

**IN THE UNITED STATES DISTRICT COURT
FOR THE CENTRAL DISTRICT OF ILLINOIS**

JONATHAN DANIEL,)

Plaintiff,)

v.)

Case No. 14-CV-1232

THE CITY OF PEORIA, JIM ARDIS,)

Mayor of Peoria, in his individual)

capacity; PATRICK URICH, City)

Manager of Peoria, in his individual)

capacity; CHRISTOPHER SETTI,)

Assistant City Manager of Peoria, in his)

individual capacity; SAM RIVERA,)

Chief Information Officer for the City of)

Peoria, in his individual capacity;)

STEVEN SETTINGSGAARD, former)

Chief of Police of the Peoria Police)

Department, in his individual capacity;)

Peoria Police Detectives JAMES)

FEEHAN and STEVIE HUGHES, JR., in)

their individual capacities, and SONNI)

WILLIAMS, Interim Corporation)

Counsel for the City of Peoria, in her)

individual capacity,)

Defendants.)

Judge James E. Shadid

Magistrate Judge Schanzle-Haskins

AMENDED COMPLAINT AND DEMAND FOR JURY TRIAL

Plaintiff Jonathan Daniel, by his attorneys, complains of Defendants as follows:

I. INTRODUCTION

1. This is a civil rights lawsuit. Mr. Daniel charges a conspiracy to violate and the violation of his rights under the First and Fourth Amendments to the United States Constitution, the Privacy Protection Act, and of Article I, Sections 4 and 6 of the Illinois Constitution, state common law and brings his action pursuant to 42 U.S.C. §§ 1983 and 1988, 28 U.S.C. §2201 et

seq., 42 U.S.C. § 2000aa, et seq. and the laws and constitution of the State of Illinois. Mr. Daniel seeks declaratory and injunctive relief and monetary damages.

2. From March 9 through March 19, 2014, Mr. Daniel tweeted from a Twitter account, @peoriamayor, which used a picture of Jim Ardis (“Ardis”), the mayor of Peoria, as the account’s avatar. Displeased with the content of the tweets, Defendants embarked on a plan to shut down the account and identify and punish its creator in violation of his constitutional rights. As part of Defendants’ plan, Peoria Police Department officers searched Mr. Daniel’s residence, seized his personal property, reviewed personal information on Mr. Daniel’s electronic devices and in his mail, and arrested, detained, and interrogated Mr. Daniel purportedly for the crime of false personation of a public official.

II. JURISDICTION AND VENUE

3. This Court has subject matter jurisdiction pursuant to 28 U.S.C. §§ 1331, 1343, and 1367.

4. Venue is proper in this judicial district pursuant to 28 U.S.C. § 1391.

III. PARTIES

5. Plaintiff Jonathan Daniel is 29 years old. He is a U.S. Citizen and resident of Peoria, Illinois.

6. Defendant the City of Peoria (“the City”) is a municipal corporation under the laws of the State of Illinois and operates the Peoria Police Department.

7. Defendant Jim Ardis (“Ardis”) is now and at the time of the events complained of herein was Mayor of Peoria. He is sued in his individual capacity.

8. Defendant Patrick Urich (“Urich”) is now and at the time of the events complained of herein was City Manager of Peoria. The City has delegated to Urich as City

Manager final policy making authority for all municipal departments, including the Peoria Police Department. *See* Peoria Municipal Code §§ 2-281 and 24-35 to -37; 65 ILCS 5/5-3-7. He is sued in his individual capacity.

9. Defendant Christopher Setti (“Setti”) is now and at the time of the events complained of herein was Assistant City Manager of Peoria. He is sued in his individual capacity.

10. Defendant Sam Rivera (“Rivera”) is now and at the time of the events complained of herein was Chief Information Officer for the City of Peoria. He is sued in his individual capacity.

11. Defendant Steve Settingsgaard (“Settingsgaard”) was at the time of the events complained of herein Chief of Police of the Peoria Police Department. He is sued in his individual capacity.

12. Defendants James Feehan (“Feehan”) and Stevie Hughes, Jr. (“Hughes”) are now and at the time of the events complained of herein were detectives in the Peoria Police Department. They are sued in their individual capacities.

13. Defendant Sonni Williams was at the time of the events complained of herein the Interim Corporation Counsel for the City of Peoria. She is sued in her individual capacity.

14. At all times relevant to this complaint, all Defendants were acting under color of state law and their conduct constituted state action.

IV. FACTS

Illinois’ False Personation Statute

15. Illinois’ false personation statute, 720 ILCS 5/17-2, prohibits various types of false personation, which the statute divides into five categories: false personation for the purpose

of soliciting a material benefit, 720 ILCS 5/17-2 (a), false personation of public officials and employees, 720 ILCS 5/17-2 (b), fraudulent advertisement of a corporate name, 720 ILCS 5/17-2 (c), producing, selling, and distributing false law enforcement badges, 720 ILCS 5/17-2 (d), and falsely representing oneself as having received a government medal, 720 ILCS 5/17-2 (e). The statute provides that false personation may be accomplished through the internet or electronic communication under 720 ILCS 5/17-2 (a)(1) through (a)(7) and (e) only. 720 ILCS 5/17-2 (g).

16. False personation of a public official, 720 ILCS 5/17-2 (b)(2), prohibits a person from “knowingly and falsely represent[ing] himself or herself to be . . . [a] public officer or a public employee or an official or employee of the federal government.”

17. Illinois’ provision for false personation of a public official criminalizes only representations made in person. Illinois courts require as an element of the offense that there be an intent to deceive the public that the impersonator is acting in the official capacity of a public official. Application of Illinois’ provision for false personation of a public official to speech made without such an intent violates the First Amendment and Article I, Section 4 of the Illinois State Constitution.

The Twitter Account: @peoriamayor

18. On or around March 9, 2014, Mr. Daniel began posting tweets to a Twitter account he created, @peoriamayor (“the Twitter account”), which used a picture of Ardis as the account’s avatar. The avatar’s Twitter biography read “I am honored to serve the citizens of our great city.”

19. On or before March 12, 2014, Mr. Daniel added the words “parody account” to the end of the Twitter account biography.

20. The Twitter account—which juxtaposed the mayor’s clean-cut image with a series of tweets conveying in a crude or vulgar manner an exaggerated preoccupation with sex, drugs, and alcohol—was a satiric form of expression protected by the First Amendment and the Illinois Constitution. The Twitter account was not reasonably believable as conveying the voice or message of the actual mayor. Mr. Daniel had no intention of deceiving people into believing the account was actually operated by a representative of the mayor or the mayor himself, and no reasonable person could conclude such an intent from the content of the tweets or the Twitter account’s profile page.

21. The Twitter account and Daniel’s tweets were communications made through an internet web site and electronic communications.

22. Twitter is a social networking site that allows users to send and read 140-character messages called “tweets.”¹ People with accounts can post tweets and also “follow” other accounts to see their tweets on their home page, but anyone can see tweets posted from a public account. People use Twitter to share news articles, comment on current events, and play fictional personas. There are many parody accounts, which often use pictures of the person they are parodying in their profile, including of Barack Obama (@ThePresObama), sports figures (@drunkcutler), and local politicians (@MayorEmanuel). These accounts are often, but not always, marked “parody” or “fake” in the biography. Twitter explicitly allows parody accounts, and permits them to be explicitly designated as such. Twitter also marks with a “check” the real accounts of certain influential people. *See e.g.* @RahmEmanuel. Daniel’s parody was not unusual in this flourishing on-line community.

¹ See Twitter’s FAQ: <https://support.twitter.com/groups/50-welcome-to-twitter/topics/203-faqs/articles/13920-new-user-faqs>.

23. The tweets sent from the @peoriamayor account were in stark contrast to the mayor's public persona. For example, on March 11, 2014, Mayor Ardis presided over a city council meeting, congratulating the high school band for their performance in the atrium, leading the assembly in a moment of prayer or silent reflection and then the pledge of allegiance, and presenting the "Math Counts" team from the public school with a proclamation. There are no publicly available reports in the media that suggest the mayor was not his usual and proper person on this occasion. While the meeting was in progress, Daniel sent several tweets, including, "Well today sucked balls so ya already know what tonights bout ... smoking crack Rivvvveeeerrmmennn style."

24. Other tweets posted to the account was had similar content: "I'm thinking it's a tequila and stripper night it's jimmy baby" and "Im bout to climb the civic center and do some lines on the roof who's in." The tweets included rap lyrics: "Champagne wishes dirty white bitches I mean this shit is fucking ridiculous," by Kanye West, "So Appalled" from the album My Beautiful Dark Twisted Fantasy (2010), and "Gotta a condo round my wrist girl and im cashing out" by Ca\$h Out, "Cashin Out" from the album It's My Time (2012).

Events of March and April 2014

25. Someone texted Patrick Urich, the City Manager of Peoria, the "@peoriamayor" Twitter account on March 10, 2014. After viewing the account, he responded, "Fake site. No way it could be his."

26. On or around March 11, 2014, Defendants Ardis, Urich, Setti, Rivera, Settingsgaard, Feehan, and Hughes communicated about the Twitter account, came to a meeting of the minds, and agreed to shut it down and punish its creator. In furtherance of this conspiring agreement, Defendants engaged in the conduct set forth in paragraphs 27 through 58 below.

27. From March 11, 2014 through April 18, 2014, Defendants Ardis, Urich, Setti, Rivera, Settingsgaard, Feehan, and Hughes worked jointly and individually to have the Twitter account shut down and to punish the creator of the account because Ardis and the other Defendants objected to the lawful, protected content of the tweets and because Ardis was personally offended by the Twitter account.

28. On March 11, 2014, Urich directed Rivera and Feehan to work to shut down the Twitter account and find out the identity of its creator. Rivera then contacted Twitter and ordered the account be shut down, or that control of the account be given to the City. In response, Twitter requested that Rivera upload a copy of a government-issued photo identification of Ardis in order to demonstrate Rivera had authority to act on Ardis' behalf. Rivera then asked Setti to upload Ardis' driver's license, which he did. Twitter's response explained that the company would contact the creator of the account and informed Rivera that parody accounts are allowed on Twitter.

29. Also on March 11, 2014, Feehan began investigating whether the account violated any criminal statutes, and concluded that it did not. He communicated his conclusions to Settingsgaard, who reported Feehan's findings to Ardis, Urich, and Rivera.

30. On March 12, 2014, Ardis directed Urich, Settingsgaard, and Rivera to act with a "sense of urgency" with respect to shutting down the Twitter account. Settingsgaard reported to Urich he thought Rivera was handling the matter. By the evening, Rivera had been unable to get a response from Twitter, so Setti asked Settingsgaard if the police department could continue working on shutting down the account and identifying who created it, noting that "maybe they will respond to the Police more than an IS guy and the Assistant City Manager."

31. On March 13, 2014 Settingsgaard asked Feehan if there was anything he could do to speed up shutting down the account. Feehan then tried to contact Twitter and resumed investigating whether the account violated a criminal statute. Feehan erroneously claimed that the Twitter account violated Illinois' criminal prohibition of false personation of a public official under 720 ILCS 5-17-2 (b)(2). Settingsgaard then reported to Ardis and Urich that Feehan had identified a statute which the Twitter account violated, the false personation statute, and asked Ardis if he wanted to file a formal complaint and pursue prosecuting the creator of the Twitter account. Ardis responded that he "absolutely" wanted to prosecute and to "bring it on."

32. On or around March 14, 2014, Feehan, at Settingsgaard's direction, applied in the Circuit Court of Peoria County for a warrant to obtain from Twitter evidence of the offense of false personation ("Twitter warrant"). Feehan did not have probable cause or any other lawful basis to apply for the warrant. A Peoria County Circuit Court judge issued the warrant and Defendants used the warrant to obtain the internet protocol address ("IP address") used to connect to the Twitter account.

33. On March 17, 2014, Settingsgaard reported to Ardis and Urich that a warrant had been issued and sent to Twitter.

34. Ardis, Urich and Williams also planned to seek a temporary restraining order against Twitter to close the account. When Ardis learned of a delay by Williams in completing the TRO letter, he complained, "Wonder if she would've done it quicker if it was her name & pic?"

35. On March 20, 2014, Williams, by letter to Twitter, threatened to file a federal lawsuit seeking an injunction against Twitter to terminate the Twitter account. In the letter, Williams stated that the account was being "investigated for a criminal violation of the Illinois

Criminal Code, False Impersonation of a public official prescribed in 735 ILCS 5/17-2(b)(2).” She also stated that Twitter had not closed the account even though it knew that “the statements contained in the tweets are damaging to Mayor Jim Ardis’ reputation and are made ‘with knowledge that such statements are false or with reckless disregard of whether statements are false or not.’” Twitter suspended the Twitter account that same day. Upon learning of the closure of the account, Ardis reiterated that he wanted to “be sure we find out who’s doing this[.]”

36. On or around March 29, 2014, Hughes applied in the Circuit Court of Peoria County for a warrant to obtain from Comcast evidence of the offense of false personation (“Comcast warrant”). Hughes did not have probable cause or any other lawful basis to apply for the warrant. A Peoria County Circuit Court judge issued the warrant to obtain evidence of false personation. Defendants used the warrant to obtain the name and address of the subscriber associated with the IP address used to connect to the Twitter account.

37. On April 8, 2014, Ardis was informed that Comcast had returned information to the police department in response to the warrant.

38. On April 14, 2014, Ardis requested information from the police department on the status of the investigation of the Twitter account.

39. On or around April 15, 2014, Hughes applied in the Circuit Court of Peoria County for a warrant to search the premises identified by Comcast as the residence of the IP subscriber, 1220 N. University Street in Peoria (“the premises”), and seize evidence pertaining to the offense of false personation, including any electronic device which can store digital media, “books, papers, records, photographs, recordings, [and] documents,” and any “cocaine, heroin, [and] drug paraphernalia” (“house warrant”). Hughes did not have probable cause or any other lawful basis to apply for the warrant.

40. On April 15, 2014, Defendant Hughes executed the search warrant for the premises. Two of Mr. Daniel's roommates and two guests were at the premises when the police officers arrived to execute the search warrant. A number of pieces of mail, as well as computers, telephones, and other electronic devices were seized, including Mr. Daniel's laptop, computer processor, and mail.

41. After executing the warrant, Hughes interviewed one of Daniel's roommates at the police station. During the recorded interview, Hughes stated, "my public perception of the Mayor, I would say that he's probably not the person responsible [for the Twitter account]. I would say with a great deal of certainty, a 100% deal of certainty, he's not the person that is on that site portraying those things." He also acknowledged the account was a "parody."

42. At the time the search warrant was executed, Mr. Daniel was at his place of employment.

43. Shortly after his work shift had ended, Mr. Daniel received a telephone call from Hughes, who told Mr. Daniel that he needed to come to the station. Mr. Daniel informed Hughes of his whereabouts and Hughes then directed two police officers to bring Mr. Daniel to the police station. Hughes did not have an arrest warrant, probable cause, or any other lawful basis to direct the arrest Mr. Daniel.

44. When the police officers arrived at Mr. Daniel's place of employment, they ordered Mr. Daniel to get in the police car, performed a pat-down search of Mr. Daniel, placed him into the car, and brought him to the police station. During this period, Mr. Daniel reasonably believed he was not free to leave the officer's presence.

45. At the police station, Mr. Daniel was told he had to take everything out of his pockets before entering an interrogation room. Mr. Daniel emptied the contents of his pockets,

which included his cellular telephone, and placed the items on a chair in the station. He was then taken into an interrogation room. Mr. Daniel reasonably believed he was not free to leave the interrogation room or the police station.

46. In the interrogation room, Hughes told Mr. Daniel that he wanted to talk to him about impersonating a public official on social media. Hughes then orally informed Mr. Daniel of his rights under *Miranda v. Arizona*. Mr. Daniel invoked his right to an attorney and Hughes then left the room.

47. Shortly thereafter Hughes returned to the room with Mr. Daniel's cellular telephone and ordered Mr. Daniel to power off the phone because it was being confiscated. Mr. Daniel objected to the confiscation of his only phone, particularly because he used it to coordinate visits with his three and five year old sons and with his sick grandmother, who often called him when she needed help. Hughes told Mr. Daniel he could not have his phone back, but that he was now free to leave.

48. In the evening of April 15, 2014, and again on April 16, 2014, Ardis communicated with Settingsgaard and affirmed his desire to prosecute whoever created the Twitter account.

49. On April 17, 2014 Hughes applied in the Circuit Court of Peoria County for a warrant to search the contents of Mr. Daniel's cellular telephone for evidence of false personation ("phone warrant") and for a warrant to obtain from Google evidence of false personation in the email account associated with the Twitter account ("Google warrant"). Hughes did not have probable cause or any other lawful basis to apply for either warrant. A Peoria County Circuit Court judge issued both warrants.

50. On information and belief, Hughes and Feehan thereafter searched Mr. Daniel's electronic devices for records of communications and other data.

51. All of the warrant applications contained omissions and misrepresentations:

a. All the applications failed to acknowledge in their narratives that the account was a parody, which was plain from its inception because of its content and at the time of each warrant application because the biography expressly stated "parody."

b. While the application for the Twitter warrant attached a copy of the account, which was clearly marked "parody," upon information and belief, the applications for the Comcast and Google warrants purported to, but failed to attach the copy of the account, leaving the court without that critical context. The applications for the house and phone warrants did not purport to attach the account or attach the account.

c. The applications for the Comcast, house and Google warrants omitted that Hughes, the author of the applications, knew from the time of first reading the tweets that the account was a parody and that the mayor was not the person sending the tweets.

d. None of the warrants stated that the account was not "verified," which is a Twitter mechanism for identifying authentic accounts for influential people.

e. Additionally, the applications for the Twitter and Comcast warrants stated that the officers were searching for violations of "child pornography laws" when there was no evidence connecting Daniel, or the Twitter account to child pornography.

f. Likewise, the application for the house warrant sought "cocaine, heroin, [and] drug paraphernalia" even though there was no probable cause to believe Daniel was in possession of drugs.

g. The application for the house, phone contents, and Google warrants all failed to admit that at the time of the application, the Twitter account had been suspended for almost a month.

52. After being released from police custody, Mr. Daniel believed he would be charged and prosecuted for a crime for which he could serve up to a year in prison. His relationships with his roommates were strained because of the search of the premises and the seizure of his roommates' property. He worried police officers would view highly personal digital photographs, written electronic documents, and texts, as well as drafts of material he intended to publish, including videos and songs, on his laptop, computer, and telephone.

53. Mr. Daniel was forced to not visit with his children on April 18 and 19 because he feared his children would witness his arrest. He believed he might have to leave Peoria because Defendants had shown they would take illegal actions against him and he feared they would continue to do so in retaliation for the Twitter account.

54. Mr. Daniel learned he would not be charged with a crime when it was reported in the Peoria Journal Star on April 23, 2014. The Peoria Journal Star article stated that the State's Attorney of Peoria County decided not to prosecute Mr. Daniel for false personation of a public official. The State's Attorney stated that Mr. Daniel's conduct did not violate the statute because false personation of a public official under 720 ILCS 5/17-2(b)(2) had to be done in person and the statute could not be violated over the internet or through electronic communication.

55. After learning he would not be charged with a crime, Mr. Daniel twice went to the police station to request the return of his property. His requests were denied. On April 24, 2014, Mr. Daniel's counsel made a demand by email to Ardis and Settingsgaard for the immediate

return of Mr. Daniel's property. Mr. Daniel's personal property was returned to him on or around May 2, 2014.

56. Each of the Defendants personally participated in the unlawful conduct described herein which deprived Mr. Daniel of his constitutional rights, acted jointly and in concert with the other Defendants who participated in or acquiesced to the unlawful conduct, failed to intervene or stop other Defendants from engaging in the unlawful conduct though possessing the power to do so, or knew of and condoned or approved of the unlawful conduct.

57. Each Defendant acted knowingly and intentionally, willfully and wantonly, or with reckless or callous disregard for, or with deliberate indifference, or with bad faith, or with malice to Mr. Daniel's rights.

58. Defendants' unlawful conduct described herein directly and proximately caused Mr. Daniel's mental and emotional distress, loss of appetite, insomnia, anxiety, discomfort, damage to reputation, and deprivation of his constitutional rights.

59. Defendants' unlawful conduct described herein directly and proximately caused Mr. Daniel the loss of opportunity to engage in expression during the period when his cell phone and other electronic devices were confiscated.

60. Because Defendants Ardis, Urich, and Settingsgaard continue to maintain publicly that the actions taken against Mr. Daniel were lawful and proper, Mr. Daniel remains in danger of being punished for exercising his right to free expression if he engages in the future in speech that is derogatory towards the mayor.

61. Mr. Daniel has no adequate remedy at law and is irreparably harmed in that he wishes to be able to parody, satirize, and otherwise engage in humorous expression about the mayor and the City of Peoria in the future—including through the use of risqué language—but is

chilled from doing so because he reasonably fears retaliation from Defendants if he engages in such protected expression.

V. CLAIMS FOR RELIEF

COUNT ONE: First Amendment

62. The allegations of paragraphs 1 through 61 are realleged and incorporated by reference as if fully set forth herein.

63. The actions of the Defendants described herein violate the rights of Mr. Daniel to freedom of expression as guaranteed by the First Amendment of the United States Constitution.

COUNT TWO: Fourth Amendment

64. The allegations of paragraphs 1 through 63 are realleged and incorporated by reference as if fully set forth herein.

65. The actions of the Defendants described herein violate the rights of Mr. Daniel to be free from unreasonable searches, seizures, and invasions of privacy guaranteed by the Fourth Amendment of the United States Constitution.

COUNT THREE: Article I, Section 4 of the Illinois Constitution

66. The allegations of paragraphs 1 through 65 are realleged and incorporated by reference as if fully set forth herein.

67. The actions of the Defendants described herein violate the rights of Mr. Daniel to speak, write, and publish freely as guaranteed by Article I, Section 4 of the Illinois Constitution.

COUNT FOUR: Article I, Section 6 of the Illinois Constitution

68. The allegations of paragraphs 1 through 67 are realleged and incorporated by reference as if fully set forth herein.

69. The actions of the Defendants described herein violate the rights of Mr. Daniel to be free from unreasonable searches, seizures, and invasions of privacy as guaranteed by Article I, Section 6 of the Illinois Constitution.

COUNT FIVE: Conspiracy to violate the First and Fourth Amendments

70. The allegations of paragraphs 1 through 69 are realleged and incorporated by reference as if fully set forth herein.

71. The actions of the Defendants described herein constitute a conspiracy that caused the violation of Mr. Daniel's right to freedom of expression and freedom from unreasonable searches, seizures, and invasions of privacy as guaranteed by the First and Fourth Amendments of the United States Constitution.

COUNT SIX: Privacy Protection Act

72. The allegations of paragraphs 1 through 71 are realleged and incorporated by reference as if fully set forth herein.

73. At all times relevant to this complaint, Mr. Daniel was and is involved in editing, publishing, and disseminating information and views to the public. Mr. Daniel did so in part through his Twitter account and making its contents available in interstate commerce through the World Wide Web.

74. All Defendants knew that the search of Mr. Daniel's home would require searching for materials possessed by a person involved in public expressive and communicative activities.

75. Defendant Hughes wrote the application for the warrant to search Mr. Daniel's home and submitted it to the court. In connection with the investigation of a purported criminal offense, Defendant Hughes conducted an unlawful search for and unlawful confiscation of work

product materials and documentary materials that are expressly protected by the Privacy Protection Act of 1980, 42 U.S.C. § 2000aa(a) and (b).

76. Upon information and belief, Defendant Hughes applied for the warrant and conducted the search with the knowledge, approval, and encouragement of the other Defendants.

77. All Defendants were aware that at no time did any Defendant attempt to subpoena any materials from Mr. Daniel or any other persons they believed were associated with the Twitter account. Instead, Defendants relied upon search and seizure as a first resort.

78. None of the exceptions to the Privacy Protection Act of 1980 applies to the search and seizure of the work product materials and documentary materials in this case. Reasonable law enforcement officers and other City officials would have known that the search and seizure of work product materials and documentary materials violated clearly established law.

79. Each Defendant is liable for violations of the Privacy Protection Act of 1980, 42 U.S.C. § 2000aa-6(a)(2).

COUNT SEVEN: State Tort of Abuse of Process

80. The allegations of paragraphs 1 through 79 are realleged and incorporated by reference as if fully set forth herein.

81. Defendants caused the institution of judicial search warrant proceedings and successfully obtained several warrants against Mr. Daniel.

82. Defendants abused the judicial warrant process for the ulterior and malicious motive or purpose of retaliating against Plaintiff for engaging in First Amendment parody speech and for the ulterior and malicious motive or purpose of stopping Mr. Daniel from speaking and chilling future speech that Defendant Ardis might find personally hurtful.

83. On information and belief, as described more fully above, Defendants, without probable cause or other lawful basis, used the judicial search warrant process to obtain a series of search warrants under a statute Defendants knew was inapplicable to Mr. Daniel. Defendants intentionally withheld material information and made material misrepresentations to obtain the warrants.

84. Defendants' use of the judicial search warrant process was undertaken intending to accomplish a result—retaliating against Mr. Daniel and chilling his speech—that is not properly a part of search warrant proceedings. They also used the process to provide legal cover for Defendants' malicious and retaliatory actions.

85. Defendants undertook the conduct described in this Count with malice, willfulness, and reckless indifference to Mr. Daniel's rights.

86. Defendants are liable for the Illinois common law tort of abuse of process.

87. The misconduct described in this Count was undertaken by the Defendants within the scope of their employment such that their employer, City of Peoria, is liable for their actions.

COUNT EIGHT: State Tort of False Imprisonment

88. The allegations of paragraphs 1 through 87 are realleged and incorporated by reference as if fully set forth herein.

89. In the manner described more fully above, the Defendants caused Mr. Daniel to be unlawfully and unreasonably imprisoned without justification when Defendants arrested and detained Mr. Daniel against his will.

90. Defendants unlawfully restrained Plaintiff's freedom of movement by detaining him. In this manner, Plaintiff's freedom of movement was unduly and unlawfully restricted.

91. Mr. Daniel was arrested and detained despite the Defendants' knowledge that there was no warrant, probable cause, or other lawful justification for doing so.

92. The Defendants' actions were undertaken intentionally, with malice and reckless indifference to Plaintiff's rights, and for the malicious purpose of retaliating against Mr. Daniel.

93. Based upon the foregoing, Defendants are liable for the Illinois common law tort of false imprisonment.

94. This misconduct was undertaken by the Defendants within the scope of their employment such that their employer, City of Peoria, is liable for their actions.

COUNT NINE: State Tort of Intrusion on Seclusion

95. The allegations of paragraphs 1 through 94 are realleged and incorporated by reference as if fully set forth herein.

96. As described more fully in the above paragraphs, Defendants intentionally intruded upon Mr. Daniel's solitude or seclusion when they entered and searched his private residence without permission or any probable cause or other lawful basis.

97. Upon information and belief, as described more fully in the above paragraphs, Defendants also intentionally intruded upon Mr. Daniel's solitude or seclusion when they seized and searched the private contents of Mr. Daniel's cellular phone, computer, and other electronic devices, without permission or any probable cause or other lawful basis.

98. Defendants' actions in invading and searching Mr. Daniel's home and searching his personal electronic devices would be highly offensive to any reasonable person.

99. The Defendants' actions were undertaken intentionally, with malice and reckless indifference to Plaintiff's rights, and for the malicious purpose of retaliating against Mr. Daniel.

100. As a result of these many intrusions, Mr. Daniel has suffered mental anguish.

101. Based upon the foregoing, Defendants are liable for the Illinois common law tort of intrusion upon seclusion.

102. This misconduct was undertaken by the Defendants within the scope of their employment such that their employer, City of Peoria, is liable for their actions.

COUNT TEN: Indemnification

103. The allegations of paragraphs 1 through 102 are realleged and incorporated by reference as if fully set forth herein.

104. Defendant City of Peoria was the employer of Defendants Ardis, Urich, Setti, Rivera, Settingsgaard, Feehan, and Hughes at all times relevant to this complaint.

105. Defendants Ardis, Urich, Setti, Rivera, Settingsgaard, Feehan, and Hughes committed the acts alleged herein in the scope of their employment as employees of Defendant City of Peoria.

106. Defendant City of Peoria is liable to Mr. Daniel for any amount awarded to him against the individual Defendants as damages, attorneys' fees, costs and interest, and/or for any settlement entered into between the Plaintiffs and the individual Defendants pursuant to 745 ILCS 10/9-102.

COUNT ELEVEN: Respondeat Superior

107. The allegations of paragraphs 1 through 106 are realleged and incorporated by reference as if fully set forth herein.

108. Defendant City of Peoria was the employer of Defendants Ardis, Urich, Setti, Rivera, Settingsgaard, Feehan, and Hughes at all times relevant to this complaint.

109. Defendants Ardis, Ulrich, Setti, Rivera, Settingsgaard, Feehan, and Hughes committed the acts alleged herein in the scope of their employment as employees of Defendant City of Peoria.

110. Defendant City of Peoria is liable as principal for all state torts committed by its agents and is therefore liable to Mr. Daniel for any amount awarded to him against the individual Defendants as damages, attorneys' fees, costs and interest, and/or for any settlement entered into between the Plaintiff and the individual Defendants.

VII. PRAYER FOR RELIEF

WHEREFORE, Mr. Daniel respectfully requests the following relief:

A. A declaratory judgment that Defendants conspired to and violated Mr. Daniel's right to freedom of expression and his right to be free from unreasonable searches, seizures, and invasions of privacy guaranteed by the First and Fourth Amendments of the United States Constitution and Article I, Sections 4 and 6 of the Illinois Constitution.

B. A declaratory judgment that Defendant City of Peoria is liable to Mr. Daniel for any amount awarded to him against the individual Defendants as damages, attorneys' fees, costs and interest, and/or for any settlement entered into between the Plaintiff and the individual Defendants pursuant to 745 ILCS 10/9-102.

C. Permanent injunctive relief prohibiting the City of Peoria from engaging in future efforts to suppress constitutionally protected speech that is derogatory towards the mayor.

D. Compensatory damages, in an amount to be ascertained at trial, for the unlawful suppression of Mr. Daniel's freedom of expression and the unlawful detention, arrest, searches and seizures complained of herein.

E. Punitive damages from individual Defendants, in an amount to be ascertained at trial, for Defendants' reckless and callous disregard of Mr. Daniel's constitutional rights.

F. Actual damages, or the statutory minimum liquidated damages of \$1,000 pursuant to 42 U.S.C. § 2000aa-6(f) and an award of reasonable attorneys' fees and costs pursuant to 42 U.S.C. § 2000aa-6(f).

G. Attorneys' fees, costs, and expenses, pursuant to 42 U.S.C. § 1988 and the Illinois Civil Rights Act of 2003, 740 ILCS 23/1 et seq.

H. Such other and further relief as this Court may deem just and proper.

DATED: October 9, 2014

Respectfully submitted:

/s/ Harvey Grossman
Lead counsel for Plaintiff

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CERTIFICATE OF SERVICE

The undersigned, an attorney, hereby certifies that on October 9, 2014, he caused the foregoing AMENDED COMPLAINT AND DEMAND FOR JURY TRIAL to be filed electronically using the CM/ECF system, which will send notification of such filing to the following:

James G. Sotos
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Dated: October 9, 2014

/s/ Harvey Grossman