



**II.**  
**PARTIES**

3. Plaintiff Steve Crowley is a resident and employee of Clay County, Texas.

4. Plaintiff Douglas "Doug" Stack is a resident of Bowie, Texas and an employee of Clay County, Texas.

5. Defendant Richard S. Keen, sued in his individual and official capacities, is now, and at all relevant times has been, a County Commissioner for Clay County Precinct 4. He may be served with process at 214 N. Main Street, Henrietta, Texas 76365 or wherever he may be found.

6. Defendant Clay County, Texas, including its respective departments, agencies, and other instrumentalities, is a unit of local government in the State of Texas. It may be served with process at 214 N. Main Street, Henrietta, Texas 76365.

**III.**  
**JURISDICTION & VENUE**

7. Pursuant to 28 U.S.C. § 1331, this Court has original jurisdiction over all civil matters arising under the laws of the United States and has jurisdiction to award damages and grant equitable or other relief. Specifically, this Court has jurisdiction because this is an action arising under the Fourteenth Amendment to the United States Constitution.

8. Additionally, this Court has jurisdiction pursuant to 28 U.S.C. § 1343(a)(3) because this is an action to redress the deprivation of federal constitutional rights.

9. Venue of this case lies in the Northern District of Texas pursuant to 28 U.S.C. § 1391(b) because this is a civil action not founded in diversity of citizenship, and

because this claim arose, and Defendants reside within the Northern District of Texas, Wichita Division.

**IV.**  
**FACTS**

10. As one of four elected county commissioners for Clay County, Texas, Richard Keen is responsible for numerous duties, including the maintenance and construction of county roads. In connection with his official duties, he oversees and manages a work crew of several men, including Plaintiffs, Steve Crowley and Doug Stack.

11. During work hours, Commissioner Keen routinely carries a small caliber pistol in his front shirt pocket. He also carries with him a 9mm pistol. Instead of carrying these weapons in a responsible and legal manner, Commissioner Keen has openly brandished and pointed these weapons at County employees, including Mr. Crowley and Mr. Stack, with the intent of causing them to fear for their lives and to intimidate them into submission.

12. The examples of Commissioner Keen's erratic and life-threatening gunplay are numerous.

13. One morning in February 2017, Danny Ellis, a former member of the County's road crew, reported to Commissioner Keen's office to receive his daily duties. Inexplicably, the Commissioner pulled out his 9mm and pointed it at Mr. Ellis.

14. Mr. Ellis, shocked, confused and in fear for his life, raised his hands and asked Commissioner Keen whether it was loaded. Commissioner Keen proceeded to eject a chambered round from the gun and laughed at Mr. Ellis as he backed away with his hands raised up in an act of surrender.

15. Moments later, Mr. Crowley also entered Keen's office to receive his day's duties. As Mr. Crowley turned around to exit the office, Commissioner Keen raised his handgun once more, pointed it at Mr. Crowley's back, and then pulled the trigger.

16. Mr. Ellis, having witnessed this event, later asked Commissioner Keen why he pointed the handgun at them. The Commissioner's response amounted to little more than he 'felt like doing it.'

17. Commissioner Keen has since pointed guns at Mr. Crowley's back and dry-fired them on numerous occasions.

18. Mr. Crowley and Mr. Ellis are not the only men who have been subjected to Commissioner Keen's potentially deadly and reckless behavior. Mr. Stack has had the barrel of Commissioner's weapons aimed at him on several occasions.

19. In one instance that occurred in February 2017, another County employee, Brett Dunlap, witnessed Keen point his handgun directly at Mr. Stack, who was in the process of parking a vehicle. Once Keen lowered the weapon, he proceeded to spin the weapon on his finger and walked away, as if he was some sort of western gunfighter, as depicted in the photograph below:



20. On other occasions, Keen has pointed a pistol at Mr. Stack's feet and dry-fired the weapon for no apparent reason, causing Mr. Stack to shuffle his feet out of anxiety that Keen's weapon might go off.

21. As a matter of common sense, pointing a weapon at another person and then pulling the trigger, whether the handler of the weapon believes the weapon to be loaded or unloaded, presents an obvious risk of serious bodily injury or death. Keen's handling of his firearms serves no other purpose but to inspire fear, terror and apprehension in Plaintiffs (or whoever else may be nearby), making them wonder whether they may be shot.

22. On yet another occasion, Keen, displeased with the way Mr. Stack was performing his duties, told him "don't make me shoot you over it!" In a normal scenario, such a comment could be written off as jovial in nature. But given Keen's history of reckless gunplay directed at himself and others, Mr. Stack was in fear for his life and had little choice but to slowly turn and walk away from the scene.

23. Mr. Stack later found out from another County employee that once he had his back turned to the Commissioner, the Commissioner pointed his gun at Mr. Stack and dry-fired the weapon.

24. Mr. Crowley has been threatened with being shot merely for suggesting an alternative way of performing their work. For example, during one meeting involving a County project, Commissioner Keen, unhappy with Mr. Crowley's suggestion regarding how the task should be performed, screamed "I'm ready for you this time!" Mr. Crowley, knowing that the irate man before him had dry-fired a pistol at his back and routinely

pointed his weapons at his co-workers, found himself trapped with no choice but to slowly exit the office in fear for his life.

25. In addition to aiming his handguns at County employees for no ostensible reason, Keen discharges his loaded weapon into the sky, trees, ditches and rocks while out on assignment in reckless displays of power.

26. For example, in the Spring of 2017, Mr. Crowley and other members of the work crew were finishing work on a culvert. At the end of the day, Commissioner Keen pulled out his pistol, spun it on his finger, and then proceeded to fire multiple shots into the culvert - while Mr. Crowley and Mr. Stack were working on the culvert. Fearing for their lives and safety, Mr. Crowley and Mr. Stack retreated from the scene.

27. Commissioner Keen's habit of discharging his firearms in front of his subordinates leaves Plaintiffs and their co-workers wondering whether one day he will knowingly or unknowingly aim a loaded pistol at them and decide to pull the trigger on a whim.

28. Keen displays his firearms around the office for no other reason than to remind his subordinates of the weapons' presence and accessibility should he decide to wield them.

29. During meetings in his office, Keen deliberately positions a firearm on his desk so that it is plainly visible and pointed in the direction of his audience as depicted below:



30. It is not uncommon during these meetings for Keen to pick up his firearm and then, in an agitated fashion and with his finger on or near the trigger, point the gun in and around the general direction of Plaintiffs and other assembled County employees, dry-firing the weapon randomly.

31. Even when meetings are not in session, Keen has been known to randomly dry-fire his pistols around his office and the shop, particularly when irritated.

32. The danger and threat manifested in Keen's gunplay is exacerbated by the fact that he displays other forms of violent, erratic, threatening and oppressive behavior.

33. To give just a few examples, he does not permit members of the work crew to relieve themselves in the indoor restroom, instead mandating that they urinate on a cinderblock stationed outside. He responds to suggestions from Plaintiffs and other County employees with profanity-laden displays of violence and anger. Keen throws heavy equipment and tools around the shop when displeased, and persistently threatens Plaintiffs and their coworkers with physical violence should they dare disagree with him over trivial matters or commit minor mistakes. He has engaged in at least one physical altercation with a former employee and threatened to shoot him had his gun been nearby.

34. Commissioner Keen's acts of intimidation are not limited to the intentional and reckless handling of his firearms. Commissioner Keen has deemed it appropriate to jab Mr. Crowley in the stomach with the pointed end of his knife, laughing off his obviously violent and threatening conduct as nothing more than good-natured horseplay.

35. With each such outburst, Plaintiffs and their co-workers reasonably fear that one day, Keen may couple his displays of unrestrained fury with deadly force involving a loaded weapon.

36. Finally, on or about October 13, 2017, following an investigation by the Texas Rangers into these instances of criminal conduct, Commissioner Keen submitted himself to the custody of local authorities and was then released on \$7,500 bond. Upon information and belief, one of the conditions of his bond is to refrain from being within the vicinity of County employees.

37. On December 18, 2017, a grand jury indicted Commissioner Keen on three counts of deadly conduct.

38. Nevertheless, Keen's intimidating conduct continued unabated even after he was arrested. Shortly thereafter, Commissioner Keen began calling in the men who he supervises, one-by-one, to find out who reported him to the Texas Rangers. Indeed, Mr. Stack has been contacted by a private investigator who purported to act on behalf of Commissioner Keen.

39. To this day, Commissioner Keen continues to make his presence known around County employees, including Plaintiffs. This is despite their constant requests to local officials to do something to prevent the Commissioner from coming near them.

40. This underscores another problem – Keen’s conduct and the danger he presents is open and obvious to Clay County officials. Despite Keen’s well-publicized misconduct<sup>1</sup> and despite being indicted by a grand jury for three counts of deadly conduct, Clay County’s officials have failed to take any remedial action.

41. Upon information and belief, Clay County Commissioners Court has been fully aware of Keen’s treatment of his employees since late 2016, yet they have done nothing meaningful to prevent further misconduct or to protect the County employees under Keen’s supervision by simply reassigning Plaintiffs or their co-workers to other job duties.

42. Clay County’s inaction in the face of a situation that could easily lead to the death or injury of its personnel amounts to the County’s effective ratification of Commissioner Keen’s unconscionable behavior. The County’s failure to act is particularly egregious in light of recent national tragedies involving shooters who displayed ‘warning signs’ well before their habits of bizarre gunplay turned deadly.

43. Mr. Crowley, a former prison guard who has assisted law enforcement in the tracking and arrest of fugitives on many occasions, is no stranger to the hazards of dealing with dangerous individuals. But now, both Mr. Crowley and Mr. Stack find themselves in a state of constant fear, anxiety and emotional distress, all because their supervisor may recklessly or intentionally shoot them or their co-workers.

44. Keen recently lost the Republican primary in Clay County. However, he will remain as an elected official until January 1, 2019. In the meantime, with virtually no

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<sup>1</sup> Darrell Franklin, *Update: Clay County Commissioner Charged With Deadly Conduct*, <<http://www.texomashomepage.com/news/update-clay-county-commissioner-charged-with-deadly-conduct/834122469>> (last visited March 10, 2018).

recourse or meaningful protection from local officials, Mr. Crowley and Mr. Stack are faced with the prospect of working for the next nine and a half months under the supervision of a person who has arbitrarily and capriciously placed their lives and the lives of others in serious jeopardy.

**V.**  
**CAUSES OF ACTION**

**A. 42 U.S.C. § 1983 Claims – Violation of the Fourteenth Amendment**

45. The foregoing factual allegations are incorporated herein by reference as if set forth in full.

46. 42 U.S.C. § 1983 provides that -

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

47. The substantive component of the Fourteenth Amendment's Due Process Clause secures Plaintiffs' right to be free from the wrongful invasion of their bodily integrity. U.S. CONST. AMEND. XIV.

**As against Commissioner Richard Keen**

48. In violation of Plaintiffs' right to bodily integrity, Keen, a public official acting under color of law at all relevant times, has threatened to employ deadly force against Plaintiffs by, among other things, pointing handguns at them and pulling the trigger on numerous occasions.

49. Keen has no legitimate reason for his actions. Indeed, he has abused his position of authority as an elected official and uses it as an instrument of oppression on a continual basis, deliberately threatening his subordinates with deadly force and engaging in conduct that places Plaintiffs and others in imminent danger of serious bodily injury or death, thereby causing them injury.

**As against Clay County, Texas**

50. Keen, a County policymaker delegated the authority to oversee his subordinates' hiring, firing, supervision and discipline, has engaged in unconstitutional conduct – threatening Plaintiffs and other County employees with deadly force and subjecting them to the distinct possibility of death or bodily injury.

51. Keen's affirmative conduct is so pervasive that it rises to the level of a custom or practice that creates a specific danger to Plaintiffs and others.

52. Despite having actual and constructive knowledge of Keen's custom and practice of violating Plaintiffs' constitutional rights, Clay County has remained deliberately indifferent towards these ongoing violations.

53. By failing to prevent Keen's constitutional violations or protect Plaintiffs and other County employees from Keen's conduct, Clay County has ratified and effectively accepted Commissioner Keen's custom of regulating employee conduct with threats of deadly force, causing Plaintiffs injury.

**B. Assault**

54. The foregoing factual allegations are incorporated herein by reference as if set forth in full.

55. Keen has committed assault by intentionally and knowingly threatening Plaintiffs with imminent bodily injury.

56. He has further intentionally and knowingly caused physical contact with Plaintiff Crowley in a manner he knows or should have reasonably known would be viewed as extremely offensive and provocative.

57. Plaintiffs have suffered mental injuries as a direct and proximate result of Defendant Keen's conduct.

**C. Intentional Infliction of Emotional Distress**

58. The foregoing factual allegations are incorporated herein by reference as if set forth in full.

59. Commissioner Keen's persistent brandishing of his firearms, pointing weapons and dry-firing these weapons at Plaintiffs, his random threats of violence, profane outbursts and other misconduct, constitutes reckless and/or intentional conduct that is both extreme and outrageous.

60. Commissioner Keen's conduct has proximately caused Plaintiffs severe emotional distress to a degree that no reasonable person could expect to endure.

**VI.**

**APPLICATION FOR PRELIMINARY AND PERMANENT INJUNCTION**

61. Plaintiffs seek a preliminary and permanent injunction precluding Commissioner Keen from coming within 500 feet of Plaintiffs or having contact with Plaintiffs of any kind, directly or indirectly.

62. As set forth above, Commissioner Keen's well-documented violent and threatening conduct demonstrates that Plaintiffs have a substantial likelihood of success on the merits.

63. Absent an injunction, Commissioner Keen's continued conduct and presence near and around Plaintiffs presents a manifest and substantial threat of causing irreparable injury to Plaintiffs in the form of physical injury or death.

64. Considering the fact that Commissioner Keen has openly flouted the conditions of his bond and that local officials have failed to enforce those conditions despite Plaintiffs' pleas, without injunctive relief, Plaintiffs have no remedy to ensure their safety and to prevent further violations of their rights. The threatened injury to Plaintiffs' lives and bodily integrity vastly outweighs any harm a preliminary or permanent injunction might cause the Commissioner or Clay County.

65. Plaintiffs ask the Court to set their application for preliminary injunction for hearing at the earliest possible time, and, upon such hearing, to issue a preliminary injunction against the Commissioner as aforesaid; and following a trial on the merits to enter a permanent injunction.

**VII.**  
**DAMAGES**

66. Plaintiffs seek damages proximately caused by Defendants' acts and omissions in violation of their rights, including past and future damages for mental anguish and emotional distress.

67. Plaintiffs also seek punitive damages against Defendant Keen for his willful and deliberate violation of Plaintiffs' rights under the Constitution and state law. Defendant Keen has demonstrated reckless, wanton and malicious conduct in violation of Plaintiffs' rights.

68. Plaintiffs are further entitled to recover reasonable and necessary attorneys' fees and expert fees pursuant to 42 U.S.C. § 1988(b) and (c).

**VIII.**  
**JURY DEMAND**

69. Plaintiffs respectfully demand a jury trial. FED. R. CIV. P. 8(b).

**IX.**  
**CONCLUSION**

There is no excuse in a civilized society for what has transpired in Clay County. All employees, private or public, should be able to do their job without fearing that their superior may one day recklessly or intentionally shoot them.

For the foregoing reasons, Plaintiffs Steve Crowley and Douglas Stack respectfully request that judgment be entered against Defendants and in their favor, awarding injunctive relief, monetary damages, pre and post-judgment interest as may be allowed by law, attorneys' fees, costs of suit, and all other relief, in law and equity, to which he may show himself justly entitled.

Respectfully submitted,

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