

UNITED STATES DISTRICT COURT
for the
EASTERN DISTRICT OF WISCONSIN

MICHAEL S. PEDEN,)	
)	
<i>Plaintiff,</i>)	
)	
vs.)	Case No. 20-CV-1307
)	
)	<u>DEMAND FOR JURY TRIAL</u>
CITY OF MILWAUKEE;)	
COUNTY OF MILWAUKEE,)	
)	
and,)	
)	
ALEAH L. ELLIS;)	
MARK A. ROHLFING;)	
GRANT F. LANGLEY;)	
SHARON P. PURIFOY;)	
GERARD WASHINGTON;)	
AARON D. LIPSKI;)	
BILLIE L. ELLIS;)	
RAYMOND S. BANKS;)	
)	
)	
Each in his or her individual capacity,)	
)	
<i>Defendants.</i>)	

COMPLAINT

I. NATURE OF ACTION

1. Plaintiff Michael Peden brings this civil action under the Fourth, Sixth, and Fourteenth Amendments to the United States Constitution, Title 42 U.S.C. § 1983, and the common law of the State of Wisconsin against the Defendants for the deprivation of constitutional rights; the malicious prosecution of criminal charges; for damages resulting from, upon information and

belief, a conspiracy to tamper with, and fabricate, evidence; and for the egregious defamation of his good name and character.

II. JURISDICTION AND VENUE

2. This Court has jurisdiction over the action pursuant to 28 U.S.C. § 1331, 28 U.S.C. § 1343(a)(3) (42 U.S.C. § 1983 jurisdiction), and supplemental jurisdiction over the Plaintiff's state law claims under 28 U.S.C. § 1367.

3. The Eastern District of Wisconsin is the proper venue for this action because the Plaintiff's claims arose within the geographical boundaries of the Eastern District of Wisconsin within the meaning of 28 U.S.C. § 1391(b).

III. PARTIES

The Plaintiff

4. Plaintiff Michael S. Peden is an adult resident of the State of Wisconsin.

5. At all times relevant to this dispute, Mr. Peden was an employee of the Milwaukee Fire Department (hereinafter, "MFD"). Between May 23, 2017 and October 02, 2017, Plaintiff Michael Peden was an acting Lieutenant for the medical unit of "MED 3," stationed at Engine 26, located at 1140 S. 26th Street in the City of Milwaukee, County of Milwaukee.

The Defendants

6. Defendant City of Milwaukee is a Wisconsin city with the capacity to sue and be sued in this Court. Its principal place of business is located at 200 E. Wells Street, Room 606, Milwaukee, WI 53202.

7. Defendant County of Milwaukee is a Wisconsin county with the capacity to sue and be sued in this Court. Its principal place of business is located at 901 North 9th Street, Milwaukee WI 53233.

8. Upon information and belief, Defendant Aleah L. Ellis is an adult resident of the State of Wisconsin. At all times relevant to this lawsuit, Defendant Aleah Ellis was an employee of the MFD.

9. Upon information and belief, Defendant Mark A. Rohlring is an adult resident of the State of Wisconsin. At all times relevant to this lawsuit, Defendant Rohlring was the Chief of the MFD.

10. Upon information and belief, Defendant Grant F. Langley is an adult resident of the State of Wisconsin. At all times relevant to this lawsuit, Defendant Langley was the City Attorney for the City of Milwaukee.

11. Upon information and belief, Defendant Sharron P. Purifoy is an adult resident of the State of Wisconsin. At all times relevant to this lawsuit, Defendant Purifoy was a Captain in the MFD.

12. Upon information and belief, Defendant Gerard Washington is an adult resident of the State of Wisconsin. At all times relevant to this lawsuit, Defendant Gerard Washington was an Assistant Chief in the MFD. Upon information and belief, Defendant Washington retired from the MFD on April 27, 2019.

13. Upon information and belief, Defendant Aaron D. Lipski is an adult resident of the State of Wisconsin. At all times relevant to this lawsuit, Defendant Lipski was a Chief in MFD.

14. Upon information and belief, Defendant Billie L. Ellis is an adult resident of the State of Wisconsin. Defendant Billie Ellis is Defendant Aleah Ellis' mother. At all times relevant to this dispute, Defendant Billie Ellis was an employee in the MPD.

15. Upon information and belief, Defendant Raymond S. Banks is an adult resident of the State of Wisconsin. At all times relevant to this dispute, Defendant Banks was a Captain in the MPD.

IV. ALLEGATIONS OF FACT AS TO ALL CAUSES OF ACTION

A. Pre-Arrest

16. In 2017, Mr. Peden was employed as a Heavy Equipment Operator and Paramedic in the MFD. During this time, the station's lieutenant position was vacant due to a transfer, and Mr. Peden volunteered to become the acting lieutenant for the Medical Unit of the station.

17. A significant portion of Mr. Peden's duties as acting Lieutenant included training, mentoring, and evaluating junior colleagues as they progressed throughout their careers and development.

18. On or about May 23, 2017, Mr. Peden and Defendant Aleah Ellis began working together at Engine 26's MED 3 unit. As a junior firefighter, Defendant Aleah Ellis' job performance and training progression was to be reviewed monthly by her direct supervisor. Mr. Peden was Defendant Aleah Ellis' direct supervisor.

19. During this time, Defendant Aleah Ellis also began making complaints to, among others, the Engine 26 House Captain, Captain Michael Bongiorno. Defendant Aleah Ellis complained that she was frequently a targeted victim of hazing, but she never accused Mr. Peden of such behavior.

20. Defendant Aleah Ellis felt as though she was not fitting in to the Engine 26 team, and she oftentimes traded her assigned shifts to avoid working with the co-workers who were allegedly hazing her.

21. By several accounts, Defendant Aleah Ellis was having a difficult time transitioning from an academic setting into the real world of firefighting, and her job performance and training progress began to decline noticeably during this time at Engine 26.

22. On or about September 14, 2017, Mr. Peden delivered a poor, but honest, monthly performance review to Defendant Aleah Ellis for her performance in the prior month of August 2017. The central theme of the poor review was that Defendant Aleah Ellis was failing to progress in her training and that she was mentally and physically unable to perform her duties.

23. On or about September 27, 2017, Defendant Aleah Ellis filed a complaint against Mr. Peden, and others, alleging workplace harassment in the form of “hazing” or being “picked on.” Notably absent from the complaints were any allegations of misconduct that was sexual in nature.

24. MFD Assistant Chief, Defendant Washington, fielded the complaint from Defendant Aleah Ellis and obtained permission from the MFD Chief—Defendant Rohlring—to conduct a department-wide investigation into Defendant Aleah Ellis’ accusations.

25. On October 3, 2017, Mr. Peden was informed that he was being suspended. He was placed on paid leave pending the outcome of the investigation and was denied any explanation when he inquired into the reason for his suspension. Defendant Aleah Ellis was transferred to another fire station where Defendant Purifoy was the House Captain.

26. Approximately thirty MFD employees were interviewed over the course of Defendant Washington’s investigations. Each interviewee was instructed to sign a “truth statement” at the

outset of an interview that compels the interviewee to answer all questions truthfully at the risk of disciplinary measures—including termination. The truth statement also admonished the interviewee not to speak with anyone other than a union representative regarding the allegations against Mr. Peden until the investigation was complete.

27. When he began the investigation, Defendant Washington intended to complete it by December 8, 2017, but the investigation remains open as of the date this Complaint was filed.

28. In the October 2017 MFD internal interviews, not a single interviewee from Engine 26 or MED 3 corroborated any of Defendant Aleah Ellis' allegations that she had been harassed by Mr. Peden.

29. The *first* mention of any sexual assault allegation against Mr. Peden came on the day he was arrested, December 2, 2017.

30. On December 2, 2017, Defendant Aleah Ellis and her mother, Defendant Billie Ellis of *the MPD*, went to Defendant Ray Banks' office at the MPD police academy and had him personally call MPD detectives to launch a criminal investigation regarding the claims Defendant Aleah Ellis had just raised for the first time.

31. MPD detectives responded to Defendant Banks' office at the police academy, interviewed Defendant Aleah Ellis and Defendant Billie Ellis, *made no recordings of either interview*, and then purportedly decided that they had enough evidence to establish probable cause to arrest Mr. Peden that same day on December 2, 2017. All this was established in approximately five hours.

32. A report of one of the detectives who interviewed Defendant Aleah Ellis and Defendant Billie Ellis implies that Defendant Aleah Ellis was receiving internal pressure from a "friend" to report her allegations against Mr. Peden to her mother—Defendant Billie Ellis, who is a police

officer in the MPD. Moreover, this anonymous friend, apparently threatened to inform Defendant Billie Ellis of the allegations if Defendant Aleah Ellis would not do it herself.

33. The anonymous friend referenced in the MPD detective's report who encouraged Defendant Aleah Ellis to forward the false allegations to Defendant Billie Ellis, and concomitantly up the MPD chain of command to Defendant Banks, was Defendant Purifoy.

B. Mr. Peden's Arrest

34. The Washington County Sheriff's Department arrested Mr. Peden, by direction of MPD, at his home on December 2, 2017, in front of his wife and three small children, without a warrant, on a single charge of second-degree sexual assault.

35. The arrest occurred a mere five (5) hours after MPD detectives interviewed Defendant Aleah Ellis and Defendant Billie Ellis at the personal request of Defendant Banks.

36. Based upon the approximate five-hour criminal "investigation" conducted by MPD detectives, the Probable Cause Statement and Judicial Determination, and the arresting officers' reports, imply that Mr. Peden was arrested for a Class C Felony based upon the allegations made by Defendant Aleah Ellis and Defendant Billie Ellis. There is no mention of any corroborating witnesses or physical evidence that supplemented the stated grounds for probable cause to arrest.

37. The media reported Mr. Peden's arrest with the first thirty (30) minutes after he was taken into custody, which occurred on a Saturday.

38. From December 2, 2017 and onward, the allegations against Mr. Peden and his subsequent arrest were broadcasted by numerous media outlets, including television segments, online articles, social media postings, and more. These media statements included quoted statements from MFD employees and the Mayor of Milwaukee.

39. The MPD had custody of Mr. Peden for approximately twenty-four (24) hours and then handed custody of Mr. Peden over to the Milwaukee County Sheriff's Office (hereinafter, "MCSO") where he was booked and housed in Defendant Milwaukee County's jail.

40. During intake at the Milwaukee County jail, Mr. Peden got called upon by a MCSO employee who asked Mr. Peden who his employer was, to which Mr. Peden responded that he worked for the MFD. Later, a MCSO employee said "get over here" and separated Mr. Peden from the other inmates.

41. After a brief stay in a temporary holding cell, Mr. Peden was then forced into a suicide vest. The MCSO employees said "sorry" and put Mr. Peden on suicide watch because they "had orders."

42. During this time, Mr. Peden was interviewed by a mental health professional and told him that he was not suicidal. Nevertheless, Mr. Peden was placed in solitary confinement in the mental health ward in the Milwaukee County jail on suicide watch.

43. Upon information and belief, the MSCO had reason to know that Mr. Peden was not suicidal.

44. Upon information and belief, Mr. Peden sat in twenty-four (24) hour isolation for approximately five (5) days, despite his repeated instance, validated by multiple mental health professionals, that he was not suicidal.

45. Upon information and belief, the treatment Mr. Peden endured while in the custody of the MPD and MCSO was at the concerted behest of MPD agents and certain named individual Defendants.

46. On December 7, 2017, Mr. Peden made his first appearance in court wearing a suicide outfit. Mr. Peden also received a copy of the criminal complaint.

47. In addition to statements and information obtained from police reports, the probable cause section of the complaint also referred to three anonymous complaints that were submitted to Defendant Washington.

48. Purportedly, the three anonymous complaints were “about how the defendant treated [Defendant Aleah Ellis] at Engine 26.”

49. Notably absent from this probable cause section of the complaint is 1) any indication of when these complaints were submitted to Defendant Washington, 2) whether there is any reference to sexual harassment by Mr. Peden, or 3) whether there was *any* attempt by the MFD, MPD, or Defendant Washington to confirm the veracity of the anonymous complaints.

50. Upon information and belief, the MFD, by Defendant Washington, had reason to know that dates on which the alleged sexual harassment was said to have occurred, occurred on dates where Defendant Aleah Ellis was not assigned to the same firehouse as Mr. Peden.

51. Upon information and belief, the anonymous complaints were fabricated in pursuance of the conspiracy among Defendant Washington, Defendant Purifoy, Defendant Billie Ellis, and Defendant Aleah Ellis to have Mr. Peden terminated from the MFD, arrested, and convicted for a crime he did not commit.

C. Criminal Proceedings

52. The criminal prosecution of Mr. Peden began on December 7, 2017 and ended almost a year and a half later, on July 11, 2019, when the only charge against Mr. Peden was dismissed without prejudice on the State of Wisconsin’s motion.

53. During the criminal prosecution, on April 29, 2019, Mr. Peden, by counsel, filed a motion to dismiss to the criminal complaint. Upon information and belief, the grounds for this motion were the repeated violations of his constitutional rights.

54. Upon information and belief, the probable cause the State of Wisconsin relied upon in pursuing the criminal charge was based, in part, upon the interviews of MFD employees which had been conducted by the MFD.

55. The MFD cooperated with the MPD and Milwaukee County District Attorney's Office throughout their investigative efforts, but the MFD, at the direction of Defendant Langley (Milwaukee City Attorney), routinely denied Mr. Peden's defense counsel access to interview those same MFD employees.

56. Upon information and belief, the MFD maintained that it denied Mr. Peden's defense counsel access to the MFD employees because its internal investigation was ongoing and remained open indefinitely.

57. Upon information and belief, there exists potentially exculpatory evidence in the form of certain MFD employee(s) knowledge or testimony to which Mr. Peden's defense counsel was denied access.

58. Upon information and belief, about one month after the criminal complaint was filed, and before the recordings of the initial interviews were eventually turned over to Mr. Peden's defense counsel, the MFD, by Defendant Washington, conducted another round of MFD employee interviews.

59. Upon information and belief, Defendant Washington questioned MFD employees about any contact they might have had with Mr. Peden's defense counsel, ominously reminded the

employees of the “truth statement” they had been forced to sign, and threatened termination if the employees reached out Mr. Peden’s defense counsel on their own volition.

60. Upon information and belief, during this second round of interviews, the MFD employees were again read the contents of the truth statement and required to sign it again.

61. Yet, despite the MFD’s admonition against speaking to anyone outside the MFD regarding Mr. Peden, at least two (2) MFD employees—Defendants Washington and Purifoy—freely spoke to the MPD detectives when they conducted (recorded) follow-up interviews regarding the subject matter of the criminal charge against Mr. Peden.

62. Upon information and belief, Defendant Washington, Defendant Purifoy, Defendant Billie Ellis, and Defendant Aleah Ellis all conspired to fabricate testimony throughout the investigations conducted by MFD to incriminate Mr. Peden on the sexual assault allegations in an attempt to get him terminated from the MFD, arrested, and convicted.

63. Upon information and belief, there are audio recordings in possession of certain named Defendants that capture conversations among Defendant Washington, Defendant Purifoy, and Defendant Aleah Ellis that allude to “coaching” testimony, and outright fabricated statements, given in the MFD internal interviews.

64. Upon information and belief, unidentified member(s) of the MFD, acting at the direction of Defendant Washington or Defendant Purifoy, accessed Mr. Peden’s MFD personnel review program/account and tampered with documents pertaining to Defendant Aleah Ellis.

D. MFD Interviews Mr. Peden

65. On or about October 14, 2019, Atty. Charles S. Blumenfield faxed Defendant Lipski a notice of representation that he had been retained to represent Mr. Peden in the pending MFD investigation against him.

66. Upon information and belief, Atty. Blumenfield confirmed that Mr. Peden was advised that he would be denied legal counsel in an August 28, 2019 MFD investigation interview.

67. Upon information and belief, the directive to deny Mr. Peden legal counsel came from Defendant Lipski (in conjunction with Defendant Langley and Assistant City Attorney Jenny Yuan) in response to an inquiry posed to him by Mr. Peden's union representative—Mr. Joseph Haasch.

68. Upon information and belief, prior to the August 28, 2019 interview, Mr. Haasch raised the issue of Mr. Peden's legal representation to Defendant Lipski based upon Mr. Haasch's knowledge that Defendant Aleah Ellis was allowed to be represented by counsel when she participated in her MFD interviews.

69. Prior to the August 28, 2019 interview, Atty. Blumenfield personally inquired into the matter of Mr. Peden's representation and was advised that his representation at the August 28, 2019 interview was not possible. Accordingly, Atty. Blumenfield did not attend the August 28, 2019 meeting to represent Mr. Peden per Defendant Lipski's directive. Mr. Peden endured the interview without the assistance of counsel.

70. Even after the August 28, 2019 interview of Mr. Peden, the MFD investigation continued. The MFD demanded that Mr. Peden produce certain documents to aid its investigation, and Mr. Peden promptly complied.

71. Unlike Mr. Peden, the MFD did not comply with records request made by Atty. Blumenfield. On numerous occasions, Atty. Blumenfield requested records from the MFD so that he could adequately investigate the history of the allegations and MFD investigation against his client. Defendant City of Milwaukee, by Defendant Lipski, denied all such record requests.

E. Recent Developments

72. On or about July 25, 2019, Mr. Peden filed MFD Form 105 complaint against certain MFD employees that was titled “Complaint Against Those Who Framed Me.”

73. Mr. Peden was ordered to file the Form 105 by Defendant Lipski after Mr. Peden had first approached Defendant Lipski in person about the issues he had working with certain MFD employees who he believed had framed him, and also demanded that the ongoing investigation against him be terminated.

74. Given what Mr. Peden has endured, it was only natural that he would rather not work in close proximity with certain named Defendants at the risk of triggering a severe emotional reaction in a hostile work environment.

75. Defendant Lipski had Mr. Peden verbally reprimanded by MFD Chief Snyder for writing the Form 105, and refused to terminate the ongoing internal MFD investigation against him or investigate Mr. Peden’s claims.

76. As of June 5, 2020, Mr. Peden was employed by the MFD and dutifully performing his duties.

77. Prior to beginning each shift, Mr. Peden checked the MFD staffing documents to determine what locations certain named Defendants were assigned for the day to ensure that he would not be working with them.

78. On or about June 5, 2020, Mr. Peden was on a shift when a group of protestors was advancing in the direction of the current MFD station he was assigned for the day.

79. Orders came down to evacuate the location and relocate at a different MFD station. Mr. Peden was aware of the order and also knew that certain named Defendants were on shift at the new site where he was ordered to go.

80. Mr. Peden brought his predicament of being forced to work with certain named Defendants to the attention of his supervisors, MFD Lieutenant Carlos Correrra-Volkman and Chief Michael Ciecwiwa.

81. Mr. Peden informed Lieutenant Correrra-Volkman and Chief Ciecwiwa that if he was unable to be transferred to a new MFD location where no named Defendants were present, then he would rather go home for his own safety and well-being.

82. The MFD would not heed to Mr. Peden's request, so Mr. Peden was sent home that evening by Chief Ciecwiwa.

83. Thereafter, the MFD placed Mr. Peden out of service and issued him a "Quarters of Administration" on June 8, 2020.

84. The Quarters of Administration is an MFD instrument used to charge employees with violations of MFD Code of Conduct, Rules, and Regulations. The Quarters of Administration issued to Mr. Peden was five pages in length and outlined a litany of rules and regulations that Mr. Peden allegedly violated in refusing to follow the June 5th, 2020 order to work at a new location where he knew certain named Defendants would be present.

85. On or about June 17, 2020, the MFD, by Defendant Lipski, fired Mr. Peden for his actions in the June 15, 2020 incident.

V. VIOLATIONS OF LAW

FIRST CAUSE OF ACTION

DENIAL OF DUE PROCESS OF LAW

86. Mr. Peden has a protected property interest in his continued employment as firefighter for the City of Milwaukee.

87. Defendant City of Milwaukee violated the Due Process Clause of the Fourteenth Amendment when its agents acted in a concerted effort to deny Mr. Peden the assistance of counsel at each investigation session conducted by the MFD, thereby depriving Mr. Peden of his rights under the United States Constitution.

88. Defendant City of Milwaukee violated the Due Process Clause of the Fourteenth Amendment by failing to have an impartial decision-maker preside over the internal investigation against Mr. Peden, and also by having an impartial decision-maker render employment actions against Mr. Peden, thereby depriving Mr. Peden of his constitutional rights.

89. Mr. Peden also has a protected liberty interest in defending the criminal charge levied against him. Defendant City of Milwaukee violated the Due Process Clause of the Fourteenth Amendment when, upon information and belief, it denied or otherwise delayed, Mr. Peden's criminal defense counsel access to witnesses and other evidence that was material to guilt, thereby thwarting his rights to effective assistance of counsel and to establish a meaningful defense to the malicious criminal charge levied against him.

SECOND CAUSE OF ACTION

DENIAL OF SIXTH AMENDMENT RIGHT TO COMPULSORY PROCESS OF WITNESSES

90. Upon information and belief, Defendant City of Milwaukee denied Mr. Peden his Sixth Amendment right to the compulsory process for obtaining witnesses in his favor when it preempted his defense counsel's attempt to investigate the charges against Mr. Peden, by denying his defense counsel access to interview MFD witnesses who were material and favorable to his case, and by otherwise denying Mr. Peden the assistance of counsel as required by the U.S. Constitution.

THIRD CAUSE OF ACTION

DENIAL OF EQUAL PROTECTION OF THE LAW

91. Defendant City of Milwaukee denied Mr. Peden equal protection of the law when it denied him legal representation in MFD internal investigation interviews, based upon his male gender, while at the same time permitting Defendant Aleah Ellis, a female, to be represented by counsel in her MFD internal investigation interviews.

FOURTH CAUSE OF ACTION

DENIAL OF DUE PROCESS OF LAW: PUNISHMENT WITHOUT ADJUDICATION

92. Defendant County of Milwaukee violated Mr. Peden's Fourth and Fourteenth Amendment rights when it imprisoned and punished him as a pretrial detainee in the "suicide watch" (i.e. solitary confinement) unit of the jail for approximately five (5) days without justification and for vindictive purposes.

FIFTH CAUSE OF ACTION

DEFAMATION

A. Defamation by Defendant Aleah Ellis

93. Defendant Aleah Ellis made statements to the MFD, and others, alleging that Mr. Peden harassed and sexually assaulted her.

94. The statements were false; and, to date, no corroborating evidence has been discovered that would prove otherwise.

95. Defendant Aleah Ellis' statements were not privileged because she had knowledge that the allegations lacked any evidentiary basis and were issued with malice against Mr. Peden.

96. Defendant Aleah Ellis' statements were not made as if they were opinions, nor were they expressing her own subjective view, conjecture, or surmise.

97. Mr. Peden's reputation has been lowered not only within the estimation of his community, but in the estimation of the entire State of Wisconsin and possibly throughout the United States. News stories of the nature of his arrest went on air within thirty (30) minutes of his arrest on December 2, 2017.

B. Defamation by Defendant City of Milwaukee, Defendant Washington, and Defendant Purifoy

98. Upon information and belief, Defendant City of Milwaukee, by Defendants Washington and Purifoy, repeated or republished the same defamatory statements that Mr. Peden allegedly sexually assaulted an MFD member.

99. Upon information and belief, Defendant City of Milwaukee, by Defendant Purifoy, made statements to the MFD that Mr. Peden harassed and assaulted Defendant Aleah Ellis.

100. The statements were false; and, to date, no corroborating evidence has been discovered that would prove otherwise.

101. Defendant City of Milwaukee's statements, made by Defendants Washington and Purifoy were not privileged because they had knowledge that the allegations lacked any evidentiary basis and were issued with malice against Mr. Peden.

102. Defendant City of Milwaukee's statements, made by Defendants Washington and Purifoy, were not made as if they were opinions, nor were they expressing her own subjective view, conjecture, or surmise.

103. Mr. Peden's reputation has been lowered not only within the estimation of his community, but in the estimation of the entire State of Wisconsin and possibly throughout the United States. News stories of the nature of his arrest went on air within thirty (30) minutes of his arrest on December 2, 2017 and were broadcast throughout Wisconsin and the nation.

SIXTH CAUSE OF ACTION

MALICIOUS PROSECUTION

104. In late 2017, upon information and belief, the Defendant City of Milwaukee, Defendant County of Milwaukee, and Defendants Aleah Ellis, Billie Ellis, Washington, Purifoy, and Banks acted in a concerted effort, and with malice, by causing Mr. Peden to be falsely arrested and subsequently maliciously prosecuted for a Class C Felony- namely, Second Degree Sexual Assault.

105. The criminal proceedings against Mr. Peden were instituted by the Defendant County of Milwaukee through its agent and employees, in their personal and professional capacities.

106. In July 2019, one year and seven months after criminal proceedings were initiated, Mr. Peden's case was dismissed without prejudice.

107. The Milwaukee County District Attorney's Office lacked probable cause to pursue the criminal charge, and had reason to believe that Mr. Peden was not guilty of the charge. Mr. Peden was arrested based upon Defendant Aleah Ellis' baseless allegations against him. There were no corroborating witnesses or physical evidence that provided Defendant Aleah Ellis' accusations with any credence.

108. Rather, the criminal complaint only cites the existence of three anonymous complaints regarding Mr. Peden's conduct towards Defendant Aleah Ellis, and it is doubtful as to whether those complaints cite inappropriate sexual contact. Furthermore, upon information and belief, there were witnesses who could provide potentially exculpatory evidence, but to whom Mr. Peden's counsel was denied access.

109. The criminal complaint fails to specify if the *anonymous* complaints were regarding Mr. Peden's supposed sexual assault. Probable cause must go beyond suspicion. Rather, it is the

government's burden to point to objective circumstances and evidential leads that would lead it to believe that a suspect has committed a crime.

110. Mr. Peden has suffered, and continues to suffer, from the allegations and subsequent criminal proceedings based on a crime that he did not commit. Newspaper articles detailing his arrest and accused conduct that were circulated in print and via social media sparked public outrage against Mr. Peden.

111. Mr. Peden's public reputation and employment prospects have been diminished, and the resulting stress and anguish have greatly damaged his mental health. He lost his State of Wisconsin and National Emergency Medical Technician/Paramedic certifications.

112. Mr. Peden was eventually terminated from MFD.

SEVENTH CAUSE OF ACTION

DAMAGES RESULTING FROM A CIVIL CONSPIRACY

113. Upon information and belief, Defendant City of Milwaukee, by Defendants Washington, Purifoy, and Aleah Ellis, and Defendant Billie Ellis, attempted, and succeeded, in fabricating testimony and evidence throughout the MFD's investigations into Mr. Peden and in instigating, and furthering, the arrest and malicious criminal prosecution of Mr. Peden.

114. Upon information and belief, Defendants Aleah Ellis, Billie Ellis, Washington, and Purifoy conspired by coaching one another in an effort to give non-conflicting testimonies when the interviews were later conducted. This was done to give Defendant Aleah Ellis' baseless and unsupported complaint greater evidentiary weight.

115. That in furtherance of this conspiracy, Defendant Washington based his allegations against Mr. Peden in part upon three anonymous letters which, when speaking to the MPD, he

stated “were written by someone using their left hand,” implying intimate knowledge of their creation.

116. That in furtherance of this conspiracy, upon information and belief, certain members of the MFD, at the request of either Defendants Washington or Purifoy in furtherance of the conspiracy, successfully and unlawfully accessed Mr. Peden’s official MFD electronic account to tamper with his previously issued evaluation report on Defendant Aleah Ellis.

117. That in furtherance of this conspiracy, upon information and belief, Defendants Aleah Ellis, Billie Ellis, Washington, Purifoy, and Banks acted in a concerted effort to have the MPD detectives interview Defendant Aleah Ellis and Billie Ellis in Defendant Bank’s office, without recordings, and eventually had Mr. Peden arrested approximately five hours after the interviews were complete.

118. Furthermore, upon information and belief, Defendant Purifoy authored one or more of the anonymous complaint letters that were submitted to Defendant Washington and relied upon in bringing forth criminal charges.

119. As a result of the aforementioned unlawful and conspiratorial acts taken by Defendants Aleah Ellis, Billie Ellis, Washington, Purifoy, and Banks, Mr. Peden was subsequently arrested and prosecuted for acts that he did not commit. Mr. Peden’s reputation was forever marred, he was thrown in jail, isolated twenty-four (24) hours a day, and publicly humiliated in front of his family and a national audience.

120. Finally, Defendant City of Milwaukee, by the MFD and its agents, ultimately terminated Mr. Peden’s employment as a result of the intentionally marred relationship between he and the MFD.

VI. BASIS FOR PUNITIVE DAMAGES

121. By reason of the Defendants' conduct as alleged herein, the acts of each Defendant demonstrated an intentional and malicious disregard for Mr. Peden's constitutional rights, his reputation, and livelihood under Wis. Stat. § 895.043.

122. Defendants' acts and omissions alleged herein were the cause of Mr. Peden being denied due process of the law, punished prior to adjudication, maliciously prosecuted for a crime he did not commit, defamed, and terminated from his job as a firefighter in the MFD.

VII. DEMAND FOR JURY TRIAL

123. Mr. Peden respectfully demands a trial by jury on all claims and causes of action properly asserted in this complaint.

VIII. CONDITIONS PRECEDENT

124. All conditions precedent to this action, within the meaning of Rule 9(c), Fed. R. Civ. Pro., have occurred or been performed.

IX. PRAYER FOR RELIEF

WHEREFORE, Mr. Peden prays for relief and judgement as follows:

125. A judgment against Defendants for actual and consequential damages sustained;

126. An award of punitive damages up to maximum amount as allowed by law;

127. Recovery of costs and expenses related to investigating and litigating Defendants' conduct;
128. Recovery of reasonable attorney fees;
129. An award of any further relief the Court deems just and proper considering the circumstances of this matter.

Dated August 25, 2020.

Respectfully submitted,

Levine Eisberner LLC

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