

IN THE UNITED STATES DISTRICT COURT FOR THE  
NORTHERN DISTRICT OF ILLINOIS  
EASTERN DIVISION

JENNIFER DEL PRETE,	)	
	)	
<i>Plaintiff,</i>	)	
	)	
v.	)	
	)	
VILLAGE OF ROMEOVILLE,	)	
Illinois, KENNETH KROLL, SCOTT	)	
MCLAUGHLIN, UNKNOWN OFFICERS	)	<b>JURY TRIAL DEMANDED</b>
OF THE ROMEOVILLE POLICE	)	
DEPARTMENT, TRACEY CALIENDO,	)	
the VILLAGE OF PLAINFIELD, and	)	
DR. EMALEE FLAHERTY,	)	
	)	
<i>Defendants.</i>		

**COMPLAINT**

NOW COMES Plaintiff, JENNIFER DEL PRETE, by her attorneys LOEVY & LOEVY and BLEGEN AND GARVEY, and complaining of Defendants the VILLAGE OF ROMEOVILLE, Illinois, KENNETH KROLL, SCOTT MCLAUGHLIN, UNKNOWN OFFICERS OF THE ROMEOVILLE POLICE DEPARTMENT, TRACEY CALIENDO, the VILLAGE OF PLAINFIELD, and DR. EMALEE FLAHERTY as follows:

**INTRODUCTION**

1. Plaintiff Jennifer Del Prete is a loving mother of two, who served nearly a decade wrongfully imprisoned for a murder that she did not commit, and which might not have been a murder at all.

2. In December 2002, Plaintiff was working at a day care center when a child in her care, I.Z., suddenly stopped breathing. Plaintiff responded by performing CPR and calling 911. Tragically, the child died eleven months later due to complications related to her medical care.

3. Defendants conspired to frame Plaintiff for the child's death, concocting a story that Plaintiff had shaken the child to cause a traumatic and fatal brain injury. In reality, the medical examiner who performed the autopsy questioned whether there was any abuse at all.

4. Plaintiff did not commit any crime and at all times during the 15 years since she was first arrested, Plaintiff has steadfastly maintained her innocence.

5. Despite her innocence, Plaintiff was forced to spend almost a decade in prison, and away from her family, including her parents, siblings, and two children, as a direct result of Defendants' efforts to fabricate and suppress evidence in order to secure her wrongful arrest, prosecution and conviction. Although they knew there were natural or accidental causes, Defendants fabricated false medical evidence and reports implicating Plaintiff in violently shaking the child.

6. Years later, journalism students from the Medill Justice Project at Northwestern University uncovered exculpatory evidence further showing that there was never any crime

committed, and on August 29, 2016, after reviewing that evidence, the Circuit Court of Will County vacated Plaintiff's conviction and ordered a new trial.

7. Plaintiff now brings this action pursuant to 42 U.S.C. § 1983 and Illinois law to seek justice for the harm that the Defendants have caused and redress for the loss of liberty and the terrible hardship that she endured and continues to suffer as a result of the Defendants' misconduct.

#### **JURISDICTION AND VENUE**

8. This action is brought pursuant to 42 U.S.C. § 1983 *et seq.* and Illinois law to redress the Defendants' tortious conduct and their deprivation of Plaintiff's rights secured by the U.S. Constitution.

9. This Court has jurisdiction of Plaintiff's federal claims pursuant to 28 U.S.C. § 1331 and supplemental jurisdiction of her state-law claims pursuant to 28 U.S.C. § 1367.

10. Venue is proper under 28 U.S.C. § 1391(b). Plaintiff resides in this judicial district. In addition, Plaintiff's criminal case was investigated, tried, and appealed in this judicial district, such that a substantial part of the events and omissions giving rise to Plaintiff's claims occurred within this judicial district. In particular, Plaintiff was tried in 2005 in the Circuit Court of Will County, Illinois, which is

located in Joliet, Illinois. Evidence collected and processed during the investigation and at issue in this case was tested and stored within this district. Moreover, many of the witnesses in the case reside in this district.

#### **PARTIES**

11. Plaintiff Jennifer Del Prete has spent the last 15 years fighting false charges that she caused I.Z.'s injuries and eventual death. Plaintiff spent almost a decade in prison because of these false charges.

12. Defendants Kenneth Kroll and Scott McLaughlin are current or former officers and employees of the Romeoville Police Department and the Village of Romeoville.

13. Defendants Unknown Officers of the Romeoville Police Department participated in the misconduct alleged in this Complaint.

14. Defendant Tracey Caliendo (formerly, Tracey Bauer) is a current or former officer and employee of the Plainfield Police Department and the Village of Plainfield.

15. Defendant Dr. Emalee Flaherty is a pediatrician in Chicago, Illinois. At all times relevant to this action, Dr. Emalee Flaherty was a state actor insofar as she engaged with Defendants Kroll, McLaughlin, Unknown Officers of the Romeoville Police Department, and Tracey Caliendo ("Defendant Officers") in conducting the investigation that led to Plaintiff's wrongful

conviction, conspired with the Defendant Officers to secure Plaintiff's wrongful conviction, and was serving a public function and/or was given the authority by the Defendant Officers to identify a perpetrator of the murder for which Plaintiff was wrongfully convicted.

16. Defendant Village of Romeoville is an Illinois municipal corporation that is or was the employer of Defendants Kroll and McLaughlin. In addition, Defendants Kroll, McLaughlin, and Flaherty acted during their investigation of Plaintiff as agents or employees of the Village of Romeoville. The Village of Romeoville is liable for all torts committed by the aforementioned Defendants pursuant to the doctrine of *respondeat superior*. Additionally, the Village of Romeoville is responsible for the policies and practices of the Romeoville Police Department.

17. Defendant Village of Plainfield is an Illinois municipal corporation that is or was the employer of Tracey Caliendo. The Village of Plainfield is liable for all torts committed by the aforementioned Defendant pursuant to the doctrine of *respondeat superior*. Additionally, the Village of Plainfield is responsible for the policies and practices of the Plainfield Police Department.

### **FACTS**

18. In 2002, Plaintiff was working as a caretaker at a daycare center owned by Gleeane Kehr. Plaintiff and Kehr had children in the same class at school for three years, and Kehr observed that Plaintiff was patient, creative, and inclusive when interacting with children in the class. At the time, Plaintiff had over a decade of childcare experience, including a position as a nanny and caretaker in a church nursery. Plaintiff had been working at the daycare since the fall of 2002.

19. On or about the morning of December 27, 2002 Barbara Zielinski dropped off her children, I.Z. and R.Z., at the daycare where Plaintiff worked.

20. Barbara Zielinski had been taking her children to the daycare center for approximately three weeks, after receiving a positive recommendation from a friend, whose children attended the daycare center.

21. At the time, I.Z. was three and a half months old and had already experienced several health issues. She would regularly cry during feeding and had recurring symptoms of gastrointestinal reflux, for which Barbara Zielinski provided gas relief drops. In late October 2002, I.Z. was hospitalized for two days with a fever. On December 18, 2002, I.Z. was taken to her primary care physician's office with another fever, where she was prescribed Amoxicillin for an ear infection. Barbara had

also observed that I.Z. had been "fussy" toward the end of December.

22. I.Z. also had a subdural hematoma.

23. Before arriving at the daycare center on December 27, 2002, I.Z. had been home with her family all week, during the Christmas holiday, and had returned to the daycare center starting December 27, 2002.

24. On December 27, 2002, Plaintiff cared for I.Z. throughout the morning, including feeding and changing I.Z. While taking her morning bottle, I.Z. clenched up, as was usual for her, but managed to eat. She then slept for longer than usual in a child swing.

25. Early in the afternoon, Plaintiff prepared another bottle for I.Z. and retrieved her Amoxicillin. Plaintiff took I.Z. out of the swing and laid her on the couch for a diaper change, noticing that I.Z. had a large bowel movement of diarrhea that soaked all the way through her clothes. I.Z. began shaking and crying a heavy, irritated cry. Plaintiff changed and cleaned I.Z., then quickly retrieved the prepared bottle and a burp cloth, and was preparing to feed I.Z. when she suddenly went completely limp, her eyes half open and slightly rolled back, and her breathing labored.

26. Plaintiff tried to resuscitate I.Z. in accordance with her training and years of experience. She checked I.Z.'s mouth

for a choking object and patted I.Z.'s back to try to clear her airway. When I.Z. still did not respond, Plaintiff called 911 and, following the operator's instructions, performed CPR until the paramedics arrived.

27. Detective McLaughlin responded to the scene and Detective Kroll joined the investigation as the lead detective shortly thereafter.

#### **Initial Medical Testing**

28. Initial medical testing showed that the onset of I.Z.'s injuries and medical conditions occurred well before I.Z. was in Plaintiff's care on December 27, 2002. I.Z.'s first CT scan at St. Joseph's Hospital showed chronic and acute subdural hematomas. Chronic subdural hematomas indicate bleeding in the brain that is weeks old.

29. On December 27, 2002, I.Z.'s treating physician told Defendant McLaughlin that the timeframe for the onset of the injuries was at least 24 and up to 48 hours prior to that date, before I.Z. was in Plaintiff's care.

30. I.Z. was then transferred into the care of Dr. Howard Hast at UIC Hospital. Dr. Hast reported to Defendant Kroll that I.Z.'s presenting signs just prior to Plaintiff's attempt to arouse I.Z. were consistent with an Apparent Life-Threatening Event ("ALTE"). Dr. Hast ordered tests to rule out the known natural causes of an ALTE.



### **Defendant Flaherty's Task Force**

31. Although Defendants Kroll and McLaughlin were aware that the medical evidence pointed away from Plaintiff, and possibly towards natural causes, on January 3, 2003, they nonetheless contacted another doctor, Defendant Flaherty, and conspired with her to fabricate evidence that would falsely implicate Plaintiff.

32. At that time, Defendant Flaherty was the Medical Director of the Protective Service Team at Children's Memorial Hospital in Chicago, Illinois.

33. Defendant Flaherty was a vocal advocate for physicians partnering with law enforcement to investigate and prosecute child abuse cases, and in 2002, she was working to prove the efficacy of her newly-created Child Protection Team Task Force ("Task Force").

34. The Task Force sought to bring medical child abuse experts into the early stages of criminal investigations so that medical professionals could identify instances of child abuse and specifically identify perpetrators.

35. Dr. Flaherty's Task Force specifically sought to target babysitters and caretakers. Dr. Flaherty partnered with Laura Manzardo to establish the Task Force after the death of Manzardo's fifteen-month-old daughter. Her daughter's death was ruled a homicide and her daughter's daycare provider, Mazna

Baraz, was ultimately charged with first-degree murder. Baraz was acquitted based on the judge's finding that the State failed to meet its burden due to conflicting testimony from medical experts on the timing of the injury.

36. In response to Baraz's acquittal, Dr. Flaherty helped launch the Task Force in order to enable law enforcement to zealously prosecute child abuse cases, in particular against caretakers like Plaintiff.

37. Defendant Flaherty participated with Defendants Kroll and McLaughlin to fabricate evidence of Shaken Baby Syndrome ("SBS") and evidence implicating Plaintiff as the perpetrator.

**Defendants Conspire to Frame Plaintiff For Child Abuse**

38. By January 8, 2003, just days after first meeting with Defendants Kroll and McLaughlin, and without conducting any physical examination of I.Z., Defendant Flaherty authored a report with fabricated scientific findings that I.Z.'s injuries were unequivocally the result of child abuse, specifically shaking, and that those injuries must have occurred while I.Z. was in Plaintiff's care.

39. Defendant Flaherty understood that the purpose of the report was to assist the Defendant Officers' investigation and specifically to pinpoint a perpetrator for the prosecution.

40. Defendant Flaherty's fabricated report included, among other fabrications, false findings that: (1) shaking was the

only possible cause of I.Z.'s injuries; (2) I.Z. had suffered only acute injuries; and (3) I.Z.'s injuries must have occurred immediately prior to I.Z.'s collapse.

41. Defendant Flaherty knew that each of the statements in the foregoing paragraph was false. She knew I.Z.'s injuries could have been caused by a fall, accidental collision, or were possibly the result of natural causes, and that I.Z. had chronic subdural hematomas, which must have been sustained well prior to the afternoon of I.Z.'s collapse.

42. Defendant Kroll also knew Defendant Flaherty's report was fabricated: he had conspired with Defendant Flaherty to reach the SBS conclusion even though I.Z.'s treating physicians had not reached that conclusion themselves and were still waiting to rule out natural causes. Nonetheless, Defendant Kroll repeated the fabricated SBS determination throughout his police reports.

43. Defendant Flaherty willfully participated with the Defendant Officers to secure Plaintiff's arrest and conviction. Defendant Flaherty provided her fabricated report to Defendant Officers and joined their investigation while at the same time involving herself directly in I.Z.'s medical care.

44. Shortly after Defendant Flaherty produced her fabricated report, I.Z. was transferred from UIC Hospital to Children's Memorial Hospital, where Defendant Flaherty worked.

45. From that point forward, Defendant Flaherty became personally involved in I.Z.'s care as part of the Child Protection Team, and the fabricated determination of SBS or "non-accidental head trauma" was the only diagnosis mentioned in the medical records. Defendants Kroll, McLaughlin, and Flaherty conspired to suppress Dr. Hast's other possible diagnoses which pointed to natural causes of I.Z.'s injuries.

46. As a result of Defendants fabricated evidence, which pointed at Plaintiff as the only possible perpetrator, Plaintiff was charged with two counts of aggravated battery of a juvenile on February 10, 2003. The only medical basis for indicting Plaintiff was Defendant Flaherty's fabricated report.

47. Plaintiff maintained her innocence, but dutifully turned herself in to the authorities.

#### **I.Z.'s Death and Autopsy**

48. I.Z. lived for several months after her collapse on December 27, 2002. However, on November 8, 2003, I.Z. experienced breathing difficulties and died from complications related to her injuries the following day.

49. Dr. Jeff Harkey, a forensic pathologist for the DuPage County Coroner's Office, questioned whether I.Z. had suffered from SBS at all and requested I.Z.'s medical records to evaluate the cause of death.

50. Defendant Tracy Caliendo, from the Plainfield Police Department, attended the autopsy and learned that Dr. Harkey questioned the SBS diagnosis. Defendant Caliendo reported Dr. Harkey's concerns to Defendant Kroll and informed him that Dr. Harkey intended to review I.Z.'s medical records.

51. Defendant Caliendo improperly suppressed all evidence of her conversation with Defendant Kroll. This conversation was not included in her Plainfield Police Department reports, or disclosed to Plaintiff or prosecutors during the criminal proceedings.

52. Defendant Kroll, in turn, wrote to Defendant Flaherty to warn her that Dr. Harkey questioned the SBS finding, and that he intended to summon all of I.Z.'s medical records "to see who determined this was SBS, and why they reached that diagnosis."

53. Defendants Kroll and Flaherty suppressed the letter. It was never given to Plaintiff or prosecutors during the criminal proceedings.

54. Moreover, Dr. Harkey did not receive complete medical records, as he had requested. Defendant Flaherty sought to insulate her fabricated findings, by sending her report to Dr. Harkey to rely on during his post-mortem analysis. Rather than sending complete medical records, Defendants sent Defendant Flaherty's fabricated report to Dr. Harkey.

55. Dr. Harkey did indeed rely on Defendant Flaherty's fabricated report to conclude that I.Z.'s cause of death was "abusive head trauma" dating back to December 27, 2002, when I.Z. first collapsed.

56. If Dr. Harkey had known about I.Z.'s chronic subdural hematoma, he would not have concluded that the cause of death was "abusive head trauma," or even that I.Z.'s injuries were inflicted by another person. Instead, Dr. Harkey would have found that the cause of death was undetermined.

#### **Plaintiff's Conviction and Sentencing**

57. As a result of Defendants' misconduct, Plaintiff was charged with first degree murder. The inquest into I.Z.'s death was tainted by Defendants' fabricated evidence. Defendant Officers submitted Defendant Flaherty's fabricated report and Dr. Harkey's autopsy, which was in turn based on that fabricated report. The inquest returned a verdict of homicide.

58. As a direct result of the Defendants' misconduct, on March 4, 2005, following a bench trial, Plaintiff was convicted of first degree murder and sentenced to 20 years in the Illinois Department of Corrections.

#### **Discovery of the Kroll Letter**

59. In March 2013, the Kroll Letter was finally revealed in response to a Freedom of Information Act request filed with the Romeoville Police Department by journalism students from the

Medill Justice Project at Northwestern University.

60. The failure to produce the Kroll Letter was and was found to be a *Brady* violation by the Appellate Court of Illinois, Third District, and on August 29, 2016, the Circuit Court of Will County vacated Plaintiff's murder conviction and ordered a new trial.

#### **Plaintiff's Damages**

61. As a direct result of the Defendant's misconduct, Plaintiff suffered numerous injuries, including but not limited to loss of liberty, loss of wages, attorneys' fees expended in defense of her wrongful prosecution and efforts to prove her innocence, physical injuries, reputational harm and emotional trauma.

62. Prior to her wrongful incarceration, Plaintiff lived with her family and had a close relationship with her parents, siblings, and her two children who were seven and fifteen at the time of her incarceration.

63. The emotional pain and suffering caused by losing almost a decade of her life has been substantial. The case was publicized, and neighbors in her community learned that she was charged with child abuse. She faced stigma, and experienced fear and distress during her nearly decade-long detention. She continues to suffer from daily feelings of nervousness, fear, distress, and worry about the future.

64. Plaintiff's suffering was compounded because she was separated from her children, who grew up largely without a mother, a fact that has caused, and continues to cause Plaintiff incalculable pain.

65. Moreover, Plaintiff was stripped of the various pleasures of basic human experience, from the simplest to the most important, which all free people enjoy as a matter of right. Plaintiff was taken from her family, losing the opportunity to watch, guide, and support her children through their childhood, adolescence, and young adulthood. She missed the ability to share holidays, birthdays, weddings, and other life events with her loved ones. Finally, Plaintiff must now attempt to make a life for herself outside of prison without the benefit of almost a decade of life or work experiences.

#### **COUNT I**

#### **42 U.S.C. § 1983 - Due Process**

66. Plaintiff incorporates each paragraph of this Complaint as if fully restated here.

67. In the manner described more fully above, Defendants Kroll, McLaughlin, Caliendo, and Flaherty (together "Individual Defendants"), while acting individually, jointly, and in conspiracy with one another, as well as under color of law and within the scope of their employment, deprived Plaintiff of her constitutional right to a fair trial.



68. Defendant Flaherty participated willfully in the investigation with the express purpose of identifying a perpetrator for prosecution.

69. In the manner described more fully above, the Individual Defendants deliberately withheld exculpatory evidence, as well as fabricated false reports and other evidence, thereby misleading and misdirecting the criminal prosecution. Absent the totality of this misconduct, the prosecution of Plaintiff could not and would not have been pursued and her conviction would not have resulted.

70. As a result of the misconduct described in this Count, Plaintiff suffered injuries, including but not limited to personal physical injury and emotional distress, as more fully alleged above.

71. Defendants Kroll and McLaughlin's misconduct described in this Count was undertaken pursuant to the policies and practices of the Romeoville Police Department to pursue wrongful convictions through profoundly flawed investigations and to fabricate inculpatory evidence and reports and withhold exculpatory information bearing on the crime at issue.

72. Defendant Caliendo's misconduct described in this Count was undertaken pursuant to the policies and practices of the Village of Plainfield to pursue wrongful convictions through profoundly flawed investigations and to fabricate inculpatory

evidence and reports and withhold exculpatory information bearing on the crime at issue.

73. The Villages of Romeoville and Plainfield violated Plaintiff's rights by maintaining policies and practices that were the moving force driving the foregoing constitutional violations.

74. In addition to constituting policies, these widespread practices, so well-settled as to constitute de facto policy within the Romeoville and Plainfield Police Departments, were able to exist and thrive because municipal policy makers with authority over the same exhibited deliberate indifference to the problem, thereby effectively ratifying it.

75. The widespread practices described in the preceding paragraphs were allowed to flourish because the Villages of Romeoville and Plainfield declined to implement sufficient training and/or any legitimate mechanism for oversight or punishment. Indeed, the Romeoville and Plainfield Police Departments' system for investigating and disciplining police officers accused of this type of misconduct was, and is, for all practical purposes, nonexistent. As a result, officers are led to believe they can act with impunity, thereby encouraging the very type of abuses that befell Plaintiff.

**COUNT II**

**42 U.S.C. § 1983 - Federal Malicious Prosecution**

76. Plaintiff incorporates each paragraph of this Complaint as if fully restated here.

77. In the manner described more fully above, the Individual Defendants, individually, jointly and conspiracy with one another, as well as under color of law and within the scope of their employment, initiated and perpetuated a criminal proceeding against Plaintiff that lacked probable cause and in spite of the fact that they knew Plaintiff was innocent.

78. In doing so, Individual Defendants caused Plaintiff to be unreasonably seized without probable cause and deprived her liberty, in violation of Plaintiff's rights secured by the Fourth and Fourteenth Amendments.

79. The false judicial proceedings against Plaintiff were instituted and continued maliciously, resulting in injury.

80. Plaintiff's criminal prosecutions were terminated in her favor, in a manner indicative of innocence.

81. Defendants deprived Plaintiff of a fair state criminal proceedings, including the chance to defend herself during those proceedings, resulting in the deprivation of liberty.

**COUNT III**

**42 U.S.C. § 1983 - Conspiracy to Deprive Constitutional Rights**

82. Plaintiff incorporates each paragraph of this Complaint as if fully restated here.

83. In the manner described more fully above, the Individual Defendants, reached an agreement among themselves, and other unknown co-conspirators, to prosecute Plaintiff for the death of I.Z., regardless of her guilt or innocence, and thereby to deprive Plaintiff of her constitutional rights.

84. In so doing, these co-conspirators conspired to accomplish an unlawful purpose by an unlawful means. In addition, these co-conspirators agreed among themselves to protect one another from liability for depriving Plaintiff of these rights.

85. In furtherance of their conspiracy, each of the Individual Defendants committed overt acts and were otherwise willful participants in joint activity.

86. The misconduct described in this Count was objectively unreasonable and was undertaken intentionally, with malice, with reckless indifference to the rights of others, and in total disregard of the truth and Plaintiff's innocence.

87. As a result of the misconduct described in this Count, Plaintiff suffered injuries, including but not limited to

personal physical injury and emotional distress, as more fully alleged above.

**COUNT IV**

**42 U.S.C. § 1983 - Failure to Intervene**

88. Plaintiff incorporates each paragraph of this Complaint as if fully restated here.

89. In the manner described more fully above, during the constitutional violations described herein, one or more of the Individual Defendants stood by without intervening to prevent the violation of Plaintiff's constitutional rights, even though they had the opportunity to do so.

90. The misconduct described in this Count was objectively unreasonable and was undertaken intentionally, with malice, with reckless indifference to the rights of others, and in total disregard of the truth and Plaintiff's innocence.

91. As a result of the misconduct described in this Count, Plaintiff suffered injuries, including but not limited to personal physical injury and emotional distress, as more fully alleged above.

**COUNT V**

**State Law Claim - Malicious Prosecution**

92. Plaintiff incorporates each paragraph of this Complaint as if fully restated here.

93. In the manner described above, the Individual Defendants, individually, jointly, and/or in conspiracy with one another, as well as within the scope of their employment, accused Plaintiff of criminal activity and exerted influence to initiate and to continue and perpetuate judicial proceedings against Plaintiff without any probable cause for doing so.

94. In so doing, the Individual Defendants caused Plaintiff to be subjected improperly to judicial proceedings for which there was no probable cause. These judicial proceedings were instituted and continued maliciously, resulting in injury.

95. Plaintiff's criminal prosecutions were terminated in her favor, in a manner indicative of innocence.

96. The misconduct described in this Count was objectively unreasonable and was undertaken intentionally, with malice, and in total disregard of the truth and Plaintiff's clear innocence.

97. As a result of the Individual Defendants' misconduct described in this Count, Plaintiff suffered loss of liberty, great mental anguish, humiliation, degradation, physical and emotional pain and suffering, and other grievous and continuing injuries and damages as set forth above.

**COUNT VI**

**State Law Claim - Intentional Infliction of Emotional Distress**

98. Plaintiff incorporates each paragraph of this Complaint as if fully restated here.

99. The actions, omissions, and conduct of the Defendants as set forth above were extreme and outrageous. These actions were rooted in an abuse of power and authority and were undertaken with the intent to cause, or were in reckless disregard of the probability that their conduct would cause, severe emotional distress to Plaintiff, as is more fully alleged above.

100. As a direct and proximate result of the Defendants' actions, Plaintiff suffered and continues to suffer emotional distress and other grievous and continuing injuries and damages as set forth above.

**COUNT VII**

**State Law Claim - Civil Conspiracy**

101. Plaintiff incorporates each paragraph of this Complaint as if fully restated here.

102. As described more fully in the preceding paragraphs, the Individual Defendants, acting in concert with other co-conspirators, known and unknown, reached an agreement among themselves to frame Plaintiff for a crime she did not commit and conspired by concerted action to accomplish an unlawful

purpose and/or to achieve a lawful purpose by unlawful means. In addition, these co-conspirators agreed among themselves to protect one another from liability for depriving Plaintiff of these rights.

103. In furtherance of their conspiracy, each of these co-conspirators committed overt acts and were otherwise willful participants in joint activity.

104. The violations of Illinois law described in this complaint, including Defendants' malicious prosecution of Plaintiff and their intentional infliction of emotional distress, were accomplished by the Individual Defendants' conspiracy.

105. The misconduct described in this Count was objectively unreasonable, was undertaken intentionally, and in total disregard of the truth and Plaintiff's clear innocence.

106. As a result of the Individual Defendants' misconduct described in this Count, Plaintiff suffered loss of liberty, great mental anguish, humiliation, degradation, physical and emotional pain and suffering, and other grievous and continuing injuries and damages as set forth above.

#### **COUNT VIII**

##### **State Law Claim - *Respondeat Superior***

107. Plaintiff incorporates each paragraph of this Complaint as if fully restated here.



108. While committing the misconduct alleged in the preceding paragraphs, Defendants Kroll and McLaughlin were employees, members, and agents of the Village of Romeoville, acting at all relevant times within the scope of their employment.

109. Defendant Village of Romeoville is liable as principal for all torts committed by its agents.

110. While committing the misconduct alleged in the preceding paragraphs, Defendant Caliendo was an employee, member, and agent of the Village of Plainfield, acting at all relevant times within the scope of her employment.

111. Defendant Village of Plainfield is liable as principal for all torts committed by its agents.

#### **COUNT IX**

##### **State Law Claim - Indemnification Pursuant to 745 ILCS 10/9-102**

112. Plaintiff incorporates each paragraph of this Complaint as if fully restated here.

113. Illinois statute (745 ILCS 10/9-102) provides that public entities are directed to pay any tort judgment for compensatory damages for which employees are liable within the scope of their employment activities.

114. Defendants Kroll and McLaughlin were employees, members, and agents of the Village of Romeoville, acting at all relevant times within the scope of their employment in

committing the misconduct described herein.

115. The Village of Romeoville is responsible to pay any judgment entered against the Defendants Kroll and McLaughlin. Plaintiff therefore demands judgment against Defendant Village of Romeoville, in the amounts awarded to Plaintiff against Defendants Kroll and McLaughlin as damages, attorneys' fees, costs and interest.

116. Defendant Caliendo was an employee, member, and agent of the Village of Romeoville, acting at all relevant times within the scope of her employment in committing the misconduct described herein.

117. The Village of Plainfield is responsible to pay any judgment entered against Defendant Caliendo. Plaintiff therefore demands judgment against Defendant Village of Plainfield, in the amount awarded to Plaintiff against Defendant Caliendo as damages, attorneys' fees, costs and interest.

WHEREFORE, Plaintiff JENNIFER DEL PRETE, respectfully requests that this Court enter a judgment in her favor and against Defendants the VILLAGE OF ROMEOVILLE, Illinois, KENNETH KROLL, SCOTT McLAUGHLIN, UNKNOWN OFFICERS OF THE ROMEOVILLE POLICE DEPARTMENT, TRACEY CALIENDO, the VILLAGE OF PLAINFIELD, and DR. EMALIE FLAHERTY, awarding compensatory damages, attorneys' fees and costs against each Defendant, and, because

they acted willfully, wantonly, and/or maliciously, punitive damages against each of the individual Defendants, and any other relief this Court deems just and appropriate.

**JURY DEMAND**

Plaintiff, JENNIFER DEL PRETE, hereby demands a trial by jury pursuant to Federal Rule of Civil Procedure 38(b) on all issues so triable.

Respectfully submitted,

**JENNIFER DEL PRETE**

BY: /s/ Jon Loevy

*One of Plaintiff's Attorneys*

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