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TONY R. MOORE, CLERK
WESTERN DISTRICT OF LOUISIANA
SHREVEPORT, LOUISIANA
BY BW

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF LOUISIANA
LAFAYETTE DIVISION

(Rev. 12/8/2020)

O'NEIL J DARDEN JR

CASE NO. 6:22-CV-00404 SEC P

VERSUS

JUDGE ROBERT R. SUMMERHAYS

ROBERT C VINES ET AL

MAGISTRATE JUDGE PATRICK J.
HANNA

COMPLAINT
PRISONER CIVIL RIGHTS UNDER 42 U.S.C. § 1983

I. Previous Lawsuits

- a. Have you begun any other lawsuit while incarcerated or detained in any facility?

Yes ☐ No ☒

- b. If your answer to the preceding question is "Yes," provide the following information.

1. State the court(s) where each lawsuit was filed (if federal, identify the District, if state court, identify the county of parish):

N/A - Plaintiff was never incarcerated

or filed any lawsuit prior to this one.

2. Name the parties to the previous lawsuit(s):

Plaintiffs: _____

Defendants: _____

3. Docket number(s): _____

4. Date(s) on which each lawsuit was filed: _____

5. Disposition and date thereof [For example, was the case dismissed and when? Was it appealed and by whom (plaintiff or defendant)? Is the case still pending?]:

- c. Have you filed any lawsuit or appeal in any federal district court or appeals court which has been dismissed?

Yes ☐ No ☒

(Rev. 12/8/2020)

If your answer to the preceding question is "Yes," state the court(s) which dismissed the case, the civil action number(s), and the reason for dismissal (e.g., frivolity, malice, failure to state a claim, defendants immune from relief sought, etc.).

II. a. Name of institution and address of current place of confinement:

N/A

b. Is there a prison grievance procedure in this institution?

Yes ☐ No ☐

1. Did you file an administrative grievance based upon the same facts which form the basis of this lawsuit? Yes ☐ No ☐

If "Yes," what is the Administrative Remedy Procedure number?

2. If you did not file an administrative grievance, explain why you have not done so.

3. If you filed an administrative grievance, answer the following question. What specific steps of the prison procedure did you take and what was the result? (For example, for state prisoners in the custody of the Department of Public Safety and Corrections: did you appeal any adverse decision through to Step 3 of the administrative grievance procedure by appealing to the Secretary of the Louisiana Department of Public Safety and Corrections? For federal prisoners: did you appeal any adverse decision from the warden to the Regional Director for the Federal Bureau of Prisons, or did you make a claim under the Federal Tort Claims Act?

Attach a copy of each prison response and/or decision rendered in the administrative proceeding.

III. Parties to Current Lawsuit:

- a. Name of Plaintiff: O'Neil J. Darden, Jr.

(Rev. 12/8/2020)

Address: 141 Cherokee St., Jeanerette, LA 70544

b. Defendant, Robert C. Vines _____, is employed as
Tribal Prosecutor and _____ Chitimacha Tribe of La.
Asst. District Attorney at 16th Judicial District.

Defendant, April Wyatt _____, is employed as
Vice-Chairman at Chitimacha Tribe of La.

Defendant, Melissa Darden _____, is employed as
Chairman at Chitimacha Tribe of La.

Additional defendants: John Paul Darden, Jacob Darden,

Toby Darden, M. Bofill Duhe in his individual and
and official capacity as DA for 16th Judicial Dist.

IV. Statement of Claim

State the **FACTS** of your case. Specifically describe the involvement and actions of each named defendant. Include the names of all persons involved in the incident(s) or condition(s) giving rise to the lawsuit, and the dates upon which and the places where the incident(s) and/or condition(s) occurred. **YOU ARE REQUIRED TO SET FORTH ONLY FACTUAL ALLEGATIONS. YOU ARE NOT REQUIRED TO SET FORTH LEGAL THEORIES OR ARGUMENTS.**

This is a claim for false arrest, malicious prosecution
abuse of process, negligent investigation, deprivation
of constitutional rights, general negligence or willful
and wanton conduct. The gist is defendants fabricated
a factual scenario to cause an investigation for
allegedly taking a bonus payment that substantial
evidence proved known and identifiable, and which was
without any criminal intent, in an effort to "oust" me
as Chairman of the Chitimacha Tribe of La. To do so,
defendants fabricated evidence, failed to disclose
Brady-type evidence and had the alleged victim's
private employee, Robert Vines, act in his capacity as
asst. da to pursue a baseless investigation and charges
for their personal and financial gain and motivations.

(Rev. 12/8/2020)

V. Relief

State exactly what you want the court to provide to you or do for you. Make no legal arguments. Cite no cases or statutes.

This is a claim for money damages including but not
limited to general damages for emotional distress,
mental anguish, public humiliation and embarrassment,
loss of enjoyment of life, loss of earnings, punitive
and exemplary damages for the actions of defendants.

VI. Plaintiff's Declaration

- a. I understand that if I am transferred or released, I must apprise the Court of my address, and my failure to do so may result in this complaint being dismissed.
- b. I understand that I may not proceed without prepayment of costs if I have filed three lawsuits and/or appeals that were dismissed on grounds that the action and/or appeal was frivolous or malicious, or failed to state a claim upon which relief may be granted, unless I am in imminent danger of serious physical injury.
- c. If I am located in a prison participating in the Electronic Filing Pilot Program, I consent to receive orders, notices and judgments by Notice of Electronic Filing.

Signed this 14 day of February, 2022.

Prisoner no. (Louisiana Department of
Corrections or Federal Bureau of
Prisons)


Signature of Plaintiff

ADDENDUM

The Memorandum Order of February 10, 2022 (Doc. 3) suggests this Complaint filed on February 4, 2022 (Doc. 1) is a "Complaint Prisoner Civil Rights Under 42 U.S.C. §1983." However, plaintiff is not a prisoner nor was ever a prisoner or incarcerated. An original Complaint was filed in person at the Western District of Louisiana, Lafayette Division and was signed in black ink. Out of an abundance of caution, a duplicate original signed in blue ink is being provided with the completed and signed form provided (Doc. 3-1).

This complaint was filed *pro se* for prescription purposes, and plaintiff has engaged counsel who intends to enroll. At this time, no service is being requested. Pursuant to Federal Rules of Civil Procedure, plaintiff intends to effectuate service pursuant to FRCP 4(d). The defendants and/or their attorneys are aware of this Complaint. Robert C. Vines and M. Bofill Duhe are represented by Ralph R. Alexis, III. Upon information and belief, the other individually named defendants are represented by Michael L. Murphy and/or George D. Ernest, III and David A. Hulbert. All counsel will be contacted for service purposes in accordance with FRCP.

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UNITED STATES DISTRICT COURT

WESTERN DISTRICT OF LOUISIANA

O'NEIL J. DARDEN, JR.

VERSUS

ROBERT C. VINES,
INDIVIDUALLY AND IN HIS
OFFICIAL CAPACITY AS
ASSISTANT DISTRICT
ATTORNEY FOR THE 16TH
JUDICIAL DISTRICT, APRIL
WYATT, MELISSA DARDEN,
JOHN PAUL DARDEN, JACOB
DARDEN, TOBY DARDEN,
JACQUELINE JUNCA, AND
M. BOFILL DUHE,
INDIVIDUALLY AND HIS
OFFICIAL CAPACITY AS
DISTRICT ATTORNEY OF THE
16TH JUDICIAL DISTRICT

CASE NO. _____

JUDGE: _____

MAGISTRATE JUDGE: _____

COMPLAINT

1. This is an action for money damages brought pursuant to 42 U.S.C. §§ 1983 and 1985, and/or § 1988, and/or under the laws of the State of Louisiana.

2. This action arises for false arrest, malicious prosecution, abuse of process, negligent investigation, deprivation of constitutional rights, general negligence or willful and wanton conduct, against Robert C. Vines, individually and in his capacity assistant district attorney for the 16th Judicial District of Louisiana, and April Wyatt, Melissa Darden, John Paul Darden, Jacob Darden, Toby Darden and

Jacqueline Junca in their individual capacities, and M. Bofill Duhe, individually and in his capacity as district attorney for the 16th Judicial District of Louisiana.

3. Plaintiff, O'Neil J. Darden, Jr., is a competent adult of the full age of majority and consent, domiciled, living and residing in the State of Louisiana.

JURISDICTION

4. The Plaintiff adopts and restates those allegations contained in Paragraph One (1) through Three (3), in their entirety, as if fully copied *in extenso* herein.

5. Jurisdiction is based upon 28 U.S.C. §§ 1331, 1343 and/or 1367, upon the pendent jurisdiction of this Court to entertain claims arising under state law, as well as Rules 18 and 20 of the Federal Rules of Civil Procedure to protect and remedy the deprivation of rights secured by: (a) The Fourth Amendment to the United States Constitution providing for the rights of all persons within the jurisdiction of the United States to be free from unreasonable searches and seizures; (b) The Fifth Amendment not to be deprived of liberty without due process of law; (c) The Sixth Amendment right to a fair trial; (d) The Fourteenth Amendment right to due process of law, both procedural and substantive, and (e) The Civil Rights Act of 1871, 42 U.S.C. § 1983 and § 1988 providing for the protection of all persons in their civil rights as well as compensatory damages, punitive damages, and other relief to redress the deprivation of protected federal constitutional and statutory rights under color of state law.

VENUE

6. Venue is proper pursuant to 28 U.S.C. § 1391. The unlawful violations of plaintiff's federal constitutional and statutory rights complained of herein were committed within the Western District and State of Louisiana, thus venue is appropriate in this district because the alleged acts of Defendants occurred therein.

PARTIES

7. The Plaintiff adopts and restates those allegations contained in Paragraph One (1) through Six (6), in their entirety, as if fully copied *in extenso* herein.

8. Plaintiff, O'Neil J. Darden, Jr., was, at all times relevant to this Complaint, a legal citizen of the United States of America and a competent adult of the full age of majority and consent, domiciled, living, and residing in the Parish of St. Mary, State of Louisiana.

9. Defendant, **Robert C. Vines** (named in his individual and official capacity) is an assistant district attorney for the 16th Judicial District of Louisiana and an employee of the Chitimacha Tribe of Louisiana as Tribal Prosecutor, and he is a person of the full age of majority and resident of Iberia Parish, Louisiana, who, among other things, acted to wrongfully investigate then prosecute and attempt to convict Plaintiff thereby causing him to incur defense attorney fees and lose his position and employment for allegedly accepting a bonus payment. At all times relevant, Robert C. Vines was acting in concert and agreement with the named Defendants, who were acting outside the scope of Tribal Council authority, and/or in his purported capacity as an assistant district attorney in and for the 16th Judicial District of Louisiana and/or Tribal Prosecutor pursuant to an *ultra vires* resolution by the named Defendants, and/or he was acting outside the scope and

authority of the Office of District Attorney for 16th Judicial District of Louisiana and/or as Tribal Prosecutor.

10. Defendant, **April Wyatt** (named in her individual capacity) is a person of the full age of majority and resident of St. Mary Parish, Louisiana. At all times relevant, April Wyatt was acting in concert and agreement with the named Defendants, who were acting outside the scope of Tribal Council authority.¹

11. Defendant, **Melissa Darden** (named in her individual capacity) is a person of the full age of majority and resident of St. Mary Parish, Louisiana, who, upon information and belief, exercised whole or partial discretion and supervision of Robert C. Vines, and she has not been (expressly, implicitly, or otherwise) assigned, ascribed, delegated, and/or otherwise conferred such discretion. At all times relevant, Melissa Darden was acting in concert and agreement with the named Defendants, who were acting outside the scope of Tribal Council authority.

12. Defendant, **John Paul Darden** (named in his individual capacity) is a person of the full age of majority and resident of St. Mary Parish, Louisiana. At all times relevant, John Paul Darden was acting in concert and agreement with the named Defendants, who were acting outside the scope of Tribal Council authority.

¹ An Indian tribe's "sovereign immunity does not extend to an official when the official is acting as an individual or outside the scope of those powers that have been delegated to him." *Tenneco Oil Co. v. Sac & Fox Tribe of Indians*, 725 F.2d 572 (10th Cir. 1984).

13. Defendant, **Jacob Darden** (named in his individual) is a person of the full age of majority and resident of St. Mary Parish, Louisiana. At all times relevant, Jacob Darden was acting in concert and agreement with the named Defendants, who were acting outside the scope of Tribal Council authority.

14. Defendant, **Toby Darden** (named in his individual capacity) is a person of the full age of majority and resident of St. Mary Parish, Louisiana. At all times relevant, Toby Darden was acting in concert and agreement with the named Defendants, who were acting outside the scope of Tribal Council authority.

15. Defendant, **Jacqueline Junca** (named in her individual capacity) is a person of the full age of majority and resident of St. Mary Parish, Louisiana. At all times relevant, Jacqueline Junca was acting in concert and agreement with the named Defendants, who were acting outside the scope of Tribal Council authority.

16. Defendant, **M. Bofill Duhe**² (named in his individual and official capacity) is the district attorney for the 16th Judicial District of Louisiana, and he is a person of the full age of majority and resident of Iberia Parish, Louisiana, who, among other things, acted to wrongfully investigate then prosecute and attempt to convict Plaintiff thereby causing him to incur defense attorney fees and lose his elected position and employment for allegedly accepting a bonus payment. At all times relevant, M. Bofill Duhe was acting in concert and agreement with the named Defendants, who were acting outside the scope of Tribal Council authority, and/or in his purported capacity as district attorney in and for the 16th Judicial

² Plaintiff does not allege implicitly or explicitly, unless discovery reveals otherwise, that M. Bofill Duhe violated or attempted to violate the Louisiana Rules of Professional Conduct.

District of Louisiana pursuant to an *ultra vires* resolution by the named Defendants, and/or he was acting outside the scope and authority of the Office of District Attorney for 16th Judicial District of Louisiana.³

17. Defendants, Robert C. Vines, April Wyatt, Melissa Darden, John Paul Darden, Jacob Darden, Toby Darden, Jacqueline Junca and/or M. Bofill Duhe, prior to and/or during a criminal investigation but prior to criminal proceedings sought to shoehorn a false idea into a factual scenario to initiate the prosecution of Plaintiff for purposes of having him ousted as Chairman of the Tribal Council.⁴

18. In the alternative, and notwithstanding any claim or allegation heretofore made, Defendants, Robert C. Vines, April Wyatt, Melissa Darden, John Paul Darden, Jacob Darden, Toby Darden and/or Jacqueline Junca were acting outside of and/or beyond the scope of their authority for the Chitimacha Tribe of Louisiana, as Tribal Prosecutor and/or assistant district attorney and/or the Tribal Council, and are thus individually liable for tort, delicts, and intentional harm visited upon the Plaintiff.

19. In the alternative, and notwithstanding any claim or allegation heretofore made, Defendant Robert C. Vines and/or M. Bofill Duhe was acting outside of and/or beyond the scope of his/their authority of the Office of District Attorney for the 16th Judicial District of Louisiana and is/are thus individually liable for tort, delicts, and intentional harm visited upon the Plaintiff.

³ A Louisiana district attorney's office is not an arm of the State of Louisiana and is therefore not protected by Eleventh Amendment immunity in § 1983 actions. *See Hudson v. City of New Orleans*, 174 F.3d 677 (5th Cir. 1999), *cert. denied*, 120 S.Ct. 498, 528 U.S. 1004, 145 L.Ed.2d 385.

⁴ *See Monte Spivey v. Chitimacha Tribe of Louisiana, et al*, Case 6:21-cv-02257, USDC, Western District of Louisiana, Complaint (July 30, 2021), Doc. 1 at ¶ 15.

CONDITIONS PRECEDENT

20. All conditions precedent have been performed or have occurred.

FACTS

21. The Plaintiff adopts and restates those allegations contained in Paragraph 1 through 20, in their entirety, as if fully copied *in extenso* herein.

22. The following statement of facts is made upon Plaintiff's own knowledge, information, recollection and belief.

23. The facts contained in the documents, records and testimony related to the private and criminal investigation, and prosecution, of Plaintiff establishes the most plausible reason for Defendants' acts throughout is the malicious prosecution and abuse of process, and its objectives.

24. The only reasonable inference to be drawn from the records facts is malicious prosecution and abuse of process of Plaintiff. In fact, Defendants' conduct is so egregious and otherwise inexplicable that it belies any claim of reasonableness, ignorance or incompetence and makes no sense except when viewed in the context the fabricated intent and its objectives.

25. Defendants fabricated a factual scenario in order to investigate Plaintiff without probable cause for allegedly taking a bonus payment that substantial evidence proved known and identifiable, and which was without any criminal intent.

26. To do so, Robert C. Vines (and/or M. Bofill Duhe), acting in concert and/or at the behest of the other named Defendants, among other things: (a) fabricated evidence they knew was false in the investigation of Plaintiff; (b) intentionally

coerced and intimidated witnesses into fabricating evidence; (c) ignored and buried evidence that would have been sufficient to exonerate Plaintiff; (d) gave immunity and/or dismissed charges against co-defendants, without any legitimate reason, to falsely incriminate Plaintiff to set the stage for prosecution; (e) gave immunity and/or dismissed charges against witnesses, without any legitimate reason, to falsely incriminate Plaintiff to set the stage for prosecution; (f) suborned false testimony and/or presented false evidence at trial; and (g) provided false information to the Chitimacha Tribe of Louisiana about the investigation of Plaintiff.

27. Even after a quasi-judicial body conducted an independent hearing that Plaintiff did not engage in any illegal conduct, the named Defendants continued to act in concert with Robert C. Vines (and/or M. Bofill Duhe), who took action to continue the prosecution by, among other things: (a) failing to disclose *Brady*-materials; and (b) misleading the court with blatant material misrepresentations of fact and law in the frivolous prosecution he/they filed.

28. Most, if not all, of the named Defendants acts are a matter of record fact, including the following salient ones.

29. In June of 2015, Plaintiff was elected as the Tribal Council Chairman of the Chitimacha Tribe of Louisiana having defeated Defendant John Paul Darden. Prior to his election, Plaintiff worked as an employee of the Cypress Bayou Casino as the Event/Catering Director.

30. At the time of the alleged wrongdoing, the Tribal Council for the Chitimacha Tribe of Louisiana consisted of five (5) individuals including: O'Neil Darden (Chairman), April Wyatt (Vice-Chairman), Jacob Darden (Council Member), Jacqueline Junca (Secretary/Treasurer). Melissa Darden was subsequently elected as Chairman of the Chitimacha Tribal Council and John Paul Darden (Melissa Darden's brother and former Chairman) was subsequently elected as a member of the Chitimacha Tribal Council.⁵

31. At the time of the alleged wrongdoing, Robert C. Vines had private employment with the Chitimacha Tribe of Louisiana to be the Tribal Prosecutor. Robert C. Vines was also an assistant district attorney for the Office of District Attorney for the 16th Judicial District of Louisiana. At all times pertinent, Robert C. Vines was an employee of District Attorney M. Bofill Duhe.

32. The Tribal Council is the governing body over all the enterprises of the Chitimacha Tribe of Louisiana, including Cypress Bayou Casino. The directors and officers of Cypress Bayou Casino answer to the Tribal Council.⁶

33. Cypress Bayou Casino has incentive plans in place for its employees that provide for the distribution of bonuses to be paid when the Casino attains a targeted revenue. In 2015, the targeted revenue for the Casino was attained and an incentive/bonus plan was in order for its employees.⁷

⁵ See *Monte Spivey v. Chitimacha Tribe of Louisiana, et al*, Doc. 1 at ¶ 5.

⁶ See *id.*, Doc. 1 at ¶ 6.

⁷ See *id.*, Doc. 1 at ¶ 7.

34. The incentive plan in 2015 consisted of approximately 600 bonus payouts to Cypress Bayou Casino employees. Anthony Patrone, who, at the time, was the Chief Executive Officer of Cypress Bayou Casino and in charge of formulating the incentive plan and determining the payment of bonuses. The amounts of the bonuses were determined by the position held by the employee. Employees other than directors and managers were allocated a fixed amount based upon their position. The directors and managers would receive a percentage based upon their annual salary.⁸

35. The allocation and amounts of the bonuses had to be approved by the Tribal Council before distribution.⁹

36. The laws of the Chitimacha Tribe of Louisiana prohibit council members from working in the Casino or receiving any funds in the form of payments from the Casino.¹⁰

37. Prior to his election as Chairman, Plaintiff held a director position with Cypress Bayou Casino. Plaintiff worked for several months in 2015 prior to his election and he earned nine months' worth of salary. His election as Chairman of the Tribal Council was the first time a Cypress Bayou Casino employee had been elected as Chairman.¹¹

38. On or about November 9, 2015, a meeting was held by the Tribal Council. Anthony Patrone attended to discuss the incentive/bonus plan. One of the topics

⁸ See *id.*, Doc. 1 at ¶ 8.

⁹ See *id.*, Doc. 1 at ¶ 9.

¹⁰ See *id.*, Doc. 1 at ¶ 10.

¹¹ See *id.*, Doc. 1 at ¶ 11.

discussed was whether Plaintiff should receive a bonus. The rationale for giving Plaintiff the bonus was based solely upon his employment as a director with Cypress Bayou Casino. It was determined that if Plaintiff received a bonus, it would be prorated based upon the amount of time he worked at the casino prior to his election as Chairman of the Tribal Council. This amount was determined to be \$5,700 gross, or \$3,900 after tax deductions. At the initial meeting, there was no opposition to Plaintiff receiving the bonus.¹²

39. It was further determined that Plaintiff would be paid through the payroll system for the casino, although he had been removed from the payroll system following his election. Anthony Patrone directed Montie Spivey, who was the Chief Financial Officer of Cypress Bayou Casino, to put Plaintiff back into the system for the sole purpose of paying him his prorated bonus. This was the only way to accomplish payment in accordance with Internal Revenue Service guidelines and not subvert payroll taxes.¹³

40. As the Chief Financial Officer of Cypress Bayou Casino, Monte Spivey was responsible for overseeing the processing of bonuses to employees. Plaintiff's bonus was distributed via direct deposit on January 5, 2016.¹⁴

41. Prior to the bonuses being distributed, Monte Spivey engaged in numerous verbal conversations and email exchanges regarding approval of the bonuses. Monte Spivey had specific communications with Patty Perry, the Chief Financial

¹² See *id.*, Doc. 1 at ¶ 12.

¹³ See *id.*, Doc. 1 at ¶ 13.

¹⁴ See *id.*, Doc. 1 at ¶ 14.

Officer for the Tribal Council, regarding the addition of Plaintiff to the bonus list and the amount he would receive. At no time did Monte Spivey receive any indication that a bonus payment to Plaintiff would be improper.¹⁵

42. Out of an abundance of caution, Plaintiff decided that it was not best to receive the bonus given his newly elected position as Chairman of the Tribal Council. On January 7, 2016, Plaintiff contacted Monte Spivey and instructed him to take him off the bonus list and not to deposit the funds in his account. Montie Spivey indicated to Plaintiff that the funds had already been processed. There was no way to stop the deposit from going through. The only way to rectify the situation was for Plaintiff to reissue a check back to the casino. This is evidenced by an email exchange between Monte Spivey and Plaintiff.¹⁶

43. At some point between January 7, 2016 and January 13, 2016, a complaint was made to the tribal gaming commission of an alleged “misappropriation of bonus monies” that occurred. The Louisiana State Police was called to investigate. After investigating and interviewing several individuals, Plaintiff, Montie Spivey and Anthony Patrone were criminally charged with felony theft, computer fraud and obstruction of justice.¹⁷

44. Subsequently, the alleged charges against Plaintiff were presented to the United States Attorney for the Western District of Louisiana. After review of the matter the United States Attorney declined to prosecute and the matter was sent

¹⁵ See *id.*, Doc. 1 at ¶ 15.

¹⁶ See *id.*, Doc. 1 at ¶ 16.

¹⁷ See *id.*, Doc. 1 at ¶ 17.

back to the Tribal Council. At that point, pursuant to a Tribal-State Compact between the Chitimacha Tribe of Louisiana and the State of Louisiana, the named Defendants could refer the matter to the Robert C. Vines as Tribal Prosecutor, to the local state district attorney, or “do whatever is in the best interest of justice.” Despite having full knowledge of the circumstances surrounding the issuance of the bonus to Plaintiff, and ratifying the decision to issue him a bonus, the named Defendants decided to pursue baseless charges with the Office of District Attorney for the 16th Judicial District of Louisiana in St. Mary Parish, Louisiana and have the alleged victim’s (Chitimacha Tribe of Louisiana) employee, Robert C. Vines, investigate then prosecute the matter in his capacity as assistant district attorney.¹⁸

45. The Tribal Prosecutor, Robert C. Vines, in his capacity as assistant district attorney Office of District Attorney for the 16th Judicial District of Louisiana, agreed to investigate Plaintiff. The usual and customary office assignment for Robert C. Vines within the district attorney’s office is Iberia Parish. At all relevant times, the Chitimacha Tribe of Louisiana paid \$45,000, annually, to Robert C. Vines to be the Tribal Prosecutor.¹⁹

46. Robert C. Vines is a full-time employee of the Office of District Attorney for the 16th Judicial District of Louisiana. Upon information and belief, Robert C. Vines was performing the duties of his private employment with the Chitimacha

¹⁸ See *id.*, Doc. 1 at ¶ 18.

¹⁹ See *id.*, Doc. 1 at ¶ 19.

Tribe of Louisiana as Tribal Prosecutor during the regular business hours of his taxpayer funded, six-figure salary, full-time position as assistant district attorney.

47. Upon information and belief, the \$45,000 annual amount paid to Robert C. Vines by the Chitimacha Tribe of Louisiana increased during his investigation and/or prosecution of Plaintiff.

49. Upon information and belief, the decision on the part of Robert C. Vines (and/or M. Bofill Duhe) and/or the named Defendants to investigate and prosecute Plaintiff was nothing more than attempt to oust and remove Plaintiff as Chairman of the Tribal Council.²⁰

50. The named Defendants violated Plaintiff's civil rights by mobilizing state law enforcement, as well as its private employee, Robert C. Vines, as Tribal Prosecutor and/or as an assistant district attorney, to investigate or pursue baseless criminal charges for their own personal gain and motivations. Robert C. Vines, acting upon orders from said named Defendants, and in concert with said named Defendants, also investigated and prosecuted the matter for his own personal and financial gain or motivations, including without limitation to maintain his \$45,000 annual salary with the Chitimacha Tribe of Louisiana.

²⁰ See *id.* Doc. 1 at ¶ 22 (“...the decision on the part of the Chitimacha Tribal Council was nothing more than an attempt to oust O’Neil Darden as Chairman.”); see also *id.* Plaintiff’s Memorandum in Opposition to Defendants’ Motion to Dismiss, (Oct. 22, 2021), Doc. 20 at 4 (“...in a bid to remove O’Neil Darden from the Tribal Council ..., the individual defendant Tribal Council members knowingly brought baseless allegations to state and local law enforcement officials...(and) an assistant district attorney in St. Mary Parish, who was also a tribal prosecutor, agreed to prosecute the case. This was a conspiracy to oust Mr. Darden ... from tribal leadership, a conspiracy between the individual defendants and state actors...”).

51. At all times relevant, Robert C. Vines (and/or M. Bofill Duhe) and/or the named Defendants acted to deprive Plaintiff of his federal constitutional and statutory rights to due process, a fair trial, present a defense and equal protection.

52. At all times relevant, Robert C. Vines (and/or M. Bofill Duhe) and/or the named Defendants initiated and continued the wrongful investigation (and then prosecution) of Plaintiff for acts that he did not commit that do not constitute the crimes charged as a matter of law without probable caused based on a solely fabricated factual scenario, with malice and intent to deprive him of his federal constitutional and statutory rights to due process, a fair trial, present a defense and equal protection.

53. At all times relevant, Robert C. Vines (and/or M. Bofill Duhe) and/or the named Defendants initiated and continued the wrongful investigation (and then prosecution) against Plaintiff without probable cause based solely on a fabricated factual scenario in order to coerce him into resigning his position or pleading guilty to the alleged crimes charged or convict him and thereby deprive him of his federal constitutional and statutory rights to due process, a fair trial, present a defense, equal protection and public employment without excuse or justification.

55. Robert C. Vines (and/or M. Bofill Duhe) and/or the named Defendants' acts also include the violation of state judiciary and penal law, federal civil rights law and/or other statutes.

54. Upon information and belief, at all times relevant, Robert C. Vines and/or the named Defendants (and/or M. Bofill Duhe) acted under the color of state law, to wit:

under the color and pretense of the statutes, ordinances, regulations, policies, customs, practice and/or usages of the State of Louisiana.

55. The insidious mixed-motivated investigation and prosecution ended in Plaintiff's favor on February 9, 2021, when his wrongful prosecution ended in an acquittal of NOT GUILTY and dismissal of all charges after a two-day trial.

56. Nonetheless, there is little doubt that Plaintiff would have been wrongfully convicted but for the extraordinary acts he took in defending his innocence.

57. Plaintiff seeks to recover compensatory and punitive damages, reasonable attorney fees and costs against Robert C. Vines and/or the named Defendants (and/or M. Bofill Duhe) for their actions to deprive him of his fundamental rights to due process, a fair trial, present a defense and equal protection as secured to him by the Fourth, Fifth, Sixth and/or Fourteenth Amendments of the Constitution of the United States and the laws of the United States and Louisiana, all through efforts to wrongfully investigate, charge and maliciously prosecute and convict him for the alleged acts he did not commit that do not constitute the crimes charged as a matter of law; and/or other arbitrary and capricious reasons.

58. Plaintiff seeks compensatory damages for the personal injuries, including emotional distress, mental anguish, substantial attorney fees and costs he suffered as a direct, foreseeable and natural consequence of Robert C. Vines and/or the named Defendants' (and/or M. Bofill Duhe) acts to impede, frustrate and hinder the due course of justice with intent to deprive him of those rights, and their neglect or refusal to prevent said deprivations. He also seeks punitive damages against the

individual defendants for their intentional, malicious and unconscionable actions with the intention to deprive him of his property, money, due process liberty interest, right to a fair trial and right to present a defense through a wrongful bill of information, prosecution, conviction and punishment and the payment of reasonable attorney fees he incurs in pursuing this action.

**RECORD OF FACTS COMMON TO
MALICIOUS PROSECUTION AND ABUSE OF PROCESS**

59. The following record facts were or should have been known to Robert C. Vines and/or the named Defendants (and/or M. Bofill Duhe), at all times relevant, before and/or during the investigation and prosecution of Plaintiff.

60. An investigation by the Louisiana State Police was initiated by way of a complaint from the Chitimacha Gaming Commission on or about January 13, 2016. Upon information and belief, Robert C. Vines and/or the named Defendants (and/or M. Bofill Duhe) knew or should have known there did not exist a factual basis for wrongdoing and that the complaint against Plaintiff was without merit.

61. At the conclusion of the Louisiana State Police investigation, and on February 17, 2016, Anthony Patrone, Cypress Bayou Casino and Hotel General Manager, and Montie Spivey, Cypress Bayou Casino and Hotel Chief Financial Officer, were both arrested by the Louisiana State Police on the charges of Theft (La. R.S. 14:67), Computer Fraud (La. R.S. 14:73.5) and Obstruction of Justice (La. R.S. 14:130.1).

62. The Louisiana State Police could not effectuate a warrant for Plaintiff's arrest because, as member of the Chitimacha Tribe of Louisiana, the Tribal-State

Compact requires a case against a tribal member be sent to the United States Attorney's Office for review.

63. In the intermediate time, Robert C. Vines solicited an opinion regarding his participation in this matter, including his investigation of Plaintiff. Robert C. Vines did so before knowing whether the United States Attorney's Office would accept the case.

64. Following a four-month review of the case, the United States Attorney's Office declined to prosecute the case against Plaintiff.

65. The named Defendants then had the authority to implement one of three options: (1) refer the case to Tribal Court, (2) refer it to the State of Louisiana (16th Judicial District Attorney or Louisiana Attorney General), or (3) to do what was it considered the best interest of justice.

66. By *ultra vires* resolution, the named Defendants decided to refer the case to the Office of District Attorney for the 16th Judicial District of Louisiana and specifically their employee, Robert C. Vines. The acts of the named Defendants were malicious, intentional, willful, outrageous, reckless and/or flagrant.

67. Although Robert C. Vines was the Tribal Prosecutor and maintained employment that was overseen by the named Defendants and/or purported victim (Chitimacha Tribe of Louisiana), he took on the case in St. Mary Parish in his capacity as assistant district attorney of the Office of District Attorney for the 16th Judicial District of Louisiana.

68. Robert C. Vines has ordinarily and customarily maintained his assistant district attorney employment in Iberia parish. His physical office is in Iberia parish and his normal daily assignments are in Iberia parish, not St. Mary parish where the case was investigated and prosecuted by him.

69. The Louisiana State Bar Association membership directory lists the primary address of Robert C. Vines as “300 Iberia Street, Suite 200, New Iberia, Louisiana 70560-4543,” and further lists his firm as “16th JDC – Iberia Parish.”

70. Upon information and belief, the undertaking of the case, investigative and prosecution, by Robert C. Vines was a conflict of interest under the Louisiana Rules of Professional Conduct governing lawyers including without limitation Rules 1.7 and 1.11. To that end, Robert C. Vines was consistently engaged in private employment with the alleged victim – the Chitimacha Tribe of Louisiana – prior to, during and after the investigation and prosecution of the matter.

71. Robert C. Vines conducted his own investigation of the case by re-interviewing most of the witnesses. He took notes of the interviews that he conducted, without anyone else being present.

72. Robert C. Vines re-interviewed Anthony Patrone, Montie Spivey, members of the Tribal Council, as well as casino and other Chitimacha Tribe of Louisiana employees.

73. Upon information and belief, Robert C. Vines consulted with, discussed and gave advice to and/or received advice from the named Defendants regarding his investigation of Plaintiff.

74. On September 21, 2016, criminal defense counsel for Plaintiff was given notice by Robert C. Vines that Plaintiff was the “target” of a Grand Jury hearing scheduled for October 5th and 6th.

75. Contemporaneous therewith and/or prior thereto, Robert C. Vines presented Plaintiff an offer to resolve all alleged criminal issues.

76. The offer by Robert C. Vines was for Plaintiff to resign his position as Chairman of the Tribal Council and, in exchange, he would dismiss all charges.²¹ Plaintiff declined the offer.

77. Thereafter, Robert C. Vines made the decision to formally charge Plaintiff by filing a bill of information on October 7, 2016, and not follow through with the Grand Jury proceedings he threatened.

78. On August 15, 2016, during the investigative stage, Robert C. Vines solicited statements and affidavits from industry experts/veterans *via* Anthony Patrone. Robert C. Vines received written statements from said industry experts/veterans on August 16, 2016, and their affidavits on August 18, 2016. Upon information and belief, the named Defendants (and/or M. Bofill Duhe) were aware or should have been aware of the written statements and affidavits.

79. At no time did Robert C. Vines and/or the named Defendants (and/or M. Bofill Duhe) provide these exculpatory statements and affidavits to Plaintiff. Instead, Robert C. Vines and/or the named Defendants (and/or M. Bofill Duhe) hid and secreted this information from Plaintiff while dragging out this matter for

²¹ See FN22 (“This was a conspiracy to oust Mr. Darden...”).

almost five (5) years to achieve their intended purposes of ousting Plaintiff from his duly elected position as Chairman of the Tribal Council.

80. Unbeknown to Plaintiff, the industry experts/veterans' statements and affidavits were used by Anthony Patrone in December of 2017 to apply for a casino employee license in New Jersey. A written decision was rendered by the New Jersey Casino Control Commission on February 16, 2018, in the matter entitled *State of New Jersey, Casino Control Commission, Docket No. 17-0023-CK* finding, in pertinent part, "[t]he evidence reveals that the payment of a prorated bonus to Chairman Darden was not illegal." Nonetheless, Robert C. Vines and/or the named Defendants (and/or M. Bofill Duhe) continued to pursue the meritless charges against Plaintiff.

81. Gary Van Hettinga, as an expert witness, testified at the December of 2017 hearing before the New Jersey Casino Control Commission that he would have recommended the bonus payment to Plaintiff precisely as Anthony Patrone did. The testimony of Gary Van Hettinga was consistent with the exculpatory written statement and affidavit solicited by Robert C. Vines during his investigation.

82. Upon information and belief, Robert C. Vines and/or the named Defendants (and/or M. Bofill Duhe) were aware of the New Jersey Casino Control Commission proceedings, including the February 16, 2018 written findings and the testimony of Gary Van Hettinga. In fact, the February 16, 2018 written findings note that "the District Attorney who was responsible for overseeing the case against Applicant in Louisiana submitted a letter in support of Applicant." But neither Robert C. Vines

nor the named Defendants (nor M. Bofill Duhe) ever disclosed this information including the quasi-judicial findings to Plaintiff.

83. Upon information and belief, the failure of Robert C. Vines to disclose this *Brady*-type exculpatory material is a further violation of the Louisiana Rules of Professional Conduct governing lawyers including without limitation Rules 3.4 and 3.8.

84. Despite having these statements and affidavits from industry experts/veterans that fully informed him about the facts, Robert C. Vines, acting at the behest of and/or in concert with the named Defendant, nonetheless decided to charge, or overcharge, Plaintiff when he filed the bill of information on October 7, 2016.

85. Upon information and belief, the decision by Robert C. Vines to charge, or overcharge, Plaintiff is in further violation of the Louisiana Rules of Professional Conduct governing lawyers including without limitation Rules 3.1 and 3.8.

86. In investigating and then prosecuting the case against Plaintiff, Robert C. Vines was pursuing a claim on behalf of a private client and the alleged victim, the Chitimacha Tribe of Louisiana and/or Tribal Council, at the behest of and/or in concert with the named Defendants, while also pursuing criminal charges on behalf of the government, the 16th Judicial District Attorney's office. In effect, Robert C. Vines was serving two masters.

87. Under the circumstances, the named Defendants unquestionably had the ability to exert considerable leverage in the investigation and prosecution of

Plaintiff. By having the alleged victim's employee, Robert C. Vines, investigate and then prosecute the case, the named Defendants could significantly influence the investigation, prosecution and the critical discretionary decisions of Robert C. Vines.

88. The named Defendants (save and except Melissa Darden and John Paul Darden) were interviewed by Trooper Michael Washington and their testimony was recorded. Thereafter, Robert C. Vines began conducting his own investigation and he re-interviewed said named Defendants without recording their testimony. The testimony of the named Defendants as adduced by Robert C. Vines was contradictory to the facts previously relayed by them to the Louisiana State Police. Upon information and belief, Robert C. Vines improperly induced and coerced said named Defendants to make false statements during the investigatory phase. The inducement and coercing by Robert C. Vines were not advocacy, but a misuse of investigative techniques.

89. Upon information and belief, Robert C. Vines procured this tainted evidence during his investigation in a scheme to fabricate probable cause, and he could reasonably foresee that his deliberate misconduct would contribute to his deprivation of Plaintiff's rights.

90. Further, during the February 8 and 9, 2021 trial of Plaintiff, Defendant Melissa Darden would meet in private with Robert C. Vines. Upon being questioned by Tribal Council members about her interactions with Robert C. Vines during Plaintiff's trial, Melissa Darden stated "I'm advising Mr. Vines regarding

this case.” Melissa Darden was acting without Tribal Council knowledge or consent in instructing Robert C. Vines how to handle the prosecution.

91. More importantly, Robert C. Vines was renegotiating his private employment with the named Defendants while the criminal charges were pending against Plaintiff. At Plaintiff’s first scheduled trial date of January 12, 2017, Robert C. Vines filed a motion to continue and re-fix the matter to May 2, 2017. Then, on April 4, 2017, the named Defendants met with Robert C. Vines to “discuss his contract” even though he had only been employed for sixteen (16) months and was not halfway through his 36-month contract.

92. There is no dispute that Robert C. Vines intentionally undertook the investigation (then prosecution) of the matter against Plaintiff while continuing to pursue financial gain from the alleged victim and his client, the Chitimacha Tribe of Louisiana and/or Tribal Council, which payments were controlled by the named Defendants. There were approximately a dozen or more other assistant district attorneys for the 16th Judicial District Attorney’s office that could have handled the case instead of Robert C. Vines, or the matter could have been referred to the Louisiana Attorney General’s office to handle or for the appointment of special counsel which the 16th Judicial District Attorney’s office has historically done in other conflict of interest cases.

93. On August 11, 2016, and during Plaintiff’s term as duly elected Chairman of the Tribal Council, the named Defendants sought to amend the Constitution and Bylaws of the Chitimacha Tribe of Louisiana. The amended constitution now reads,

in pertinent part, “Article V, Sec. 3. Suspension, Removal, and Recall. A. Suspension. 1. Grounds for Suspension. If during his or her term of office, any Tribal Council member is charged in a tribal, parish, state, or federal court with either a felony or crime of theft or fraud, the Tribal Council member shall be suspended from Tribal Council duties, obligations, privileges, and compensation until resolution of any pending charges pursuant to the process set forth in Section 3(A)(2) of this Article.”

94. The prior Constitution and Bylaws of the Chitimacha Tribe of Louisiana in Article V, Section 3 did not provide for a suspension, except for a Tribal Council member appealing a final conviction of any crime or offense under: (a) the Major Crimes Act (18 USCA 1153, et seq.); or (b) the General Crimes Act (18 USCA 1152, et seq.); or (c) the Assimilative Crimes Act (18 USCA 13).

95. The named Defendants sought to change Constitution and Bylaws of the Chitimacha Tribe of Louisiana during Plaintiff's duly elected term as Chairman in an effort to improperly divest or impair a substantive and/or protected property right. The amendment constitutes acts that were malicious, intentional, willful, outrageous, reckless and/or flagrant.

96. On January 12, 2017, during the pendency of the criminal matter against Plaintiff, the named Defendants, as initiated by Defendant John Paul Darden, significantly reduced Plaintiff's salary during his term as the duly elected Chairman of the Tribal Council. The reduction of Plaintiff's salary was by *ultra*

vires resolution and constitutes acts that were malicious, intentional, willful, outrageous, reckless and/or flagrant.

97. Upon information and belief, Defendant John Paul Darden proposed the *ultra vires* resolution to reduce Plaintiff's salary as the duly elected Chairman of the Tribal Council as retaliation for losing to Plaintiff in the election for Chairman. Such conduct constitutes acts that were malicious, intentional, willful, outrageous, reckless and/or flagrant.

98. Plaintiff had taken a voluntary leave of absence in February 2016 and was continuously paid his full stipend until January 12, 2017. Plaintiff had a legitimate expectation in continued compensation for his fixed term as Chairman of the Tribal Council. But the *ultra vires* resolution by the named Defendants sought to undermine Plaintiff's "presumption of innocence" and due process secured by the Fifth and Fourteenth Amendments. The named Defendants' conduct constitutes acts that were malicious, intentional, willful, outrageous, reckless and/or flagrant.

99. All Defendants engaged in continuous conduct (investigation and prosecution) causing continuous damages to Plaintiff. The conduct of all Defendants causing continuous damages abated on February 9, 2021. To that end, "a cause of action for wrongful or malicious prosecution does not arise until the termination of the prosecution."²²

²² See *Matthews v. City of Bossier*, 42,202 (La. App. 2 Cir. 8/15/07) 963 So.2d 516 (citing *Walls v. State*, 670 So.2d 382 (La. App. 3 Cir. 1996)). The cause of action accrues when "an original criminal or civil judicial proceeding," which was "commence[d] or continu[ed]" has proceeded to a "bona fide termination in favor of the present plaintiff.") *Id.* at 520 n. 6 (citing *Jones v. Soileau*, 448 So.2d 1268 (La. 1984); *Hope v. City of Shreveport*, 862 So.2d 1139 (La. App. 2 Cir. 2003)).

100. Cessation of the unlawful acts occurred by the NOT GUILTY verdict rendered on February 9, 2021.

**M. Bofill Duhe Did Not Disqualify His Office and Agreed to Robert C. Vines Undertaking the Case and/or Had Robert C. Vines Appointed.
Robert C. Vines and M. Bofill Duhe
Acted Beyond Scope of Legal Authority.**

101. On or about March of 2016, and prior to a determination by the United States Attorney's Office, Robert C. Vines undertook the investigation related to the offenses Plaintiff was accused of committing.

102. M. Bofill Duhe did not disqualify his office or, at a minimum, did not disqualify Robert C. Vines from a broad-scoped investigation despite an impermissible conflict or other lawful basis to be disqualified, in contravention of State law, including without limitation Robert C. Vines having private employment with the alleged victim, the Chitimacha Tribe of Louisiana.

103. On or about March of 2016, prior to a determination by the United States Attorney's Office about Plaintiff, Robert C. Vines indicated that he was requesting a legal ethics opinion regarding his conflicts of interest but a copy of said letter was never provided to Plaintiff or his criminal defense counsel.

104. It is clear from the opinion letter that Robert C. Vines solicited said letter because of the appearance of impropriety and any actual or substantial likelihood of prejudice to Plaintiff, as well as a conflict of interest or abuse of confidence.

105. Later, even with the benefit of hindsight, Robert C. Vines was not disqualified from the matter.

106. Robert C. Vines (and/or M. Bofill Duhe) failed to recognize any conflict of interest or abuse of confidence that would have actually or likely prejudiced Plaintiff in the investigation (and/or prosecution) of a matter involving the private employer of Robert C. Vines, who was also the alleged victim (although any such retrospective justification still would not have cured his unlawful appointment to the investigation and prosecution).

107. Upon information and belief, Robert C. Vines and/or M. Bofill Duhe did not establish that Office of District Attorney for the 16th Judicial District of Louisiana or, at a minimum, Robert C. Vines should be disqualified from the investigation (and/or prosecution) of Plaintiff because it would result in actual or substantial risk of prejudice.

108. The refusal to disqualify Robert C. Vines (and/or the 16th Judicial District Attorney's office) was an essential step in the wrongful investigation and prosecution of Plaintiff.

109. It was that act followed by the suppression of evidence and opposition to the disqualification of the appointment of Robert C. Vines that allowed for the investigation then initiation and continuation of the wrongful investigation (and prosecution) of the innocent Plaintiff.

110. Later, in an affirmation in opposition to Plaintiff's motion for disqualification of Robert C. Vines, Defendant Vines continued to refuse acknowledging his conflict of interest or abuse of confidence due to his private employment with the alleged

victim, the Chitimacha Tribe of Louisiana, which was paid under the supervision and at the direction of the named Defendants.

111. Therefore, all acts in relation to the investigation (and prosecution) of Plaintiff by Robert C. Vines, at the behest of and/or in concert with the named Defendants, were unlawful and/or beyond the scope of legal authority.

112. Similarly, the assignment of Robert C. Vines was a nullity and all his acts in relation to the investigation (and prosecution) of Plaintiff were beyond the scope of legal authority.

113. As stated, Robert C. Vines also acted beyond the scope of legal authority by investigating then indicting and prosecuting Plaintiff for the alleged acts that do not constitute the theft and computer fraud crimes charged.

114. For all the reasons discussed, those facts are more circumstantial evidence of the alleged misconduct of Robert C. Vines in furtherance of the wrongful investigation and prosecution of Plaintiff.

115. There existed a basis for the disqualification of, at a minimum, Robert C. Vines (and/or the 16th Judicial District Attorney's office) because of his attorney-client relationship with the alleged victim, the Chitimacha Tribe of Louisiana and/or Chitimacha Tribal Council, including persons that would be called as witnesses or other actual or likelihood prejudice.

116. Upon information and belief, Robert C. Vines also violated the Louisiana Rules of Professional Conduct governing lawyers by continuing to give legal advice to the named Defendants and/or his employer, the alleged victim—the Chitimacha Tribe of

Louisiana, as well as being directed by or consulting with them during his investigation (and prosecution) of Plaintiff.

117. Upon information and belief, Robert C. Vines also violated the Louisiana Rules of Professional Conduct governing lawyers, including among other things, depriving Plaintiff of his right to present a defense, suppressing exculpatory evidence, overcharging, and conduct prejudicial to the administration of justice.

118. Consequently, Robert C. Vines is not entitled to absolute or qualified immunity for any of his actions related to the investigation, charging and/or prosecution of Plaintiff.

119. The record facts prove that if Robert C. Vines and/or the named Defendants (and/or M. Bofill Duhe) followed the evidence gathered during the Louisiana State Police investigation and/or the investigation by Robert C. Vines, he/they should have easily and relatively quickly known that there was evidence insufficient to form probable cause or convict Plaintiff, especially after obtaining written statements and affidavits providing truthful information as solicited by Robert C. Vines, but he/they did not.

120. Nonetheless, the record facts also prove that instead of following the evidence, Robert C. Vines, at the behest of and/or in concert with the named Defendants, targeted Plaintiff without probable cause.

121. No witness, document or fact implicated Plaintiff in any criminal conduct.

122. Therefore, to initiate and continue the malicious investigation and prosecution, Robert C. Vines and/or the named Defendants (and/or M. Bofill Duhe),

among many things; pretentiously adopted and pursued a preposterous theory they knew was wrong; fabricated testimony; coerced testimony; buried crucial testimony witness, as well as findings favorable to Plaintiff from a quasi-judicial entity; did not seek readily available evidence; accepted the self-serving incredible false assertions of others; immunized or gave extraordinarily favorable cooperation agreements to others; and/or purposefully ignored material evidence.

123. The record facts prove that in doing so, Robert C. Vines and/or the named Defendants (and/or M. Bofill Duhe) purposefully took a simple case of readily provable facts and transformed it into one of the most shameful, incredibly convoluted, farcical and costly investigations and prosecutions of an innocent person for the non-criminal act of an approved and transparent bonus payment.

Robert C. Vines Did Not Obtain or Ignored Evidence in His Investigation, Targeted Plaintiff for Prosecution and Sought Plaintiff's Incrimination.

124. The conduct of Robert C. Vines, April Wyatt, Melissa Darden, John Paul Darden, Jacob Darden, Toby Darden, Jacqueline Junca and/or M. Bofill Duhe throughout the case is direct and circumstantial evidence of malicious prosecution, including without limitation the actions of Robert C. Vines during his investigation of soliciting and obtaining written statements and affidavits from industry experts/veterans that was substantial irrefutable evidence proving Plaintiff's innocence, in order to prosecute Plaintiff for the non-criminal acts he did not commit, as proven by the record facts, including his/their own voluminous, memos, e-mails and records.

125. The rub is self-evident: If Robert C. Vines and/or the named Defendants (and/or M. Bofill Duhe) properly investigated the matter, Plaintiff would not have been charged by bill of information.

126. Therefore, Robert C. Vines and/or the named Defendants (and/or M. Bofill Duhe) purposely did not obtain evidence and/or feigned mistake, ignorance or lack of for not doing so.

**Robert C. Vines and the Named Defendants
Made Extrajudicial Statements Likely to Prejudice Plaintiff.**

127. On October 5, 2016, *The Advocate* printed a story based upon a press release issued by Robert C. Vines and/or the named Defendants stating Anthony Patrone instructed Monte Spivey to arrange an improper bonus payment to Plaintiff. Robert C. Vines said the bonus was given to Plaintiff without the required approval of the Tribal Council, for the obvious implication that Plaintiff was guilty. But the bonus had indeed been verbally approved by the Tribal Council on November 9, 2015.

128. Upon information and belief, there could be no other reason for Robert C. Vines and/or the named Defendants to issue a press release and make public comments about the case other than to further the malicious prosecution.

129. Upon information and belief, Robert C. Vines and the named Defendants discussed the press release prior to its publication.

Effort to Coerce Resignation of Plaintiff.

130. On or about September of 2016, Robert C. Vines, individually and/or at the behest of or in concert with the named Defendants, sought to coerce Plaintiff into

resigning as Chairman of the Chitimacha Tribe of Louisiana to avoid a grand jury proceeding and indictment.

131. The effective suppression of the truthful testimony of Gary Van Hettinga, Anne L. Beinert and others that exculpated Plaintiff would have never been unearthed if Plaintiff had accepted the untoward offer to resign as Chairman or plead guilty in the face of a grossly overcharged bill of information.

132. However, because he was innocent, the efforts of Robert C. Vines and/or the named Defendants (and/or M. Bofill Duhe) did not end in Plaintiff's resignation or plea because he refused to succumb to coercion even after being targeted and intimated that his indictment was imminent.

133. Furthermore, after Robert C. Vines solicited statements and affidavits from industry veterans and experts during his investigation as stated, there was no reasonable cause to believe that Plaintiff committed any crime.

134. Also, there could be no credible evidence against Plaintiff because he committed no crime and did not cause issuance of the bonus or accept it.

135. But Robert C. Vines and/or the named Defendants (and/or M. Bofill Duhe) took no further substantive action in the investigation other than to falsely incriminate Plaintiff.

136. At all times, Plaintiff, through his counsel, informed Robert C. Vines that he provided truthful information but if investigated and prosecuted he would seek vindication by dismissal or trial verdict.

137. More specifically, after Robert C. Vines disclosed information from his investigations, Plaintiff informed Robert C. Vines that it was obvious that theft or computer fraud had not been committed.

138. When the orchestrations to coerce Plaintiff into resigning or plea did not work, Robert C. Vines and/or the named Defendants (and/or M. Bofill Duhe) then had to fabricate a theory using the investigation of Robert C. Vines in order to prosecute the matter.

**Robert C. Vines Acted Beyond Scope of Law by Investigating then
Prosecuting Alleged Acts that Do Not Constitute
the Crimes Charged as a Matter of Law.**

139. The evidence solicited by Robert C. Vines in his investigation established that the prorated bonus payment to Plaintiff was not illegal.

140. Therefore, for all the reasons discussed, Robert C. Vines and/or the named Defendants (and/or M. Bofill Duhe) sought to investigate and then prosecute Plaintiff for the alleged acts that do not constitute the crimes investigated and charged as a matter of law.

141. In fact, almost five years after Robert C. Vines indicted Plaintiff with felony charges, on the morning of trial he orally amended the bill of information to a single count of misdemeanor theft.

142. Robert C. Vines (and/or M. Bofill Duhe) did or should have known the well-established law.

143. Regardless, Robert C. Vines (and/or M. Bofill Duhe) is not entitled to absolute immunity for wrongfully investigating (then prosecuting) Plaintiff on falsely alleged acts that do not constitute theft or computer fraud.

144. As stated, there was no evidence that any bonus payments were illegal nor was any motive or proffered intent provided why Plaintiff would engage in the illegal activity alleged.

145. In truth, Plaintiff did not handle any of the questioned transactions used as the factual basis of the investigation and offenses charged.

146. Still, Plaintiff was wrongfully investigated (and prosecuted) for the alleged acts he did not commit that do not constitute the crimes charged.

Post-Indictment Acts in Continuation of Malicious Prosecution.

147. Upon information and belief, Robert C. Vines played the role of lead investigator, at the behest of and/or in concert with the named Defendants, in directing, conducting and participating in his investigation throughout all pre- and post-indictment stages, especially in the questioning of witnesses in an investigatory capacity.

148. Robert C. Vines, at the behest of and/or in concert with the named Defendants, continued to pursue the malicious prosecution in that capacity and role after his indictment of Plaintiff through the trial.

149. It is alleged that Robert C. Vines and/or the named Defendants (and/or M. Bofill Duhe) abused the criminal process by wrongly obtaining a baseless and over-charged indictment to coerce Plaintiff into resigning his position as Chairman of the

Chitimacha Tribe of Louisiana or to plead guilty in order to avoid the exorbitant cost of a protracted trial and likely imprisonment with no prospect of the finder of fact hearing the testimony of those who would exonerate him if they did so.

150. It is further alleged that Robert C. Vines (and/or M. Bofill Duhe) in his/their investigative capacity intentionally suppressed exculpatory evidence and maliciously prosecuted Plaintiff without probable cause to deprive him of his constitutional rights.

151. It is further alleged, that in doing the acts and things stated above, Robert C. Vines and/or the named Defendants (and/or M. Bofill Duhe), at all times relevant, engaged in conduct designed and intended to deny and deprive Plaintiff of his rights guaranteed to him under the Constitution and the laws of the United States, as alleged herein.

152. It is further alleged that Robert C. Vines in an investigative capacity engaged in extrajudicial conduct and committed overt acts with the named Defendants to investigate Plaintiff and to use bogus information in filing a bill of information and at trial to initiate and continue the wrongful prosecution of Plaintiff without probable cause to coerce his resignation or force him to plead guilty or convict him and deprive him of his liberty and rights to due process and a fair trial.

153. It is further alleged that Robert C. Vines was actively involved in the case involving Plaintiff. Robert C. Vines conducted his own independent investigation, filed the charges, handled the case and supervised others working on the case

within the Tribal Prosecutor's office, as well as the Office of District Attorney for the 16th Judicial District of Louisiana.

154. At all times relevant, Robert C. Vines (and/or M. Bofill Duhe) did not have enough information to establish probable cause for the offenses charged. As stated, during his investigation, Robert C. Vines solicited written statements and affidavits from industry veterans and experts—all which evidence no illegal conduct nor intent to engage in illegal conduct by Plaintiff.

155. The record facts prove that Robert C. Vines (and/or M. Bofill Duhe), acting at the behest of and/or in concert with the named Defendants, intentionally and maliciously acted to deprive Plaintiff of his liberty without due process of the law by failing to obtain, ignoring and suppressing evidence to initiate and continue the investigation, arrest, wrongful indictment, prosecution and conviction for alleged acts he did not commit that do not constitute the crimes charged as a matter of law.

156. At all times relevant, Robert C. Vines acted as an agent of the named Defendants in his capacity as assistant district attorney. In addition, he acted as a policy maker in his actions investigative, administrative and extra-judicial.

157. At all times relevant, M. Bofill Duhe acted as an agent of the named Defendants in his capacity as district attorney. In addition, he acted as a policy maker in his actions investigative, administrative and extra-judicial.

158. At all times relevant, despite having knowledge of the *ultra vires* actions of Robert C. Vines to investigate, initiate and continue his unlawful malicious prosecution without probable cause and deprive Plaintiff of his liberty and property

rights at the behest of and/or in concert with the named Defendants as alleged, M. Bofill Duhe and/or the named Defendants took no action to prevent or stop his conduct, but instead condoned, supported and ratified the continued violation of Plaintiff's rights as alleged herein.

159. At all times relevant, Robert C. Vines and/or M. Bofill Duhe, in the capacity as a policy-making official for the Office of District Attorney for the 16th Judicial District of Louisiana, affirmatively acted to investigate then initiate and continue an unlawful malicious prosecution without probable cause and deprive Plaintiff of his liberty, property and other rights, as alleged.

160. Therefore, at all times relevant, by their conduct and failure to take action to prevent the continued unlawful prosecution of Plaintiff by Robert C. Vines in violation of his rights and well-established law, Robert C. Vines and/or the named Defendants (and/or M. Bofill Duhe) have established a policy of unlawfully investigating, initiating and continuing the unlawful malicious prosecution of Plaintiff in violation of his well-established constitutional right, as alleged.

161. All the alleged acts of Robert C. Vines (and/or M. Bofill Duhe), although *ultra vires* and beyond the scope of law, were done under the color of his office and constitute unlawful and unjustifiable policy acts and decisions by Robert C. Vines (and/or M. Bofill Duhe).

162. The acts of Robert C. Vines (and/or M. Bofill Duhe) in failing to disqualify Robert C. Vines and his staff from the patently broad-scoped investigation (and prosecution) of the subject matter and have Robert C. Vines assigned was a policy

act and decision of Robert C. Vines (and/or M. Bofill Duhe) that was made to allow and did allow Robert C. Vines to, among other *ultra vires* acts, commence and continue a wrongful investigation (and prosecution) against Plaintiff.

163. All the acts of Robert C. Vines thereafter were *ultra vires* and beyond the scope of law.

164. The acts of the named Defendants in failing to request that Robert C. Vines be disqualified in all respects in the patently broad-scoped investigation (and prosecution) of the subject matter was an unlawful policy act and decision that was made to allow and did allow Robert C. Vines to, among other *ultra vires* acts, commence and continue a wrongful prosecution against Plaintiff.

165. On or about March of 2016, and at all times thereafter up until February 9, 2021, Robert C. Vines and/or the named Defendants (and/or M. Bofill Duhe) failed to take the proper and necessary action to prevent Robert C. Vines from taking any further unlawful action pursuant to his illegal assignment of the investigation (and prosecution) of Plaintiff.

166. The failure and willful refusal of Robert C. Vines and/or the named Defendants (and/or M. Bofill Duhe) to take proper and timely action to prevent the acts of Robert C. Vines from investigating, initiating and/or continuing a prosecution of Plaintiff constituted an unlawful policy decision that caused Plaintiff to suffer a wrongful prosecution which resulted in a two-day protracted trial, all at great monetary expense and substantial personal, mental and emotional injury.

167. Robert C. Vines (and/or M. Bofill Duhe) effectively initiated the wrongful investigation (and prosecution) of Plaintiff by not disqualifying the office of District Attorney for the 16th Judicial District or, at a minimum, himself from the matter and thereafter continued it by opposing or failing to take action to have himself disqualified and the indictment dismissed despite notice and knowledge of its unlawfulness and that he was acting illegally and in excess of the law.

168. The actions of Robert C. Vines (and/or M. Bofill Duhe) in effectively fabricating or coercing evidence and/or suppressing the disclosure of evidence material to Plaintiff's defense was a wrongful and unjustifiable policy act and decision made to, and/or did, further the wrongful and malicious prosecution of Plaintiff, as stated.

169. The actions of Robert C. Vines (and/or M. Bofill Duhe) in initiating and continuing the unlawful investigation (and prosecution) of Plaintiff with notice and knowledge of its unlawfulness and that he was acting outside the scope of the law constituted an unlawful policy decision that caused Plaintiff to suffer a wrongful prosecution which resulted in a two-day protracted trial, all at great monetary expense and substantial personal, mental and emotional injury.

**Robert C. Vines (and M. Bofill Duhe)
Does Not Have Prosecutorial Immunity or Qualified Immunity.**

170. Plaintiff had clearly established rights pursuant to the United States Constitution, Louisiana Constitution and/or statutory law. Robert C. Vines and/or the named Defendants (and/or M. Bofill Duhe) violated Plaintiff's established rights and they knew or should have known that they were doing so.

171. The record facts show that Robert C. Vines and/or the named Defendants (and/or M. Bofill Duhe) violated Plaintiff's statutory or constitutional rights, and those rights was clearly established at the time of their conduct. At all times relevant, Robert C. Vines and/or the named Defendants (and/or M. Bofill Duhe) knew, or should have known, that their actions were in violations of Plaintiff's rights.

172. The conduct of Robert C. Vines and/or the named Defendants (and/or M. Bofill Duhe) violated clearly established law when, at the time of their conduct, the contours of Plaintiff's rights were sufficiently clear that a reasonable person in the position Robert C. Vines and/or the named Defendants (and/or M. Bofill Duhe) would have understood that what he/she was doing violates those rights.

173. In violating Plaintiff's rights, Robert C. Vines and/or the named Defendants (and/or M. Bofill Duhe) were not objectively reasonable in light of clearly established law.

174. The legal rules in effect gave Robert C. Vines and/or the named Defendants (and/or M. Bofill Duhe) fair warning that their actions were unconstitutional, and common sense dictates that Plaintiff's contour of his rights were sufficiently clear that a reasonable person would understand that what Robert C. Vines and/or the named Defendants (and/or M. Bofill Duhe) were doing violates those rights.

175. The existence of Plaintiff's rights was defined with sufficient clarity to enable Robert C. Vines and/or the named Defendant (and/or M. Bofill Duhe) to assess the unlawfulness of their conduct. Under the circumstances, the unlawfulness of the

actions of Robert C. Vines and/or the named Defendants (and/or M. Bofill Duhe) should have been apparent to them. That Plaintiff was entitled to such rights was specifically recognized to a such degree that Robert C. Vines and/or the named Defendants (and/or M. Bofill Duhe) were inherently capable of having clear and fair warning.

176. The nature of decision of Robert C. Vines and/or the named Defendants (and/or M. Bofill Duhe) in carrying out the investigation (and prosecution) precludes immunity for their torts.

177. The actions of Robert C. Vines and/or the named Defendants (and/or M. Bofill Duhe) against Plaintiff were not taken in good faith, or within the scope of their authority.

178. On August 15, 2016, Robert C. Vines was acting outside of the judicial process entirely and in a pre-litigation investigative capacity including but not limited to when he attempted to assemble evidence from industry experts/veterans. The testimony and opinions of these experts undermined the credibility of the case. At that time, Robert C. Vines (and/or M. Bofill Duhe) were not acting as an advocate, thus he/they are not entitled to absolute immunity.

179. Despite soliciting and having the testimony and opinions of industry experts/veterans stating Plaintiff did not engage in any improper or illegal activity, Robert C. Vines conducted his own investigation by re-interviewing witnesses in an attempt to shoehorn charges and create probable cause.

180. Robert C. Vines stepped outside the advocacy role, and he engaged in abuse and unlawful investigatory acts

181. Holding Robert C. Vines (and/or M. Bofill Duhe) accountable for the conduct alleged herein would not interfere with any prosecutorial function. Any policy concerns were wholly absent when Robert C. Vines (and/or M. Bofill Duhe) violated the rights of Plaintiff, because there was no criminal prosecution pending.

Violations and Claims Alleged.

182. Plaintiff has been subjected to, by the above recited acts, to the deprivation by Robert C. Vines, April Wyatt, Melissa Darden, John Paul Darden, Jacob Darden, Toby Darden, Jaqueline Junca and/or M. Bofill Duhe, under color of law and the customs of the State of Louisiana, of the rights, privileges and immunities secured to him by the Constitution and the laws of the United States as stated herein.

183. As a direct and proximate result of the actions of Robert C. Vines and/or the named Defendants (and/or M. Bofill Duhe), under color of law, Plaintiff has suffered a deprivation of his civil and constitutional rights; mental and emotional injuries, pain and suffering, mental and emotional distress and anxiety; humiliation, embarrassment, ridicule, indignity and social and personal stigmatization; invasion of privacy; actual and *presumed damages* to his good professional name and reputation in the social community; investigation costs, substantial attorney fees and other monetary damages against Robert C. Vines and/or M. Bofill Duhe and/or the named Defendants' malicious relentless conduct and in pursuing the claims herein.

Plaintiff's Injuries.

184. As a direct consequence and result of the acts of Robert C. Vines and/or the named Defendants (and/or M. Bofill Duhe) alleged herein, Plaintiff was deprived of his liberty, caused great expense and has been irreparably injured and damaged.

185. On June 20, 2016, Plaintiff was arrested by the Louisiana State Police, processed, taken into custody and arraigned before the 16th Judicial District Court on October 7, 2016.

186. Plaintiff then suffered for five (5) years until a two-day trial upon said charges before the 16th Judicial District Court in the Parish of St. Mary, upon which he was acquitted on February 9, 2021.

187. Upon information and belief, no reasonable view of the facts and circumstances could have supported the criminal charges against Plaintiff or the investigation (or prosecution) based thereon.

188. Plaintiff was innocent of the charges on which he was wrongfully investigated, indicted and unlawfully, maliciously prosecuted.

189. Plaintiff suffered greatly from January of 2016, and at all times thereafter, including five (5) years through the two-day protracted trial that ended on February 9, 2021 with his exoneration of all charges.

190. Plaintiff also suffered emotional distress due to being subjected to the criminal process and the deprivation of his rights as stated herein and his injuries were caused solely by the intentional, wrongful and illegal actions of the named Defendants and the Office of the 16th Judicial District Attorney for Louisiana's

policymaking officials, Robert C. Vines (and/or M. Bofill Duhe), who was/were acting outside the course and scope of his/their duties, without proper investigation and determination of the facts, caused Plaintiff to be wrongfully and falsely accused, indicted and maliciously prosecuted.

191. Due to the conduct of Robert C. Vines and/or the named Defendants (and/or M. Bofill Duhe), Plaintiff has and likely will suffer public disgrace, ridicule, contempt and reproach; injury to his good character and reputation; great mental anguish and pain; and irreparable injury to his profession, all to his monetary damage.

192. Plaintiff also sustained criminal defense attorney fees and costs.

193. The monetary damages and injuries suffered by Plaintiff were also caused solely and directly by the malicious actions of April Wyatt, Melissa Darden, John Paul Darden, Jacob Darden, Toby Darden and/or Jaqueline Junca.

194. The monetary damages and injuries suffered by Plaintiff were also caused solely and directly by the malicious actions of Robert C. Vines (and/or M. Bofill Duhe), while acting as an assistant district attorney (and district attorney of the 16th Judicial District of Louisiana, respectively,) and as an agent of the named Defendants, to obtain the objectives of maliciously prosecuting Plaintiff for acts he did not do that do not constitute the offenses charged as a matter of law.

195. Plaintiff has also suffered the loss of income as a result of his stipend being reduced by the *ultra vires* resolution and because of the resulting adverse publicity

of the matter, and the same also caused economic hardship. He has also suffered emotional distress and public humiliation.

COUNT I
FOURTH AMENDMENT
FIFTH AMENDMENT
FOURTEENTH AMENDMENT DUE PROCESS CLAIM
Frivolous Investigation and Frivolous Criminal Charges
(CIVIL RIGHTS CLAIM UNDER 42 U.S.C. SECTION 1983)

196. Plaintiff incorporates by reference and re-alleges all the allegations contained in paragraphs 1 through 195 as if set forth fully herein.

197. Plaintiff alleges that the actions of April Wyatt, Melissa Darden, John Paul Darden, Jacob Darden, Toby Darden and/or Jaqueline Junca denied and violated his civil rights. Plaintiff seeks damages for injuries set forth under 42 U.S.C. §§ 1983 and 1985 against said named Defendants in their individual capacities for causing and/or negligently allowing a frivolous investigation and frivolous criminal charges to be brought against Plaintiff.

198. Plaintiff alleges that the actions of Robert C. Vines (and/or M. Bofill Duhe) denied and violated his civil rights. Plaintiff seeks damages for injuries set forth under 42 U.S.C. §§ 1983 and 1985 against Robert C. Vines (and/or M. Bofill Duhe) in his/their individual capacity for causing and/or negligently allowing a frivolous investigation and criminal charges to be brought against Plaintiff.

199. Robert C. Vines and/or the named Defendants (and/or M. Bofill Duhe) committed acts of maliciousness and utter disregard for the constitutional rights of Plaintiff, and Plaintiff is entitled to punitive damages and attorney's fees pursuant to 42 U.S.C. § 1988.

200. Supplemental jurisdiction of this Court is hereby invoked pursuant to 23 U.S.C. § 1367 and Plaintiff asserts all state causes of action available to him including those available under Louisiana Civil Code Article 2315. Under Louisiana law, claims are brought against the named Defendants for the intentional and negligent acts in bringing a frivolous criminal complaint against Plaintiff.

COUNT II
FOURTEENTH AMENDMENT DUE PROCESS CLAIM
Fabrication of False Evidence During Investigation
(CIVIL RIGHTS CLAIM UNDER 42 U.S.C. SECTION 1983)

201. Plaintiff incorporates by reference and re-alleges all the allegations contained in paragraphs 1 through 200 as if set forth fully herein.

202. Robert C. Vines, in his individual and official capacities, (and/or M. Bofill Duhe, in his individual and official capacities), fabricated evidence which he/they knew was false in the investigation of Plaintiff, violating Plaintiff's right to due process of law guaranteed by the Fourteenth Amendment.

203. At all times relevant, Robert C. Vines (and/or M. Bofill Duhe) acted under color of state law in their official capacity as the final policymaker of the Office of the District Attorney for the 16th Judicial District of Louisiana.

204. At all times relevant, Robert C. Vines acted under the color of state law in his individual capacity as an assistant district attorney for the State of Louisiana's 16th Judicial District Attorney's office.

205. At all times relevant, M. Bofill Duhe acted under the color of state law in his individual capacity as the State of Louisiana's 16th Judicial District Attorney.

206. During the investigation of Plaintiff, Robert C. Vines (and/or M. Bofill Duhe) intentionally and deliberately coerced and intimidated the named Defendants into fabricating false evidence implicating Plaintiff.

207. Robert C. Vines (and/or M. Bofill Duhe) knew that the story he/they provided to and/or concocted with the named Defendants was false. Robert C. Vines (and/or M. Bofill Duhe) made an intentional and deliberate decision to fabricate a false account, intimidate the named Defendants into adopting that account, then continued to intimidate and coerce the named Defendants to maintain that account.

208. Robert C. Vines (and/or M. Bofill Duhe's) conduct in manufacturing and perpetrating the named Defendants' false witness account violated Plaintiff's due process rights.

209. Because Robert C. Vines (and/or M. Bofill Duhe), acting in his official capacity as assistant district attorney (and district attorney, respectively), and final policymaker for the Office of the District Attorney for the 16th Judicial District of Louisiana, intentionally and deliberately caused the fabrication of witness accounts in the process of investigating the bonus payment to Plaintiff, he/they are liable in his/their official capacities.

210. Robert C. Vines is also liable in his individual capacity for his intentional acts in causing witnesses (including the named Defendants) to provide a fabricated account in the process of investigating the bonus payment to Plaintiff.

211. Alternatively, M. Bofill Duhe is also liable in his individual capacity for intentional acts in causing witnesses (including the named Defendants) to provide a fabricated account in the process of investigating the bonus payment to Plaintiff.

212. Because Plaintiff sues Robert C. Vines (and/or M. Bofill Duhe) in his official capacity, prosecutorial immunity does not shield Robert C. Vines (and/or M. Bofill Duhe) as assistant district attorney (and district attorney of the 16th Judicial District of Louisiana, respectively).

213. Because Plaintiff sues Robert C. Vines (and/or M. Bofill Duhe) in his individual capacity for the falsification of evidence during an investigation, prosecutorial immunity does not shield Robert C. Vines (and/or M. Bofill Duhe) from liability. Plaintiff's due process right not to be the subject of falsification of evidence in an investigation was clearly established at the time Robert C. Vines (and/or M. Bofill Duhe) violated that right. Thus, qualified immunity does not shield Robert C. Vines (and/or M. Bofill Duhe) from liability.

214. Robert C. Vines (and/or M. Bofill Duhe) knew that intimidating witnesses (including the named Defendants) into falsifying a witness account fabricated by Robert C. Vines (and/or M. Bofill Duhe) violated Plaintiff's due process rights.

215. Robert C. Vines (and/or M. Bofill Duhe) and/or the named Defendants' violation of Plaintiff's due process rights by falsification of evidence caused Plaintiff to suffer significant damages, including but not limited public disgrace, ridicule, contempt and reproach; injury to his good character and reputation; great mental

anguish and pain; and irreparable injury to his profession, all to his monetary damage.

216. As a result of Robert C. Vines and/or the named Defendants' (and/or M. Bofill Duhe) violation of his constitutional rights, Plaintiff is entitled to damages in an amount to be determined at trial in addition to his reasonable attorney's fees and costs.

217. Robert C. Vines and/or the named Defendants (and/or M. Bofill Duhe) falsification of evidence was intentional. In falsifying evidence against Plaintiff, Robert C. Vines and/or the named Defendants (and/or M. Bofill Duhe) acted with the intent to violate Plaintiff's Federal constitutional rights to due process of law. Therefore, punitive damages should be awarded against Robert C. Vines (and/or M. Bofill Duhe) in his/their individual capacities, as well as the named Defendants.

COUNT III
FOURTEENTH AMENDMENT DUE PROCESS CLAIM
(ROB VINES IN HIS OFFICIAL CAPACITY,
M. BOFILL DUHE IN HIS OFFICIAL CAPACITY)
Intentional Use of Perjured Testimony
(CIVIL RIGHTS CLAIM UNDER 42 U.S.C. SECTION 1983)

218. Plaintiff incorporates by reference and re-alleges all the allegations contained in paragraphs 1 through 217 as if set forth fully herein.

219. Robert C. Vines (and/or M. Bofill Duhe), in his official capacity as assistant district attorney (and district attorney for the 16th Judicial District of Louisiana, respectively), directed evidence known to Robert C. Vines (and/or M. Bofill Duhe) as false be presented at the trial of Plaintiff, violating Plaintiff's right to due process guaranteed by the Fourteenth Amendment.

220. At all times relevant, Robert C. Vines (and/or M. Bofill Duhe) acted under color of state law in his official capacity as the final policymaker for the Office of the District Attorney for the 16th Judicial District of Louisiana.

221. Robert C. Vines (and/or M. Bofill Duhe), as final policymaker for the Office of the District Attorney for the 16th Judicial District of Louisiana, made an intentional, deliberate decision to call the named Defendants as witnesses at trial and to elicit the testimony manufactured by Robert C. Vines (and/or M. Bofill Duhe) and/or the named Defendants.

222. Robert C. Vines and/or the named Defendants (and/or M. Bofill Duhe) knew, before Plaintiff's trial, that the testimony to be elicited from the named Defendants would be false.

223. The named Defendants testified at Plaintiff's trial, and they gave false evidence against Plaintiff consistent with the fabrications invented by Robert C. Vines and/or the named Defendants (and/or M. Bofill Duhe) during the investigation.

224. Although Robert C. Vines and/or the named Defendants (and/or M. Bofill Duhe) knew that the named Defendants' testimony was false, Robert C. Vines (and/or M. Bofill Duhe) did not advise the Court or Plaintiff that false testimony had been given at the trial.

225. At trial, Robert C. Vines referenced the named Defendants' falsified testimony and asserted the Court could rely upon this testimony as crucial inculpatory corroboration.

226. The knowing presentation of false testimony by Robert C. Vines (and/or M. Bofill Duhe), acting in his official capacity, was a moving force in attempting to obtain a conviction for the alleged victim and employer of Robert C. Vines.

227. The manufacturing of evidence and knowing use of that evidence, along with false testimony in an attempt to obtain a wrongful conviction, deprives a defendant of his long recognized right to a fair trial secured by the Fourteenth Amendment's Due Process Clause.

228. Because Plaintiff sues Robert C. Vines (and/or M. Bofill Duhe) in his/their official capacity for the knowing presentation of false evidence at trial, prosecutorial immunity does not shield Robert C. Vines (and/or M. Bofill Duhe) from liability in his/their official capacity as assistant district attorney (or district attorney of the 16th Judicial District of Louisiana, respectively).

229. Because Plaintiff sues Robert C. Vines (and/or M. Bofill Duhe) in his official capacity for the knowing presentation of false evidence at trial, qualified immunity does not shield Robert C. Vines (and/or M. Bofill Duhe) from liability in his official capacity as assistant district attorney (or district attorney of the 16th Judicial District of Louisiana, respectively).

230. As a result of Robert C. Vines and/or the named Defendants' (and/or M. Bofill Duhe) violation of his constitutional rights, Plaintiff is entitled to damages against Robert C. Vines (and/or M. Bofill Duhe), in his/their official capacity, in an amount to be determined at trial in addition to his reasonable attorney's fees and costs, as well as the named Defendants.

COUNT IV
SIXTH AMENDMENT RIGHT TO A FAIR TRIAL
FIFTH AMENDMENT DUE PROCESS
FOURTEENTH AMENDMENT DUE PROCESS
Constitutional Right Not to be Deprived of Liberty
(CIVIL RIGHTS CLAIM UNDER 42 U.S.C. SECTION 1983)

231. Plaintiff incorporates by reference and re-alleges all the allegations contained in paragraphs 1 through 230 as if set forth fully herein.

232. In committing the acts complained of herein, Robert C. Vines and/or the named Defendants (and/or M. Bofill Duhe) acted, individually and/or conspiratorially, under the color of state law to deprive Plaintiff of certain constitutionally protected rights under the Fourth, Fifth, Sixth and Fourteenth Amendments to the Constitution of the United States, including, but not limited to: (a) the right to be free from unreasonable searches and seizures; (b) the right not to be deprived of liberty without due process of law; (c) the right not to be deprived of due process of law, both procedural and substantive; (d) the right to be free from malicious prosecution without probable cause; and (e) the right to a fair trial.

233. Specifically, Plaintiff has a constitutional right not be deprived of his liberty, liberty interests of a fair trial by a government officer acting in an investigatory capacity especially where that officer foresees that he himself misusing evidence with a resulting deprivation of liberty.

234. Robert C. Vines and/or the named Defendants (and/or M. Bofill Duhe) deprived Plaintiff of those rights in violation of the Fifth, Sixth and/or Fourteenth Amendments to the United States Constitution and Title 42 USC § 1983, as alleged herein.

235. This claim arises directly under both Title 42 USC § 1983 and under the United States Constitution.

COUNT V
FOURTH AMENDMENT
FOURTEENTH AMENDMENT DUE PROCESS CLAIM
Constitutional Right Not to be Prosecuted Maliciously without Probable Cause
(CIVIL RIGHTS CLAIM UNDER 42 U.S.C. SECTION 1983)

236. Plaintiff incorporates by reference and re-alleges all the allegations contained in paragraphs 1 through 235 as if set forth fully herein.

237. In committing the acts complained of herein, Robert C. Vines and/or the named Defendants (and/or M. Bofill Duhe) acted, individually and/or conspiratorially, under the color of state law to deprive Plaintiff of certain constitutionally protected rights under the Fourth, Fifth, Sixth and Fourteenth Amendments to the Constitution of the United States, including, but not limited to: (a) the right to be free from unreasonable searches and seizures; (b) the right not to be deprived of liberty without due process of law; (c) the right not to be deprived due process, both procedural and substantive; and (d) the right to be Specifically, Plaintiff has a constitutional right not be deprived of his liberty, liberty interests of a fair trial by a government officer acting in an investigatory capacity especially where that officer foresees that he himself misusing evidence with a resulting depravation of liberty.

238. Robert C. Vines and/or the named Defendants (and/or M. Bofill Duhe) deprived Plaintiff of those rights in violation of the Fifth, Sixth and/or Fourteenth

Amendments to the United States Constitution and Title 42 USC § 1983, as alleged herein.

239. This claim arises directly under both Title 42 USC § 1983 and under the United States Constitution.

COUNT VI

***Monell Claim Against 16th Judicial District Attorney's office*
(CIVIL RIGHTS CLAIM UNDER 42 U.S.C. SECTION 1983)**

240. Plaintiff incorporates by reference and re-alleges all of the allegations contained in paragraphs 1 through 239 as if set forth fully herein.

241. Robert C. Vines (and/or M. Bofill Duhe) violated Plaintiff's rights and caused him said deprivations his/their policymaking acts and decisions of the Office of District Attorney for the 16th Judicial District of Louisiana, as alleged herein.

242. The policymaking acts include but are not limited to failing to adequately train its prosecutors not to suborn perjury or coerce testimony inconsistent with prior recorded police interviews, not investigate matters involving employers that are also alleged victims, not seek financial gain from an alleged victim during the pendency of matters being investigated—none of which are prosecutorial functions.

COUNT VII

SUPPLEMENTAL CLAIM FOR MALICIOUS PROSECUTION

LA. CIVIL CODE ART. 2315

**(ROBERT C. VINES AND/OR M. BOFILL DUHE IN BOTH CAPACITIES,
AND OTHER NAMED DEFENDANTS IN THEIR INDIVIDUAL
CAPACITIES)**

243. Plaintiff incorporates by reference and re-alleges all the allegations contained in paragraphs 1 through 242 as if set forth fully herein.

244. Defendant Robert C. Vines (and/or M. Bofill Duhe), in his/their official and individual capacities, and the named Defendants in their individual capacities, are liable to Plaintiff for malicious prosecution under La. Civil Code art. 2315.

245. The prosecution of Plaintiff by Robert C. Vines and/or the named Defendants (and/or M. Bofill Duhe) was predicated upon the named Defendants' testimony, which Robert C. Vines (and/or M. Bofill Duhe) fabricated through coercion of the named Defendants or, alternatively, which the named Defendants conspired with Robert C. Vines (and/or M. Bofill Duhe) to fabricate.

246. The 16th Judicial District Court acquitted Plaintiff, a termination of the prosecution in Plaintiff's favor.

247. The fabrication of the named Defendants' testimony by Robert C. Vines (and/or M. Bofill Duhe) demonstrates their knowledge that the true facts that Plaintiff's actions did not supply probable cause to commence and continue his investigation and prosecution.

248. Robert C. Vines and/or the named Defendants (and/or M. Bofill Duhe) fabricated evidence against Plaintiff with malice and a reckless disregard for his constitutional rights.

249. As a result of Robert C. Vines and/or the named Defendants' (and/or M. Bofill Duhe) violation of his constitutional rights, Plaintiff is entitled to damages against Robert C. Vines and/or the named Defendants (and/or M. Bofill Duhe) in an amount to be determined at trial in addition to his reasonable attorneys' fees and costs.

DEMAND FOR PUNITIVE DAMAGES

250. Upon information and belief, at all times relevant, Robert C. Vines and/or the named Defendants (and/or M. Bofill Duhe) acted with malice, intent to injure, or deliberate, reckless or callous indifference to Plaintiff's well-established rights under the Fourth, Sixth and Fourteenth Amendments of the United States Constitution which provides a basis for the imposition of punitive damages.

251. The actions of Robert C. Vines and/or the named Defendants (and/or M. Bofill Duhe) as described herein were extreme and outrageous, and shock the conscience of a reasonable person. Consequently, an award of punitive damages is appropriate to punish the defendants for their cruel and uncivilized conduct.

DAMAGES

252. As a consequence of the actions of Robert C. Vines and/or the named Defendants (and/or M. Bofill Duhe), Plaintiff asserts a claim for damages including but not limited to:

- a) General damages including emotional distress, mental anguish, public humiliation and embarrassment and loss of enjoyment of life.
- b) Loss of earnings;
- c) Punitive/exemplary damages for the actions of the Defendants;
- d) All other damages which may be prove at the trial of this matter or discovered prior to trial.

253. Plaintiff reserves the right to assert additional acts of commissions and/or omissions as may emerge during discovery of this matter.

DEMAND FOR JURY TRIAL

254. The plaintiff hereby demands a trial by jury.

PRAYER FOR RELIEF

WHEREFORE, Plaintiff respectfully prays for the following relief:

1. Judgment against the defendants individually, jointly and severally for compensatory damages for the actual damages plaintiff has and will suffer; and,
2. Judgment against the defendants individually, jointly and severally for punitive damages in such amount as is commensurate with the wrong; and
3. Ordering the defendants individually, jointly and severally to make plaintiff whole with respect to his full damages proximately resulting from defendants' wrongful actions;
4. Award reasonable attorney's fees and costs pursuant to 42 USC § 1988; and
5. Award such other and further relief as the Court deems just and proper; and

If the Court should find for Plaintiff, on any or all counts, Plaintiff respectfully requests that a separate hearing be held for the production of evidence on the amount of damages.

Respectfully submitted,



O'NEIL J. DARDEN, JR.

141 Cherokee Street

Jeanerette, LA 70544

Telephone: (337) 578-7992

Email: oneildardenjr@gmail.com