THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF MISSOURI

JASON STOCKLEY	)	
	)	
Plaintiff	)	No.
	)	
vs.	)	JURY TRIAL DEMANDED
	)	
JENNIFER MARIE JOYCE, in her capacity as former Circuit Attorney for the City of St. Louis, Missouri, and individually	)	
	)	
and	)	
	)	
LT. KIRK DEEKEN, in his capacity as an officer of the St. Louis Police Department, and individually	)	
	)	
Defendants	)	

COMPLAINT
(42 U.S.C. § 1983, Malicious Prosecution, and Defamation)

Plaintiff Jason Stockley states the following as his complaint against defendants Jennifer Marie Joyce and Lt. Kirk Deeken:

JURISDICTION

1. This complaint asserts claims arising under 42 U.S.C. § 1983. Those claims are based on the defendants' actions under color of state law that deprived the plaintiff of rights and privileges secured by the United States Constitution and federal law. This Court has jurisdiction of those claims by virtue of 28 U.S.C. § 1331, which authorizes the District Courts to adjudicate all civil actions arising under the Constitution and laws of the United States.

2. The complaint also asserts claims under Missouri law based on the defendants' tortious conduct. This Court has jurisdiction of the plaintiffs' claims arising under state law by virtue of 28 U.S.C. § 1332(a), which authorizes the District Courts to adjudicate cases in which the amount in controversy exceeds $75,000 and the controversy is between citizens of different states. The plaintiff is a citizen of Texas and the defendants are citizens of Missouri. The amount in controversy between the parties exceeds $75,000. This Court has jurisdiction of the plaintiffs' pendent state law claims by virtue of 28 U.S.C. § 1367, which invests the District Courts with supplemental jurisdiction over all claims so related to claims within the courts' original jurisdiction that they form a part of the same case or controversy. The plaintiff's state law claims involve the same parties and arise from the same underlying acts and omissions as his § 1983 claims.

VENUE

3. Venue in this Court is proper by virtue of 28 U.S.C. § 1391. All or most of the acts and omissions alleged against the defendants occurred within this District. The defendants reside within this District.

PARTIES

4. Plaintiff Jason Stockley resides in Texas. Stockley once was a police officer serving the City of St. Louis.

5. Lt. Kirk Deeken resides in Missouri. Deeken is employed by the St. Louis Metropolitan Police Department. He held the rank of Sergeant at certain times material to the plaintiff's claims and was promoted to Lieutenant after the conduct attributed to

him in this complaint. Deeken is sued individually and in his capacity as an officer of the St. Louis Police Department.

6. Defendant Jennifer Joyce resides in Missouri. She held the elected office of St. Louis City Circuit Attorney at all times material to the plaintiff's claims through January, 2017. Joyce is sued individually and in her former capacity as the elected St. Louis Circuit Attorney.

ALLEGATIONS APPLICABLE TO ALL COUNTS

Wanted Drug Suspect's High Speed Chase

7. St. Louis police officers Jason Stockley and Brian Bianchi were on uniformed patrol in a marked police vehicle on December 20, 2011. As Officer Bianchi was driving the car on Thekla Avenue near its intersection with Riverview Boulevard, both officers saw what they believed to be a hand-to-hand drug transaction outside the entrance to a fast-food restaurant. What they observed was two men passing something to one another and then abruptly walking away from each other. The officers later learned that one of the individuals involved in the transaction was Anthony Smith.

8. Officer Bianchi drove the police car onto the restaurant parking lot. As they passed behind a parked Buick sedan, the officers saw Smith run up to that car and get into the driver's seat. Officer Bianchi parked the police car so that it partially blocked the Buick and both officers alighted and began to approach the blocked car. Smith began maneuvering the Buick out of its parking space, moving it rapidly backward and forward, twice striking the police officers' car and also damaging an adjacent vehicle.

9. Officer Bianchi broke out the driver's window with his department-issued weapon in an effort to apprehend Smith and stop the developing threat to bystander and officer safety. He saw a handgun inside the vehicle and yelled, "Gun!" Smith succeeded in getting the Buick out of its parking space and past the police car. The passenger side of the vehicle struck Stockley as Smith accelerated rapidly off the parking lot. Stockley saw Smith holding a silver handgun near the Buck's front passenger seat. Smith missed the parking lot driveway and drove the driver's side of the Buick over a curb and onto Thekla Avenue.

10. Smith drove his car at speeds reaching 80 miles per hour through city traffic with the police officers in pursuit. Rain was falling, increasing the threat to public safety created by Mr. Smith's conduct. Smith recently had been released from prison. Subsequent investigation established that he had led police on high speed chases on several occasions during that time, and that he typically was armed with a gun.

11. While driving at high speed on West Florissant Avenue, Smith suddenly steered his car across lanes of oncoming traffic. He narrowly avoided head-on collision. Officer Bianchi continued to pursue Mr. Smith's car. Smith crashed his car into the curb on the far side of the road, striking the curb with force sufficient to flatten both of the car's driver-side tires and break its front axle. Responding to Mr. Smith's escalation of the danger to individuals in other vehicles and to bystanders and not yet knowing the extent of damage done to Mr. Smith's vehicle, Stockley instructed Officer Bianchi to strike it with the police car. Mr. Bianchi drove the police vehicle into Mr. Smith's vehicle.

12. Smith remained in the driver's seat of his automobile. Both police officers alighted from the police car. Both had their department-issued weapons drawn. Stockley approached the driver's door. For 15 seconds he gave commands directing Smith to show his hands and get out of the car. Smith did not comply with those commands. When Stockley saw Smith lean toward the right side of the car, where he previously had seen Mr. Smith's handgun, he fired five shots from his service weapon into the car. Smith was killed. Nobody else was injured. A handgun and a bag containing heroin were recovered from the front seat of Mr. Smith's automobile.

Stockley is Repeatedly Cleared

13. St. Louis Police Department homicide detectives and other police officials conducted an investigation of Mr. Smith's death during 2011 and 2012. They found no basis for criminal prosecution of Stockley. Joyce, then the elected Circuit Attorney and chief prosecutor for the City of St. Louis, also declined to prosecute.

14. The incident also was investigated by the United States Attorney and the Federal Bureau of Investigation. Deeken, then a sergeant working in the St. Louis Police Department's internal affairs division, was assigned to a joint investigation with the FBI. All evidence, including laboratory reports, were reviewed by the United States Attorney. The evidence reviewed by the United States Attorney during 2012 included a laboratory determination that Stockley's DNA was present on the gun removed from Mr. Smith's automobile and Mr. Smith's DNA was not present. The United States Attorney concluded that the presence of Stockley's DNA on the gun was unsurprising as he was known to have picked up the weapon after the incident to unload it. He also noted that

investigators often find no DNA on a gun and that the absence of DNA does not establish that a particular individual did not touch it. The FBI investigation, conducted in cooperation with the St. Louis Police Department internal affairs detective, was concluded in 2012. The United States Attorney also declined to prosecute.

15. The shooting death of Smith also was investigated by the United States Department of Justice Civil Rights Division. The DOJ also found no basis for prosecution of Mr. Shockley.

16. A new chief of police assumed command of the St. Louis Police Department. During 2013 the new chief of police arranged for further investigation of the incident through enhancement of the audio track of the video recording made by the police vehicle's dashboard camera. The new police chief announced that the finding after this additional investigation remained the same.

Protesters Threaten Joyce

17. A police officer shot and killed Vonderrit Myers in St. Louis on October 8, 2014. The incident was investigated by St. Louis Police Department's (hereinafter "FIU") and the Circuit Attorney's office. The Force Investigation Unit concluded that there was no basis for criminal charges against the police officer. Joyce issued a written report based on the Force Investigation Unit's analysis and recommendation. The report was released on May 18, 2015, and announced decision not to prosecute.

18. A few days later on May 19, 2015, a group of protesters staged a loud and disruptive demonstration at Joyce's home in St. Louis. Joyce was inside her home at the time of the demonstration. Some protesters were on her porch and others were in the

street in front of her home. St. Louis Police Department officers were called to the scene and arrested several protesters. Joyce was alarmed, and visibly shaken and intimidated by the protesters and later thanked police officials and telling them that she had feared for her life during the demonstration.

19. During the time of the investigation into Stockley, the Circuit Attorney's Office was also investigating another politically sensitive police shooting, that of Mansur Ball-Bey. (STLtoday.com June 3, 2016)

20. This created the problem of publicly announcing the rejection of charges on three high profile police shootings within a short time in the face of the angry protesters demanding charges.

21. On April 25, 2016, a group of protesters staged a demonstration at St. Louis City Hall. They demanded that Stockley be indicted for murder in connection with Mr. Smith's death in 2011. Protest leaders charged that city officials were covering up the true circumstances of Mr. Smith's death and that investigation of the incident had been corrupt and collusive. They also demanded the indictment of public officials responsible for the failure to charge Stockley.

22. They specifically criticized Joyce for not having charged Stockley with murder.

23. A few weeks later, in early May, 2016, Joyce met privately with leaders of the protesters in her office. She informed them that she would be charging Stockley with first degree murder in the immediate future and requested the quid pro quo that the protesters tone down the demonstrations.

24. In deciding to charge Stockley Joyce failed follow her own office policies and procedures by refusing to refer the reopened Stockley investigation along with the "new evidence" to the Force Investigation Unit. She deliberately by-passed the people who were supposed to review the case and the 'new evidence'.

FORCE INVESTIGATION UNIT

25. The Force Investigation Unit (hereinafter "FIU") was created for and specifically tasked with investigating police shootings.

26. The Circuit Attorney's office does not investigate a police shooting until AFTER the shooting is investigated by the FIU and they deliver their findings to the Circuit attorney's office for review.

> "*Those reviews occur after, and are fully independent of, an investigation undertaken by the SLMPD's Force Investigation Unit.* (St. Louis City Circuit Attorney's Office Report Regarding the Review into the Death of VonDerrit Myers, Jr., May 18, 2015, p. 3)

27. Before deciding not to prosecute the police officer involved shooting, Joyce submitted the VonDerrit Myer shooting death to the FIU.

27. Before deciding not to prosecute the police officer involved shooting, Joyce submitted the Mansur Ball-Bey shooting death to the FIU.

28. In both the Myers case and the Mansur Ball-Bey case, the FIU did not request criminal charges. Joyce followed their recommendation.

29. However with Stockley, Joyce refused to follow policy and procedure and did not submit the case to the FIU along with her "new evidence."

30. Even her own staff members recommended the Stockley case be submitted to the FIU:

> *"And they had a meeting with Ed Postawko and Cynthia Copeland. And I was there, and Will Brown was there. Adam Kellam was there. And Christina Hozit [sic] was there. And Ed said 'Hey, you know, we'll look into," but he recommended that Roger Englehardt, the Force Investigation Unit, pick it up. Which – they had a new unit, and it all made sense."* (Deeken depo. May 3, 2017, p. 160 ln 17-25)

31.. Joyce did not want the FIU to recommend no charges.

32 Joyce also applied uneven logic and evaluation to the Stockley evidence.

33. In the Myers shooting, Joyce used the track of the bullet wounds to dismiss the allegation that Myers was in fact running away.

> "*The Medical Examiner concluded that all six of the wounds had an upward track. . . . this is consistent with the officer's statement that Myers shot directly at him".* (St. Louis City Circuit Attorney's Office Report Regarding the Review Into the Death of VonDerrit Myers, Jr., May 18, 2015, p. 32-33)

34. In Stockley, Joyce ignored the track of the bullet wounds despite the fact, as in Myers, they were "consistent with the officer's statement" - that Smith was leaning to his right reaching for a gun:

> *Q. Okay so is there anything about the wounds that you observed that would be inconsistent with Smith reaching to the right at the time those – the weapon was discharged? You understand my question?*
> *A. Yes.*
> *Q Is there anything inconsistent about that?*
> *A. No.*
> (Trial Testimony of Dr. Norfleet, Medical Examiner, p. 31 lines 1-8)
>
> *Q. So again, he may have been reaching, there's nothing about this that's inconsistent with that; is that right?*
> *A. That is – that is correct."*

(Trial Testimony of Dr. Norfleet, Medical Examiner, p. 38 lns 5-8)

35. The track of the wounds was important to Joyce in the Myers case to justify her decision not prosecute. But in the Stockley case, Joyce ignored the track of the wounds, because she was determined to indict him.

36 In the Myers case even though there was an allegation that the police planted a gun, Joyce dismissed it because:

> *"No witnesses told investigators or prosecutors that they witnessed Officer X or any police officer attempting to alter evidence".* (St. Louis City Circuit Attorney's Office Report Regarding the Review Into the Death of VonDerrit Myers, Jr., May 18, 2015, p. 32-33)

37. In Stockley, Joyce did not care that no witness stated they saw Stockley plant a gun. Nowhere in any report, deposition, or during trial, does any witness tell the prosecutors they saw Stockley attempt to alter evidence by planting a gun or that they ever saw Stockley with a gun. And Judge Wilson rejected the idea also:

> *"There is no gun other than his holstered service revolver, visible in his hands, in his pockets, or tucked into his belt, and there is no bulge from a gun in any pocket."* (Judge Wilson Findings of Fact and Verdict, September 15, 2017, p. 16)

38. To Joyce it was decisive there were no witnesses to planting a gun in Myers. To Joyce it was irrelevant there were no witnesses to planting a gun in Stockley. She was going to indict him regardless.

39. In Myers, Joyce ignored the fact that Myers' DNA was not found on the gun Myers was allegedly carrying:

> *"Lab analysts and evidence experts confirmed that it is rare to retrieve usable fingerprints or DNA from a weapon."* (St. Louis City Circuit Attorney's Office Report Regarding the Review Into the Death of VonDerrit Myers, Jr., May 18, 2015, p. 16)

40. In Stockley, Joyce contradicted herself and considered the absence of Smith's DNA on the gun he was allegedly carrying persuasive evidence that Stockley planted it:

> *"Anthony Smith's DNA was nowhere to be seen on that... apparently he was capable of leaving DNA on Items he touched."* (ACA Levinson, State's Opening, p. 14, ln 12-16)

41. There was a "kill shot" accusation in the Myers shooting:

> *"Myers was begging for his life" before the officer walked up and delivered one final shot."* (St. Louis City Circuit Attorney's Office Report Regarding the Review Into the Death of VonDerrit Myers, Jr., May18, 2015, p. 32)

42. But, Joyce dismissed the kill shot accusations because there was no evidence:

> *"Private attorneys have provided no witnesses to confirm this statement."* (St. Louis City Circuit Attorney's Office Report Regarding the Review Into the Death of VonDerrit Myers, Jr., May18, 2015, p. 32)

43. In Stockley, the "kill shot" was Joyce's primary prosecution theme, but as in Myers, there were no witnesses to confirm this statement. Again Judge Wilson noted the absence of any evidence in his ruling:

> *"The Court finds the State's reliance on a 'puff of smoke' as evidence of a fifth shot separated in time from the others is not supported by ANY evidence."* [emphasis added.] (Judge Wilson's Findings of Facts and Verdict p. 22, September 15, 2017)

PERJURY

44. A couple of weeks after she refused to submit the Stockley case to the Force Investigation Unit, Joyce prepared a Statement of Facts (hereinafter "probable cause statement") which was used to support and convince Judge Mullen of the St. Louis City Circuit Court to issue an at large arrest warrant for Stockley on May 13, 2016. (Attached to this Complaint as Exhibit A).

45. Deeken signed the statement of facts under oath stating that the facts

46. That probable cause statement prepared by Joyce and signed by Deeken deliberately left out the following material facts which both defendants knew should have been presented to Judge Mullen and which made the probable cause statement supporting the request to arrest Stockley deliberately misleading. Defendants Joyce and Deeken were aware of the facts they omitted which include the following deliberate omissions:

a. Failed to mention Stockley suspected Smith was conducting drug sales when he was first approached by Stockley and his partner, Officer Bianchi, on the Church's Chicken lot. (See Homicide memorandums of both officers in Homicide Report)

b. Failed to mention that Stockley and Officer Bianchi both said they saw a gun in Smith's car at the Church's Chicken lot. (See Homicide memorandums completed by both officers in Homicide Report)

c. Failed to mention Smith hit two vehicles including the police vehicle while fleeing and initiating a high speed chase from the Church's Chicken lot. (See surveillance video of Church's parking lot).

d. Failed to mention Smith narrowly missed hitting Stockley with his car as he drove off the Church's Chicken's lot. (See police in-dash camera video of Officer Stockley and Bianchi's vehicle).

e. Failed to mention there was a warrant out for Smith's arrest, of which Smith was aware. (See: Christine Wilson, Feb. 15 2012 Grand Jury. p 16 lines 18-23).

f. Failed to mention that Stockley spent 15 seconds at the driver side window of Smith's vehicle giving verbal commands which Smith ignored prior to any shots being fired. (See police in-dash camera video of Officer Stockley and Bianchi's vehicle; Antonio French, July 5, 2016, Grand Jury p.78 lines 8-16).

g. Failed to mention that at the time of the shooting, Stockley can be seen jumping backwards while discharging his weapon. (See police in-dash camera video of Officer Stockley and Bianchi's vehicle).

h. Failed to mention Stockley thought Smith was reaching for the gun by leaning to his right.

> *Q. Okay so is there anything about the wounds that you observed that would be inconsistent with Smith reaching to the right at the time those – the weapon was discharged? You understand my question?*
> *A. Yes.*
> *Q Is there anything inconsistent about that?*
> *A. No.*
> (Trial Testimony of Dr. Norfleet, Medical Examiner, p. 31 lines 1-8)

> Q. So again, he may have been reaching, there's nothing about this that's inconsistent with that; is that right?
> A. That is – that is correct."
> (Trial Testimony of Dr. Norfleet, Medical Examiner, p. 38 lns 5-8)

i. Failed to mention DNA is rarely recovered from a gun based on State's own experts. (See previous Circuit Attorney's Office Investigations into police involved shootings; and Trial testimony of State's experts quoted later in this Complaint)

j. Failed to tell the court the relevant background regarding Smith's criminal history including his possession of weapons, drugs, and vehicle pursuits:

i. Failed to mention that Smith was known to carry a gun for protection. (Christina Wilson, Feb. 15, 2012, Grand Jury. p. 9 ln 1-10 & p. 10 lines 1-10).

ii. Failed to mention that Smith stole guns and sold them on the street. (Christine Wilson, Feb. 15, 2012, Grand Jury, p. 9 ln 20-22).

iii. Failed to mention that Smith had prior convictions for felony gun and drug charge. (See Missouri Casenet).

iv. Failed to mention that Smith had repeatedly led police on high speed chases since he was released from prison 7months earlier. (Christine Wilson, Feb. 15, 2012 , Fed. Grand Jury. p 12 ln 22-23; p 13, ln 15-18; p. 20 ln 22-25, p. 21 ln 1-8).

47 Joyce wrote and Deeken also stated under oath that Smith's vehicle was slowing to a stop, contrary to the findings of all the investigatory agencies, the in-dash video of the police vehicle and common sense.

48. In the dash video of the police car at 12:41:47 shows Smith, traveling approximately 60 mph, narrowly missing slamming into the side of a black Suburban that had entered the intersection of West Florissant and Goodfellow Avenue. No brake lights are seen illuminated on Smith's car as he chose to expose the occupants of the Suburban to death or serious injury in order to get away .

49. Less than one block later, the in-dash video shows Smith ignoring unlimited street parking on his right, access to which was unobstructed by any traffic. Instead, he chooses to cross over into on-coming traffic narrowly missing a head on collision with a red truck and potentially killing its occupants, then slams into the curb at

a high rate of speed flattening both left side tires, scraping the front and rear driver side of his vehicle, and breaking the front axle.

50. As he had done on every high speed chase since he was released from prison, Smith made a deliberate choice to recklessly, selfishly, and intentionally expose every child and adult, this time traveling on or along West Florissant and its intersecting streets, to death, paralysis, brain injury and every other foreseeable consequence of a high speed car crash. Innocent members of the community are regularly killed and maimed by the exact same choices Smith made in each chase he initiated

51 In addition, the in-dash video of Stockley's police vehicle does not show Smith's brake lights coming on prior to him hitting the curb.

52. The statement that Smith was slowing to a stop was intended to mislead Judge Mullen into believing Smith was surrendering. It suggests Stockley was provoking a de-escalating situation instead of reacting to the incredibly dangerous maneuvering of Smith's vehicle. Smith was not slowing to a stop. It wasn't until after Smith's vehicle crossed into on-coming traffic, having almost struck the suburban at the previous intersection, Stockley yelled, "Hit him, hit him right now!" in order to prevent Smith from endangering anyone else. Joyce and Deeken knew this.

53. As discussed elsewhere in this Complaint, Deeken and Joyce deliberately misled Judge Mullen by failing to note that both Joyce and Deeken and all of their own expert witnesses believe the absence of Smith's DNA on the gun is completely meaningless as a determinant of whether Smith handled the gun or not.

54. The omission of material facts combined with the false statements, all of which are set out above, caused Judge Mullen to issue an arrest warrant and caused Stockley to be arrested and jailed.

55. In filing and signing a sworn probable cause statement, in which it is stated under oath "the victim's car was slowing to a stop", Joyce and Deeken committed perjury, starting the Stockley murder prosecution with a premeditated lie about a material fact to a St. Louis City Circuit Court Judge.

56. The making of each and every false statement, as set out in this Complaint, under oath in a felony prosecution, is a Class C Felony Pursuant to RSMo. 575.040.

57. Conspiracy to commit perjury during the course of a felony prosecution is a Class D Felony pursuant to RSMo. 562.014.

58. Knowingly filing a false pleading with the Court is unethical and is punishable by disbarment.

59. Attempting to convict Stockley of murder, and subject him to the rest of his life in isolated confinement, without parole, by lying to a judge, is contemptible.

NO KILL SHOT

60. After securing an arrest warrant by lying to Judge Mullen, Joyce and Deeken knowingly presented a series of lies to the St. Louis Grand Jury first by falsely claiming there was a separate, delayed, premeditated shot fired by Stockley into Smith 20

seconds after the first 4 shots, which the Defendants publically referred to as the "kill shot", the "execution shot".

61. The kill shot argument was falsely premised on a "puff" of "smoke" which Deeken and Joyce claimed represented a fifth shot. No shot is heard at the time of the "puff" of "smoke" on the in-dash audio of the police car or the OnStar recording in Smith's car.

62. No experts were presented by the Circuit Attorney's office at trial who testified in favor of this theory. In fact, no witnesses, lay or expert, testified in favor of this theory. Officer Elijah Simpson testified that he was at the front of Smith's vehicle at the time of this alleged shot, and did not hear it. Having been only feet away he stated he would have heard it.

63. Stockley's gun was never tested independently, by Deeken or by Joyce to see if firing it even creates a "puff of smoke" sufficient to escape the inside of Smith's car or whether Stockley's gun creates a "puff of smoke" at all. This simple test alone would have eliminated the "execution shot" theory and significantly mitigated the community response to the shooting.

64 Nonetheless Deeken testified in front of the St. Louis Grand Jury, in an effort to get Stockley indicted, as follows:

> *"If you place the [in-dash police car] tape at the 41 second marker, up here is the puff of smoke."* (Deeken, Grand Jury, July 5, 2016, p 22, ln 21-22)

> *". . . and my argument is if that is not a fifth gunshot then show me where it is."* (Deeken, Grand Jury, July 5, 2016, p. 28 ln 1-2)

65. This false testimony to the Grand Jury caused Stockley to get indicted.

66 Deeken also falsely testified that the OnStar audio started on impact:

> *"And the recording starts at the moment of impact an OnStar operator gets on there and starts asking questions, are you okay, and all this stuff".* (Deeken, Grand Jury, July 5, 2016 p, 29 lns 10-13)

67 The OnStar audio recording did not start on impact. Deeken and Joyce knew this.

68. As a consequence of this false statement regarding OnStar, the Grand Jury was misled as to the timeline of evidence and testimony, including as discussed later in this Complaint, the alleged kill shot did not create an audible sound of gunfire on the tape and the alleged "don't shoot" was after all of the shots were fired and could not have been said by Smith as would be expected. .

69. This false testimony to the Grand Jury caused Stockley to get indicted.

70. At trial, Assistant Circuit Attorney Aaron Levinson argued in front of Judge Wilson, who heard the bench trial of Stockley, in an effort to get Stockley convicted, as follows:

> *"So suddenly, that puff of smoke you see in the video [in-dash police car] and Simpson scurrying backward and the cartridge being in the car all make sense. There was a kill shot". (State's opening Tr. p. 16. lns 2-4 Asst. CA Aaron Levinson)*

71. These comments are completely refuted by the OnStar audio recording in Smith's car.

72. The OnStar device in Smith's car is activated by the crash. But the OnStar audio recording starts about 23-26 seconds after impact. (A fact which is easily

determined by watching an OnStar promotional video on You Tube.) 23-26 seconds is after the shooting but during the "41 second marker" which shows a "puff of smoke". None of the five shots are recorded on the OnStar tape because no shots were fired at the time it was recording, including no "kill shot".

73. The OnStar audio was recording at the "41 second marker" when the "puff of smoke" was allegedly seen and no "kill shot" is heard on that recording.

74. Stockley was at the front driver's side window at the time of the "41 second marker". His gun would have been inside of the car. The OnStar Audio records no shot inside the car.

75 Joyce and Deeken knew "the puff of smoke" was not a "kill shot." They knew it was the exhaled breath of Stockley. They presented that false theory to the Grand Jury and to Judge Wilson even though they had possession of the OnStar recording for years and knew it disproved their "kill shot" theory

76. Deeken made a time line comparing the police dispatch times with times on the on star audio recording.

77 His own time line clearly showed the OnStar audio did not "start on impact" but started around the 23-26 second marker, after the shooting but during the alleged "kill shot", which should be heard if the puff of smoke was the result of the gun shot. Deeken and Joyce knew there was no "kill shot", but lied anyway.

THE HOMICIDE MEMORANDUMS

78 Deeken also testified falsely before the Grand Jury that Stockley wrote Officer Bianchi's memorandum to ensure it matched his, as part of their conspiracy to

cover up the "murder". Deeken knew this was not true because of the witnesses available to him who saw the preparation of the memorandum. (See Deeken Grand Jury July 5, 2016, p.42 line 14 to p.43 line 23)

79. In fact Deeken later admitted his Grand Jury testimony was wrong:

> *Q. You've offered to the Grand Jury an opinion that these memos were both typed by Officer Stockley?*
> *A. Yes.*
> *(Deeken Depo. May 2, 2017 p. 109 lns. 15-17)*
>
> *Q. Are you suggesting it would have been inappropriate for the two officers to talk about their recollections prior to putting together their memo?*
> *A. No.*
> *(Deeken Depo. May 2, 2017, p 110 lns 17-20)*
>
> *Q. Okay. So, again, there is nothing wrong with that, If he's typing it in, and he's looking at the memos here, if he's looking at Stockley's memo when he's typing that in, there is nothing wrong with that as long as it's accurate; correct?*
> *A. There is nothing wrong with it.*
> (Deeken depo. May 2, 2017, p.113 , lns. 13-18)

80. Deeken's deliberate mischaracterization of the homicide memorandums helped get Stockley indicted.

SMITH DID NOT SAY "DON'T SHOOT, PLEASE DON'T SHOOT"

81. Continuing with the misstatements, omissions and lies, Deeken knowingly and falsely testified before the Grand Jury as follows:

> *"Another thing that both officers wrote in their memorandums that when they were dealing, struggling, well not even struggling, when they were*

ordering Anthony Smith to show them his hands and everything they both said Anthony Smith did not say one word during the whole encounter at that scene right there, he didn't say anything. Yet on the On Star recording, it sounds like you can hear him saying. 'Don't shoot' or 'Please don't shoot', although both officers are saying he didn't say anything at all". (Deeken Grand Jury, July 5, 2016, p. 303, ln 2-10).

82. The OnStar audio did not start recording until after all the shots were fired. So anything purported to be heard on it was after the shooting.

83. The alleged "Don't shoot. Please don't shoot" is very difficult to hear, and is so faint it is open to different interpretations of what is said or no interpretation at all. It is not clear how close the speaker is, but clearly outside Smith's car. What exactly is said was apparently not heard by the OnStar operator who was trying to get a response from someone inside the vehicle.

84. Further, the OnStar audio records no shot after the alleged "Don't Shoot. Please Don't Shoot" and is after all five shots. No one was shot after the alleged "Don't Shoot. Please Don't Shoot" statement.

85.. Deeken's interpretation of the OnStar audio to the Grand Jury was reckless and false.

86. Ten months after his grand jury testimony during which Deeken said he heard Smith say "Don't shoot. Please don't shoot", to get Stockley indicted, Deeken had this to say about the OnStar tape:

A. As far as the tape goes, it doesn't . . . it . . . the tape is Poor quality.
Q. Okay.
A. I would recommend it not even be used.

(Deeken depo. May 2, 2017, p. 17, ln 18-21)

87. The OnStar audio was never played at trial to support any part of the State's case. Deeken was not even asked about this comment at trial.

88. This false testimony in front of the Grand Jury caused Stockley to get indicted.

REASON FOR STOCKLEY RETURNING TO POLICE VEHICLE

89. Deeken and the Circuit Attorney's Office also deliberately misled the Grand Jury as to the real reason Stockley returned to the police car after the shooting by suggesting Stokley was getting a gun to plant, not the first aid material called Quik Clot that Stockley said was the real reason he returned to the police vehicle.

> *"And what he said he was going to do with it, he was going to dress Anthony Lamar Smith's wounds with it. So it should be in his hand right now, but it's not."* (Deeken Grand Jury, July 5, 2016, p. 26 ln 23-25)
>
> *"But he said that's the only reason why he went through his bag was to get that Quik Clot".* (Deeken Grand Jury, July 5, 2016, p. 27, ln 11-12).

90. Quik Clot is a 3"x3" thin gauze bag used to treat wounds.

91. The top edge of the Quik Clot bag is clearly seen on the back seat camera of the police car in Stockley's left hand as he is exiting the vehicle at 12:44:00. (See police in-dash camera video of Officer Stockley and Bianchi's vehicle)

92. These statements to the St. Louis Grand Jury were knowingly false. The Circuit Attorney had copies of the in-dash camera video for years.

93 The Quik Clot is seen by simply slowing the back seat video camera down to ¼ speed and freezing the frame. This is something easily performed right from the

screen displaying the in-car dash camera footage. There is a button to click which speeds the video up, slows it down, makes it go backwards, or freezes a frame.

NO BLOOD ON THE GUN

94 Next Deeken and the Circuit Attorney falsely suggested to the St. Louis Grand Jury that Stockley's blood was on Smith's gun and since Stockley wasn't hurt at the shooting it proves Stockley had the gun prior to the shooting and planted it at the scene.

> Deeken: *"I thought I saw blood in the screw hole of the grip".*
> (Deeken Grand Jury, July 5, 2016, p. 35 ln. 23-24)
>
> Asst.CA. *"Is there any indication that Officer Stockley was injured at the scene?*
> *Deeken: He never said he was injured".*
> (Deeken Grand Jury, July 5, 2016, p. 36 ln 2-4).

95. This same theme was announced by Asst. Circuit Attorney Levinson during the State's opening statement at the trial in an effort to persuade Judge Wilson to convict Stockley for murder:

> *"So then they took a buccal swap, or excuse me – they took a swab of the blood, and they ran it for DNA. And although they did not get a full profile, what they determined was the DNA from the blood was consistent with the defendant, Jason Stockley, not with Anthony Smith. Furthermore, there's no evidence that on December 20, 2011 that Jason Stockley was ever cut or bleeding".* (State's Opening p. 15 ln 1-7)

96. No one testified at trial there was blood on the gun. Any everyone who testified on this subject was an expert witness endorsed and called by the State.

95. All of the State's own experts said no blood:

Karen Preiter, M.D. DNA Analyst for the St. Louis Metropolitan Police Department:

> *"Dr. Preiter: DNA only tells us that there is DNA present. It does not tell you, as far as the technology is concerned what possible biological fluid that the DNA came from.*
> *NJB: Doesn't tell you it's blood, doesn't tell you it's semen, doesn't tell you it's saliva, doesn't tell you any of that right?*
> *Dr. Preiter: That's beyond the technology, yes".* (Preiter Trial Tr. p 47, ln. 19- 25)

Mary Anne Kwiatkowski – Biology DNA Section Supervisor for the St Louis Metropolitan Police Department Crime Lab

> *Asst. CA Steele: Your Honor at this time we ask the Court to recognize Ms. Kwiatowski as an expert in DNA analysis and biological screening.* (Kwiatkowski, Trial Tr. p., ln.)

> *NJB: As you're sitting there today, under oath, you're not saying there was blood on that gun, are you?*
> *M. Kwiatowski: I cannot.* (Kwiatkowski, Trial Tr. p. 35, ln. 23-25)

Eric Hall, Biological Screener, St Louis Metropolitan Police Department Crime Lab

> *NJB: Okay. Can you look at DNA and say, oh, that's blood DNA?*
> *E. Hall: no we cannot.* (E. Hall, Trial Tr. p 20 ln 22-24)

> *NJB: So again, in response to Mr. Levinson's question, if I touch on an item ten times, each time I might leave a different amount of DNA, or I might leave none, right?*
> *E. Hall: Sure.* (E. Hall, Trial Tr. p 32, ln 16-19)

> *NJB: So on the underside of the screw the results are negative.*
> *E. Hall: Correct*
> *NJB: In this instance, again, going back to everything you did, when you looked at this gun, when you looked at the underside of the screw, all of the places that you looked, it turned up negative, is that right?*
> *E. Hall: That is correct.* (E. Hall J Tr. p 35 ln 4-8]

David Mendendez, Supervisor, Firearm and Tool Mark Section, St. Louis City Crime Laboratory.

> NJB: *When you say you would have done a visual examination of the gun, how do you do that, just eyesight, or use a magnifying glass?*
> *DM: We have what's called a stereoscope, basically, just a large magnifying glass. We have two. We have one that is just a big magnifying glass that we can hold the gun under. We also have binocular stereoscope, if we really need to look at something. So, basically, I would use this visual, and then I would put it under it, and look for something that would be a stain consistent with something with blood.* (Menendez Depo. July 18, 2017, p. 10 ln 10-20)

> NJB. *All right. But you didn't see anything?*
> *DM. I didn't see anything that looked like blood to me, in my opinion. I didn't see anything consistent with blood.*
> *NJB. Did you see anything that was consistent with rust?*
> *DM. Yes. The gun – The gun had places on it that had rust.*
> (Menendez Depo. July 18, 2017, p. 16 ln 4-11)

96. The opinions and conclusions of the State's experts were known by the Circuit Attorney and Deeken before he testified falsely in front of the Grand Jury in an effort to get Stockley indicted. Later the Circuit Attorney argued falsely at trial to attempt to get Stockley convicted of murder.

DNA

97. Deeken and the Circuit Attorney's office also misled the St. Louis Grand Jury by omitting key facts such as the significance of the DNA evidence:

> *"Grand Juror 7. You said Officer Stockley's DNA was found on the gun. Was Mr. Smith's DNA found on the gun?.*
> *Deeken: No."* (Deeken Grand Jury, July 5, 2016, p. 37 ln. 15-16)

98. Deeken and the Circuit Attorney omitted explaining to the Grand Jury that the lack of DNA is meaningless, causing Stockley to get indicted.

99. Present in the Grand Jury during Deeken's testimony was ACA Christine Krug, who as head of the Circuit Attorney's Sex Crimes Unit, which regularly excides DNA evidence, knew this inference was a blanket lie.

100. The Circuit Attorney also urged Judge Wilson to accept a DNA proposition in support of a guilty verdict they knew to be false and misleading:

> *But it is illuminating that Smith's DNA was not on the .38 revolver despite a similar alleged previous contact."* (State's Memorandum in Support of Guilty Verdict paragraph 52)

101. Until the Stockley prosecution, the Circuit Attorney had been steadfast in promoting the exact opposite interpretation.

> "*Joyce said the lack of DNA on the gun was not unusual, given forensic limitations.*" [Jennifer Joyce as reported by Post Disp. 6 3 2016] (This statement is about a month before the Stockley grand jury and three weeks after Stockley's arrest)\

> *"Lab analysts and evidence experts confirm that it is rare to retrieve usable finger prints or DNA from a weapon.*" (p. 16 St. Louis Circuit Attorney's Office report regarding the review into Shooting Death of VonDerrit Myers, Jr., May 8, 2015) (This was 14 months before Grand Jury)

102.. The Circuit Attorney cannot have it both ways, considering the absence of DNA meaningless in deciding not to prosecute police officers for murder in other shootings, but critically significant in deciding to prosecute Stockley for murder. Within weeks of each other.

103. None of the State's own experts called to testify at the trial agreed with the Circuit Attorney that the absence of Smith's DNA was valuable or persuasive evidence.

> Mary Anne Kwiatkowski -- Biology DNA Section Supervisor for the St. Louis Metropolitan Police Department Crime Lab
>
> *NJB "All right so again, and I think we said this, but let me say it one more time, there's nothing about the absence of DNA that allows you to conclude that a person did not touch an item. Right?*
> *MK That's correct".* (Kwiatkowski *Tr p. 39 ln 9-1)*
>
> *NJB "Do you agree with the general proposition that it was rare to find DNA on a firearm.*
> *M.K. Yes". (M.* Kwiatkowski *Tr. p 39 lns 15-21)*
>
> *Steele (Assistant Circuit Attorney): "But in terms of his question about the absence of DNA, Does it prove someone did not touch it?*
> *MK: No."* (*M.* Kwiatkowski *Tr. p 46 lns 10-12)*
>
> Karen Preiter, M.D. DNA Analyst for the St. Louis Metropolitan Police Department:
>
> *Steele: (Assistant Circuit Attorney) "Your honor, at this time we request the Court recognize Dr. Preiter as an expert in DNA analysis".* (Preiter Tr. p. 45 line 10-12)
>
> *NJB "All right. But it's possible for someone to touch an item but not leave DNA, right?*
> *Dr.P I believe so, yes".* (Preiter Tr. p. 45 line 10-12)
>
> *NJB "If you find DNA from one person, you can't say that another person didn't touch it; is that correct?*
> *Dr.P Yes.* (Preiter Tr. p. 45 line 10-12)

104. The absence of DNA confirms nothing, supports nothing, and Joyce and Deeken knew that.

NO NEW EVIDENCE

105. Prior to charging Stockley Joyce initiated a public relations strategy intended to justify her decision to prosecute. The strategy consisted of a series of public announcements that she had obtained "new evidence" proving that Stockley murdered Mr. Smith. There was no new evidence that could possibly have supported a new conclusion that Stockley was guilty of murder. Joyce's gratuitous statements to news reporters, courts, and others were false, intended to influence public opinion about Stockley (and about Joyce), and defamatory.

106. In 2012 Joyce reviewed the case, thoroughly enough, to determine there was not enough evidence to prosecute Stockley:

> *"As troubling as this case was there was not sufficient evidence to file charges at that time."* (St. Louis Post Dispatch May 17, 2016)

107. Joyce announced in a public statement and to the Court that she claimed she brought charges in 2016 because she had new evidence which she later changed to "newly available evidence". (Saint Louis American May 26, 2016.)

108.. This was a false and self-serving claim. One Joyce repeatedly made to the Public as proving Stockley murdered Smith.

109. According to Joyce the "new evidence," or "newly available evidence," that caused her to change her mind included the DNA tests. (Riverfront Times October 4, 2017.)

110. As stated elsewhere in this Complaint, the State's own experts and Joyce herself considered the absence of Smith DNA on the gun meaningless.

111. The other newly available evidence Joyce specifically mentioned was the cell phone video of Antonio French, which Joyce did not see until weeks *after* she charged Stockley. It could not have been used as a reason to overrule the FBI, the Department of Justice, the Saint Louis Metropolitan Police Department, and the U.S. Attorney's Office. It could also not be used to reverse her own previous decision not to prosecute.

> *"Duvall said he got them last week (the cell phone video), but has not gone to the police or prosecutor's yet."* (St. Louis Post Dispatch June 3, 2016) (Stockley was charged May 13, 2016.)

112. The cell phone video actually helped Stockley, not the State. Everything the State used at trial was already known to them from other videos they had in their possessions for years. Nothing new was revealed to them that they felt was significant enough to mention at trial. It was not new evidence.

113. No new action of Stockley's shown on the cell phone video was mentioned by the State during trial in support of a guilty verdict. It was played at trial permitting Judge Wilson to watch Stockley entering and exiting the police vehicle and walking around. He made the following statement of fact in his Findings and Verdict:

> *"There is no gun, other than his holstered service revolver, visible in his hands, in his pockets or tucked into his belt, and there is no bulge from a gun in any pocket".* (Judge Wilson Findings and Verdict p. 16, September 15, 2017)

114. The author of the cell phone video, Antonio French also testified that Stockley was in fact yelling commands at Smith, as Stockley claimed, before the shots. (See French Depo., May 1, 2017). This is not "new evidence" helpful to the State.

115 Joyce also claimed repeatedly and stated to the public that she had not seen the in-dash video from Stockley's police vehicle until April 2016, right before she charged Stockley, which justified the change in her decision to now bring charges and proved Stockley murdered Smith. (St. Louis Post Dispatch May 17, 2016)

116. But she had seen it in 2012 and again in 2013. Her office also had a copy of the in-dash video for years.

117. In 2012 Deeken went over to the Circuit Attorney's Office and presented all of the facts and played the in-car videos:

> Deeken: *"So prior to the department getting involved, there was a real short window there where I was told to do an informal interview, informal presentation for the Circuit Attorney's Office.*
> JPT: *Okay.*
> Deeken *Where I provided them with all the aspects of the case".*
> (Transcript of Pre-Trial Proceedings in front of Judge Mullen, Aug. 3 2016, Deeken p. 9, ln 2-5)

> JPT: *"And these were the same facts that now have led to the indictment of Jason Stockley four years later?*
> *Deeken: Everything that was gathered for the indictment of Jason Stockley was gathered when I have the criminal investigation".*
> (Transcript of Pre-Trial Proceedings in front of Judge Mullen, Aug. 3 2016, Deeken, p. 9, ln 15-19)

> JPT: *"Did you show the Circuit Attorney's Office the videotape, the in-car camera tape?*
> Deeken: *Yes.*
> JPT: *Did you have discussions about that?*
> *Deeken: Yes".*
> (Transcript of Pre-Trial Proceedings in front of Judge Mullen, Aug. 3 2016, Deeken, p.21, ln 8-12)

118. In 2013 Joyce went over to the police department and had a private viewing of the in-dash video.

> NJB: *"All right. Are you aware of a meeting where she and someone from the Circuit Attorney's Office actually came over to the old 1200 Clark Street, came up through the back elevator, and was sat down in a room with a computer and allowed to look at the video cams.?*
> Deeken: *I heard about a meeting like that, but I wasn't present.*
> *NJB: Before Jennifer Joyce actually indicted Jason Stockley, there was a news article where she claimed that she never had a chance to see these videotapes. You saw that article, didn't you.*
> *Deeken: Yes".*
> (Deeken Deposition May 3, 2017p. 64 ln 22-25 – p. 65 ln 1-4)

> *NJB "But according to the information at least that you knew, The Circuit Attorney's Office has seen the video, at least Ed Postawko had, and Christine Krug had; is that right?*
> *Deeken: Yes.*
> *NJB: And they had copies of the dash cam video, didn't they?*
> *Deeken: Yes.*
> *NJB: And your understanding from Will Brown is that he brought Jennifer Joyce and Ed Postawko up in a back elevators (sic), somewhere in the old Internal Affairs Division, they sat down at a computer and watched it, right?*
> *Deeken: That's my understanding.*
> *NJB: And when do you understand that meeting occurred?*
> *Deeken: I believe he said sometime in 2013".*
> (Deeken Deposition May 3, 2017p. 66 ln 2-20)

119. Joyce claimed there was new evidence, not available to the FBI or the Department of Justice, or her own office when they originally declined to prosecute in 2012, and that new evidence persuaded her to charge Stockley in 2016. No one knows what the new evidence is.

120. Kim Gardner, the current Circuit Attorney, whose office prosecuted Stockley is unaware of what the new evidence is. (Gardner to St. Louis Today, September 30, 2017).

121. The lead police investigator Deeken who testified in front of the Grand Jury put together a timeline of the OnStar video, and endorsed the "kill shot" theory, does not know what the new evidence is.

> NJB: *"Okay. All right. What's the new evidence?*
> *Deeken: "I don't know."*
> (Deeken Depo p. 66 ln. 18-20 May 3, 2017)

122. The community activists who advocated for the prosecution of Stockley do not believe there is new evidence.

> "Any claims of new evidence was a damn lie."
> (Anthony Shahid to Riverfront Times, October 4, 2017)

123. The police chief at the time of the shooting, Chief Dan Isom says there was no new evidence. (St. Louis Post Dispatch May 18, 2016)

124. In May 2016 Joyce privately met at her office with the leaders of the activists seeking murder charges against Stockley and explained to them the status of her investigation. (Anthony Shahid, Riverfront Times, Oct. 4, 2017)

125. During that meeting, she asked them to tone things down for a couple of weeks while her office prepared to file charges. (Anthony Shahid, Riverfront Times, Oct. 4, 2017)

126. A week or so later, Joyce secured an at large warrant charging Stockley with murder by filing a lie to support the arrest warrant.

127. Deeken was caught completely off guard that murder charges were issued. When he was told to go to Houston and arrest Stockley.

> *A. "And then after that I was told 'you are going to Houston'. And I am like 'Why am I going to Houston'. They had issued an at large warrant, whatever it was."* (Deeken depo. May 3, 2017 p. 162 ln 17-20)

UNETHICAL PROSECUTION TACTICS

128. In the Circuit Attorney's opening statement to the Judge Wilson, during which Assistant Circuit Attorney Aaron Levinson laid out what he expected the evidence in the trial to show, he said:

> *"So suddenly, that puff of smoke you see in the video [in-dash police car] and Simpson scurrying backward and the cartridge being in the car all make sense. There was a kill shot". [State's opening Tr. p 16 lns 2-4) Asst. CA Aaron* Levinson]

129. The State presented zero evidence to prove the "puff of smoke" was the "kill shot".

130 Not one expert witness testified the "puff of smoke" was from a gun shot.

131. Not one lay witness testified the "puff of smoke" was from a gun shot.

132.. Not one witness of any kind addressed the nature of the "puff of smoke" at all.

133. What is repeatedly shown on the in-dash video is the police officers exhaling into the cool damp air.

134.. Nonetheless, after all of the evidence was presented, none which addressed the "puff of smoke", Assistant Circuit Attorney Robert Steele and Assistant Circuit

Attorney Aaron Levinson persisted in arguing, without having presented any evidence to support this, the "puff of smoke" was the "kill shot":

> *"A later fifth shot being fired is the only reasonable explanation for one but only one shot being fired within six inches of Smith, the puff of smoke emitted, Stockley immediately holstering his weapon following the smoke . . . "* (State's Memorandum in Support of Guilty Verdict, ¶ 52 p. 9)

135. The complete lack of testimony of any kind regarding the nature of the "puff of smoke" resulted in Judge Wilson finding the following:

> *"The Court finds the State's reliance on a "puff of smoke" as evidence of a fifth shot separated in time from the others is not supported by any evidence. There was not a puff of smoke from any of the other shots, and there was no testimony that firing a service revolver would or could cause such a puff of smoke. There was also no explanation offered for why such a "puff of smoke" would be seen outside the car if such a fifth shot was fired with the gun inside the car as the state contends. It seems more reasonable to conclude that what the State characterizes as a "puff of smoke" was in reality exhaled breath in cold air. Puffs of smoke are seen multiple times in the dash cam unrelated to the firing of any gun, but coming from the mouths of officers in the cold air".*
> (Judge Wilson Findings and Verdict, pp. 22-23, September 15, 2017)

136. Attempting to convict Stockley of murder and sentence him to life in prison without parole by arguing theories Steele and Levinson knew they have presented no new evidence is immoral and unethical.

137. Steele and Levinson also argued to Judge Wilson, in an effort to explain why five shots were not fired at the outset, again without presenting any evidence whatsoever to support their theory;

> *"If Stockley had fired all five shots at once while backing away from Smith, we would have heard five distinct shots, since we know from the video that firing under such circumstances makes a clear and audible sound."*
> (State's Memorandum in Support of Guilty Verdict, p. 9, ¶ 62)

138. Because they had the OnStar audio, Steele and Levinson knew before trial there were five shots at the outset and why the first shot is not heard. They said so themselves:

> "*Defendant's shot fired from close range within the interior of the car while two separate sirens are blaring would be more muffled than a shot fired from outside the car.*" (State's Memorandum in Support of Guilty Verdict, p. 9 ¶63)

139. The first shot fired by Stockley was fired inside the car, the other four outside of the car as he was backing away.

140. The State knew the first shot, not the fifth shot, was fired inside the car because the OnStar audio, told them no shot was fired during the "puff of smoke". They knew why the first shot was not audible on the police car dash cam. It was fired, from close range within the interior of the car, while two sirens were blaring. Two sirens can be heard from the beginning of the OnStar tape clearly showing that Officer Simpson was already on the scene when recording started.

COUNT I: VIOLATION OF 42 U.S.C. § 1983
Against All Defendants

141. All of the allegations of this complaint are incorporated into this count as if fully set forth herein.

142. Throughout her purported re-investigation of Stockley during 2016, Joyce published and promulgated the false declaration that she had "new evidence" proving that Stockley was guilty of first degree murder. Joyce intentionally caused this false

information to be disseminated throughout the City of St. Louis, where all prospective jurors who might participate in Stockley's trial resided.

143. The consequences that Joyce intended and caused through those publications included the substantial diminution of Stockley's prospect for obtaining a fair trial before unbiased jurors, in violation of Stockley's right to such a trial under U.S. Const. amend. VI and XIV, and to due process in violation of his rights U.S. Const. amend. XIV.

144. Joyce intentionally rigged and manipulated the reinvestigation of Stockley that she purportedly conducted during 2016 to ensure Stockley's arrest, indictment, and trial on charges of first degree murder and armed criminal action, despite her knowledge that the charges were unfounded. In particular Joyce:

a. Caused an investigation by the St. Louis Police Department's Force Investigation Unit to be shut down in order to insure that her self-serving sham investigation was not exposed and derailed through fair and competent investigation by the specialized police department unit.

b. Misrepresented and suppressed evidence with the assistance of Deeken, including his false and misleading testimony prior to (and after) any finding of probable cause, in order to secure a judicial finding of probable cause and an arrest warrant (and an indictment), which could not have been accomplished if the known pertinent evidence was fairly and truthfully presented.

c. Colluded with and sought to appease community agitators and protest leaders, misrepresenting and suppressing the truth in statements to news reporters, the

public, and courts, in order to avoid the recurrence of demonstrations at times and places and in manners that she found terrifying.

145. The consequences that Joyce intended and caused through that bogus investigation and predetermined decision to charge Stockley despite the absence of evidence sufficiently probative of guilt included subjecting Stockley to the risk of wrongful conviction and the attendant sentence of imprisonment for the remainder of his life without the possibility of parole; the anxiety, emotional distress, and physical illness caused by life during the pendency and trial of a first degree murder charge; and the various expenses directly associated with the threat, pendency, and defense of the unfounded charges the Joyce sought and obtained. Stockley thus was deprived of his right to due process and fair treatment by police and prosecuting authorities in violation of his right to due process under U.S. Const. amend. XIV.

146. Deeken gave false and misleading testimony as set forth in this complaint in order to support findings of probable cause and the issuance of a warrant for Stockley's arrest and thereafter his indictment. He also withheld information inconsistent with probable cause findings, criminal charges, or prosecution of Stockley as set forth herein. All of this conduct was knowing, intentional, and designed to secure the wrongful arrest and prosecution of Stockley despite Deeken's awareness that (a) every police agency and prosecuting authority that investigated the case during 2012 and 2013 declined to seek Stockley's prosecution and (b) there was no new evidence tending to prove that Stockley was committing a crime rather than stopping an imminent threat to public and police welfare at the time in question.

148. Deeken's conduct alleged herein caused the wrongful arrest and prosecution of Stockley and subjected him to the risk of wrongful conviction and the attendant sentence of imprisonment for the remainder of his life without the possibility of parole; the anxiety, emotional distress, and physical illness caused by life during the pendency and trial of a first degree murder charge; and the various expenses directly associated with the threat, pendency, and defense of the unfounded charges the Joyce sought and obtained. Stockley thus was deprived of his right to due process and fair treatment by police and prosecuting authorities in violation of his right to due process under U.S. Const. amend. XIV.

149. If Stockley prevails, he is entitled to an award of attorney fees and costs pursuant to 42 U.S.C. § 1988.

WHEREFORE, Plaintiffs prays judgment against Defendant in Count I of his Complaint in an amount in excess of $75,000.00, for attorney fees and costs together with such other relief as this court deems just and proper.

COUNT II: VIOLATION OF 42 U.S.C. § 1983 (*Monell*)
Against City of St. Louis and Joyce

150. All of the allegations of this complaint are incorporated into this count as if fully set forth herein.

151. As Circuit Attorney, Joyce had final policymaking authority for the City of St. Louis regarding customs, rules, practices, and policies pertinent to the determination to prosecute or not prosecute particular individuals and cases and the manner in which

those decisions were made, implemented, and executed. By virtue of Mo. Rev. Stat. § 56.450 Joyce had final policymaking authority for the City of St. Louis regarding the management and conduct of all criminal cases over which the Circuit Court for the City of St. Louis had jurisdiction.

152. The City of St. Louis, through Joyce, adopted, implemented, carried out, and tolerated all of the prosecutorial and police actions and omissions alleged against Joyce and Deeken in this complaint. Those actions and omissions included but were not limited to:

a. The publication of false and misleading statements suggesting that "new evidence" proved Stockley's guilt when the "old evidence" consistently had been found insufficient to warrant charging him with any crime.

b. The decision to thwart any reinvestigation of the death of Smith by the St. Louis Police Department's dedicated Force Investigation Unit and rely instead on Joyce's own bogus reinvestigation, together with the misrepresentation and suppression of evidence described herein, as the basis for charging and prosecuting Stockley.

c. The presentation of Deeken's false and misleading testimony in order to procure a finding of probable cause and a warrant for Stockley's arrest.

153. The City of St. Louis, through Joyce, is accountable under § 1983 because it intended to and did encourage and reward its agents and employees for violating Stockley's constitutional rights.

154. The unconstitutional policies, practices, and customs include but are not limited to:

a. Conducting investigations not designed to ascertain the truth;

b. Effectively quashing competent investigation by police investigators with special experience in the review of police shooting cases and with no fixed and predetermined result;

c. Presenting false and misleading evidence and suppressing other important evidence prior to and after having obtained a finding of probable cause;

d. Fomenting and encouraging police misconduct in the course of developing charges against an individual;

c. Misrepresenting and suppressing evidence in published statements and in testimony and other courtroom proceedings;

d. Improperly supervising agents and employees, in particular Deeken and the Assistant Circuit Attorneys who presented and enabled his testimony;

e. Failing to discipline and rather rewarding officers and agents who violate the constitutional rights of suspects and effectively rewarding them for their wrongful acts and omissions; and

f. Acting with deliberate indifference to the violations of individual constitutional rights by its law enforcement officers.

155. There was during 2016 a policy, practice, and custom of the City of St. Louis and its Circuit Attorney, implemented and approved of by Joyce, of deliberately depriving accused persons of their constitutional rights as exemplified by:

a. The use of self-serving prosecutorial tactics to further the personal agenda of the Circuit Attorney;

b. Undermining the rights of the accused to a fair and impartial jury by using the media to taint prospective jurors and heighten public condemnation of defendants in criminal cases in violation of Missouri Supreme Court Rule 4-3.8(f), which provides that "except for statements that are necessary to inform the public of the nature and extent of the prosecutor's action and that serve a legitimate alw enforcement purpose, [prosecutors should] refrain from making extrajudicial comments that have a substantial likelihood of heightening public condemnation of the accused.

c. Issuing arrest warrant applications through the Circuit Attorney's warrant office on the basis of charges that are not provable beyond a reasonable doubt;

156. The enumerated policies were known, condoned, and ratified by Joyce as the final policymaker for the City of St. Louis in criminal cases, and constituted the official policy of the City of St. Louis.

157. The policies, practices, and customs described herein were carried out during the criminal reinvestigation, prosecution, and trial of Stockley with deliberate indifference to his constitutional rights.

158. The actions and omissions of each defendant named in this count were the direct and proximate cause of Stockley's damages.

159. If Stockley prevails, he is entitled to an award of attorney fees and costs pursuant to 42 U.S.C. § 1988.

WHEREFORE, Plaintiffs prays judgment against Defendant in Count II of his Complaint in an amount in excess of $75,000.00, for attorney fees and costs together with such other relief as this court deems just and proper.

COUNT III: DEFAMATION
Against Defendant Jennifer Joyce Individually and in her capacity as former Circuit Attorney of the City of St. Louis

160. All of the allegations of this complaint are incorporated into this court as if fully set forth herein.

161. Several years went by after Mr. Smith's death and the refusal of every local and federal police and prosecutorial agency that investigated the matter to recommend or pursue Stockley's prosecution. Stockley's life began to return toward normal after an initial public outcry, the more so as one law enforcement authority after another failed to find a crime to prosecute.

162. Joyce's publicity campaign during 2016, in which she repeatedly published false statements to news reporters and the public regarding the existence of "new evidence" that would prove Stockley guilty of first degree murder, caused great and permanent damage to Stockley's reputation and ability to work and live in his community.

163. Joyce's intentions in publishing the false statements set forth in this complaint were to cause as many individuals as possible to believe them and to be inclined to believe Stockley guilty of murdering Mr. Smith, to enhance her reputation as an elected public official claiming superior investigative skills, and to appease those who had led and participated in demonstrations at her home and elsewhere and make herself feel safe from the protesters and their leaders.

164. Joyce knew throughout the time that she was publishing her false declarations that members of the public place special confidence and trust in the representations of prosecuting attorneys. She knew that her prevarications about Stockley would carry great weight with individuals to whom they were published, cause them to hold Stockley in extreme and unjust disrepute, and thereby damage his reputation.

165. As a direct consequence of Joyce's publication of false statements, Stockley's reputation suffered irreparable damage, his and his ability to enjoy life and earn a living were greatly diminished, and he lost employment opportunities and income.

166. Joyce acted maliciously, with the intent to harm Stockley, and with reckless disregard for the truth and for the rights and interests of Stockley.

WHEREFORE, Plaintiffs prays judgment against Defendant in Count III of his Complaint in an amount in excess of $75,000.00, for attorney fees and costs together with such other relief as this court deems just and proper.

COUNT IV – MALICIOUS PROSECUTION AS TO ALL DEFENDANTS

167. All of the allegations of this complaint are incorporated into this court as if fully set forth herein.

168 That Defendants Joyce and Deeken commenced a criminal proceeding through multiple lies and deliberately misleading testimony in May of 2016 in the City of St. Louis against Plaintiff Stockley which ended with an acquittal in September 2017.

169. That in instigating said proceeding Defendants acted primarily for a purpose other than bringing an offender to justice and without reasonable grounds.

170 That as a direct and proximate result of Defendants' actions the plaintiff was humiliated, embarrassed, disgraced, frightened and sustained injury to his reputation, mental anguish emotional trauma and related injuries along with loss of income and expenses resulting from defending himself. His passport was given to authorities and has yet to be returned, along with the rest of his personal property. Stockley was not allowed to leave the area from arrest through the trial and judgment without permission from the court.

171. Both Joyce and Deeken have demonstrated their malice through multiple lies and misleading statements and conduct referenced above.

172. The Circuit Attorney and Deeken by falsely and publically promoting "new evidence" the "kill shot" or "execution shot", "the puff of smoke", the "lack of quit clot theory"; the "DNA" theory; the "blood on the gun" theory as a fact, recklessly and deliberately incited emotions, expectations and tensions in the City of St. Louis, caused many people to believe the case was strong against Stockley, leaving them feeling bitterly betrayed by the legal system, leading to rioting, severe financial losses the City cannot afford, disruption of businesses, cancellation of events, and further damaging the national image of St. Louis. Essentially, Joyce, Deeken and the Circuit Attorney's Office are responsible for inciting riots.

173. The Circuit Attorney and Deeken, by falsely and publically promoting "new evidence" the "kill shot" or "execution shot", "the puff of smoke", the "lack of

quit clot theory", false information; and lack of DNA evidence as fact, recklessly and deliberately exposed Stockley to ridicule, anger, death threats, unease and danger.

174. Further, Plaintiff's arrest and subsequent murder charge has become part of his permanent record. Stockley is featured prominently on the internet and continues to be publically ridiculed, condemned and threatened.

175 That the actions of the Defendants as set out in this complaint are wanton, wilful, and outrageous. Defendants acted with evil motive and other reckless indifference for Stockley's rights and as such, support Plaintiff's demand for punitive damages.

WHEREFORE, Plaintiffs prays judgment against Defendant in Count IV of his Complaint in an amount in excess of $75,000.00, for attorney fees, and punitive damages and costs together with such other relief as this court deems just and proper.

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