr. In addition, the color of Kevin's vehicle was not blue or tan. The conspirators were additionally aware of these facts in June of 2010.[11]

86. Conspirators (Jensen and McDonald), however, ran with the theory and interrogated Plaintiff in February 2004. Of course, this investigation went absolutely nowhere and did nothing to solve the Wetterling crime. Sanner actually told SCT (a 2/25/04 article) that investigators "last week" had interviewed a "potential suspect" who lived near the abduction site.[12] Folks who knew about the case, which was most of Minnesota, deduced that this was clearly a reference to Daniel Rassier.

87. Sanner upped the ante by leaking the new investigation angle and Plaintiff's name to a Twin City television station. That station's reporter showed up at the Rassier farm in February of 2004 with a camera crew and stuck a mic in Plaintiff's face. She then did the same thing at his place of employment – a Rocori elementary school – days later. The story ran blotting out his face and disguising his voice, but physical items like his car, the school he worked at, etcetera could easily be seen in the television story. It was obvious to everyone that this was Daniel Rassier.

88. Questioned about the notion of the leak of this information in a 2016 media interview, Sanner was vague as to whether the source was SCSO personnel. He opined he thought that there was an

[11] The conspirators also never told Judge Landwehr that Plaintiff's vehicle which was not a match to the vehicles used in the Cold Spring assault, the attempted abductions by Heinrich, or the cars Heinrich used for pedophilic behavior in 1991. (See pages 9-13).

[12] This was the first time a shift in investigation had been made public for the case.

internal investigation after admitting a leak like this would be a serious breach of SCSO internal policies. He later admitted to the reporter that there never was an internal investigation about this. Plaintiffs allege that the reason for this is that Sanner knew he was the source of the leak.

D. Manipulation of the Wetterlings; The 2010 Warrant Illegally Obtained from Judge Landwehr; The Conspirators Name Plaintiff a "Person of Interest"

89. After development of the AOF theory, the conspirators had a problem: the investigation was going nowhere. Over 5 ½ years since Plaintiff was interrogated in 2004, in an act of desperation, they approached the bereaved parents of Jacob, Jerry and Patty Wetterling, and conveyed false information about Plaintiff. The conspirators defamed Plaintiff and made the Wetterlings believe Plaintiff was the perpetrator.

90. In October of 2009, at the request of the conspirators, Mrs. Wetterling pretended to accidentally bump into Plaintiff in St. Cloud and asked to speak to him alone. Plaintiff met with her for an hour. Unbeknownst to Plaintiff, the conspirators had installed a recording device on her so that the conversation could be recorded. The fact of the concealed recording and its content was not made public until September of 2016 when the warrant documents were unsealed.

91. Plaintiff spoke truthfully to Mrs. Wetterling noting he had nothing to do with Jacob's abduction and that in his opinion, SCSO and the BCA had conducted a poor investigation. This investigation tactic did nothing to assist law enforcement with solving the crime, but it did anger the conspirators to the point that they sought retribution.

92. The conspirators then proceeded with a malicious and/or reckless plan that included:

a. Obtaining a warrant through illegal means which included providing known-false information to a judicial official because they had no valid evidence for probable cause;
b. Conducting a dig on the 168 acre farm property of Plaintiffs to convey the false impression Jacob's body was located somewhere on the many-acre property;
c. Naming Plaintiff a "person-of-interest" which would be interpreted by citizens inside and outside of Stearns County as "suspect"; and
d. Ensuring that there would be massive publicity with use of the media.

93. On 6/29/10, Defendant McDonald, with the assistance of the other two conspirators, prepared a document entitled "Application for Search Warrant and Supporting Affidavit", a vital document needed to secure court approval for a search warrant of Plaintiffs' property from Judge Landwehr.

94. Without the warrant, the conspirators knew they could not enter the farm property of Plaintiffs for the dig and to seize personal property. This required convincing the judge that they had probable cause (PC) that Plaintiff Daniel A. Rassier was the Wetterling abductor.

95. But the conspirators knew that Plaintiff was not the perpetrator, that he would never be criminally charged, and they they did not have evidence to support PC. Therefore, they had to misstate facts on the warrant application, in McDonald's name, to achieve the goal of convincing the judge they had the right guy, namely, the abductor, sexual assaulter and murderer of Jacob Wetterling who had successfully disposed of Jacob's body on the farm so that it could not be found.

96. Since the vehicles Plaintiff had seen were credible based on other evidence developed from 1989 to 1991, this presented a problem for the conspirators. Therefore, they decided not to mention any of that evidence to Judge Landwehr (see Section IV(B), pages 9-14). McDonald notes in the Application that the "Hamilton vehicle information" meant that no vehicle was used to abduct Jacob without noting for the Court the mountain of evidence that made clear Jacob had been taken away by use of a motor vehicle, a fact all investigators early on concluded was true (see footnote 4, page 8).

97. But McDonald then goes on to allege that Plaintiff's refusal to accept as valid the AOF theory is indicative of guilt. The February, 2004 interrogation of Plaintiff by McDonald and Jensen is referenced noting "facts" pointed out to Plaintiff, and they then accused him of "taking Jacob."

98. On page 1-7 of the Application, McDonald misrepresented Plaintiff's refusal to deviate from his contention that the operator of the vehicles Plaintiff saw on 10/22/89 was the perpetrator:

> When confronted, Rassier would repeatedly respond by indicating that it must have been the vehicle that turned around earlier in the afternoon. Rassier refused to allow your affiant or Captain Jensen to eliminate the vehicles as an option to the abduction.

99. This conduct by McDonald was supported by the other two conspirators. The two vehicles Plaintiff saw, which confirmed he was an incredibly important witness, and had actually witnessed the car abduction of Jacob Wetterling, was now being used against him to convince a Stearns County judge that Plaintiff not only was lying about the cars, but that this somehow proved his guilt.

100. The conspirators were manipulating the vehicle evidence that should have been used against perpetrator Heinrich to pin the most heinous crime in state history upon Plaintiff, a key witness and innocent man. They were very careful not to reference in the Application the important tan and blue vehicle evidence generated by law enforcement from 1989 to 1991. They knew that if Judge Landwehr was aware of the truth about the vehicle evidence, their goal of obtaining the search warrant would be over, and the judge would almost certainly refuse to approve.

101. The Application contained numerous mistruths such as the contention that Plaintiff ran marathons to "suppress pain" and that he had made strange comments on trains in Europe. The conspirators took the false train reference and expanded that to something particularly devious, significantly defaming Plaintiff, and was in a category that any reasonable judge could not ignore. Plaintiff did not learn of this until September of 2016 when the warrant data was released publicly. The data released consisted of, in part:

a. The document referenced in Paragraph 100 dated 6/29/10;
b. The Search Warrant dated 6/29/10;
c. Another application and affidavit of McDonald dated 7/1/10;
d. Kendall's motion to prevent the warrant documents from being filed (made public) dated 7/1/10; and
e. An affidavit of McDonald to support Kendall's motion dated 7/1/10.

102. Interpol is the world's largest police organization, with 190 member countries, whose primary role is to assist law enforcement agencies around the world with combating transactional crime and terrorism. Plaintiff never denied having traveled in Europe at times in the 1980's and in 1994.

103. The conspirators took advantage of those facts, and McDonald illegally included this on Page 1-10 of the Application:

> Rassier . . . has been further investigated by Interpol regarding comments he made on a train while traveling in Europe.

McDonald and the two other conspirators knew this explosive allegation was a complete lie when the Application was submitted to Judge Landwehr. In the alternative, it was included recklessly.

104. As another example of the devious nature of the Application prepared by McDonald, with the assistance of Sanner and Jensen, McDonald notes on page 1-10 that "the age of the children at the time of the abduction is the age that Rassier teaches at his job as a school teacher ..." implying this

somehow made Plaintiff culpable in some way.

105. McDonald failed to note for the judge that as of that date, 6/29/10, Plaintiff had taught and tutored an estimated 5,000 male students ages 9-14 since 1975 with no complaints of inappropriate conduct by any student or parent of any kind for his entire career.[13]

106. Page 1-7 of the Application provides another example. The conspirators knew Plaintiff's driveway was long, one-quarter of a mile, and the site of Jacob's abduction would not be visible to anyone in the farmhouse, including Plaintiffs' dog, Smokey. The dog would not be in a position to see or hear activities at the end of the driveway.

107. McDonald opined that the dog should have been barking at the time of the abduction at the end of the driveway. McDonald knew this to be false and failed to explain why. He then goes on to allege Plaintiff would not provide a definitive answer about that concept – also false. Nonetheless, the conspirators used false information like this throughout the Application to mislead the judge to achieve their goal of getting a signed warrant.

108. Judge Landwehr signed the search warrant, but something important was left for the conspirators: they had to make sure the public and therefore, the media, did not see the fraudulent warrant documents. As such, they recruited the assistance of DA Janelle Kendall who by motion on 6/29/10 requested that the warrant materials "not be filed" (remain secret) for the reason that if filed the "release of the information contained therein could cause future, related searches to be unsuccessful and could create a substantial risk of severely hampering this ongoing investigation."

109. Kendall's[14] request included a feature the conspirators particularly liked: the documents would only be filed upon commencement of "any criminal prosecution" which would utilize any of the evidence obtained from the searches. Since a prosecution would never occur for Plaintiff since he was innocent, in their minds, it was extremely unlikely the materials would ever become public. It is reasonable to assume that they would still be secret to this day had the case not been solved by the FBI in 2015 and 2016.

110. The solving of the crime by the FBI in 2016 was a major debacle for the conspirators with

[13] Over 6 ½ years later, this is still true.

[14] It is interesting to note Kendall handled these activities herself rather than assigning them to an assistant county attorney which was similar to her involvement in the Ryan Larson matter noted later herein. However, Plaintiffs do not allege that she was part of the conspiracy or that she was aware of the false warrant data including the draconian Interpol lie.

the release of the warrant data in September of 2016 which revealed to Plaintiffs and the world for the first time, how they had manipulated Judge Landwehr. Media uncovered matters such as the Interpol lie, and Sanner provided interviews resulting in significant admissions.[15]

111. After the dig began on 7/1/10, several large front page stories appeared in SCT and papers throughout the state. There was massive publicity in the Twin Cities' metro area with all television stations featuring and covering the matter. In a story in SCT on 7/2/10, it was noted that "the search sparked interest from media statewide." This headline appeared in a sub-story: "St. Joseph Watch, Waits for Wetterling Information." This was true for the entire state. The conspirators' goal of massive publicity to destroy Plaintiff was being nicely achieved.

112. With the advent of the Internet, Plaintiff will never be able to escape his undeserved reputation. His reputation will follow him no matter where in the world he decides to reside.

113. On the second day of the dig, 7/1/10, Sanner was at the property, and Plaintiff asked him why he was doing this. Sanner responded: "This is what happens when you talk." Plaintiff asked Sanner what this meant. Sanner would not clarify. As discussed below, Plaintiffs would not understand the meaning of Sanner's statement until after the warrant documents were unsealed in 2016.

114. Like most citizens, Plaintiffs were told to respect law enforcement as they grew up and had a deferential attitude about the police. Plaintiff wondered if he had said something in the early investigation that somehow led law enforcement to believe he was the perpetrator although he could not imagine what this could have been.

115. It was not until the release of the warrant documents in September of 2016 and interview comments by Sanner in August of 2016 (not publicized until September of 2016) that Plaintiffs became aware of Sanner's illegal motives and the clear involvement of the other two conspirators. Sanner's farm comment was now clear: he had the power, and there was nothing Plaintiffs and Robert Rassier could do about it. It was payback time for Plaintiff's criticisms of law enforcement articulated to Patty Wetterling.

116. McDonald was particularly venemous during the dig event, and while in the home of the

[15] Minnesota Public Radio with a series known as "In the Dark" headed by Madeleine Baran revealed warrant inaccuracies and the years of overall incompetence by SCSO regarding the Wetterling matter. Sanner refused to give consideration to correct the mistakes of the past and additionally opined in so many words that what happened to Plaintiff was Plaintiff's fault. It was clear the warrant data helped Baran and her team.

Rassiers actually grabbed Rita Rassier in the kitchen on 7/1/10 and caused her to fall to the ground. (She was 81 years old at the time). He then said to her, Plaintiff, and her husband, Robert Rassier: "You are all under arrest!"[16]

117. Then on 7/2/10, to complete the conspiratorial plan, Sanner disclosed to media as revealed in the SCT on 7/3/10: "Stearns County Sheriff John Sanner said Rassier is a **person of interest** in Wetterling's disappearance." This was the first time in the history of the case this or any label had been put on any person. Of note is the fact that despite overwhelming evidence against him, the actual perpetrator Heinrich was not labeled a "person of interest" until 2015 when his home was finally searched.

118. When the media would ask for details around the time of this dig, Sanner would opine he was following DA Kendall's advice citing a court order as reason not to discuss the search. This relayed the false impression to the public that if a judge had approved the warrant, there must be sufficient evidence to support the search.[17] The judge's order was obtained by illegal, fraudulent means as noted herein.

119. An excellent editorial ran in SCT, an entity that often had been Sanner's ally, on 7/2/10, questioning the secrecy of the search and what led up to it. Citing media counsel, SCT noted correctly three reasons under Minnesota law that search warrants can be kept secret. None applied, but this did not affect the conspirators and Kendall, and the materials remained secret for over six years, only released after Heinrich confessed (See Paragraph 108). The three reasons warrants may be sealed are:

a. Making it public would make the search or related searches unsuccessful;
b. Making it public would create substantial risk of injury to innocent people; or
c. Disclosing it would severely hamper the investigation.

E. <u>The FBI Solves the Two Cases: 2014-2016; The Return of Some of Plaintiffs' Property</u>

120. Based on reasonable information and belief, the FBI kicked into high gear to solve the Wetterling case in 2014. The lead agent was Shane Ball. Four predicate factors were key to solve the matter – all coming from the public. SCSO did nothing of substance.

[16] McDonald, likely realized the absurdity of this, and did not arrest them. Plaintiffs reasonably believe that the stress of what the conspirators did to his son and his family accelerated Robert Rassier's death. Although compensation is not sought for this (or the assault of Rita Rassier), Plaintiffs believe that Robert would still be alive today but for the conspirators' conduct.

[17] Before the Wetterling crime was solved, many citizens in Stearns County had opined publicly that they believed Plaintiff was guilty. Although not researched, there is no question thousands believed Plaintiff to be the Wetterling abductor based on the conspirators' conduct in 2010.

121. The Wetterlings respectfully requested that the FBI re-engage, and a man named Rob Ebben[18] who had written books on the case submitted the "Hart notes" to Ball emphasizing Heinrich. These were hand-written notes recorded by a private investigator from interviews with convicted pedophile, Duane Hart. Hart knew Heinrich and believed Heinrich to be the perpetrator citing competent reasons. It is believed these materials assisted Ball and his team.

122. In 2014, Twin Cities affiliate CBS ran a series of stories on Jared and Joy Baker (see next paragraph) and their strong belief of the connection with Jacob's case. Reporter Esme Murphy ran the stories and interviewed Sanner who, just like in 2004, downplayed the connection. It is believed this publicity assisted Ball and his team.

123. Joy Baker, another private citizen, was a blogger in Stearns County who discovered the Paynesville assaults from news stories. Her diligent work resulted in significant publicity and helped Jared get his message further out. It is believed this assisted Ball and his team.

124. The BCA did a DNA test on a portion of Jared's clothing compared to DNA of Heinrich secured in 1990 on May 12, 2015. A match was determined in July of 2015. Although this was a positive development for finally getting the truth from Heinrich, the reasonable question by citizens was why was this not determined sooner? This was over 26 ½ years after Jared was assaulted, and the statute of limitations for the crimes against him had long since expired. Heinrich confessed in September of 2016. He was sentenced in November of 2016.

125. Ball submitted paperwork to a federal magistrate to secure a search warrant for Heinrich's home in Annandale. He alleged that Heinrich was the sexual assaulter of Jared, and the abductor of Jacob. The footprint and tire track evidence were key to these contentions along with the DNA.

126. At one point before the cases were solved, Ball said words to the effect that he could not understand why Heinrich was no longer considered a suspect. The significance of this statement to evidence that had been obtained in the early investigation, 1989 and 1990, was obvious. This reminded one of the fact that the Huling murders were solved based on early investigation evidence also.

127. To date, not one of the conspirators have publicly apologized or publicly stated that Plaintiff had nothing to do with Jared's assault or Jacob's abduction and murder. In fact, as of November, over two months after Heinrich confessed, Sanner had not returned to Plaintiffs the seized

[18] A pseudonym for the author for his books.

items of personal property or the truckloads of soil.

128. It was not until after Plaintiffs retained counsel that some of the personal property was returned. A family heirloom chest was completely dismantled and returned in pieces. Sanner and SCSO apparently decided to keep the soil estimated to have a value of thousands of dollars. Additionally, the digging damaged Plaintiffs' land. No explanation has been given for the not returned personal property, the dismantled chest, or any reason why the soil was kept.

129. Heinrich is now convicted and will serve 17 years in a federal prison for possession of child pornography. Although he confessed to the crimes against Jared and Jacob, he will never be convicted for those crimes. SCSO and the BCA are responsible for this tragic result. Plaintiff was correct when he criticized these entities and individuals, but this opened him up to retribution. The conspirators had the opportunity and capitalized violating the civil rights of a citizen who merely exercised his constitutional right to speak.

F. <u>The Murder of Officer Decker in Cold Spring; The Ryan Larson Investigation, 2012</u>

130. On November 29, 2012, a Cold Spring police officer named Thomas Decker was murdered outside of a Cold Spring restaurant/bar known as Winners Sports Bar & Grille. He was killed with a shotgun.

131. Decker was called to the scene by a fellow officer named Greg Reiter. Reiter allegedly witnessed the shooting but rather than confronting the perpetrator, he fled the scene. After the shooting, multiple witnesses saw a black van leave the scene at a high rate of speed. Decker's body was found by a bar patron.

132. SCSO concluded Ryan Larson, a man who lived in an apartment above Winners was the perpetrator. There was a large problem with this contention: he was sleeping at the time of the murder, and there was not a shred of evidence linking him to the crime.

133. Larson was taken into custody with no probable cause and interrogated by McDonald and Jensen, the same two conspirators who interrogated Plaintiff in 2004. He was in jail for five days.

134. SCSO personnel submitted an "Application to Detain" to a Stearns County judge which referenced Reiter allegedly seeing a handgun. Like the misstatements and mistruths referenced herein regarding the attempt to obtain a search warrant in the Rassier matter, there was a large problem:

Decker was killed with a shotgun.

135. Larson had a handgun in his apartment for self defense. He did not own or possess a shotgun. This issue therefore arose: did SCSO personnel intentionally lie on a legal document submitted to a judge to detain Larson?

136. In early 2013, the crime was solved.[19] A man named Eric Thomes, who owned a black van, hanged himself just before he was to be questioned another time by law enforcement personnel about the murder. The murder weapon was found in a building that he had access to.

137. Larson requested return of his personal property that had been seized by SCSO personnel. A hearing took place on 4/8/14 before a Stearns County judge. Larson was pro se. He proceeded in this fashion since Sanner refused to return these items.

138. At the hearing, both Sanner and DA Kendall appeared. It is reasonably believed this never happened in the history of the county, that is, the sheriff himself and DA herself appearing in small claims court to defeat a citizen who had no lawyer.

139. Sanner requested an in-camera conference in chambers. Kendall asked to attend the in-camera in chambers. The court denied her request. It is unknown what Sanner said, but it caused the Court to deny Larson's request. Sanner has yet to close the case which will allow the public and media access to the Decker murder investigation documents.

140. The BCA issued a press release in 2013 which provided, in relevant part, the following:

> Investigators have compiled evidence that would have resulted in Eric Joseph Thomes' arrest for the murder of Officer Tom Decker had Mr. Thomes not taken his own life on January 2, 2013.
>
> Although sufficient probable cause existed to arrest Ryan Michael Larson, continued investigation did not reveal sufficient evidence to charge Mr. Larson. At this time, the investigation has provided no information that Mr. Larson participated in Officer Decker's murder. There is no known connection between Mr. Thomas and Mr. Larson related to this crime.

Inexplicably, SCSO has yet to exonerate Larson, and Sanner in a 2016 media interview refused to opine that Larson is innocent.

[19] Murders of police officers in Minnesota are almost always solved, or the perpetrator is killed. They appear to be pursued more aggressively than murders of non-law enforcement citizens.

G. The Huling Murders; Clearance Rates

a. The Huling Murders

141. It is normal in law enforcement investigations that as information is discovered, it is presented to eyewitnesses for their feedback. Although SCSO should have done this with Plaintiff regarding the discovery through investigation of motor vehicles that clearly were related to Heinrich and what Plaintiff saw on his property on 10/22/89, this was not the first time something like this had happened in a high profile murder case investigation by SCSO.

142. In 1978, Alice Huling, a Stearns County resident, was murdered in her home along with three of her four children. One child, an 11 year-old son, played dead, and survived. SCSO was in charge of the murder investigation.

143. Four days after the murders, due to intelligent police work, members of the Wright County Sheriff's Office took a man into custody named Joseph Ture with a hunch that he could be the Huling perpetrator. SCSO was contacted, and two members of SCSO interrogated Ture in Wright County.

144. Ture was questioned about items in his car including a club type device (Alice Huling had evidence of blunt force trauma to her head) and a toy batmobile. Ture became particularly upset with questions about the toy and gave clearly dishonest answers about it.

145. SCSO's investigation went nowhere, and Ture was released days later whereupon he went on to murder and rape numerous women in Minnesota. In 1980, the MPD arrested Ture, and he was subsequently convicted and began a life sentence for multiple stranger rapes.

146. About 20 years later, a cold case unit for Minnesota, outside of Stearns County, re-visited the Huling case, and due to their efforts, Ture was convicted for the Huling murders based on the same evidence that was in the possession of SCSO when they let Ture go back in December of 1978.

147. Cold case investigators contacted the boy named Billy, who was now in his 30's, about evidence they wanted to discuss. Billy responded with words to the effect of whether his batmobile toy had been found. In 2016, one of the two men for SCSO who had questioned Ture in 1978 admitted Billy had never been asked about the toy and additionally admitted this was a big mistake.[20]

[20] It is reasonably believed that the fallout from this incompetence ended DA Roger Van Heel's career (see Paragraph 85). In 2002, he lost in an election process to current SCDA, Janelle Kendall, who is referenced herein.

b. Clearance Rates

148. In addition to failure with high profile cases, SCSO has had a low crime clearance rate (solving of cases) when compared to other agencies statewide for many years. Clearance rates concern the arrest and charge for so called "Part 1 Crimes" such as murder, rape, robbery, arson – felony level crimes. The BCA compiles this data for law enforcement agencies statewide.

149. In 1978, the year of the Huling murders, SCSO had a clearance rate of only 9%. For Sheriff Sanner's tenure, for a time frame of 2004 to 2014, SCSO's clearance rate was typically in the teens with 2014, as an example, at a rate of only 16%.

150. In 2015, the clearance rate dipped to 12%. When asked by media about this in 2016, before Heinrich confessed, Sanner had no clue as to what the clearance rate figures were for his agency SCSO during the time of his tenure. SCSO's clearance rate figures over time put them in the bottom third when compared to other law enforcement agencies in Minnesota.

V. CAUSES OF ACTION UNDER FEDERAL LAW

A. COUNT I

Plaintiffs v. Individual Defendants

Fourth Amendment - Unlawful Entry Into Home and Property

(Pursuant to 42 U.S.C § 1983)

151. Plaintiffs reallege and incorporate the allegations in the preceding paragraphs all as more fully set forth herein.

152. Title 42 U.S.C § 1983, inter alia, permits citizens to bring claims against state actors including members of law enforcement from depriving citizens of rights, privileges, or immunities secured by the United States constitution, including the right to be free from excessive force and unreasonable search and seizures as guaranteed by the Fourth Amendment and incorporated through the Fourteenth Amendment. This right was clearly established at all times relevant to this Complaint.

153. In violation of title 42 U.S.C §1983, Defendants, acting under the color of state law, deprived Plaintiffs of rights, privileges, and immunities secured by the Constitution by submitting false and untruthful information, without probable cause, to a state court judge to secure a search warrant additionally falsely alleging that Plaintiff Daniel A. Rassier was the abductor of Jacob Wetterling, a

crime that became the highest profile crime in state history, for which they had no competent evidence that implicated Plaintiff.

154. This conduct was a predicate to a high profile dig and to illegally secure personal property of both Plaintiffs. Defendants' entry onto the property of Plaintiffs and into their farm home and farm out buildings was without consent, probable cause, and exigent circumstances, or a valid warrant (one that has not been obtained through fraudulent means). Sanner, Jensen, and McDonald knew that they could not reasonably, and lawfully, rely on the search warrant because same was secured illegally with a specific or reckless intent to mislead the judge.

155. The conduct of Defendants was not objectively reasonable under the Fourth Amendment for the purposes of qualified immunity under the totality of the circumstances and as a direct and proximate result of their actions caused Plaintiff Daniel A. Rassier to suffer physical pain, emotional suffering and distress, fear, anxiety, a generally diminished sense of personal safety, embarrassment, humiliation, public scorn, permanent loss of reputation, financial injury/loss of income, and he has been affected in other ways including for attorneys' fees and other costs associated with the commencement of this lawsuit. Plaintiff Rita Rassier experienced the same damages.

156. Defendants, as a result of their outrageous behavior, engaged in intentionally or recklessly, are liable to Plaintiffs for the aforementioned injuries and damages as well as punitive damages with total damages suffered exceeding $1,000,000 to be further determined at trial.

157. Punitive damages are also properly awardable against Defendants and are hereby claimed as a matter of federal common law, Smith v. Wade, 461 U.S. 30 (1983), and as such, are not subject to the pleading requirements or the differing standard of proof set forth in Minn. Stat. § 549.20.

B. COUNT II

Plaintiffs v. Individual Defendants

Fourth Amendment - Unlawful Search of Home and Property

(Pursuant to 42 U.S.C § 1983)

158. Plaintiffs reallege and incorporate the allegations in the preceding paragraphs all as more

fully set forth herein.

159. The same federal law noted in Count I applies to this Count.

160. Defendants did not possess voluntary consent to enter Plaintiffs' farm home and farm outbuildings to conduct a search, nor did they possess competent evidence that Plaintiff Daniel A. Rassier was the abductor of Jacob Wetterling, they possessed no probable cause, and submitted false and untruthful information to a state court judge to obtain a search warrant to unlawfully search the structures on the farm.

161. Defendants did in fact proceed with the unlawful searches, secured personal property of Plaintiffs that did nothing to assist law enforcement with solving the Wetterling case, and both Plaintiffs experienced the same damages as noted in Paragraph 151.

C. COUNT III

Plaintiffs v. Individual Defendants
Fourth Amendment - Unlawful Destruction of Personal Property
(Pursuant to 42 U.S.C § 1983)

162. Plaintiffs reallege and incorporate the allegations in the preceding paragraphs all as more fully set forth herein.

163. The same federal law noted in Count I applies to this Count.

164. The seized furniture, a chest (Paragraph 15), had nothing to do with the abduction of Jacob Wetterling, had no relevance for any criminal investigation whatsoever, but was secured by the Defendants for retaliation and then destroyed. In addition, the unlawful dig of Defendants damaged Plaintiffs' farm land.

165. That Plaintiff Rita Rassier has sustained financial loss based on the value of the destroyed chest and the dig on the farmland and has experienced emotional suffering and distress as a result of the intentional, tortious conduct of the Defendants regarding this conduct.

D. COUNT IV

Plaintiffs v. Defendants Sanner and Jensen

Fifth Amendment - Conversion

(Pursuant to 42 U.S.C § 1983)

166. Plaintiffs reallege and incorporate the allegations in the preceding paragraphs all as more fully set forth herein.

167. The same federal law noted in Count I applies to this Count.

168. Defendants failed to return certain items of personal property of Plaintiff Daniel A. Rassier. In addition, the truck loads of top soil that were taken away were not returned owned by Plaintiff Rita Rassier.

169. The federal civil rights of both Plaintiffs were violated by Defendants' wrongful conversion, and compensation is sought for this illegal conduct. Both Plaintiffs have additionally experienced emotional suffering and distress as a result of this intentional, illegal conduct.

E. COUNT V

Plaintiffs v. Individual Defendants

First Amendment – Retaliation for Engaging in Protected Speech

170. Plaintiffs reallege and incorporate the allegations in the preceding paragraphs all as more fully set forth herein.

171. Defendants engaged in retaliation against Plaintiff Daniel A. Rassier for exercising/engaging in speech protected by the First Amendment of the U.S. Constitution by illegally securing the search warrant in 2010, entering and searching his land, seizing and/or destroying personal property, falsely accusing him of being a "person of interest", publicizing the same, and otherwise intentionally ruining his good reputation and tarnishing his name.

172. For this conduct, Plaintiff Daniel A. Rassier seeks the same damages delineated in Paragraphs 151 and 152.

F. COUNT VI

Plaintiffs v. Individual Defendants

Fourteenth Amendment – Procedural Due Process

(Pursuant to 42 U.S.C. § 1983)

173. Plaintiffs reallege and incorporate the allegations in the preceding paragraphs all as more fully set forth herein.

174. The right to be heard before being condemned to suffer grievous loss of any kind, even though it may not involve the stigma and hardships of a criminal conviction, is a principle basic to our society." Anti-Facist Committee v. McGrath, 341 U.S. 123, 168 (1951) (Frankfurter, J., concurring).

175. When "the State attaches 'a badge of infamy' to the citizen, due process comes into play." Wieman v. Updefraff, 344 U.S. 183, 191 (1952).

176. "Where a person's good name, reputation, honor, or integrity is at stake because of what the government is doing to him, notice and an opportunity to be heard are essential." Wisconsin v. Constantineau, 400 U.S. 433, 437 (1971).

177. Despite the lack of probable cause, Sanner, Jensen, and McDonald destroyed Plaintiff's name as delineated herein.

178. Plaintiffs request damages is pursuant to the Prayer for Relief section of this Complaint.

G. COUNT VII

A. COUNT I

Plaintiffs v. Defendant, Stearns County

First, Fourth, and Fourteenth Amendments – Municipal Liability

(Pursuant to 42 U.S.C. § 1983)

179. Plaintiffs reallege and incorporate the allegations in the preceding paragraphs all as more fully set forth herein.

180. Section 1983 liability for a constitutional violation may attach to a municipality if the violation resulted from (1) an "official municipal policy," see Monell v. Dep't of Soc. Servs., 436 U.S. 658, 691 (1978), (2) an unofficial "custom," id.; or (3) a deliberately indifferent failure to train or supervise, see City of Canton, Ohio v. Harris, 489 U.S. 378, 389 (1989).

181. "[A]'policy' is an official policy, a deliberate choice of a guiding principle or procedure made by the municipal official who has final authority regarding such matter." Mettler v. Whitledge, 165 F.3d 1197, 1204 (8th Cir. 1999).

182. Alternatively, a Plaintiff may establish municipal liability through an unofficial custom of the municipality by demonstrating "(1) the existence of a continuing, widespread, persistent pattern of unconstitutional misconduct by the governmental entity's employees: (2) deliberate indifference to or tacit authorization of such conduct by the governmental entity's policymaking officials after notice tot he officials of that misconduct; and (3) that plaintiff was injured by acts pursuant to the governmental entity's custom, i.e., that the custom was a moving force behind the constitutional violation." Snider v. City of Cape Girardeau, 752 F.3d 1149, 1160 (8th Cir.2014).

183. Stearns County failed to properly supervise SCSO to ensure that incompetency in serious criminal investigations would not result in what happened to Plaintiff Daniel A. Rassier as delineated herein.

184. Chiefs of police and law enforcement experts, associated with the International Association of Chiefs of Police ("IACP") through the National Law Enforcement Policy Center, and the U.S. Department of Justice ("DOJ"), have developed model law enforcement policies, establishing minimum industry standards – the level of professionalism that law enforcement agencies should achieve.

185. The municipal Defendants, however, knowingly failed to maintain policies, practices, and training that meets the minimum accreditation standards set by IACP, DOJ, The Commission on Accreditation for Law Enforcement Agencies, Inc., (CALEA), or similar type accrediting organizations.

186. Defendant Sanner, and Kendall, are policymakers of Defendant Stearns County.

187. Defendant Sanner, and Kendall, oversaw the criminal investigation.

188. The Individual Defendants acted pursuant to orders and directives issued by Defendant Sanner, and Kendall.

189. Defendants, Sanner and/or Stearns County, experienced a 40-year history of proven incompetence.

190. Defendants, Sanner and/or Stearns County, knew that they did not understand how to properly and lawfully conduct criminal investigations.

191. Regardless, Defendants, Sanner and/or Stearns County, failed to change their policies, procedures, or training, and failed to utilize resources readily available from entities like the IACP, DOJ, and CALEA.

192. In August 2014, the Minnesota Chiefs of Police Association launched the Chief Law Enforcement Officer (CLEO) Certification program, a credentialing initiative that provides a road map

for chiefs to continue education and professional development to stay ahead of the curve on the evolving challenges and their careers and in their communities.

193. MCPA developed a program in conjunction with the Peace Officers Standards and Training (POST) Board, the League of Minnesota Cities and members of higher education. Defendant Sanner has not completed the program.

194. Plaintiffs request damages pursuant to the Prayer for Relief section of this Complaint.

VI. CAUSES OF ACTION UNDER STATE LAW

A. COUNT I

Plaintiffs v. Defendants

Intentional Infliction of Emotional Distress

195. Plaintiffs reallege and incorporate the allegations in the preceding paragraphs all as more fully set forth herein.

196. Defendant's conduct as same pertains to both Plaintiffs clearly falls within the parameters of intentional infliction of emotional distress as that legal concept is defined under Minnesota law.

197. For this conduct, Plaintiff Daniel A. Rassier seeks the same damages delineated in Paragraphs 156 and 157.

B. COUNT II

Plaintiffs v. Defendants

Defamation

198. Plaintiffs reallege and incorporate the allegations in the preceding paragraphs all as more fully set forth herein.

199. Public comments to the media and the warrant application submitted to Judge Landwehr contained allegations that were false, and Defendants intentionally defamed Plaintiff Daniel A. Rassier such as, for example, alleging that he was the subject of an investigation by Interpol.

200. For this conduct, Plaintiff Daniel A. Rassier seeks the same damages delineated in Paragraphs 156 and 157.

VII. PRAYER FOR RELIEF

WHEREFORE, Plaintiffs request that this Court enter a judgment in favor of Plaintiffs and against Defendants as follows:

A. An Order granting Plaintiffs joint and several judgments against Defendants;

B. An Order granting Plaintiffs compensatory damages in such amount as a jury may determine but not less than $1,000,000;

C. An Order granting Plaintiffs punitive damages in such amount as a jury may determine but not less than $1,000,000.

D. An Order for Defendants to pay Plaintiffs costs, interest, and attorneys' fees; and

E. An Order for Defendants to pay any and all further relief available such as any relief this Court may consider equitable or appropriate.

Plaintiff demands a jury trial.

PADDEN LAW FIRM, PLLC

Dated: March 29, 2017

By:/s/Michael B. Padden

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