

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF VIRGINIA
DANVILLE DIVISION

CLERKS OFFICE U.S. DIST. COURT

AT DANVILLE, VA
FILED

MAR 2 2018

JULIA C. DUDLEY, CLERK
BY: s/ MARTHA L. HUPP
DEPUTY CLERK

CHRISTEN WADDLE)
)
Plaintiff)
)
v.)
)
Aundrea Claughton)
1072 Cherry Road)
South Boston, VA 24592-6945)
)
Todd Moser)
6132 Oak Level Road)
Halifax, VA 24558)
)
Nicholas D. Jones)
1074 Pine Height Trail)
Halifax, VA 24558)
)
Dre D. Tucker)
1066 River Road)
South Boston, VA 24592)
)
Defendants)

Case No. 4:18CV00010

COMPLAINT

Plaintiff Christen Waddle (“Waddle”) files this Complaint against Aundrea Claughton (“Claughton”), Todd Moser (“Moser”), Nicolas D. Jones (“Jones”), and Dre D. Tucker (“Tucker”), and in support thereof states as follows:

JURISDICTION AND VENUE

1. Jurisdiction for the claims set forth in this Complaint is conferred pursuant to 28 U.S.C. § 1331 and § 1367(a).

2. Venue is proper for this action, which arose in Halifax County, Virginia, and involves defendant residents of Halifax County, Virginia, pursuant to 28 U.S.C. § 1391.

WOODS ROGERS PLC
ATTORNEYS AT LAW

STATEMENT OF FACTS

3. Waddle is a Virginia resident with her current place of residence Halifax County, Virginia.

4. Claughton, Moser, Jones, and Tucker are residents of Halifax County, Virginia.

5. At all times relevant to this Complaint, Moser was the “chief animal control officer” for Halifax County, and Claughton was an “assistant animal control officer” for Halifax County.

6. Pursuant to Virginia Code § 3.2-6555, each county under state law must:

[E]mploy an officer to be known as the animal control officer who shall have the power to enforce this chapter, all ordinances enacted pursuant to this chapter and all laws for the protection of domestic animals... Animal control officers and deputy animal control officers shall have knowledge of the animal control and protection laws of the Commonwealth that they are required to enforce. When in uniform or upon displaying a badge or other credentials of office, animal control officers and deputy animal control officers shall have the power to issue a summons or obtain a felony warrant....

7. According to Virginia Code § 19.2-71, only law enforcement officers and animal control officers are authorized to secure a felony arrest warrant without prior approval of the local commonwealth attorney or the law-enforcement agency having jurisdiction over the offense.

8. On the morning of December 20, 2017, Waddle was traveling by car along State Route 360 near Union Church Road in Halifax County, Virginia. She was headed to the grocery store to pick up some needed things quickly. She had to be back to her home soon because her two children would be arriving by school bus as a result of an early dismissal starting the Christmas Holiday break.

9. While driving, Waddle unexpectedly encountered a dog running loose in the middle of the road. Waddle had to swerve dramatically to avoid hitting the dog.

10. Waddle turned around her vehicle and returned to where she had encountered the dog. She found the dog lethargic and shaking. Its ribs were visible and it had obvious facial scratches. Waddle could see immediately that the dog was emaciated, was sick, and had not been properly cared for by its owner.

11. From her car Waddle called the Halifax County Sheriff's Office at 10:01 a.m. by cell phone and asked to speak with someone in Animal Control. Her call was put through, but there was no answer.

12. Waddle got out of her car to inspect the dog. She noticed the dog was wearing a tracking collar, and an identification collar that had Jones's name and a phone number on it. At 10:05, Waddle called that number, but there was no answer.

13. While Waddle was placing the call, the dog moved over to the front driver side door that Waddle had left open when she got out of her car to get the owner information. With obviously labored effort, the dog managed to paw its way into the front driver-side floorboard. Waddle moved the dog to the back seat, where it remained passive.

14. Despite having little time before her children's school bus arrived at her home, Waddle decided to take the dog to Animal Control where it could be properly evaluated and a determination made about the dog's deplorable physical condition and what should be done about it.

15. Waddle located Jones's Facebook page on her cell phone and left him a message at 10:08 a.m. She stated that she had one of his "hunting dogs" and that if he wanted the dog

back he could meet her at “Animal Control.” She added that the dog was shaking and was starved and described the dog’s condition as “pathetic.”

16. Waddle had noticed when she started her trip that morning that her gas light was on and she would soon need gas. She accordingly stopped at a “Spirit” gas station at the intersection of Halifax Road and Greens Folly Road to get gas before continuing her drive to Animal Control.

17. While Waddle was standing at the gas pump, she saw a pickup truck with dog kennels and two dogs in the back race by the gas station. The truck turned around abruptly and speeded toward the station. Waddle became concerned for her safety so at 10:16 a.m. she phoned 911 as the truck came on the lot. The truck came to a stop on the passenger side of Waddle’s car. Five men exited the pickup truck and surrounded Waddle’s car. As they did so, Waddle locked the car.

18. As Waddle spoke with the 911 dispatcher, Jones asked Waddle if she had his dog. Knowing Jones by sight, she responded that she did, that she had the “law” on the phone, and that “they are going to meet us here.”

19. The five men, including Jones and Tucker, continued to surround Waddle’s car. They began calling her a vulgar name and threatening to break her car windows if she didn’t immediately turn over the dog. In response, Waddle repeated that the “law is on their way.” She reported to the dispatcher, who was on her cell phone line, that the dog was “starved to death,” its face was scratched up, and it was scared to death. She urged the dispatcher to send someone. The whole time Waddle spoke with the dispatcher, the men, including Jones and Tucker, continued to aggressively shout vulgar statements and threats at her.

20. The dispatcher instructed Waddle to get into her car and lock the door. Waddle expressed concern that if she unlocked her doors, the men would take the dog and, given the dog's marked debilitated condition, she told the dispatcher that she was not going to allow that to happen before the law arrived. The dispatcher instructed Waddle to stay on the line with him.

21. The dispatcher asked what the men were trying to do, and Waddle said that she guessed that they were trying to get the dog, but that she was not giving the dog back to them. She told the dispatcher about having called Halifax County (only minutes earlier) and being transferred to the "pound," but that nobody with Animal Control answered. She informed the dispatcher that she had retrieved the dog and was driving it to Animal Control and had stopped to get needed gas. She confirmed to the dispatcher that the dog belonged to "them" but that the dog was starved. She asked the dispatcher to have Animal Control come to the scene. The dispatcher confirmed that he was trying to arrange for that to occur.

22. The whole time Waddle spoke with the dispatcher, the men surrounding her continued to curse her in loud threatening voices and stated that they were going to bust out her car windows.

23. As a Halifax sheriff deputy drove up, Waddle commented to the dispatcher that the truck was leaving, which suggested "something is up" to cause such an obvious evasive action prompted merely by the arrival of the police on the scene. While the pickup truck abruptly and inexplicably left the scene, Jones and Tucker remained.

24. Waddle reported to the dispatcher that the men had reported that the dog "has been missing a while" (as if that would excuse the emaciated state of the dog).

25. The dispatcher then called Claughton and relayed that Waddle was surrounded by individuals who owned the dog, but that she would not let them have it because the dog was

malnourished. He told Claughton that Waddle was taking the dog to the pound but had stopped to get gas.

26. Claughton then arrived at the gas station. Waddle immediately opened up the back door of her car to provide Claughton access. Claughton picked up the dog and stated to both Waddle and Jones that “I’m taking this dog with me; he is starved and underweight.” Claughton left the scene without engaging Waddle, Jones, or Tucker in any substantive discussion.

27. Claughton took the dog to the Animal Control office where it was inspected by an “A. Conner,” apparently another assistant animal control officer. Conner rated the dog a “3” on the Purina Body Condition System which represented a finding that the dog’s

[R]ibs were easily palpated and may be visible with palpable fat.
Tops of lumbar vertebrae visible. Pelvic bones becoming prominent. Obvious waists [sic] and abdominal tuck.

28. According to Conner’s report, Jones was given a “cruelty warning” and directed to take the dog “to vet for evaluation within 24 hours.” Conner released the dog to Jones at 11:00 a.m. on December 20, 2017.

29. At 12:51 p.m. on December 20, 2017, Jones responded to the Facebook post Waddle had posted before the gas station confrontation informing him that she was taking the dog to the pound. He wrote (vulgarity omitted and noted by ...):

U thought the dog man was gonna take my dog he said u were ...
dumb for calling him it’s a ... hunting dog when u left the cop and
animal control called u stupid and they gave me my dog back u ...
dummy.

30. Jones’s summary of Claughton’s statement demonstrated that Claughton, despite his role as an animal control worker, considered “hunting dogs” not worthy of even a modicum of humane consideration. His returning the dog to Jones, given the sure signs of neglect and enfeeblement, was consistent with his inhumane statement as Jones related it to Waddle. Waddle

had assumed that Animal Control was there to protect neglected animals. Claughton demonstrated that her assumption, at least in his case, was tragically wrong. For Claughton, Waddle was so stupid to deserve derision for trying to solicit aid and comfort for a suffering “hunting dog.”

31. Waddle was rightfully stunned to learn that Animal Control would release the dog back to the owner, given its obvious mistreated state under Jones’s prior care. She called Animal Control and spoke to Claughton at 12:59 p.m. on December 20, 2017. Claughton confirmed that the dog had been returned to the owner and added that he had no choice but to return the emaciated dog because it “belonged to a hunting pack.” This rationale made absolutely no sense, but confirmed the attitude that Jones had just attributed to Claughton— that it was “dumb” for Waddle to call Animal Control about a mere “hunting dog”. What Waddle did not know at the time was that Claughton and Jones were friends, and Claughton was putting friendship, and a lack of empathy for neglected “hunting dogs”, above his animal control duties.

32. Waddle told Claughton during the phone call that it was wrong for him to return the dog for such a reason as it “belonged to a hunting pack” after already taking the dog due to its weakened state. She said she was not going to let this go, and that she would be reporting him to the “highest authority possible” for his dereliction of duty.

33. Immediately after speaking with Claughton, Waddle called PETA to report the incident and Claughton’s failure to protect the dog. As she had made clear to Claughton moments before, she was fully prepared to do whatever she could to expose Claughton’s disregard of his duty to protect animals, including even “hunting dogs”, from cruelty.

34. Until Waddle criticized Claughton’s actions and informed him of her intent to exercise her First Amendment rights to bring his actions to public attention, there had been no

thought given or action taken to retaliate against Waddle, or otherwise subject her to wrongful abuse, for her humane action in trying to get the dog to Animal Control for its protection. But Waddle's criticism of Claughton for his dereliction of duty plus the revelation that Claughton would now be subject to critical public exposure, through Waddle's exercise of her free speech rights, motivated Claughton to embark on a course of retaliation against her for the purpose of shifting his own neglect to her and chilling her First Amendment free speech rights.

35. Jones would later state publicly that once Tucker had his tracking collar back and Jones his dog back, both of them expected the matter to drop. Jones, in fact, expressly denied asking Animal Control to press charges against Waddle, stating to the news media that

I didn't charge her and I [sic] doesn't matter to me. Once I got my dog and collar back we were done. We had nothing to talk about after that.

36. But while Jones and Tucker had no intent to press bogus charges against Waddle, Claughton, now having been chastised and threatened with public exposure for his wrongful conduct, had other ideas. After receiving Waddle's call, he contacted Jones and Tucker and arranged for them to come back to Animal Control for the purpose of cooking up bogus criminal charges against Waddle. As part of that scheme, he had both Jones and Tucker prepare handwritten unsworn statements at 3:37 p.m. on December 20, 2017. Claughton would state later in a written statement, drafted for the obvious intent to absolve himself of liability, that he had Jones and Tucker come in at 2:00 p.m. on December 20 to prepare their statements—barely an hour after Waddle in her 12:59 p.m. phone call had criticized him and promised public exposure of his actions (a fact he tellingly omitted from his statement).

37. Both Jones's and Tucker's statements, as procured by Claughton, were false in that they failed to properly describe what had happened at the gas station. Their statements put vulgar words in Waddle's mouth that an audio recording of the 911 call clearly shows were not

said. Their statements intentionally left out the crucial fact which Waddle had made clear— as confirmed on the 911 tape and in her Facebook post to Jones to which he had responded before providing Claughton a written statement— that she was taking the dog to Animal Control because of its obvious physical distress. Jones and Tucker knew, as did Claughton, that their written statements were false and misleading, intentionally holding back from the magistrate that Waddle had no intent to steal the dog and its tracking collar, but instead was only seeking help for the neglected dog from Animal Control. Claughton knew of Waddle’s humane intent, it having been communicated to him by the 911 dispatcher as he came to the scene (as confirmed on the 911 tape), but he nevertheless orchestrated the crafting of Jones’s and Tucker’s written statements to make it appear that Waddle’s intent was to permanently convert the dog to her ownership. Claughton’s motive in doing so was to retaliate against Waddle for her criticism and to chill her prospective free speech rights so as to avoid his lack of due care regarding the dog becoming public knowledge. Jones and Tucker, by their participation in Claughton’s creation of false charges against Waddle, acted as Claughton’s willing co-conspirators.

38. After securing the unsworn statements from Jones and Tucker, Claughton sought arrest warrants from the local state court magistrate, which were issued at 4:23 p.m. on December 20, 2017. The charges Claughton sought were violation of Virginia Code § 18.2-95 (felony larceny for “taking” the tracking collar on the dog), and Virginia Code § 18.2-96 (misdemeanor larceny for “taking” the dog). Claughton did so with full knowledge that Waddle had not taken the dog with the intent of acquiring permanent ownership, as required by law for a larceny charge, but instead was only seeking to secure the protection of Animal Control over the dog’s well-being, given that it was clear that Jones had demonstrated a lack of any commitment to care properly for the dog.

39. There was absolutely no probable cause to initiate larceny charges against Waddle as Claughton, Jones, and Tucker knew. Claughton knew that he could only convince the magistrate to issue larceny arrest warrants by withholding material facts as to Waddle's innocent and humane intent to take the dog to Animal Control for care and protection, so as to create the false impression that Waddle's intent was to acquire permanent ownership of the dog and tracking collar through theft. Claughton knew that if he disclosed to the magistrate that his maliciously inspired motivation in seeking the arrest warrants was to retaliate against Waddle for her criticism of his conduct and to chill her future free speech rights, no warrant would be issued. Claughton's knowledge precluded him from possessing any reasonable basis to conclude that probable cause existed that Waddle had committed larceny.

40. On December 21, 2017, Claughton accompanied Jones and Tucker to the Loveshop Road Veterinary Clinic run by William W. Will, DVM. The intake person at the clinic observed that the dog was very sick, could not stand, and appeared to be suffering from seizures. Dr. Will would later describe to a newspaper reporter that he had observed emaciation, seizures, convulsions, and "chewing gum fits" consistent with distemper. He told Jones that nothing could be done for the dog, given its abject condition. Jones authorized euthanasia, which was administered that day.

41. Claughton, who had accompanied Jones and Tucker to the Dr. Will's office, was made aware on December 21 that the dog had been euthanized because of its deplorable physical condition. Yet neither he, nor Moser, his superior, made public that outcome, which would have fully exonerated Waddle in the public's eyes and verified not only Jones's mistreatment, but Claughton's initial disregard of the dog's well-being.

42. Despite this outcome, Claughton, now with the knowing assistance and ratification of his actions by his superior Moser, was not going to be deterred in the retaliatory campaign to punish Waddle for her critical speech and to dissuade her from airing any such speech publicly. Although he now had absolute proof of the lack of proper care of the dog and the bona fides of Waddle's humane effort to secure intervention for the dog before it was too late, Claughton, and his superior Moser, did nothing to see that the now pending criminal proceeding, based on the improperly issued arrest warrants, was dismissed.

43. On December 26, literally the day after Christmas, the Halifax County Sheriff's Office served the arrest warrants on Waddle. She was booked, a mug shot taken, and finally released on a \$1,500 unsecured bond with instructions to appear for arraignment on January 3, 2018, and not to leave the State pending the outcome of the criminal proceeding. Her arrest and charges became the topic of various broadcast and print media news stories as the media began to cover her prosecution (or more appropriately described, persecution).

44. As part of that coverage, a news reporter was able to make contact with Moser who stated that he was then on vacation. When asked about the charges against Waddle, Moser offered no explanation, and said that there would be "plenty of time" after he returned from vacation to sit down the Claughton to discuss the matter. He added that he trusted his officers and would not second guess them. This ratifying statement demonstrated a total lack of concern that a citizen of the community was now under the distressing cloud of criminal prosecution and threat of conviction and long imprisonment.

45. When the reporter asked Moser why he had not disclosed to the reporter in a prior conversation that the dog had been euthanized, Moser responded that "it was not something I felt you needed to know," which was but another way of saying that such a crucial fact was

something Moser did not want the public to know. Moser then incredibly told the reporter that Dr. Will should not have disclosed to the media what he had learned in his examination of the dog and the fact of the decision to euthanize. Moser told the reporter that he was going to report Dr. Will to the appropriate state authorities, an apparent misimpression that animal records were covered by the confidentiality provisions in HIPAA, which actually only govern the medical records of persons. Moser's statement to the reporter clearly demonstrated that he was fully on board with keeping from the public the basic facts of the dog's mistreatment, which, if made public, would so undercut Claughton's wrongful actions, which Moser had now publicly ratified and was fully supporting.

46. Waddle was rightfully distressed by Claughton's retaliation, to which Jones and Tucker contributed, and Moser now endorsed. Being then unemployed with two children to care for, and lacking any funds to pay for a legal defense, Waddle unsuccessfully tried to raise donations to pay for a lawyer to represent her in the criminal proceeding. When that effort failed, she also unsuccessfully tried to find a lawyer who would help her pro bono.

47. The possible penalties that were associated with the false charges Claughton had falsely and intentionally manufactured, with Jones' and Tucker's help, and Moser had subsequently ratified, consisted of up to 20 years of incarceration for Waddle in a state correctional facility for the felony charge, and up to one year of incarceration for Waddle in such facility for the misdemeanor charge. Both charges also exposed Waddle to a possible \$2,500 fine, which she could ill afford.

48. Waddle was naturally to experience substantial emotional distress, embarrassment, and uncertainty as she faced the prospect of criminal punishment without any means to retain a lawyer to fight the charges. She was also understandably in a state of

Kafkaesque disbelief that someone who was only trying to help a neglected animal gain protection from public officials— who had a duty to provide such protection— was now to be imprisoned for that noble effort based on the malicious persecution by those very public officials.

49. Claughton's ploy worked in one sense. It caused Waddle to withhold further public criticism of his actions now that the reality of criminal prosecution, and the threat of criminal conviction and imprisonment, was real. Any similarly situated person of ordinary firmness reasonably would have been similarly chilled in the exercise of his or her First Amendment rights by the conduct Claughton undertook through his retaliatory prosecution in response to criticism and the threat of public exposure. But for Waddle's criticism and threat to go public on a matter of public concern, Claughton would not have wrongfully initiated the larceny prosecution through procurement of the arrest warrant knowingly based on misleading and incomplete factual allegations.

50. Claughton and Moser did nothing to see that this threat of punishment was withdrawn prior to the arraignment on January 3, 2018. Both would have known that Waddle could not be legitimately charged with larceny given that she had not taken the dog with the intent of permanently depriving the owner of his ownership rights, as the law required for larceny conviction. Both knew that Waddle was simply engaged in the humane effort to get the dog to Animal Control for its personnel to see that the dog was properly cared for. Both knew that there was no probable cause of a crime to justify the continued prosecution on the larceny charges. Yet they did nothing to see that those bogus charges were withdrawn or dismissed.

51. On January 3, 2018, Waddle appeared at the arraignment pro se, not having been able to secure legal counsel. She had no idea as to what would be done to her as she was now

caught in serious criminal proceedings without the capacity to defend herself. At the arraignment, the Commonwealth Attorney, Tracy Quakenbush Martin, announced to the Court the entry of nolle prosequi, as she had decided not to prosecute the pending charges further. Based on Martin's statement, the Court dismissed the proceeding.

52. After the arraignment, Martin issued a public statement confirming the obvious: once she was made aware of the facts, it was clear that "the evidence did not indicate criminal intent as required by law." What Martin left unexplained is why Moser and Claughton had not approached her to secure an earlier dismissal of the charges before January 3 given the obvious defect in their issuance. The only obvious explanation is that the purpose of the charges was to chill Waddle's First Amendment rights of free speech and to retaliate against her for threatening to make Claughton's conduct public.

53. Claughton's use of criminal prosecution to retaliate against Waddle's expressed commitment to publicize his wrongdoing, which Moser had endorsed, ratified, and permitted to continue, effectively precluded Waddle from pursuing the public campaign she had committed to. Her free speech rights had now been conclusively chilled. All her efforts after her arrest had to be devoted to simply avoiding prison.

54. On January 3, 2018, Moser spoke before a TV camera with a reporter for WSLs TV out of Roanoke Virginia. Instead of acknowledging the wrongful nature of Claughton's actions, and extending an apology to Waddle for the nightmare Claughton, with Moser's support, had wrongfully caused, Moser in the broadcast portion of the interview stated that "Animal Control stands by the decision of what **we did**," (emphasis added), and that "I stand behind the officer that was involved in the incident." Not in the broadcasted portion of the interview, but still reported by the reporter during the broadcast, was Moser's additional statement that "when

Waddle refused to give the dog back to the Owner, when the Owner confronted her on the way to take the dog to Animal Control, that constituted theft.” Moser made this public statement accusing Waddle of theft despite the fact that the Commonwealth Attorney had just nolle prossed the larceny charges precisely because Waddle’s actions did not constitute a violation of any law, and certainly not theft.

55. Moser’s public statement accusing Waddle of theft was a further act of retaliation, this time through a false defamation per se allegation maliciously made public for the sole purpose of damaging Waddle’s reputation by branding her a thief, rather than the humane rescuer of a mistreated dog that should have been taken into protective custody by Animal Control. Moser, previously behind the scenes, and now publicly, was still engaged in an effort to chill Waddle’s free speech rights now through defamation, given the loss of the criminal hammer previously employed, but rightfully withdrawn by the Commonwealth Attorney. Moser knew that Waddle had committed no theft, but nonetheless intentionally made his knowingly false allegation public in order to undercut Waddle’s reputation and community standing.

56. Moser not only maliciously defamed Waddle with his public statement, he also misled the public by hiding the fact that his “stand behind” comment really meant that Animal Control endorsed the fabrication of false criminal charges brought for the sole purpose of retaliating against Waddle for the intended exercise of her First Amendment rights, and to chill the exercise of those rights so that wrongdoing within Halifax County Animal Control would not see the antiseptic light of day.

57. On January 3, 2018, after public exposure of Claughton’s wrongful conduct had become intense through media coverage of the criminal proceedings against Waddle, Claughton finally and belatedly prepared an incident report regarding Jones’s wrongful neglect of his now-

deceased dog. Claughton recommended charges be brought against Jones for violation of Virginia Code § 3.2-6503 (“failure to provide veterinary care when needed to prevent suffering or disease transmission” and “failure to provide adequate shelter”); County Ordinance § 5-71 (lack of county tags on three dogs); and County Ordinance § 5-106 (lack of rabies vaccinations for three dogs). On January 8, 2018, Moser belatedly authorized the charges be filed against Jones.

58. Jones was ultimately convicted of violation of Virginia Code § 3.2-6503, but not of the other charges because Claughton testified at his trial that Jones had cured those violations.

59. All of the actions described above by Claughton and Moser were taken under color of state law. All actions by Jones and Tucker related to the procurement of the meritless arrest warrants, based on their false statements, were performed to assist Claughton orchestrate his vendetta against Waddle for daring to criticize him and express the intent of going public with her criticism.

COUNT ONE: SECTION 1983 CLAIM AGAINST CLAUGHTON FOR VIOLATION OF WADDLE’S FIRST AMENDMENT RIGHTS

60. Waddle incorporates by reference the allegations in Paragraphs 1-59 as her allegations in this Paragraph.

61. Claughton’s seeking arrests warrants based on knowingly false information, for the intended purposes of retaliating against Waddle for her criticism and to chill her prospective free speech rights on a matter of public concern, violated Waddle’s right to free speech under the First Amendment to the United States Constitution.

62. Claughton took such action with malice and in callous disregard of Waddle’s free speech rights. As a result of Waddle’s criticism of his conduct and her threat to report him to the highest authority, Claughton harbored ill will and spite toward Waddle which motivated his

decision to initiate larceny charges against Waddle, which he knew were not factually justified. Claughton elected to use the criminal prosecution process for an improper purpose.

63. Claughton knew at the time he initiated the wrongful prosecution that his action would violate Waddle's First Amendment rights. Claughton's wrongful conduct violated clearly established constitutional rights not only within his knowledge but the knowledge of any reasonable law enforcement officer, including an animal control officer.

64. Claughton's actions caused Waddle great emotional distress, embarrassment, and uncertainty as she faced the prosecutorial power of the State virtually alone with the prospect of criminal conviction and imprisonment immediately before her.

65. No citizen of the United States of America should be subjected to such retaliatory abuse as Claughton engaged in under color of state law.

66. Waddle is accorded a right to recover compensatory and punitive damages from Claughton for his intentional and maliciously inspired First Amendment violation pursuant to 42 U.S.C. § 1983.

67. Upon an affirmative judgment under this Count, Waddle shall also be entitled as the "prevailing party" to recover attorneys' fees for the legal services provided in the successful prosecution of this Count, pursuant to 42 U.S.C. § 1988.

WHEREFORE, Plaintiff Christen Waddle moves the Court for judgment against defendant Aundrea Claughton for compensatory damages in the amount of \$750,000, punitive damages in the amount of \$350,000, and reasonable attorneys' fees for the legal services provided in the successful prosecution of this claim.

COUNT TWO: SECTION 1983 CONSPIRACY CLAIM AGAINST
CLAUGHTON, JONES, AND TUCKER FOR VIOLATION OF WADDLE'S
FIRST AMENDMENT RIGHTS

68. Waddle incorporates by reference the allegations in Paragraphs 1-67 as her allegations in this Paragraph.

69. Jones and Tucker had no intention to initiate any criminal charges against Waddle until after Waddle had criticized Claughton for his disregard of his animal control duties and threatened to make such wrongdoing public. But Jones and Tucker then agreed to assist Claughton initiate criminal charges against Waddle based on their false and misleading written statements in order to retaliate against Waddle and suppress her speech rights.

70. Jones and Tucker knowingly conspired with Claughton to violate Waddle's First Amendment rights.

71. Jones's and Tucker's participation in a conspiracy, with a co-conspirator acting under color of state law, renders them jointly and severally liable with Claughton pursuant to 42 U.S.C. § 1983.

72. Jones's and Tucker's conspiratorial actions with Claughton caused Waddle great emotional distress, embarrassment, and uncertainty as she faced the prosecutorial power of the State virtually alone with the prospect of criminal conviction and imprisonment immediately before her.

73. No citizen of the United States of America should be subjected to such retaliatory abuse as Claughton engaged in, in conspiracy with Jones and Tucker, under color of state law.

74. Upon an affirmative judgment under this Count, Waddle shall also be entitled as the "prevailing party" to the recovery of attorneys' fees for legal services provided in the successful prosecution of this Count, pursuant to 42 U.S.C. § 1988.

WHEREFORE, Plaintiff Christen Waddle moves the Court for judgment against Aundrea Claughton, Nicholas D. Jones, and Dre D. Tucker, jointly and severally, for compensatory

damages in the amount of \$750,000, punitive damages in the amount of \$350,000, and reasonable attorneys' fees for the legal services provided in the successful prosecution of this claim.

COUNT THREE: SECTION 1983 CLAIM AGAINST CLAUGHTON FOR VIOLATION OF WADDLE'S FOURTH AMENDMENT RIGHTS

75. Waddle incorporates by reference her allegations in Paragraphs 1-74 as her allegations in this paragraph.

76. Claughton sought the larceny arrest warrants against Waddle with malice and without probable cause. He did so as a result of personal spite and ill will generated by her criticism of his performance and her threat to go public with her criticism through the exercise of her free speech rights under the First Amendment.

77. Claughton's actions in securing the arrest warrants which led to Waddle's arrest, criminal processing, restrictions on travel, and mandatory attendance at a criminal proceeding constituted an unreasonable seizure in violation of the Fourth Amendment to the United States Constitution.

78. Claughton's actions caused Waddle great emotional distress, embarrassment, and uncertainty as she faced the prosecutorial power of the State virtually alone with the prospect of criminal conviction and imprisonment immediately before her.

79. No citizen of the United States of America should be subjected to such retaliatory abuse as Claughton engaged in under color of state law.

80. Waddle is entitled to recover compensatory and punitive damages from Claughton for the violation of her Fourth Amendment rights pursuant to 42 U.S.C. § 1983.

81. Upon an affirmative judgment under this Count, Waddle shall also be entitled as the “prevailing party” to the recovery of attorneys’ fees for the legal services provided in the successful prosecution of this Count, pursuant to 42 U.S.C. § 1988.

WHEREFORE, Plaintiff Christen Waddle moves the Court for judgment against Aundrea Claughton for compensatory damages in the amount of \$750,000, punitive damages in the amount of \$350,000, and reasonable attorneys’ fees incurred in the successful prosecution of this claim.

COUNT FOUR: SECTION 1983 CONSPIRACY CLAIM AGAINST
CLAUGHTON, JONES, AND TUCKER FOR VIOLATION OF WADDLE’S
FOURTH AMENDMENT RIGHTS

82. Waddle incorporates by reference the allegations in Paragraphs 1-81 as her allegations in this paragraph.

83. Just as Jones and Tucker conspired with Claughton to violate Waddle’s First Amendment rights, they also conspired with Claughton to violate Waddle’s Fourth Amendment rights to be free from an unreasonable seizure through their solicited assistance in the wrongful securing of the arrest warrants.

84. Claughton’s actions, in conspiracy with Jones and Tucker, caused Waddle great emotional distress, embarrassment, and uncertainty as she faced the prosecutorial power of the State virtually alone with the prospect of criminal conviction and imprisonment immediately before her.

85. No citizen of the United States of America should be subjected to such retaliatory abuse as Claughton engaged in, in conspiracy with Jones and Tucker, under color of state law.

86. Waddle is entitled to recover compensatory and punitive damages from Claughton, Jones, and Tucker, jointly and severally, for the violation of her Fourth Amendment rights, through their conspiracy, pursuant to 42 U.S.C. § 1983.

87. Upon an affirmative judgment under this Count, Waddle shall also be entitled as the “prevailing party” to the recovery of attorneys’ fees for the legal services provided in the successful prosecution of this Count, pursuant to 42 U.S.C. § 1988.

WHEREFORE, Plaintiff Christen Waddle moves the Court for judgment against Aundrea Claughton, Nicholas D. Jones, and Dre D. Tucker, jointly and severally, for compensatory damages in the amount of \$750,000, punitive damages in the amount of \$350,000, and reasonable attorneys’ fees for the legal services provided in the successful prosecution of this Count.

COUNT FIVE: SECTION 1983 CLAIM AGAINST MOSER FOR HIS VIOLATION OF WADDLE’S FOURTH AMENDMENT RIGHTS

88. Waddle incorporates by reference the allegations in Paragraphs 1-87 as her allegations in this paragraph.

89. Moser, as Claughton’s superior, when made aware of the circumstances of Waddle’s arrest and the pendency of the wrongful larceny prosecutions, ratified Claughton’s action not only by publicly expressing such ratification, but also by permitting the Constitutionally tainted criminal prosecution to continue without taking any timely action to terminate it and stop Waddle’s suffering.

90. Moser’s actions caused Waddle great emotional distress, embarrassment, and uncertainty as she faced the prosecutorial power of the State virtually alone with the prospect of criminal conviction and imprisonment immediately before her.

91. No citizen of the United States of America should be subjected to such retaliatory abuse as Claughton engaged in under color of state law which Moser ratified and permitted to continue for the purpose of punishing Waddle for his criticisms of his subordinate.

92. Waddle is entitled to recover compensatory and punitive damages from Moser for the violation of her Fourth Amendment rights pursuant to 42 U.S.C. § 1983.

93. Upon an affirmative judgment under this Count, Waddle shall also be entitled as the “prevailing party” to the recovery of attorneys’ fees for the legal services provided in the successful prosecution of this Count, pursuant to 42 U.S.C. § 1988.

WHEREFORE, Plaintiff Christen Waddle moves the Court for judgment against Todd Moser for compensatory damages in the amount of \$750,000, punitive damages in the amount of \$350,000, and reasonable attorneys’ fees incurred in the successful prosecution of this claim.

COUNT SIX: STATE LAW MALICIOUS PROSECUTION AND
PUNITIVE DAMAGE CLAIM AGAINST CLAUGHTON

94. Waddle incorporates by reference the allegations in Paragraphs 1-93 as her allegations in this paragraph.

95. Claughton’s intentional and knowing orchestration of the issuance of arrest warrants was not based on probable cause, but instead constituted a maliciously inspired retaliation for Waddle’s criticism of his wrongful action in returning the dog to its inhumane owner and her threat to go public about such action. No reasonable animal control officer could have reached the belief that Waddle’s effort to take the dog to Animal Control for care and protection constituted the crime of larceny. Claughton knew of Waddle’s actual intent, but nevertheless communicated false and misleading statements to the magistrate to effectuate issuance of the warrants constitute.

96. Claughton's wrongful prosecutorial actions, as an animal control official with the power to procure arrest warrants, constituted malicious prosecution under Virginia law.

97. The criminal prosecution that Claughton wrongfully initiated was terminated in a manner favorable to Waddle when the case was nolle prossed by the Commonwealth Attorney.

98. The record of the criminal prosecution remains part of Waddle's record because she lacks the financial capacity to initiate expungement proceedings pursuant to Virginia law.

99. Claughton's actions caused Waddle great emotional distress, embarrassment, and uncertainty as she faced the prosecutorial power of the State virtually alone with the prospect of criminal conviction and imprisonment immediately before her.

WHEREFORE, Plaintiff Christen Waddle moves the Court for judgment against Aundrea Claughton for compensatory damages in the amount of \$750,000 and punitive damages in the amount of \$350,000.

COUNT SEVEN: STATE LAW CONSPIRACY CLAIM AGAINST
CLAUGHTON, JONES, AND TUCKER

100. Waddle incorporates the allegations in Paragraphs 1-99 as her allegations in this paragraph.

101. Claughton, Jones, and Tucker's joint action intended to result in the arrest and criminal prosecution of Waddle for larceny, based on false and misleading factual allegations presented to the magistrate to secure the arrest warrants, constituted a conspiracy for the purpose of engaging in malicious prosecution.

102. Both Jones and Tucker, like Claughton, knew that there were no facts to support the proposition that Waddle had taken the dog and collar for the purpose of assuming permanent ownership thereof. Both Jones and Tucker lacked any reasonable basis to assist Claughton,

through their execution of their misleading written statements, so as to maliciously injure Waddle through a wrongfully initiated larceny criminal prosecution.

103. Jones's and Tucker's actions, in conspiracy with Claughton, caused Waddle great emotional distress, embarrassment, and uncertainty as she faced the prosecutorial power of the State virtually alone with the prospect of criminal conviction and imprisonment immediately before her.

WHEREFORE, Plaintiff Christen Waddle moves the Court for judgment against Aundrea Claughton, Nicholas D. Jones, and Dre D. Tucker, jointly and severally, for compensatory damages in the amount of \$750,000 and punitive damages in the amount of \$350,000.

COUNT EIGHT: STATE LAW MALICIOUS PROSECUTION CLAIM
AGAINST MOSER

104. Waddle incorporates by reference the allegations in Paragraphs 1-103 as her allegations in this paragraph.

105. As the chief law enforcement officer for Animal Control, under whom Claughton worked, Moser is liable for Claughton's act of malicious prosecution performed under colore officii, which wrongful act Moser publicly ratified before and after the Commonwealth Attorney dismissed the charges.

106. At any time after Claughton wrongfully secured the arrest warrants, Moser could have effectuated the voluntary dismissal of the criminal prosecution through consultation with the Commonwealth Attorney, but instead joined Claughton in his prosecution (and persecution) of Waddle by permitting the wrongfully inspired prosecution to go forward and endorsing the actions of his subordinate, even to the point of publicly defending Claughton's procurement of the warrants in obvious disregard of Waddle's rights.

107. Moser's actions caused Waddle great emotional distress, embarrassment, and uncertainty as she faced the prosecutorial power of the State virtually alone with the prospect of criminal conviction and imprisonment immediately before her.

WHEREFORE, Plaintiff Christen Waddle moves the Court for judgment against Todd Moser for compensatory damages in the amount of \$750,000 and punitive damages in the amount of \$350,000.

COUNT NINE: STATE LAW DEFAMATION CLAIM AGAINST MOSER

108. Waddle incorporates by reference the allegations in Paragraphs 1-107 as her allegations in this Paragraph.

109. Moser's public statement, made to a TV news reporter he knew would be broadcasting his statements, which accused Waddle of theft and was made even after the Commonwealth Attorney had acknowledged that there was no evidence to support the larceny prosecutions and effectuated their dismissal, was false and maliciously advanced for the purpose of damaging Waddle's reputation, and nullifying the effectiveness of Waddle's free speech rights through his defamatory characterization of her as a thief.

110. Moser's statement was untrue, made at a time when Moser knew it was untrue, and constituted defamation per se. The statement was also a matter of public concern in that it falsely and maliciously accused a citizen of engaging in theft in a context where Moser knew it would be heard by the public.

111. Moser's actions caused Waddle great emotional distress and embarrassment as she now saw that even the dismissal of the criminal prosecution was not going to stop the persecution that Claughton had started and Moser was continuing.

112. Moser's false allegation of theft knowingly made gives rise to Waddle's right to presumed, compensatory, and punitive damages.

WHEREFORE, Plaintiff Christen Waddle moves the Court for judgment against Todd Moser for the presumed damages the jury will set, or alternatively \$750,000 in compensatory damages, plus \$350,000 in punitive damages.

COUNT TEN: STATE LAW FIGHTING WORDS CLAIM AGAINST MOSER

113. Waddle incorporates by reference the allegations in Paragraphs 1-112 as her allegations in this Paragraph.

114. Moser's maliciously inspired and knowingly false accusation of theft made to a TV news reporter for broadcast to the public, and Waddle, constituted the communication of "fighting word" in violation of Virginia Code § 8.01-45. To accuse someone of theft publicly is to create the prospect for a breach of the peace that the "fighting words" statute is intended to avoid by providing a cause of action alternative to violent physical retaliation.

115. Moser's made such statement to the news media knowing that Waddle had not committed theft and that his statements would cause her further emotional distress, embarrassment, and anger.

WHEREFORE, Plaintiff Christen Waddle moves the Court for judgment against Todd Moser for the presumed damages the jury will set, or alternatively \$750,000 in compensatory damages, plus \$350,000 in punitive damages.

Plaintiff Christen Waddle demands a jury trial on all Counts asserted.

CHRISTEN WADDLE

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