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MURPHY J. PAINTER \* NUMBER: 604, 308 DIV: "D"  
 \* 19<sup>TH</sup> JUDICIAL DISTRICT COURT  
 VERSUS \* PARISH OF EAST BATON ROUGE  
 STATE OF LOUISIANA, ET AL. \* STATE OF LOUISIANA

COST OK \$ 194.<sup>00</sup>  
 AUG 30 2016  
 CH 2017  
 DEPUTY CLERK OF COURT

**SIXTH-AMENDING SUPPLEMENTAL AND RESTATED PETITION FOR DAMAGES**

NOW INTO COURT, through undersigned counsel, comes petitioner, Mr. Murphy J. Painter, who files this Sixth-Amending Supplemental and Restated Petition for Damages in accordance with this Court's July 25, 2016 Order. Mr. Painter amends, supplements, and restates his claims as follows:

I.

Plaintiff's Third-Amending and Restated Petition for Damages, filed on January 8, 2014, only alleged claims against the State of Louisiana, through the Office of the State Inspector General and Stephen B. Street, Jr., in his official capacity as the State Inspector General.

II.

This Court has already been presented with, and ruled upon, competing Motions for Summary Judgment by Mr. Painter and the Office of the State Inspector General and Stephen B. Street, Jr. Accordingly, Mr. Painter re-alleges and incorporates Paragraphs 1 through 260 of his Third-Amending and Restated Petition as if copied in their entirety herein.

III.

Subsequent to the filing of his Third-Amending Petition, Mr. Painter amended his petition to allege claims against additional defendants via a Fourth-Amending and Supplemental Petition filed on July 29, 2015.

IV.

In response to exceptions raised by certain Defendants, Mr. Painter thereafter filed a Fifth-Amending and Supplemental Petition on April 14, 2016, which was met with

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FAX COPY FILED 8/22/16 Page 1 of 20  
 ORIGINAL FILED 8/30/16

exceptions by Defendants. In accordance with this Court's, July 25, 2016 Order, Mr. Painter hereby restates the entirety of his claims against the additional defendants and supplements his Third-Amending and Restated Petition as follows:

260. Made additional defendants herein are the following:

- c. Shane Evans, a Louisiana resident who has reached the age of majority, in his official and personal capacity;
- d. Brant Thompson, a Louisiana resident who has reached the age of majority, in his personal capacity;
- e. Louis Thompson, a Louisiana resident who has reached the age of majority, in his personal capacity; and,
- f. Trevor McDonald, a Louisiana resident who has reached the age of majority, in his personal capacity;
- g. State of Louisiana, through the Department of Revenue and the Office of Alcohol and Tobacco Control, both entities that are domiciled in the Parish of East Baton Rouge, Louisiana.

261. In 2009, Commissioner Painter uncovered a scheme in ATC that compromised the integrity of the alcohol licensing and permitting process.

262. The purpose of the scheme was to issue alcohol permits to unqualified applicants in direct contravention of ATC policies and procedures and alcohol beverage control laws.

263. The scheme was perpetrated by ATC employees who were all under Brant Thompson's immediate supervision.

264. At that time, Brant Thompson was serving as a Deputy Commissioner, which was a civil service position.

265. Mr. Thompson's authority as outlined in his Civil Service job description arose from, and was expressly designated by, Commissioner Painter.

266. As Commissioner, Mr. Painter personally signed and authorized most permits issued by the office.

267. Due to the volume of the permit applications, however, he established policies and procedures for his staff to flag certain applications that required the exercise of his discretionary authority.

268. In Fall 2009, due to continued unexplained program failures, Commissioner Painter gave additional scrutiny to permit applications because he was concerned about the scheme he was uncovering to facilitate the issuance of unlawful permits.

269. One of the permits that received additional scrutiny by Commissioner Painter was for a bar/restaurant in Ouachita Parish.

270. In October 2009, Ms. Suire brought Commissioner Painter the permit for the facility and indicated that she had scrutinized the application, corrected the issues, and she asked Commissioner Painter to sign it because she had someone that wanted to pick it up.

271. In the course of reviewing the application, Commissioner Painter became suspicious that the applicant was not the actual owner of the bar/restaurant and advised Ms. Suire that he needed time to review it further.

272. Thereafter, he personally called the listed applicant, who was an elderly woman living in Ouachita Parish.

273. In the course of the discussion, the applicant readily admitted that the bar/restaurant was to be owned and operated by her son, who had a felony conviction that prevented him from obtaining the permit in his own name.

274. Moreover, the applicant revealed that Commissioner Painter's staff had facilitated the application in her name to avoid permitting problems that would have been caused by her son's felony conviction.

275. In short, the permit application was interposed in order to hide the true ownership of the facility all against state law.

276. On October 16, 2009, Commissioner Painter confronted Ms. Suire with the results of his own investigation and offered her the opportunity to explain why the permit had been presented to him for his signature.

277. Rather than denying her role in the attempt to obtain an unlawful permit, Ms. Suire tendered her verbal resignation to Mr. Painter.

278. After advising Mr. Painter that she resigned, Ms. Suire sought out Brant Thompson, who advised her that she should explore her options and that she should not hastily resign.

279. On that same afternoon, another ATC employee saw Ms. Suire and thought that something was wrong.

280. When asked, Ms. Suire told the employee that she was going to quit, but that Brant Thompson told her to hold off and stick to the plan.

281. When the employee asked what that meant, Ms. Suire stated that Mr. Painter would not be here (*e.g.*, at ATC) much longer.

282. Inasmuch, beginning at least in Fall 2009, Ms. Suire and Brant Thompson had begun conspiring to deprive Mr. Painter of his position at ATC.

283. On October 19, 2009, Mr. Painter was in Washington, D.C. on business for ATC when he received a phone call from an ATC employee asking whether Ms. Suire had actually resigned.

284. After advising the employee that Ms. Suire had indeed resigned, the employee informed Commissioner Painter that Ms. Suire had been in his office that morning copying files for several hours.

285. Thereafter, Mr. Painter learned that Ms. Suire had filed a complaint with the Department of Revenue about Mr. Painter's actions.

286. As a result of Ms. Suire's complaints and the suggestion of outside counsel, the Department of Revenue hired an experienced employment-law attorney to conduct an investigation of Kelli's complaints that Mr. Painter had harassed her.

287. As detailed in Paragraphs 88 through 96 of the Third-Amending and Restated Petition for Damages, the investigation concluded that Ms. Suire's allegations against Commissioner Painter did not violate department policy and was without merit.

288. Accordingly, as of March 29, 2010, the efforts of Mr. Thompson and Ms. Suire to deprive Mr. Painter of his job were unsuccessful.

289. At that point, Ms. Suire had actually resigned her position and had begun working for the Louisiana Department of Wildlife and Fisheries, a position secured for her by Brant Thompson's father, Senator Thompson.

290. Around the same time, Commissioner Painter began to hear rumors that Brant Thompson was taking affirmative actions to subvert his authority.

291. As a result, Mr. Painter began to investigate Brant Thomson.

292. In June 2010, Mr. Painter rescinded all of Brant Thompson's policy and supervisory authority and he put Brant Thompson on notice about his insubordination concerns. See Exhibit 2 to Third-Amending and Restated Petition for Damages.

293. On or about July 21, 2011, Kelli Suire, using her state Wildlife and Fisheries email, contacted WBRZ and advised of information that should be requested from the Department of Revenue regarding Commissioner Painter.

294. At a federal trial in October 2014, Ms. Suire revealed for the first time that she contacted WBRZ on behalf of Brant Thompson and Louis Thompson.

295. The information she provided to the media on their behalf was false and misleading and intended to suggest that Commissioner Painter had improperly hired Ms. Pam Salario at ATC.

296. As detailed in the media, Mr. Painter and Ms. Salario had previously dated.

297. Before she was hired at ATC, however, Commissioner Painter obtained an opinion from the Ethics Board confirming that hiring Ms. Salario would not violate any legal or ethical obligation.

298. As Deputy Commissioner, Brant Thompson was fully familiar with this hiring process and he actually took part in her hiring and knew that Ms. Salario's hiring was proper and above-board.

299. Notwithstanding, Brant Thompson, Louis Thompson, and Kelli Suire conspired to provide a list of eight questions to the media that was intended to suggest that Commissioner Painter had broken the law when Ms. Salario was hired.

300. WBRZ's reporters tried to gather any viable information to report on these allegations including interviewing Mr. Painter and ATC legal counsel and afterwards dropped the story without publication.

301. Undeterred, only a few days later, on July 23, 2010, Mr. Brant Thompson met in a basement mechanical closet with two other ATC employees, Louis Thompson and Lisa Pike, the purpose of which was to convince Ms. Pike to rescind a voluntary demotion that she had already agreed to with Mr. Painter and to further the conspiracy to force Commissioner Painter out of ATC.

302. This meeting occurred after Mr. Painter left the office for ATC business that afternoon.

303. Commissioner Painter learned of the meeting from other employees and obtained building security surveillance photography that confirmed that it occurred and had lasted over an hour.

304. He did not learn of the content of that meeting between Brant Thompson, Louis Thompson, and Lisa Pike, however, until shortly before the filing the Fourth-Amending and Supplemental Petition herein.

305. Around that same time, in furtherance of the conspiracy, Trevor McDonald performed a purported "audit" of Mr. Painter's usage of the Voyager system at the request of Brant and Louis Thompson.

306. Civil Service Rules establish that no state employee can perform or take part in an investigation on any of his or her supervision while on state time.

307. Additionally, Mr. McDonald performed this so-called "audit" without the knowledge or authority of his direct supervisor and he made no attempt to report his purported findings of false misconduct up the chain of command.

308. After Commissioner Painter caught Brant and Louis Thompson having their meeting in the mechanical closet, and in furtherance of their conspiracy, Brant Thompson, Louis Thompson, Trevor McDonald, and others, then met with Deputy Secretary Earl Millet and Barry Kelly, the assistant director of the Criminal Investigations Division of the Department of Revenue, on July 28, 2010.

309. The conspirators reported several false and fabricated complaints about Mr. Painter.

310. At the meeting, Mr. McDonald turned over the results of his purported audit to Mr. Kelly.

311. This July 28, 2010 meeting that was conducted by Revenue Deputy Secretary Earl Millett and Mr. Kelly was unprecedented.

312. Commissioner Painter, although under the Department of Revenue umbrella, was the appointed official of ATC and had served in that position for 15 years and never during that tenure had Revenue ever subverted his authority.

313. The Department of Revenue did not have authority to investigate him without his knowledge unless he was suspended or on leave, which was not the case in July 2010.

314. Furthermore, Barry Kelly's position in the Criminal Investigation Division of Revenue did afford law-enforcement authority and Mr. Kelly's criminal oversight only

pertained to oversight of possible criminal violations in regards to tax filings in the Department of Revenue.

315. Mr. Kelly maintained no authority over the ATC Commissioner or any ATC policies or business, nor Commissioner Painter, who was a sworn Louisiana Peace Officer with arrest powers pursuant to state statute.

316. Deputy Secretary Earl Millet has since retired and has refused to be interviewed about his participation in this meeting.

317. Notwithstanding its lack of authority, the Department of Revenue investigated a multitude of alleged claims made by the disgruntled employees.

318. One of the complaints concerned the fact that Mr. Painter was sexually harassing Ms. Suire—even though Mr. Painter had not seen, nor spoke with, her in months—and that he was improperly accessing criminal record databases.

319. In a subsequent interview with OIG, Mr. Kelly confirmed that he was provided supposed documentation by Mr. Thompson and Mr. McDonald concerning Mr. Painter running illegal background checks.

320. Mr. Kelly advised, however, that he thought it was suspicious that employees of a law enforcement agency (ATC) would bring such complaints without any evidence to support their allegations.

321. In short, the allegations were fabrications.

322. Moreover, Mr. Painter was never informed of the allegations nor the results of the investigation, although the findings were reported to the employees who made the complaints.

323. The investigation by the Department of Revenue violated the chain of command and directly violated protocol.

324. Mr. Kelly ultimately issued a memorandum on August 2, 2010 asserting that the complaints made by Brant Thompson, Louis Thompson and Trevor McDonald were meritless.

325. Around that time, Mr. Painter also issued letters of reprimand to each of the three employees for leaving their post of duty in July 2010. *See Exhibit 3 to Third-Amending and Restated Petition for Damages.*

326. It was well known in ATC that once Mr. Painter began to document an employee's file with reprimand letters that Mr. Painter had made a decision to terminate or demote that employee.

327. Once Brant Thompson, Louis and Kelli Suire were informed that Deputy Secretary Millet and Mr. Kelly had found no merit to their spurious allegations, Kelli Suire filed a complaint with the OIG on August 4, 2010.

328. Ms. Suire went to OIG after she had personally met with Ascension Parish Sheriff Jeff Wiley, who she knew to be a political opponent of Commissioner Painter, to purportedly complain about Mr. Painter.

329. It is in this same timeframe that Commissioner Painter is in the midst of a dispute with the Governor's Office and his executive counsel, Stephen Waguespack, over the propriety of issuing a permit for Champion's Square. Mr. Waguespack is also Sheriff Wiley's nephew.

330. Despite their various efforts, the confederates failed to find any traction for their false accusations against Commissioner Painter.

331. Next on August 6, 2010 on information and belief, the employees conspired to send an email (purportedly from lindseyjarrell@rocketmail.com) to numerous local news media that outlined several false complaints about Mr. Painter and the ATC.

332. One of these complaints included the following: "Commissioner Murphy Painter mentally, physical [sic] and sexual [sic] harassed former and current employees such as former employee Kelli Barnham. Kelli currently has charges and an investigation pending stemming from an incident where Murphy stalked her by going to her home on several occasions."

333. Mr. Painter and senior enforcement officials in ATC were copied on the email and Mr. Painter ordered Louis Thompson, unaware of his potential participation in the conspiracy, to identify the individual who had sent it.

334. The content of the email made clear that there were employees inside of ATC that were seeking to generate media attention on Mr. Painter for allegedly improper actions—all of which were again fabrications.

335. On August 9, 2010, Mr. Painter asked for an update into the status of the investigation of the email's author from Louis Thompson and was advised that no progress had been made.

336. Thereafter, Mr. Painter advised his subordinates that he would take over the investigation and within 15 minutes of taking over the investigation he identified an address associated with the internet protocol ("IP") address that had sent the email.

337. Mr. Painter identified the IP address where the email originated from, which indicated that it was from the State Library, which is located downtown.

338. Mr. Painter spoke with the Assistant State Librarian, but was not permitted to view the footage but was told the Head Librarian would be there the following Monday and that she would allow him to see it.

339. At some later date, Robert Collins, counsel for the OIG, went to the State Library and advised the Library that they could tape over the footage, losing that evidence forever.

340. On the evening of August 9, 2010, Mr. Painter drove by the address that was provided to him for Ms. Jarrell.

341. Subsequently again as part of the investigation, later that evening, he ran several license plates that he had seen at the premises.

342. One of the vehicles at the residence was registered in Rayne, Louisiana.

343. Kelli Suire is from Rayne, Louisiana.

344. Accordingly, Commissioner Painter ran Ms. Suire's name to see if she shared an address with any of the vehicles that had been located at the address attributed to Ms. Jarrell or to determine if she had recently moved to the address.

345. Still unknown to Commissioner Painter was that Ms. Suire had initiated a complaint with the OIG only a few days earlier.

344. As already outlined herein, at the time Ms. Suire made her complaint, Mr. Painter had already significantly curtailed Mr. Thompson's responsibilities and he was preparing to suspend Mr. Thompson for 30 days, pending an investigation into his misconduct in accordance with Civil Service rule.

345. As part of his preparation to suspend Brant Thompson, Commissioner Painter met with Brant Thompson's father, Senator Francis Thompson, to inform the

Senator that he intended to suspend Brant with pay regarding his continued insubordination and refusal to investigate certain licensing failures under his command

346. Senator Thompson asked Mr. Painter to please wait after the weekend and he would have Brant Thompson report to his office no later than Monday, August 16, 2010 with the intent to discuss his conduct and to ask him to accept a suspension from his job duties

347. Before Commissioner Painter could meet with Brant Thompson, however, his employment was terminated based on the representations that had been submitted to the OIG by Kelli Suire and Brant Thompson.

348. In the days immediately before Mr. Painter's termination on August 13, 2010, Ms. Suire returned to the OIG's office on August 9, 2010 with another complaint that Brant Thompson had called her and told her that Commissioner Painter had ran her driver's license information through the Voyager.

349. As Brant Thompson was placed under increased scrutiny by Commissioner Painter, he was using Trevor McDonald and his position as Deputy Commissioner to surreptitiously monitor Mr. Painter's computer usage so that he could attempt to stay ahead of Commissioner Painter's internal investigation.

350. Brant Thompson improperly, and illegally, disclosed the information Mr. Painter obtained on August 9, 2010 in an attempt to undermine both the investigation and Mr. Painter.

351. In her initial complaint to OIG on August 4, 2010, Ms. Suire furthered the fabrication concocted by Brant Thompson, Louis Thompson and Trevor McDonald that Commissioner Painter improperly used the Voyager system to perform background checks on "pretty girls" or on people he personally would like to have more information about.

352. Ms. Suire, who has not worked for ATC for over 10 months, specifically advised that Trevor McDonald had documentation to prove such allegations and that he was willing to cooperate with OIG further implicating the complicity of all involved.

353. Based on records provided to date, Mr. McDonald only met with OIG once—allegedly on August 12, 2010, the day before Commissioner Painter's employment was terminated.

354. The only evidence that OIG documents that was provided by Mr. McDonald is that Mr. Painter ran 57 background checks in 2005, 456 in 2006, 532 in 2007, 703 in 2008, 266 in 2009 and 209 in 210.

355. Mr. Evans has since testified, however, that Mr. McDonald also used his authority at ATC to provide OIG direct access to the Voyager system, which included logs of Mr. Painter's usage of Voyager.

356. OIG, however, obtained this access after Mr. Painter was terminated.

357. Apart from purportedly obtaining database access on the afternoon of August 12, 2010, approximately 24 hours before Commissioner Painter's employment was terminated, Mr. Evans apparently only spoke with Brant Thompson in an effort to confirm the nature of Ms. Suire's allegations.

358. Although Brant Thompson later characterized his meeting with Mr. Evans as brief and suggested it lasted only five minutes or so, the interview notes filled nearly seven pages of single-spaced typed text

359. Notably, OIG and Mr. Evans did not speak with any other ATC employees to confirm or deny Ms. Suire's allegations until after Commissioner Painter's employment was terminated and Mr. Evans filed a search warrant on August 16, 2010.

360. Using only this limited information and no other investigation, Mr. Evans reported to his chain of command and Stephen Street exchanged it with Stephen Waguespack, who was working as then Governor Jindal's chief of staff.

361. On Friday August 13, 2010, Stephen Waguespack fired Commissioner Painter based on the information allegedly collected during the OIG's investigation.

362. After Commissioner Painter's employment was terminated on August 13, 2010, all of his investigations at ATC were halted and Brant Thompson was appointed acting Commissioner that same night.

363. The very next week, while Mr. Evan's was submitting an improper and false search warrant, Brant Thompson signed the controversial license for Champion Square, giving Anheuser Busch an exclusive beer relationship in exchange for them giving the Champion Square Saints project \$300,000.

364. Furthermore, Brant Thompson avoided his coming suspension and Commissioner Painter's investigation into his breach of law and policy was abruptly terminated.

365. As already outlined herein, at the time Ms. Suire made her complaint, Mr. Painter had already significantly curtailed Mr. Thompson's responsibilities and he was preparing to suspend Mr. Thompson without pay on Monday, August 16, 2010.

366. Due to the actions of the OIG, however, instead of being suspended without pay on August 16, 2010, Mr. Thompson was appointed as Interim Commissioner of ATC.

*OIG and Shane Evans*

367. As detailed by the following, Mr. Evans prepared and submitted a search warrant application on August 16, 2010 that was unauthorized, unnecessary, defamatory, and unlawful.

368. Initially, the OIG's legislative authority does not authorize it to conduct its own criminal investigations, nor does it authorize the agency to obtain its own search warrants.

369. In 2008 the OIG was designated a "law enforcement agency," and was provided with limited investigative powers and privileges afforded to full-fledged law enforcement agencies.

370. The investigative powers and privileges are limited by the OIG's statutorily-defined purpose and function.

371. As stated in La. R.S. 49:220.24(J), the OIG is "conferred all investigative powers and privileges appurtenant to a law enforcement agency under state law as necessary and in furtherance of the authority, duty, powers, and functions set forth herein."

372. Significantly, it is not within the purpose of the OIG's office or its authority, duty, power, and function as set out in La. R.S. 49:220.24, to conduct criminal investigations.

373. Accordingly, the limited authority provided by La. R.S. 49:220.24(J) does not authorize the OIG to obtain search warrants.

374. Instead, to the extent the OIG has any criminal investigative authority, it is limited to assisting other law enforcement agencies and cooperating with such agencies with regard to further criminal action.

375. La. R.S. 49:220.24(C)(4) provides that "when there is evidence of what may be criminal activity," the OIG *shall* report complaints to the proper federal, state, or local agency.

376. Further, La. R.S. 49:220.24 (K) requires that the referral to the appropriate law enforcement agency occur "[u]pon credible information" of such criminal activity.

377. Pursuant to La. R.S. 49:220.24(K), the OIG is relegated to a "back-seat" role once it determines it has credible information of criminal activity.

378. Section 49:220.24(K) provides that "[s]ubsequent to notifying the appropriate law enforcement agency, the inspector general may assist the law enforcement agency in conducting the investigation."

379. Accordingly, when Mr. Evans, with OIG approval, filed a search warrant application with Judge Bonnie Jackson on August 16, 2010, he did not have legislative authority to do so.

380. Moreover, given that the entirety of the property sought pursuant to the search warrant was both owned by the state and already under its custody and control due to the termination of Commissioner Painter's employment, there was no practical reason that Mr. Evans and OIG needed to apply for a search warrant.

381. In fact, as detailed in sworn testimony by Mr. Evans, he took possession of Commissioner Painter's computer from his office on August 13, 2016, such that the representations seeking authority to seize such computer were manifestly erroneous and misleading to the Court.

382. Additionally, the underlying factual background that supported the allegation was contained false and defamatory allegations against Commissioner Painter.

383. The application contained the following representations:

On or about the week of August 9, 2010, OIG investigators were contacted by Ms. Kelli Suire, who advised that she was a former employee of the Louisiana Office of Alcohol and Tobacco Control. . . While Ms. Suire was still employed at the La. ATC, [commissioner Painter] directly asked her to come sleep at his house. He has made numerous requests to her to become involved in a romantic relationship.

384. The search warrant application also specifically referred to Suire as "the stalking victim," and stated as a basis for the warrant that she provided a statement that "she had been stalked and harassed by Painter."

385. Additionally, Mr. Evans referred to other "female stalking victims;" more specifically, that he was seeking "printed maps, written directions, addresses or other documents containing the personal information of female stalking victims pursued by Mr. Painter."

386. Apart from the allegations made by Ms. Suire that had been investigated and discredited in early 2011, there were absolutely no allegations that Mr. Painter had sexually harassed or stalked anyone, yet Mr. Evans unequivocally asserted in the sworn affidavit that Mr. Painter had "stalked" Suire and other women, and also that he had sexually harassed Suire.

387. In short, the unequivocal and unqualified assertions that Mr. Painter had stalked and sexually-harassed Ms. Suire were fabricated and could not be supported by Louisiana law.

388. "Stalking" is a crime in Louisiana. By stating unequivocally that Mr. Painter "stalked" Suire, and by referring to other unnamed women as Mr. Painter's "stalking victims," Mr. Evans, the OIG and Street imbued Mr. Painter with criminal behavior.

389. Further, one necessary element of the crime of stalking is that the perpetrator made "verbal or behaviorally implied threats of death, bodily injury, sexual assault, kidnaping, or any other statutory criminal act to himself or any member of [the victim's] family or any person with whom [the victim] is acquainted."

390. Mr. Evans had no evidence or obtained no statements that Commissioner Painter had made or implied threats of death, bodily injury, sexual assault, kidnaping, or any other statutory criminal act to himself or any member of the supposed victims' family or any person with whom the supposed victims were acquainted.

391. In fact, the notwithstanding the salacious allegations made by Mr. Evans, there was simply no evidence offered by Ms. Suire, or anyone else, that Commissioner Painter had threatened Ms. Suire or any other woman.

392. Mr. Evans knew this at the time he drafted and signed the warrant application.

393. Accordingly, his allegations were plainly defamatory.

394. Mr. Painter filed suit against Ms. Suire alleging that she defamed him with her claims of sexual harassment and stalking that included in both the search warrant and, subsequently, her own suit.

395. That matter proceeded to trial on the issue of liability on October 6 through 8, 2014 in the United States District Court for the Middle District of Louisiana.

396. During the trial, Mr. Evans confirmed the foregoing when he testified that he personally chose to use the terms "sexual harassment" and "stalking" in the search warrant application and falsely attributed them to Ms. Suire.

397. Evans plainly asserted that he chose to use those terms on his own, in direct violation of his representation that his sworn affidavit represented actual facts, rather than his own conclusory, and defamatory and false assertions.

398. Evans knew at the time he made the "stalking" assertion in the warrant application, and at all relevant times thereafter, that the elements of that crime were not met, and that his assertions were false.

399. Ultimately, the seven-member jury returned a unanimous verdict finding that Ms. Suire had not defamed Mr. Painter in her statement to the OIG, based on Mr. Evan's testimony that she had never made that statement, but that she had defamed him in her lawsuit against him.

400. Finally, the decision to file the unauthorized, unnecessary and defamatory search warrant with the clerk of court without seeking to seal it was unlawful.

401. The warrant application directly violated La. R.S. 49:220.25 which provides that "records prepared or obtained by the inspector general in connection with investigations conducted by the inspector general shall be deemed confidential and protected from disclosure."

402. The only exception to this confidentiality requirement is the qualification that authorizes the OIG to report the findings of its investigation to the Governor's Office.

403. Moreover, not only does §49:220.25 deem investigation information confidential, it also makes it a "misdemeanor punishable by a fine of not more than two thousand dollars or imprisonment for not more than one year, or both, for the inspector general or any of his employees, or any other public official, corporation, or individual, to make public *any such information or record.*"

404. Nonetheless, Mr. Evans and the OIG made the investigation information public in Mr. Evan's Application for Search Warrant.

405. Specifically, Mr. Evans has testified that in preparing the Application for Search Warrant, he used "the investigative reports, statements, electronic research that we done, taking a look at the Voyager System."

406. Mr. Evans' defamatory statements and false assertions of criminal behavior were "published" to a third party when the search warrant was presented to the court.

407. In turn, Mr. Evans' defamatory statements and false allegations in the search warrant were widely published by the news media on the very same day it was filed with the Clerk of Court.

408. Mr. Evans knew the warrant application would be public once it was filed with the Court and failed to file the application under seal.

409. Given the foregoing, the evidence suggests that the only reason that the search warrant application was prepared and filed without being sealed was to disseminate the false and defamatory allegations fabricated by Evans.

*Claim VI*  
DEFAMATION

410. Plaintiff re-alleges and incorporates by reference all previous allegations as if copied in their entirety herein.

411. As detailed by the foregoing, Mr. Evans defamed Commissioner Painter in his search warrant application.

412. Mr. Evans, knew, or should have known, that such statements were untrue, such that he made them with actual malice against Mr. Painter.

413. These comments were made in the course and scope of his employment.

414. As general rule, slander, under Louisiana law, constitutes individual tort that does not give rise to solidary liability; however, where employee makes slanderous statement within course and scope of his employment, employer is solidarily liable. *Manale v. City of New Orleans, Dept. of Police*, C.A.5 (La.)1982, 673 F.2d 122.

415. Moreover, Louisiana Civil Code article 2320 provides for master-servant tort liability, also known as vicarious liability, in pertinent part as follows: "Masters and

employers are answerable for the damage occasioned by their servants and overseers, in the exercise of the functions in which they are employed.

416. As the employer of Evans, the OIG is liable to Mr. Painter for the tortious actions of its employee.

*Claim VII*  
CONSTITUTIONAL CLAIMS

417. Plaintiff re-alleges and incorporates by reference all previous allegations as if copied in their entirety herein.

418. At all times pertinent hereto, Mr. Evans was acting under color of authority within the meaning and intent of 42 U.S.C. §1983.

419. At all times hereto, Plaintiff also enjoyed his right under the Fourth Amendment of the United States Constitution to be free from unreasonable search and seizure.

420. As a result of the actions of Mr. Evans, Plaintiff was indicted, summonsed to appear in federal court, required to obtain permission to leave the district, required to submit a DNA sample for inclusion in Government databases, report regularly to pretrial services, sign a personal recognizance bond, and provide federal officers with financial and identifying information.

421. These restraints on his liberty were sufficient to render Mr. Painter seized under the Fourth Amendment.

422. The actions of Mr. Evans impaired and deprived Plaintiff of his clearly established rights, thereby making him liable to Mr. Painter for damages pursuant to 42 U.S.C. §1983.

423. The actions of Mr. Evans were in also in wanton and reckless disregard for Plaintiff's clearly established rights, which make him liable to Plaintiff for punitive damages.

424. Plaintiff also asserts that Mr. Evans is also liable to him for attorneys fees pursuant to 42 U.S.C. §1988.

*Claim VIII*  
**MALICIOUS PROSECUTION**

425. Plaintiff re-alleges and incorporates by reference all previous allegations as if copied in their entirety herein.

426. There are six elements required to assert a claim for malicious prosecution: (a) the commencement or continuance of an original criminal or civil judicial proceeding; (b) its legal causation by the present defendant against plaintiff who was defendant in the original proceeding; (c) its bona fide termination in favor of the present plaintiff; (d) the absence of probable cause for such proceeding; (e) the presence of malice therein; and (f) damages conforming to legal standards resulting to plaintiff.

427. Based on the foregoing allegations outlined herein, Mr. Painter asserts that Brant Thompson, Louis Thompson and Trevor McDonald are responsible for causing a malicious prosecution of him to continue by their cooperation with the investigation and trial of Mr. Painter.

428. The claims asserted against Mr. Brant Thompson, Mr. Louis Thompson, and Mr. McDonald are joint tortfeasors and/or solidarily liable with the Office of Inspector General and Stephen Street pursuant to La. C.C. articles 2324 and 3503.

429. Accordingly, as prescription was interrupted as to the Office of Inspector General on January 8, 2014 as to the claim of malicious prosecution when the third-amending and restated petition was filed herein

430. Pursuant to Louisiana Civil Code article 2320, which provides for master-servant tort liability, also known as vicarious liability, in pertinent part as follows: "Masters and employers are answerable for the damage occasioned by their servants and overseers, in the exercise of the functions in which they are employed.

431. As the employer of against Mr. Brant Thompson, Mr. Louis Thompson, and Mr. McDonald, the Department of Revenue and the Office of Alcohol and Tobacco Control are also liable to Mr. Painter for the actions of its employees.

**DAMAGES**

432. Mr. Painter has suffered substantial injury as a result of the Defendants' actions.

433. As a result of the foregoing offenses, Mr. Painter has lost income that he would have otherwise earned.

434. He has lost employment and retirement benefits that he would have otherwise earned.

435. Mr. Painter has also suffered personal humiliation, embarrassment, mental anguish, anxiety, and hurt feelings and seeks all compensatory damages available to him under the law.

436. Moreover, Mr. Painter's reputation has been tarnished as a result of the allegations surrounding his dismissal and the subsequent litigation.

437. These damages have also impaired his ability to gain other employment and consulting opportunities that he would have otherwise obtained.

438. Defendants are liable to Mr. Painter for these damages.

439. Petitioner is seeking compensation for damages in excess of \$50,000, and, therefore, requests a jury trial pursuant to Louisiana Code of Civil Procedure Art. 1731

WHEREFORE, Plaintiff prays for judgment in his favor of and against Defendants in a sum to compensate him for his damages, costs, attorneys fees (where available), plus interest from the judicial date of demand until paid, and all general and equitable relief that is deemed just and proper.

Respectfully submitted,



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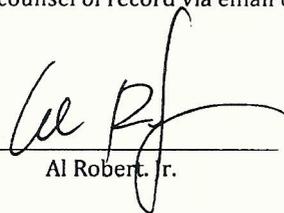
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**CERTIFICATE OF SERVICE**

I certify that the foregoing was served on all counsel of record via email on August  
13, 2016.

  
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Al Robert, Jr.

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