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9 **SUPERIOR COURT OF ARIZONA**  
10 **MARICOPA COUNTY**

11 SUSAN SCHUERMAN, ) No.  
12 )  
Plaintiff, ) **COMPLAINT**  
13 v. ) (Jury Trial Requested)  
14 )  
SHERIFF JOSEPH ARPAIO and )  
15 AVA ARPAIO, husband and wife; )  
ANDREW THOMAS and ANNE )  
16 THOMAS, husband and wife, LISA )  
AUBUCHON and PETER R. )  
17 PESTALOZZI, wife and husband, )  
DEPUTY CHIEF DAVID )  
18 HENDERSHOTT and ANNA )  
HENDERSHOTT, husband and wife, )  
19 WILLIAM MONTGOMERY, only in )  
his official capacity as MARICOPA )  
20 COUNTY ATTORNEY; MARICOPA )  
COUNTY, a municipal entity; and )  
21 JOHN DOES I-X; JANE DOES I-X; )  
BLACK CORPORATIONS I-V; and )  
22 WHITE PARTNERSHIPS, I-V, )  
Defendants. )

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1 Plaintiff, Susan Schuerman (“Susan” or “Schuerman”), for her Complaint against  
2 Defendants, hereby alleges as follows:

3 **JURISDICTIONAL ALLEGATIONS**

4 1. Plaintiff brings this action pursuant to 42 U.S.C. § 1983; the First, Fourth,  
5 Fifth, and Fourteenth Amendments to the United States Constitution, and other pendent  
6 statutory and state common laws.

7 2. Plaintiff has satisfied the provisions of A.R.S. § 12-821.01 by serving a  
8 Notice of Claim more than sixty (60) days prior to the date of the filing of this  
9 Complaint. Defendants have not responded to the Notice of Claim.

10 3. This Court has jurisdiction of Plaintiff’s federal law claims pursuant to 28  
11 U.S.C. § 1331 and 42 U.S.C. § 1988. Additionally, this Court has jurisdiction over  
12 Plaintiff’s state and federal claims pursuant to Article 6, Section 14 of the Arizona  
13 Constitution.

14 4. Venue is proper in this Court pursuant to A.R.S. § 12-401, as the parties  
15 are residents of Maricopa County, Arizona, and the events underlying this lawsuit  
16 occurred in Maricopa County.

17 **GENERAL ALLEGATIONS**

18 5. At all times material herein, Plaintiff Susan Schuerman, a single woman,  
19 was a resident of Maricopa County, Arizona.

20 6. At all times material herein, Defendant Joe Arpaio (“Arpaio” or “Sheriff  
21 Arpaio”) was the duly-elected Sheriff of Maricopa County and the head of the Maricopa  
22 County Sheriff’s Office (“MCSO”), with ultimate authority and responsibility for the  
23 MCSO and the actions of its officers and agents, and with the authority and  
24 responsibility to establish policy, practices, customs, procedures, protocols, and training  
25 for the MCSO as the official and final policymaker for the County. His actions and/or  
26

1 inactions constitute actions of Maricopa County, and the County is vicariously and  
2 directly liable for his wrongful conduct, as alleged herein. Sheriff Arpaio is named in  
3 both his official and individual capacities. As the elected Sheriff, Sheriff Arpaio has  
4 official, vicarious, direct, individual, and/or supervisory liability for the MCSO, the  
5 County, and its officers, agents, and employees.

6 7. Ava Arpaio is the spouse of Defendant Joseph Arpaio and is so designated  
7 because the wrongful conduct of Defendant Arpaio was engaged in for the benefit of  
8 their marital community, thereby rendering his spouse and marital community liable for  
9 such conduct.

10 8. With the exception of the times specifically referenced herein, at all times  
11 material herein, Defendant Andrew Thomas (“Thomas” or “County Attorney Thomas”)  
12 was the duly-elected County Attorney of Maricopa County and the head of the  
13 Maricopa County Attorney’s Office (“MCAO”), with Thomas having the ultimate  
14 authority and responsibility for the MCAO and the actions of its officers and agents, and  
15 with the authority and responsibility to establish policy, practices, customs, procedures,  
16 protocols, and training for the MCAO as the official and final policymaker for the  
17 County. His actions and/or inactions constitute actions of Maricopa County, and the  
18 County is vicariously and directly liable for his wrongful conduct, as alleged herein.  
19 County Attorney Thomas is named in both his official and individual capacities. As the  
20 elected County Attorney, County Attorney Thomas had official, vicarious, direct,  
21 individual, and/or supervisory liability for the MCAO, the County, and its deputy and  
22 assistant attorneys, agents, and employees.

23 9. Andrew Thomas is also named as a private citizen Defendant for conduct  
24 he engaged in after he left the office of County Attorney. Thomas is a resident of  
25 Maricopa County.  
26

1           10. Anne Thomas is the spouse of Defendant Andrew Thomas and is so  
2 designated because the wrongful conduct of Defendant Thomas was engaged in for the  
3 benefit of their marital community, thereby rendering his spouse and marital community  
4 liable for such conduct.

5           11. With the exception of the times specifically referenced herein, Defendant  
6 Lisa Aubuchon (“Aubuchon” or “Deputy County Attorney Aubuchon”) was a Deputy  
7 County Attorney of Maricopa County. Her actions and/or inactions constitute actions of  
8 Maricopa County, and the County is vicariously and directly liable for her wrongful  
9 conduct, as alleged herein. Deputy County Attorney Aubuchon is named in both her  
10 official and individual capacities.

11           12. Lisa Aubuchon is also named as a private citizen Defendant for conduct  
12 she engaged in after she left the office of County Attorney. Aubuchon is a resident of  
13 Maricopa County.

14           13. Peter R. Pestalozzi is the spouse of Defendant Lisa Aubuchon and is so  
15 designated because the wrongful conduct of Defendant Aubuchon was engaged in for  
16 the benefit of their marital community, thereby rendering her spouse and marital  
17 community liable for such conduct.

18           14. At all times material herein, Defendant David Hendershott (“Hendershott”  
19 or “Deputy Chief Hendershott”) was the Deputy Chief of Maricopa County Sheriff’s  
20 Office, with the authority and responsibility to establish policy, practices, customs,  
21 procedures, protocols, and training for the MCSO as an official policymaker for the  
22 County. His actions and/or inactions constitute actions of Maricopa County, and the  
23 County is vicariously and directly liable for his wrongful conduct, as alleged herein.  
24 Deputy County Attorney Hendershott is named in both his official and individual  
25 capacities. As the Deputy Chief, Hendershott has official, vicarious, direct, individual,  
26

1 and/or supervisory liability for the MCSO, the County, and its officers, agents, and  
2 employees.

3 15. Anna Hendershott is the spouse of Defendant David Hendershott and is so  
4 designated because the wrongful conduct of Defendant Hendershott was engaged in for  
5 the benefit of their marital community, thereby rendering his spouse and marital  
6 community liable for such conduct.

7 16. Defendant William Montgomery (“Montgomery” or “County Attorney  
8 Montgomery”) took office on November 22, 2010, succeeding interim County Attorney  
9 Richard Romley who was appointed when Thomas resigned as County Attorney.  
10 County Attorney Montgomery is named only in his official capacity.

11 17. Defendant Maricopa County (the “County”) is a public entity, formed and  
12 designated as such pursuant to Title 11, of the Arizona Revised Statutes, and (as such) it  
13 and its officers and divisions are subject to civil suit and may be held independently or  
14 vicariously liable for the wrongful conduct of its divisions, agents, officers, and  
15 employees, including (*inter alia*) Sheriff Joseph Arpaio, former County Attorney  
16 Andrew Thomas, former Deputy County Attorney Lisa Aubuchon, and Deputy Chief  
17 David Hendershott.

18 18. At all times material herein, Defendants John Does I-X and Jane Does I-X  
19 (collectively “John Does”) were officers, agents, and employees of Sheriff Arpaio,  
20 Thomas, and/or Maricopa County, acting within the scope of their employment and  
21 under color of law. These Defendants engaged in wrongful conduct that allowed,  
22 caused, and/or contributed to cause the violations of Ms. Schuerman’s rights. Their  
23 actions and/or inactions constitute actions of Sheriff Arpaio, Thomas, and/or Maricopa  
24 County. Sheriff Arpaio, MCSO, Thomas, MCAO, and/or Maricopa County are  
25 vicariously and directly liable for their wrongful conduct.  
26





1           26.     Since the stroke, Jen has lived with Susan while undergoing extensive  
2 rehabilitation and retraining. She is, as yet, unable to support herself or live alone.

3           27.     Jen's medical and rehabilitative care is paid for by the insurance Susan  
4 receives, and partially pays for, as a County employee.

5                                   **Putting the Vulnerable into Their Vice**

6           28.     Senior County officials and employees, including then County Attorney,  
7 Andrew Thomas, Deputy County Attorney Lisa Aubuchon, Sheriff Arpaio, and Chief  
8 Deputy David Hendershott, knew of Susan's personal tragedy, knew that she was a  
9 single mother of three, and that her daughter's condition made her uniquely vulnerable  
10 to them. They knew, too, of her proximity to Supervisor Don Stapley – one of their  
11 political enemies.

12           29.     Arpaio and Hendershott, with the complicity and participation of Thomas  
13 and Aubuchon, devised an attack on Susan designed to coerce and frighten her into  
14 cooperating in their political vendetta against Supervisor Stapley.

15           30.     Susan first learned that her boss was the subject of criminal charges when  
16 Supervisor Stapley's son called her December 2, 2008, to tell her he had heard on the  
17 news that his Dad had been indicted.

18           31.     Susan, who was returning to the office from an appointment, arrived to  
19 find two MCSO detectives waiting for her and two others waiting for Supervisor  
20 Stapley.

21           32.     Susan was served with a Grand Jury subpoena by the detectives who then  
22 tried to interview her on the spot regarding her knowledge of Supervisor Stapley's  
23 financial dealings and an allegation of a "leak" of the Grand Jury proceedings.

24           33.     She candidly and politely told them that she did not know anything about  
25 either topic and declined to answer questions without being represented by counsel.  
26

1           34. Not long after this, Hendershott tried to intimidate Susan into sitting down  
2 with him to talk about anything she knew about her boss's business dealings and even  
3 suggested that she "come up with something on Stapley" to protect herself.

4           35. When she said she would prefer the process, safety, and procedural  
5 assurance of a subpoena, Hendershott lost his temper and threatened her—if she refused  
6 to talk to him privately he would launch one of his "criminal investigations"—now  
7 against her!

8           36. In the two months following this, Susan was personally threatened on  
9 more than one occasion by Hendershott who told her that she was making a "big  
10 mistake" by not speaking directly with him and giving him information that he might  
11 be able to use in Arpaio's "investigation" of Supervisor Stapley.

12           37. To Susan, Hendershott's message was clear: "do what I demand or you  
13 and your daughter will pay a painful price."

14           38. Knowing that Arpaio and Hendershott are notorious for turning their  
15 political enemies and, with Susan, political nuisances, into targets of "criminal  
16 investigations," Susan was rightly fearful for herself and for Jen's medical care.

17           39. Arpaio, Hendershott, Thomas, and Aubuchon were very aware that  
18 Susan's responsibilities to Jen, on Susan's modest County salary, made her uniquely  
19 vulnerable to their coercion.

20           40. Susan knew that Arpaio and Hendershott pulled the puppeteer strings on  
21 the power to turn their abusive threats of "criminal investigations" into financially  
22 ruinous criminal prosecutions. Thomas and Aubuchon were all too willing to use their  
23 power to punish those that displeased Arpaio and Hendershott.  
24  
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1           41.    Fearing that she would be caught up and ground under in their raging  
2 internecine County wars, Susan asked for and was appointed a lawyer by the County to  
3 protect her rights.

4           42.    When Thomas learned of this, and anxious that Susan not obtain legal  
5 representation, he sent a letter to an attorney for the Board of Supervisors threatening  
6 legal action for its “illegal expenditure of County money” in hiring counsel for Susan.

7           43.    Not content to simply threaten privately to criminally investigate Susan,  
8 Arpaio, Hendershott, and Thomas then leaked their intention to the media, hoping to  
9 leverage the threat with the publicity.

10          44.    Ostensibly the investigation was to determine whether Susan used County  
11 resources to conduct Supervisor Stapley’s private business.

12          45.    This “charge” was based solely on the fact that Susan is a ministerial  
13 “statutory agent” for one of Supervisor Stapley’s business entities and had listed her  
14 County phone and fax numbers on papers filed with the Corporation Commission; but  
15 in those same papers, she listed her home address to receive process—the primary  
16 function of such an agent.

17          46.    The Sheriff and his County Attorney knew that there was no evidence that  
18 Susan conducted any private business for Supervisor Stapley using County resources.

19          47.    In the announcement to the press, Barnett Lotstein, Thomas’ spokesman,  
20 announced that the focus of the Supervisor Stapley probe had turned to Susan’s alleged  
21 involvement in Supervisor Stapley’s business dealings and her purported criminal  
22 activity.

23          48.    None of this was true: there was not a shred of evidence linking Susan  
24 with any of Supervisor Stapley’s business dealings; Arpaio, Hendershott, Thomas, and  
25 Aubuchon all knew this.

1           49.    Supervisor Stapley's bank and business records had been in Defendants'  
2 possession for months and had been scoured by their personnel.

3           50.    Within days of the publication of the article recounting the criminal  
4 investigation against her, Susan's office and that of her boss were swarmed with MCSO  
5 deputies and forensic staff, among them, Hendershott's son.

6           51.    Susan was alone in the office at the time.

7           52.    She was served with a search warrant, naming her specifically and seeking  
8 documentation of business dealings or correspondence between members of the  
9 Wolfswinkle family, Supervisor Stapley, Susan, and Kevin Petersen.

10          53.    The search warrant, obtained by the Sheriff, sought evidence of bribery,  
11 conspiracy to commit misuse of public monies, and fraudulent schemes.

12          54.    Susan was told to leave the building and when she did, she was besieged  
13 by members of the press who had been tipped by the Sheriff's press flacks.

14          55.    At this point, Susan realized that the threat of "criminal investigation"  
15 had become a reality and she knew, too, how serious the crimes she was alleged to have  
16 committed were.

17          56.    The criminal investigation was instigated only to intimidate Susan into  
18 helping Defendants pursue the retributive investigation and prosecution of her boss.

19          57.    Defendants' intimidation was not limited solely to the threat and  
20 subsequent reality of criminal investigation.

21          58.    Over the course of following months, Susan was subpoenaed by a Grand  
22 Jury convened by Thomas and Aubuchon, served with a search warrant at her office, her  
23 computer and personal property searched and some property was seized.

1           59. She was also then named by Arpaio and Thomas publicly along with 35  
2 other Court employees, as being under “criminal investigation” for the Court Tower  
3 Project.

4           60. She had reason to believe that her office and cell phones were tapped, she  
5 was followed to lunch by MCSO detectives in marked vehicles and MCSO plain clothes  
6 detectives parked outside her home and cruised her street on more than one occasion,  
7 making their presence in her quiet neighborhood felt.

8           61. She was left an anonymous note informing her that she was being watched  
9 by MCSO personnel.

10          62. This blatant harassment and attempt at intimidation and the media  
11 attention that Arpaio and Hendershott ensured would accompany it has been harsh and  
12 frightening.

13          63. Susan received death threats at her office, bloggers reviled her, she was  
14 accused of committing crimes, and her name was and will forever be, linked to a  
15 criminal investigation.

16          64. She has never been told that the investigation was ended or that she was  
17 cleared of any wrongdoing.

18          65. She continues to live under the pall of possible criminal prosecution,  
19 further media exposure and continued harassment by Arpaio.<sup>1</sup>

20          66. To Susan, who is neither a politician nor a public figure, these actions by  
21 members of the MCSO and County Attorney’s office, many of whom she knew and had  
22 worked with over the years, was both shockingly unexpected and deeply frightening.

23          67. These unfounded and abusive actions, based on no evidence and with their  
24 sole purpose to intimidate and coerce Susan, constitute the rankest misuse of power  
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26 <sup>1</sup> She no longer fears the involvement of the County Attorney's office now that Thomas, Aubuchon, and Lotstein are gone.

1 against those innocent and powerless citizens that our system of government is  
2 supposed to protect.

3 68. Defendants abused the power of their offices to ensure Susan feared the  
4 loss of her job, loss of her good name, more importantly, loss of her medical coverage  
5 and care for Jen, and even a prison cell if she did not turn on her boss and give them  
6 what they wanted—evidence against Supervisor Stapley.

7 **Susan Refused to be Coerced**

8 69. Defendants made good on their threat to publicly implicate Susan as a  
9 criminal but she refused to be coerced and refused to create evidence to assist in  
10 Defendants' politically motivated attack on Supervisor Stapley.

11 70. Defendants' attempt to intimidate Susan into their vendetta against  
12 Supervisor Stapley was unsuccessful, but they were successful in terrorizing her,  
13 causing her unending stress, adversely affecting her physical and mental health,  
14 upending her quiet life, and tarnishing forever her reputation.

15 71. She did not deserve the treatment that she was subjected to by Arpaio and  
16 his enforcers or by Thomas and his vindictive prosecutors—all for the dubious and low-  
17 minded obvious purpose of ruining one of their political enemies, *du jour*.

18 **Thomas Continued His Defamatory Assault After Leaving Office**

19 72. After leaving office for his unsuccessful run for Arizona Attorney  
20 General, Thomas, acting solely in his individual capacity and as a private citizen, made  
21 and/or released to the media several defamatory statements.

22 73. Among other things, Thomas issued several press releases and made  
23 various public comments regarding claims filed by County officials and employees,  
24 including Ms. Schuerman.

1           74. As an example, on June 5, 2010, Thomas and Arpaio's representatives,  
2 made numerous statements on their behalf denigrating the Notices of Claim filed by  
3 County officials and employees, including Ms. Schuerman: "Not only are these...claims  
4 not valid, they represent a preplanned, calculated effort to mock the Sheriff's Office."

5           75. Further, on or about June 30, 2010, Thomas disseminated the first of a  
6 four-part article followed by a news release which was published by various media  
7 outlets throughout Arizona. In the article, Thomas accused various County officials and  
8 other County employees, including Ms. Schuerman, of "rigging the system so they can  
9 avoid going to court like anyone else and testifying under oath."

10          76. In the second news release issued July 14, 2010, Thomas publicly referred  
11 to the Notices of Claim filed by Ms. Schuerman and others as requests for "greedy,  
12 underserved payouts" for people who knowingly permit "blatant, self-dealing by  
13 government officials"!

14          77. Additionally, on July 21, 2010, Thomas released campaign literature that  
15 was published in a least one media outlet, the *American Post-Gazette*, wherein Thomas  
16 touted that in his "fight against public corruption" he would address the County Board's  
17 efforts to pay Ms. Schuerman, and others, millions "in bailouts after being investigated  
18 and/or prosecuted for alleged public corruption." Again, Thomas accused County  
19 officials and employees of filing "bogus claims and lawsuits" and pronounced that he  
20 and Arpaio "want to take these matters to trial to get to the bottom of the alleged  
21 corruption in Maricopa County government." He knew better.

22           **Aubuchon Continued Her Defamatory Assault After Being Suspended**

23          78. After she was suspended from MCAO, Aubuchon made various  
24 defamatory comments about Ms. Schuerman and others.  
25  
26

1           79. For example, among other things, during the Baker Investigation,  
2 Aubuchon, through her legal counsel, Barnett Lotstein, repeated the spurious statements  
3 of Arpaio and Thomas that the Notices of Claim filed by County officials and  
4 employees are “frivolous” and “are a greedy attempt at a payday and an attempt by  
5 these individuals to have their friends on the Board of Supervisors or County  
6 Administration settle these matters prior to litigation so that they not be subjected – so  
7 that the parties bringing them not be subjected to interrogation by deposition or  
8 discovery.”

9           80. Additionally, after she was terminated from MCAO, in statements that  
10 were published in *The Arizona Republic* on November 23, 2010, Aubuchon continued  
11 to insist that she acted reasonably with respect to her investigations of various County  
12 officials and employees, including the investigation of Ms. Schuerman (of which she  
13 admitted her involvement during the Baker Investigation).

14                           **Other Defamatory Conduct (In Official Capacity)**

15           81. Other Defendants similarly made or released several defamatory  
16 statements, some of which are set forth herein.

17           82. On June 22, 2010, after the RICO Action was voluntarily dismissed, in a  
18 press release issued by MCSO, Arpaio and Thomas (in Thomas’ capacity as a private  
19 citizen) blustered that the Notices of Claim filed by the County officials, employees,  
20 and judges were “bogus” and “absurd” and that they looked forward to “proving their  
21 corruption case in civil court.”

22           83. At that same time, Arpaio and Thomas stated that “some of these same  
23 individuals abused the powers of their public offices to shut down criminal  
24 investigations and prosecutions and/or otherwise improperly deny us such an  
25



1 opportunity for examination under oath. That abuse of power will now be remedied in  
2 another forum.”

3 84. On or about July 10, 2010, Hendershott, Arpaio, Thomas (in Thomas’  
4 capacity as a private citizen) and MCSO caused to be published in the *American Post-*  
5 *Gazette* an email between Hendershott and County Risk Manager Peter Crowley  
6 wherein Hendershott bombastically accused the County of recklessly considering  
7 settlement of “frivolous” claims filed by various County officials and employees.

8 **Defendants Have A Pattern, Custom, and Practice of Misusing Their Power by**  
9 **Investigating, Arresting, and Prosecuting Individuals Without Probable Cause for**  
10 **Improper and Unlawful Selfish Purposes, Including Political and Financial Gain**

11 85. This is far from the first time these Defendants have abused their authority  
12 for unconstitutional and improper motives and to obtain financial, political, and other  
13 gain or to retaliate against those that dared to disagree or disappoint them. They have a  
14 custom, pattern, and practice of targeting, investigating, arresting, and/or prosecuting  
15 individuals without probable cause and for purely political or retributive motives.

16 86. Last Spring, Tucson judge, John Leonardo, disqualified Thomas from  
17 prosecuting Supervisor Wilcox in *State v. Wilcox*, CR-2010-005423-001, because of  
18 obvious conflicts of interest and then dismissed the indictment against her.

19 87. In that ruling, Judge Leonardo noted that Thomas acted unethically,  
20 retaliated against those who disagreed with him, sought political advantage by  
21 prosecuting those who oppose him politically, and allied himself with Sheriff Arpaio,  
22 who “misused the power of his office” by targeting opponents with criminal  
23 investigations.

24 88. These damning findings by Judge Leonardo memorialized what most  
25 people knew: that Thomas and Arpaio had mounted their destructive assault on county  
26 officials and others to retaliate, intimidate, and punish.

1           89. Arpaio and Thomas brought a RICO Action in early December 2009  
2 against Supervisor Stapley, Wilcox, members of the judiciary, County management and  
3 others arising out of the Court Tower Project. The RICO Complaint was a sophomoric  
4 rant. All but its vindictive purpose was incomprehensible. This case, too, was  
5 voluntarily dismissed after Judge Leonardo exposed the meritlessness of their mischief.

6           90. Days after filing their RICO Complaint, Thomas and Aubuchon filed a  
7 criminal complaint against Judge Gary Donahoe—again based on groundless  
8 allegations involving the Court Tower Project. It too, was later voluntarily dismissed.

9           91. In October 2007, Arpaio and the MCSO arrested Michael Lacey and Jim  
10 Larkin, the Executive Editor and Chief Executive Officer, respectively, of *The Phoenix*  
11 *New Times* on misdemeanor charges without probable cause, in violation of the  
12 constitutional rights of Mr. Lacey and Mr. Larkin, for the sole and improper purpose of  
13 Arpaio's and the MCSO's own personal and political gain, and in an attempt to silence  
14 them as critics.

15           92. Then, one month later, in November 2007, the legal director of the  
16 American Civil Liberties Union of Arizona ("ACLU"), Daniel Pochoda, was arrested by  
17 the MCSO after identifying himself as being with the ACLU. Arpaio disapproved of  
18 the ACLU because it had filed lawsuits against him. Mr. Pochoda was attending a  
19 demonstration as a legal observer in front of a Phoenix furniture store. Mr. Pochoda  
20 was arrested that day on a misdemeanor charge of trespassing, which rarely leads to  
21 anything more than a simple summons or "ticket" to appear in court. Mr. Pochoda, a  
22 constitutional law expert with more than 35 years experience, was hauled off to jail and  
23 detained for nearly 12 hours! A Maricopa County Justice of the Peace later ruled that  
24 that Mr. Pochoda did not engage in any unlawful behavior prior to his arrest by MCSO  
25 deputies.  
26

1           93. In 2007, Arpaio arrested Chandler Police Sergeant Thomas Lovejoy,  
2 without probable cause, for animal cruelty, and insisted that a reluctant MCAO  
3 prosecute the case after Sgt. Lovejoy's K-9 partner, Bandit, died from heat exhaustion  
4 in the back of his SUV. He was quickly acquitted on the charge after a bench trial.

5           94. These and other instances of targeting, investigation, arresting, and  
6 prosecuting individuals without probable cause and in violation of the Constitution  
7 demonstrate the Defendants' pattern and practice of investigating, arresting, and  
8 prosecuting individuals solely for the improper purposes of achieving personal and  
9 political gain or political retaliation and retribution.

10                   **Susan Schuerman Has Suffered Damages as a Result of This Assault**  
11                                   **on Her Reputation**

12           95. As a result of Defendants' conduct as alleged herein, Ms. Schuerman's  
13 reputation has been tarnished and she has lost professional opportunities.

14           96. As a matter of course, human resource departments of public service  
15 employers (and many in the private sector) now require applicants for new positions or  
16 advancements to disclose whether the applicant has ever been the target of a criminal  
17 complaint or a criminal investigation. As a result of Defendants' conduct, though the  
18 investigation was utterly bogus and meritless, Ms. Schuerman will necessarily have to  
19 disclose that she was the target of a "criminal investigation," and as a result, future  
20 employers will not risk hiring her into any serious position.

21           97. In addition to the damage to her reputation, as a single mother of three  
22 children for whom she needs to continue to work in order to send them to college, and  
23 to continue to provide medical care to her daughter Jen, Ms. Schuerman has suffered  
24 emotional distress and adverse physical maladies and manifestations.

1 COUNT I

2 Violations of 42 U.S.C. § 1983: Free Speech and Free Press, Law Enforcement  
3 Retaliatory Conduct, Abuse of Process, and Abuse of Power – (All Defendants)

4 98. Plaintiff realleges and incorporates by reference the allegations set forth in  
5 each of the preceding paragraphs of the Complaint as if set forth fully herein.

6 99. At all times material hereto, all Defendants were acting under color of law  
7 and in their capacity as officials and agents of Maricopa County.

8 100. The wrongful conduct of Defendants alleged in this Complaint constitutes  
9 violations of the United States Constitution, including but not limited to Amendments I,  
10 IV, VI, and XIV, in that Susan was deprived of privileges and immunities guaranteed to  
11 all citizens of the United States, was subjected to retaliatory conduct, illegal search and  
12 seizure, and was investigated without proper cause, with an unconstitutional motive and  
13 malice, and without equal protection or due process in an attempt to chill Plaintiff's free  
14 speech, interfere with her right to counsel, and to intimidate, harass, and coerce her to  
15 give evidence against her boss, Supervisor Stapley, or be subjected to criminal  
16 investigation and/or prosecution.

17 101. As a direct and proximate result of Defendants' wrongful conduct as  
18 alleged herein, Susan's constitutional rights were violated and she has suffered harm  
19 and has been injured.

20 102. The wrongful conduct of these Defendants as alleged in this Complaint  
21 was undertaken with malice and/or with improper and unconstitutional motives in an  
22 attempt to interfere with conduct protected by the Constitution. Susan was investigated,  
23 intimidated, harassed, and coerced by or at the behest of Defendants for improper  
24 unconstitutional motives, was treated differently than others similarly situated, and was  
25 subjected to improper abuse of process and power for improper motives, without proper  
26 or probable cause, and with malice.



1 train the attorneys, agents, and employees of the MCAO. His actions were the actions  
2 of Maricopa County.

3 110. At all times material hereto, all Defendants were acting under color of law  
4 and in their capacity as officials and agents of Maricopa County.

5 111. Sheriff Arpaio, Hendershott, Aubuchon, and Thomas are named in their  
6 official capacity, as well as their individual capacity, pursuant to 42 U.S.C. § 1983  
7 supervisory and direct liability, for their conduct as alleged herein.

8 112. At all material times, Defendants Sheriff Arpaio, Hendershott, Thomas,  
9 Aubuchon, and Maricopa County have oversight and supervisory responsibility over the  
10 investigation, processing, handling, and management of civil and/or criminal  
11 investigations and prosecutions in their control, and the proper screening, hiring,  
12 training, retaining, and supervision of the officers, employees, and agents investigating,  
13 processing, handling, and managing such criminal investigations and prosecutions.

14 113. As alleged herein, Sheriff Arpaio, Hendershott, Thomas, Aubuchon, and  
15 Maricopa County, independently and in concert with one another and through their  
16 official policymakers, violated Susan's constitutional rights and were deliberately and  
17 callously indifferent to Susan in training (or failing to train) their officers, agents, and  
18 employees in (among other things and without limitation): The appropriate, lawful and  
19 constitutional policies, procedures, and protocols for investigating, processing,  
20 handling, and managing civil and/or criminal investigations in their control; and for  
21 adopting policies and procedures to ensure due process and equal protection for those  
22 subject to investigation.

23 114. As alleged herein, Sheriff Arpaio, Hendershott, Thomas, Aubuchon, and  
24 Maricopa County, independently and in concert with one another and through their  
25 official policymakers, were deliberately and callously indifferent to Susan through  
26

1 fostering, encouraging and knowingly accepting formal and informal policies,  
2 procedures, practices, or customs condoning indifference to the rights of the subjects of  
3 civil and/or criminal investigations under their control.

4           115. As alleged herein, Sheriff Arpaio, Hendershott, Thomas, Aubuchon, and  
5 Maricopa County, independently and in concert with one another and through their  
6 official policymakers, knew and should have known that unconstitutional policies,  
7 practices, customs, and training existed with respect to the screening, hiring, training,  
8 retaining, and supervision of officers, employees, and agents who have responsibility  
9 for the investigation, processing, handling, and management of civil and/or criminal  
10 investigations in their control, yet failed to properly address them and/or failed to  
11 establish and implement appropriate policies, procedures, protocols, and training to  
12 remedy them.

13           116. As alleged herein, Sheriff Arpaio, Hendershott, Thomas, Aubuchon, and  
14 Maricopa County, independently and in concert with one another and through their  
15 official policymakers, permitted the implementation of inappropriate, unconstitutional,  
16 de facto policies which: Authorized, approved, condoned, and/or ratified  
17 unconstitutional civil and/or criminal investigatory practices, and failed to adequately  
18 train and supervise their personnel in these and other relevant areas.

19           117. The wrongful conduct of these Defendants as alleged in this Complaint  
20 constitutes violations of Title 42 U.S.C. § 1983, in that they deprived Susan of the  
21 rights, privileges, and immunities secured to her by the Constitution and laws of the  
22 United States and their wrongful conduct was the moving force behind the violations of  
23 Susan's rights by their agents, employees, officers, and personnel.

24           118. The wrongful conduct of Defendants alleged herein constitutes violations  
25 of the United States Constitution, including but not limited to Amendments I, IV, VI,  
26

1 and XIV, in that Susan was subjected to retaliatory conduct from law enforcement,  
2 illegal search and seizure, and was investigated, with an unconstitutional motive, and  
3 without probable cause, equal protection or due process in an attempt to chill Plaintiff's  
4 free speech, interfere with her right to counsel, and to intimidate, harass, and coerce her  
5 to give evidence against her boss, Supervisor Stapley, or be subjected to criminal  
6 investigation and/or prosecution.

7 119. As the direct and proximate result of Defendants' wrongful conduct,  
8 Susan's constitutional rights were violated and she has suffered harm and has been  
9 injured.

10 120. The acts and omissions of Sheriff Arpaio, Hendershott, Aubuchon, and  
11 Thomas acting in their individual capacity and under color of law as alleged herein,  
12 were malicious, punitive, and in reckless disregard of Susan's rights.

13 121. As a result, punitive damages in an amount to be determined by a jury  
14 should be awarded against Arpaio, Hendershott, Aubuchon, and Thomas to punish them  
15 for wrongdoing and to prevent them and others from acting in a similar manner in the  
16 future.

17 **COUNT III**

18 **Violation of 42 U.S.C. § 1983—Substantive Due Process—(All Defendants)**

19 122. Plaintiff realleges and incorporates by reference the allegations set forth in  
20 each of the preceding paragraphs of the Complaint as if set forth fully herein.

21 123. Defendants' conduct as alleged herein violates the laws of the United  
22 States and the State of Arizona:

23 124. Among other things, Defendants' conduct constitutes:

- 24 a. Obstruction, in violation of A.R.S. § 13-2402;  
25 b. Influencing a witness, in violation of A.R.S. § 13-2802;



- 1                   c.     Conspiracy against Rights, in violation of 18 U.S.C. § 241; and  
2                   d.     Deprivation of Rights Under Color of Law, in violation of 18  
3                   U.S.C. § 242.

4           125.   At all times material hereto, all Defendants were acting under color of law  
5   and in their capacity as officials and agents of Maricopa County.

6           126.   The wrongful conduct of Defendants as alleged herein also constitutes  
7   violations of the United States Constitution, including but not limited to Amendments I,  
8   IV, VI and XIV, in that Susan was deprived of privileges and immunities guaranteed to  
9   all citizens of the United States, was subjected to law enforcement retaliatory conduct,  
10   illegal search and seizure, and was investigated without proper cause, with an  
11   unconstitutional motive and malice, and without equal protection or due process in an  
12   attempt to chill Plaintiff's free speech, interfere with her right to counsel, and to  
13   intimidate, harass, and coerce her to give evidence against her boss, Supervisor Stapley,  
14   or be subjected to criminal investigation and/or prosecution.

15           127.   As a direct and proximate result of Defendants' wrongful conduct as  
16   alleged herein, Susan's constitutional rights were violated and she has suffered harm  
17   and has been injured.

18           128.   The wrongful conduct of these Defendants as alleged herein was  
19   undertaken with malice and/or with improper and unconstitutional motives.

20           129.   In its totality, Defendants' entire course of conduct against Susan, as set  
21   forth in the preceding allegations of the Complaint was arbitrary, irrational, extreme,  
22   outrageous, unjustified by any governmental interest, beyond all possible realms of  
23   decency; it also shocks the conscience and constitutes a gross abuse of governmental  
24   authority.



1           136. Upon information and belief, no other statutory agent has ever been  
2 treated in such a manner.

3           137. There is no rational basis for the difference in Defendants' treatment of  
4 Ms. Schuerman from others similarly situated.

5           138. Defendants' engaged in their conduct for an impermissible motive and  
6 with malice due to the Defendants' animus of Ms. Schuerman and/or Supervisor  
7 Stapley.

8           139. Defendants acted with bad faith intent to injure Ms. Schuerman.

9           140. Defendants singled out Ms. Schuerman with the impermissible motive of  
10 punishing her for her refusal to cooperate with and assist them in their unwarranted and  
11 malicious vendetta against Supervisor Stapley.

12           141. As a direct and proximate result of Defendants' wrongful conduct as  
13 alleged herein, Susan's constitutional rights were violated and she has suffered harm  
14 and has been injured.

15           142. The wrongful conduct of these Defendants as alleged herein was  
16 undertaken with malice and/or with improper and unconstitutional motives in an attempt  
17 to interfere with conduct protected by the Constitution. Susan was investigated,  
18 intimidated, harassed, and coerced by or at the behest of Defendants for improper  
19 unconstitutional motives, was treated differently than others similarly situated, and was  
20 subjected to improper abuse of process and power for improper motives, illegal search  
21 and seizure, without proper or probable cause, and with malice.

22           143. In its totality, Defendants' entire course of conduct against Susan, as set  
23 forth in the preceding allegations of the Complaint, was arbitrary, irrational, extreme,  
24 outrageous, unjustified by any governmental interest, beyond all possible realms of  
25

1 decency; it also shocks the conscience and constitutes a gross abuse of governmental  
2 authority.

3 144. The acts and omissions of Arpaio, Hendershott, Thomas, and Aubuchon  
4 acting in their individual capacity and under color of law as alleged herein, were  
5 malicious, punitive, and in reckless disregard of Susan's rights.

6 145. As a result, punitive damages in an amount to be determined by a jury  
7 should be awarded against Arpaio, Hendershott, Thomas, and Aubuchon to punish them  
8 for wrongdoing and to prevent them and others from acting in a similar manner in the  
9 future.

10 **COUNT V**

11 **Conspiracy to Commit Violations of 42 U.S.C. § 1983—(Arpaio,**  
12 **Hendershott, Thomas, and Aubuchon)**

13 146. Plaintiff realleges and incorporates by reference the allegations set forth in  
14 each of the preceding paragraphs of the Complaint as if set forth fully herein.

15 147. The wrongful conduct of Defendants, as alleged herein, was undertaken  
16 pursuant to an agreement or meeting of the minds among Defendants to act in concert to  
17 violate Susan's constitutional rights, chill Plaintiff's free speech, interfere with her right  
18 to counsel, and to intimidate, harass, and coerce her to give evidence against her boss,  
19 Supervisor Stapley, or be subjected to criminal investigation and/or prosecution.

20 148. Defendants' acts and/or omissions as alleged herein to pursue and conduct  
21 the criminal "investigation" of Susan, was undertaken pursuant to a conspiracy among  
22 Defendants to violate Susan's constitutional rights.

23 149. As a direct and proximate cause of Defendants' conspiracy, Susan's  
24 constitutional rights were violated.





1 162. Defendants' acts and omissions constitute negligent, reckless, and/or  
2 intentional infliction of emotional distress.

3 163. As a direct and proximate cause of Defendants' intentional, reckless,  
4 and/or negligent infliction of emotional distress, Susan has suffered severe emotional  
5 distress, adverse physical maladies, and manifestations, and physical injury and/or harm  
6 in an amount to be determined by trial.

7 164. The acts and omissions of Sheriff Arpaio, Hendershott, Thomas, and  
8 Aubuchon acting in their individual capacity and under color of law as alleged herein,  
9 were malicious, punitive, and in reckless disregard of Plaintiffs' rights.

10 **COUNT VIII**

11 **Libel, Defamation, and/or False Light Invasion of Privacy—Arpaio, Hendershott,**  
12 **Thomas, and Aubuchon**

13 165. Plaintiff realleges and incorporates by reference the allegations set forth in  
14 each of the preceding paragraphs of the Complaint as if set forth fully herein.

15 166. Defendants' statements made and/or released to the media as alleged  
16 herein were false, defamatory, and disparaging. And, in the case of Thomas and  
17 Aubuchon, certain statements were made after leaving office and/or County  
18 employment.

19 167. Defendants' statements made and/or released to the media as alleged  
20 herein were knowingly false, defamatory, and disparaging.

21 168. Defendants are responsible for the publication of the false and misleading  
22 statements in various media outlets throughout Arizona.

23 169. Defendants caused the false and defamatory statements to be published to  
24 Arizona citizens with knowledge of their falsity and/or with reckless disregard as to  
25 their truth or falsity.

1           170. Defendants' false and defamatory statements were directed to the honesty,  
2 integrity, and reputation of Ms. Schuerman constituting defamation *per se*.

3           171. As a direct and approximate result of Defendants' false and defamatory  
4 statements, Ms. Schuerman has been damaged in an amount to be proven at trial.

5           172. As a direct and proximate result of the conduct described in this  
6 Complaint, Ms. Schuerman suffered irreparable harm, including damage to her  
7 reputation and good name, suffered severe emotional distress, adverse physical maladies  
8 and manifestations, and physical injury and/or harm.

9           173. The acts and omissions of Sheriff Arpaio, Hendershott, Aubuchon, and  
10 Thomas acting in their individual capacity and under color of law as alleged herein,  
11 were malicious, punitive, and in reckless disregard of Plaintiff's rights.

12           174. Thomas' and Aubuchon's conduct, which was performed in their capacity  
13 as private citizens, after they left the MCAO, was done with an intent to harm Plaintiff  
14 and in conscious disregard of causing significant harm to Plaintiff. Thomas and  
15 Aubuchon acted deliberately, overtly, and dishonestly. Thomas and Aubuchon's  
16 motives were so improper and their conduct so oppressive, outrageous, and intolerable  
17 that punitive damages are warranted.

18           175. The acts and omissions of Thomas and Aubuchon acting in their capacity  
19 as private citizens as alleged herein, were malicious, punitive, and in reckless disregard  
20 of Plaintiff's rights.

21           176. As a direct and proximate result, punitive damages in an amount to be  
22 determined by a jury should be awarded against Aubuchon and Thomas to punish them  
23 for wrongdoing and to prevent them and others from acting in a similar manner in the  
24 future.



1 COUNT IX

2 Racketeering Violations under 18 U.S.C. § 1961, et seq.  
3 & A.R.S. § 13- 2301, et seq.-(All Defendants)

4 177. Plaintiff realleges and incorporates by reference the allegations set forth in  
5 each of the preceding paragraphs of the Complaint as if set forth fully herein

6 178. As set forth in detail in this Complaint, Defendants have engaged in a  
7 pattern of unlawful activity in order to obtain political, retaliatory, and/or other gain that  
8 have resulted in harm and injury to Susan and others.

9 179. Such a pattern of unlawful activity includes, but is not limited to, a series  
10 of repeated baseless investigations, malicious prosecutions and abuses of process, false  
11 imprisonments and arrests, asserting false claims, fraudulent schemes, practices, and  
12 artifices, and extortions under color of official right, which have occurred over at least  
13 the last several years and may still be ongoing.

14 180. Defendants undertook such unlawful activity as an association-in-fact  
15 and/or an enterprise with a common purpose. Each of the Defendants conducted or  
16 participated, directly and/or indirectly, in the conduct of the association-in-fact and/or  
17 enterprise.

18 181. As a direct and proximate result of Defendants' pattern of unlawful  
19 activity as alleged herein, Susan has been injured and sustained monetary damages in an  
20 amount to be proven at trial.

21 182. Defendants' acts and omissions as alleged herein constitute violations of  
22 18 U.S.C. § 1861, et seq. and A.R.S. § 12-2301, et seq.

23 183. Pursuant to 18 U.S.C. § 1964(c) and A.R.S. § 12-2314.01, Susan is  
24 entitled to an award of treble damages.

25 184. Pursuant to 18 U.S.C. § 1964(c) and A.R.S. § 13-2314.01, Susan is  
26 entitled to an award of her reasonable attorneys' fees and costs.

1 **COUNT X**

2 **Negligence—(All Defendants)**

3 185. Plaintiff realleges and fully incorporates the allegations set forth in each of  
4 the preceding paragraphs of this Complaint.

5 186. Defendants have both statutory and common law duties of care to Susan  
6 and all citizens when performing the functions of their positions. Defendants owe a  
7 duty of care to Susan with respect to conducting criminal and/or civil investigations and  
8 prosecutions.

9 187. Defendants are also legally responsible for the management of the civil  
10 and/or criminal investigation system in Maricopa County, and the establishment and  
11 implementation of policies, procedures, and protocols that govern the investigation,  
12 processing, handling, and management of civil and/or criminal investigations and  
13 prosecutions in their control. Their responsibility includes making certain that such  
14 policies, procedures, and protocols satisfy all federal and state standards.

15 188. Defendants are legally responsible for the screening, hiring, training,  
16 retaining, and supervision of all employees and agents who have responsibility for the  
17 investigation, processing, handling, and management of civil and/or criminal  
18 investigations and prosecutions in their control. This responsibility includes making  
19 certain that such screening, hiring, training, retaining, and supervision of such  
20 employees and agents satisfy all federal and state standards.

21 189. Defendants breached their duties owed to Susan, as alleged in this  
22 Complaint, by (*inter alia*), failing to conduct the duties of their positions with  
23 reasonable care; failing to establish and implement proper policies, procedures, and  
24 protocols governing the investigation, processing, handling, and management of civil  
25 and/or criminal investigations and prosecutions in their control; and failing to properly  
26 screen, hire, train, retain, and supervise employees and agents who have responsibility

1 for the investigation, processing, handling, and management of criminal investigations  
2 and prosecutions in their control.

3 190. Defendants' breaches of their duties owed to Susan directly and  
4 proximately caused Susan to suffer emotional and physical damages in an amount to be  
5 proven at trial.

6 191. The acts and omissions of Sheriff Arpaio, Hendershott, Thomas, and  
7 Aubuchon acting in their individual capacity and under color of law as alleged herein,  
8 were malicious, punitive, and in reckless disregard of Plaintiffs' rights.

9 **COUNT XI**

10 **Gross-Negligence—(All Defendants)**

11 192. Plaintiff realleges and incorporates by reference the allegations set forth in  
12 each of the preceding paragraphs of this Complaint.

13 193. Defendants have both statutory and common law duties of care to Susan  
14 and all citizens when performing the functions of their positions. Defendants owe a  
15 duty of care to Susan with respect to conducting criminal and/or civil investigations and  
16 prosecutions.

17 194. Defendants are also legally responsible for the management of the civil  
18 and/or criminal investigation system in Maricopa County, and the establishment and  
19 implementation of policies, procedures, and protocols that govern the investigation,  
20 processing, handling, and management of criminal investigations and prosecutions in  
21 their control. Their responsibility includes making certain that such policies,  
22 procedures, and protocols satisfy all federal and state standards.

23 195. Defendants are legally responsible for the screening, hiring, training,  
24 retaining, and supervision of all employees and agents who have responsibility for the  
25 investigation, processing, handling, and management of civil and/or criminal  
26

1 investigations and prosecutions in their control. This responsibility includes making  
2 certain that such screening, hiring, training, retaining, and supervision of such  
3 employees and agents satisfy all federal and state standards.

4 196. Defendants were grossly negligent in breaching their duties owed to  
5 Susan, as alleged in this Complaint, by (*inter alia*), failing to conduct the duties of their  
6 positions with reasonable care; failing to establish and implement proper policies,  
7 procedures, and protocols governing the investigation, processing, handling, and  
8 management of civil and/or criminal investigations and prosecutions in their control;  
9 and failing to properly screen, hire, train, retain, and supervise employees and agents  
10 who have responsibility for the investigation, processing, handling, and management of  
11 civil and/or criminal investigations and prosecutions in their control.

12 197. Defendants' breached their duties with actual or constructive knowledge,  
13 or with reckless disregard that their acts and/or omissions would result in harm to  
14 Susan.

15 198. Defendants' gross negligence directly and proximately caused Susan to  
16 suffer physical and emotional harm in an amount to be proven at trial.

17 199. The acts and omissions of Sheriff Arpaio, Hendershott, Thomas, and  
18 Aubuchon acting in their individual capacity and under color of law as alleged herein,  
19 were malicious, punitive, and in reckless disregard of Plaintiffs' rights.

20 **JURY TRIAL**

21 200. Plaintiff hereby requests a trial by jury.

22 **PRAYER FOR RELIEF**

23 WHEREFORE, Plaintiff prays for damages for judgment against Defendants as  
24 follows:

25 (a) General damages in an amount to be proven at trial;  
26

- 1 (b) Punitive damages in an amount deemed just and reasonable against the  
2 individual Defendants as to the causes of action alleged herein;  
3 (c) Costs and attorneys' fees against all Defendants as to the causes of action  
4 alleged under the Constitution and laws of the United States, pursuant to  
5 42 U.S.C. § 1988;  
6 (d) Treble damages and attorneys' fees against all Defendants as to the causes  
7 of action alleged under 18 U.S.C. § 1961, *et seq.* and A.R.S. § 13-2301, *et*  
8 *seq.*  
9 (e) The costs of litigation;  
10 (f) All remedies provided by 42 U.S.C. § 1983, 18 U.S.C. § 1961, *et seq.*, and  
11 A.R.S. § 13-2301, *et seq.*; and  
12 (g) Such other and further relief which may seem just and reasonable under  
13 the circumstances.

14 RESPECTFULLY SUBMITTED this 30<sup>th</sup> day of November, 2010.

15 **STINSON MORRISON HECKER LLP**

16  
17 By: 

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