

COMP

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**UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA**

ADAM TIPPETTS, CORY FOWLES,
MICHAEL CLEVELAND, and ALLEN
LYNN

Plaintiffs,

vs.

NYE COUNTY, a political entity of the State
of Nevada; SHARON WEHRLY,
individually and in her representative capacity
as Sheriff of Nye County; DOE
INDIVIDUALS I through X, inclusive; and
ROE ENTITIES I through X, inclusive,

Defendants.

Case No.:

Dept. No:

**COMPLAINT AND DEMAND
FOR JURY TRIAL**

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COMPLAINT

Plaintiffs, ADAM TIPPETTS, individually; MICHAEL CLEVELAND, individually;
CORY FOWLES, individually; and ALLEN LYNN, individually, by and through their counsel
of record, Brent D. Huntley, Esq. of Huntley Law, for their causes of action against the
Defendants, NYE COUNTY and SHARON WEHRLY et al., complain and allege as follows:

I. PARTIES

1. At all times relevant hereto, the Plaintiff, ADAM TIPPETTS (hereinafter
“TIPPETTS”), was and is a citizen of the United States and a resident of the State of Nevada,
County of Nye; and was an employee of the Defendants during the events in question.

1 2. At all times relevant hereto, the Plaintiff, CORY FOWLES (hereinafter
2 “FOWLES”), was and is a citizen of the United States and a resident of the State of Nevada, County
3 of Nye; and was an employee of the Defendants during the events in question.

4 3. At all times relevant hereto, the Plaintiff, MICHAEL CLEVELAND (hereinafter
5 “CLEVELAND”), was and is a citizen of the United States and a resident of the State of Nevada,
6 County of Nye; and was an employee of the Defendants during the events in question.

7 4. At all times relevant hereto, the Plaintiff, ALLEN LYNN (hereinafter “LYNN”),
8 was and is a citizen of the United States and a resident of the State of Nevada, County of Nye; and
9 was an employee of the Defendants during the events in question.

10 5. At all times relevant hereto, the Defendant, NYE COUNTY (hereinafter
11 “COUNTY”), was and is a local government entity and employer, organized and existing under
12 the laws of the State of Nevada, and is a political subdivision thereof as defined within NRS
13 41.0305. The COUNTY exercises and is responsible for the authority and control over the Nye
14 County Sheriff’s Office (hereinafter “Sheriff’s Office”) and its employees in their official
15 capacities.

16 6. At all times relevant hereto, the Defendant, SHARON WEHRLY (hereinafter
17 “WEHRLY”) was and is a citizen of the United States and a resident of the State of Nevada,
18 County of Nye, and was the Sheriff for Nye County;

19 7. The COUNTY is responsible for the promulgation and enforcement of the actual
20 and de facto rules, regulation, policies, procedures, decision, usages and customs of the Sheriff’s
21 Office and for ensuring that employees of the Sheriff’s Office obey and conform their actions to
22 the laws of the COUNTY, the State of Nevada, the United States of America, and the collective
23 bargaining agreements and other contractual rights afforded to employees of the COUNTY and
24 the Sheriff’s Office.

25 8. The COUNTY, like any other corporate entity, can only act through its agents and
26 employees, whose actions are the acts of the local government entity. The COUNTY is charged
27 with ensuring that through proper job placement, employment, training and supervision that its
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1 law enforcement officers and officials will perform their duties in accordance with the
2 aforementioned rules, regulations, policies, procedures, laws and constitutions. The County is
3 therefore directly responsible for the conduct of its employees, agents and representatives in their
4 official capacities.

5 9. Doe Individuals I-X (“Does”) are individuals believed to be responsible, in part or in
6 whole, for the allegations set forth below, acting individually or in concert with Defendant, who
7 cannot be identified by Plaintiffs at this time. As soon as the identities of DOES I-X are
8 ascertained, Plaintiffs will seek leave to amend this Complaint to name said Defendants.

9 10. Roe Entities I-X (“Roes”) are entities believed to be responsible, in part or in whole, for
10 the allegations set forth below, acting individually or in concert with Defendant, who cannot be
11 identified by Plaintiffs at this time. As soon as the identities of Roes I-X are ascertained, Plaintiffs
12 will seek leave to amend this Complaint to name said defendants.

13 11. At all times relevant hereto, the Defendants and each of them, were the agents,
14 servants, employees, employers, partners, co-owners and/or joint venturers of each other and of
15 their co-Defendants, and were acting within the color, purpose and scope of their employment,
16 agency, ownership and/or joint ventures, and by reason of such relationships, the Defendants, and
17 each of them, are jointly and severally responsible and liable for the acts or omissions of their co-
18 Defendants.

19 12. All facts, acts, events and circumstances herein mentioned, alleged and described
20 occurred in the County of Nye, State of Nevada.

21 **II. STATEMENT OF JURISDICTION**

22 13. This is an action brought pursuant to the First, Fifth, and Fourteenth Amendments
23 to the Constitution of the United States, Article I, Section 8, Clause 5 of the Constitution of the
24 State of Nevada, 42 U.S.C. §1983, 42 U.S.C. §1985 and 42 U.S.C. §1986. Jurisdiction in this
25 matter is specifically conferred on this Court by virtue of 42 U.S.C. §1983, 28 U.S.C. §1331 and
26 28 U.S.C. §1343. This Court has jurisdiction over Plaintiffs’ state law claims pursuant to 28 U.S.C.
27 §1367(a). Compensatory and punitive damages are sought pursuant to 42 U.S.C. §1983 and 42
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1 U.S.C. §1985. Costs and attorney’s fees may be awarded pursuant to 42 U.S.C. §1988 and Rule
2 54 of the Federal Rules of Civil Procedure.

3 **III. GENERAL ALLEGATIONS**

4 14. Plaintiffs are all employees of THE COUNTY assigned to work for the Sheriff’s
5 Office (“NCSO”) under the direction of WEHRLY.

6 15. At all relevant times, TIPPETTS was a lieutenant with the NCSO, FOWLES was
7 an Investigator Sergeant with the NCSO, LYNN was a lieutenant that was demoted to a deputy
8 with the NCSO, and CLEVELAND was a Sergeant in the Jail Facility with the NCSO.

9 16. The 2022 Sheriff election for Nye County has been a hotly contested race with
10 WEHRLY and Joe McGill (“McGill”) emerging as the candidates following the primary vote.

11 17. McGill is a deputy with the Sheriff’s Office assigned to the Motors Unit.

12 18. The vast majority of all law enforcement officers in the County voted to endorse
13 McGill as their preferred candidate for Sheriff.

14 19. WEHRLY handles almost all employee issues through her Captain, David
15 Boruchowitz (“Boruchowitz”).

16 20. Law enforcement officers, including the Plaintiffs in this action, have made several
17 complaints to WEHRLY and the County for several years regarding Captain Boruchowitz.

18 21. The complaints about Boruchowitz have included evidence and allegations of
19 criminal conduct, dishonesty, retaliation, sexual harassment, hostile work environment, targeting,
20 and other inappropriate conduct that has led to many previous lawsuits, grievances and hostile
21 work environment claims.

22 22. WEHRLY and the County have been dismissive of all complaints against
23 Boruchowitz despite the significant financial cost to the County.

24 23. The County and WEHRLY have continued to allow Boruchowitz access and means
25 to continually target employees, including Plaintiffs, and create a hostile work environment.

26 24. The County is aware of the hostile work environment created by WEHRLY and
27 Boruchowitz at the NCSO for Plaintiffs and others but have refused to take any action to correct
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1 the situation or alleviate the mistreatment of Plaintiffs.

2 25. WEHRLY and the County have refused or failed to provide proper training,
3 guidelines, enforcement, or accountability relative the administrators at NCSO, who have fostered
4 a hostile work environment.

5 LYNN

6 26. LYNN has enjoyed a career of over twenty years with the Sheriff Office, primarily
7 working out of the Central and North Area Commands.

8 27. Given LYNN's history and position with the Sheriff's Office, he is likely the most
9 well-known and respected law enforcement office known to the public in the Central and North
10 Area Commands.

11 28. As candidates were filing to run in the Sheriff election, LYNN began hearing
12 rumors that he was planning on or that he should run for the position of Sheriff. Although LYNN
13 considered it, he never made this information public. Several people encouraged LYNN to run for
14 Sheriff, but LYNN never committed. LYNN heard from a deputy in Amargosa that citizens
15 frequently asked if LYNN was going to run. LYNN believes these rumors were learned of by
16 WEHRLY, whose son, George Wehrly, was a sergeant in Amargosa.

17 29. In or around November 2021, McGill was in the North Area Command to
18 campaign.

19 30. While McGill was campaigning in November 2021, LYNN offered to show him
20 around the area and introduce him to people, which all occurred off duty.

21 31. On or around February 26, 2022, LYNN arranged to pick up McGill's tickets to the
22 Crab Crack in Tonopah and get them to him. LYNN took McGill to Belmont for a potluck dinner
23 at Dirty Dicks Saloon. During this time, McGill was staying in his RV and had campaign signs
24 out, making it known to the public that he was running for Sheriff.

25 32. While LYNN was assisting McGill, he noticed a black SUV drive by which he
26 recognized as former Sheriff Wade Lieseke's ("Lieseke") vehicle. Lieseke is a friend to WEHRLY
27 and informed WEHRLY that LYNN had been out campaigning with McGill.
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1 33. Sometime after February, LYNN was called to a meeting where Boruchowitz
2 specifically told him that he was going to talk about LYNN. In that meeting Boruchowitz stated
3 that WEHRLY was mad that LYNN supported McGill and had commented on a Facebook post in
4 support of McGill. Boruchowitz further warned LYNN and others in attendance, including
5 TIPPETS, that they should not expect leniency from WEHRLY when they were supporting
6 another candidate.

7 34. At the end of May in 2022, LYNN started hearing rumors that he WEHRLY was
8 planning to terminate him or force him to take a demotion.

9 35. Prior to this time, LYNN had begun to be placed into several Internal Affairs
10 investigations over minor allegations. The investigations that LYNN had been placed in during
11 this time include the following:

- 12 a. LYNN received a paper suspension of ten hours on or about January 10, 2022, for
13 alleged supervisor deficiencies which were disproven by evidence provided by
14 LYNN;
- 15 b. LYNN received a paper suspension of twenty hours on or about January 26, 2022,
16 for alleged minor supervisor deficiencies; and,
- 17 c. LYNN received a paper suspension of thirty hours on or about May 16, 2022, for
18 alleged minor supervisory deficiencies that had allegedly happened in the past.

19 36. The County had permitted Captain Boruchowitz to be the President of the
20 supervisor’s union (“NCASS”), of which LYNN was a member, despite Boruchowitz being the
21 direct supervisor of LYNN and other members of NCASS. This was a clear violation of NRS
22 288.140(4)(a) and 288.170.

23 37. Boruchowitz used his position as President of the NCASS to convince LYNN to
24 accept severe disciplines for minor allegations rather than fight by ensuring all penalties associated
25 with those disciplines were waived by WEHRLY.

26 38. Realizing he had been duped by Boruchowitz and WEHRLY and was now facing
27 termination based upon frivolous and erroneous allegations that had been stacked against him, and
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1 nobody else, LYNN finally obtained independent legal representation regarding several new
2 investigations that had been started against him.

3 39. In early June of 2022, LYNN was notified that he was to be disciplined based off
4 an existing Internal Affairs investigation alleging he had failed to update a calendar. This very
5 minor failure came during a time period where LYNN worked 209 hours instead of the standard
6 160 hours, representing 49 additional hours worked in a two-week period without any additional
7 compensation. The minor shortcoming was justified given his workload; however, he was
8 informed he was going to be terminated based upon this allegation. LYNN retained counsel to
9 fight the termination and a letter was issued to the NCSO on June 15, 2022, disputing the evidence
10 in this case.

11 40. On or about May 11, 2022, LYNN was notified of a new Internal Affairs
12 investigation alleging he had spoke despairingly about WEHRLY and the NCSO to a subordinate.
13 In reality, the interview revealed no allegation of any despairing statements.

14 41. On or about May 11, 2022, LYNN was notified of a new Internal Affairs
15 investigation alleging he had not completed assignments from Captain Boruchowitz issued the
16 prior week. No other supervisors had been placed into investigations for such allegations
17 especially so quickly after the assignment was received.

18 42. On or about May 24, 2022, LYNN was notified of a new Internal Affairs
19 investigation alleging that he had taken too long to staff an overtime event despite it being fully
20 staffed prior to the date of the event. Other supervisors had waited longer to staff similar events
21 with no repercussions.

22 43. On or about June 29, 2022, LYNN was notified of a new Internal Affairs
23 investigation alleging that he failed to relay a message to a detective, outside his chain of
24 command, when he had in fact relayed the message properly.

25 44. On or about June 7, 2022, LYNN was notified that discipline was going to be
26 proposed based off an existing Internal Affairs investigation alleging he had failed to properly
27 discipline sergeants and a deputy for not timely responding to requests that evidence logs be
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1 updated. The delay was based primarily on the deputy not being able to access the evidence during
2 his graveyard shift because the evidence room was locked. Moreover, the sergeants, including
3 WEHRLY's son, were not disciplined by the NCSO despite the allegation that LYNN should be
4 disciplined for not disciplining them. Termination was officially proposed on or about June 14,
5 2022.

6 45. On or about June 7, 2022, LYNN was notified that discipline was going to be
7 proposed based off an existing Internal Affairs investigation alleging he had failed to discipline
8 sergeants, including WEHRLY's son George Wehrly, for their failure to timely respond to
9 assignments. Those sergeants were never disciplined by NCSO despite the allegations against
10 LYNN. On or about June 20, 2022, termination was officially proposed for this minor allegation
11 of failing to address someone else's failure.

12 46. On or about June 29, 2022, LYNN was notified of another new Internal Affairs
13 investigation alleging that he had failed to timely review an interaction he was assigned. Had there
14 been any follow up by his supervisor, it would have been learned there was no urgency for the
15 review and that LYNN was waiting to review it with someone on leave to be used for training
16 purposes. That simply follow up would have alleviated any need for an investigation.

17 47. The practice of overloading an employee with so many manufactured investigations
18 and threatening termination had been used in the past by WEHRLY and Boruchowitz as a means
19 to force employees to voluntarily resign or demote. Knowing these attempts were not going to
20 stop under WEHRLY, LYNN agreed to demote to a deputy position rather than fight what was
21 going to be an ongoing attempt to terminate him without cause.

22 48. Following LYNN's demotion, WEHRLY promoted her son, George Wehrly to act
23 as an acting lieutenant in LYNN's place. It is believed there was no testing to fill this position. It
24 is also incomprehensible that much of LYNN's alleged failures related to not disciplining George
25 Wehrly for his failures; therefore, it defies logic that LYNN would be demoted for not disciplining
26 George Wehrly's mistakes but George Wehrly would get promoted despite those mistakes.

27 49. It was learned on November 3, 2022, that WEHRLY had approved the release of
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1 confidential disciplinary records for LYNN to be released to a fictitious person through a
2 fraudulent request. WEHRLY has a history of releasing confidential documents via fraudulent
3 requests but the County has refused to investigate complaints of the same. The fraudulently
4 obtained records related to LYNN were sent by WEHRLY's son, John Wehrly, to businesses and
5 citizens in Nye County.

6 TIPPETTS

7 50. TIPPETTS has been employed by the County with the Sheriff's Office for more
8 than sixteen years.

9 51. Toward the end of 2021, TIPPETTS began speaking out against Captain
10 Boruchowitz denigrating of employees, his failures to lead, and the incredibly low morale in the
11 NCSO created by Boruchowitz and WEHRLY. TIPPETTS was met with swift retaliation from
12 Boruchowitz and WEHRLY for his criticism.

13 52. Near the end of November 2021, TIPPETTS, who was lieutenant assigned to the
14 Training Division at the time, received treatment from Boruchowitz that was designed to minimize
15 TIPPETTS position and authority.

16 53. On November 29, 2021, TIPPETTS received a personal performance review from
17 Boruchowitz addressed to all Lieutenants stating that "many Lieutenants have failed to handle
18 work on their days off, check emails, provide updates, and ensure their work is complete." This
19 review was unsupported and unjustified as to TIPPETTS.

20 54. On November 30, 2021, Boruchowitz issued an order to all Lieutenants about
21 maintaining work productivity expectations.

22 55. On November 30, 2021, TIPPETTS and other officers responded via email
23 regarding the personal performance review stating that the review was unfair and unreasonable.
24 Boruchowitz responded to the complaints stating that there would be write ups for Lieutenants
25 who didn't comply and that everyone needed to "stop wasting time and get back to work, there is
26 plenty of it."

27 56. Later, on November 30, 2021, TIPPETTS sent a three-page response to the personal
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1 performance review requesting more reasonable working conditions stating that the tasks assigned
2 to him were excessive and that he should not be expected to constantly be available for work
3 matters during off duty hours.

4 57. On November 30, 2021, TIPPETTS received an email sent to all Lieutenants from
5 Boruchowitz clarifying and reiterating the matters discussed in the prior personal performance
6 review.

7 58. On November 30, 2021, TIPPETTS received a lengthy response from Boruchowitz
8 regarding TIPPETTS' response to the personal performance review in which Boruchowitz denied
9 TIPPETTS' claims of the work expectations being unreasonable and excessive.

10 59. On February 24, 2022, TIPPETTS was notified that he was being transferred from
11 his assignment over the Training Division. It is believed this transfer was made for retaliatory
12 motives and to set TIPPETTS and the training division up as a scapegoat for WEHRLY to attack
13 during her campaigning despite any shortcomings in the training division being the result of
14 excessive workload and poor management from WEHRLY and Boruchowitz.

15 60. On February 24, 2022, Boruchowitz wrote an unnecessary counseling performance
16 report claiming that TIPPETTS had used the court room without scheduling it properly.

17 61. Also on February 24, 2022, Boruchowitz submitted a counseling expectations
18 report and transferred TIPPETTS to back half patrol and assigned Lieutenant McRae to do an audit
19 of the Training Sheriff's Office for at least 60 days. There was no legitimate reason to transfer
20 TIPPETTS from the Training Division or to perform an audit of the Training Division.

21 62. On February 24, 2022, Boruchowitz sent a mass email to inform everyone that
22 TIPPETTS was transferred to back half patrol and McRae was transferred to the Training division.

23 63. On March 18, 2022, TIPPETTS responded to Boruchowitz regarding his
24 reassignment and stated that he had never supervised patrol but was willing to do his best. He
25 further stated that he hoped that this change was not politically motivated or personal.

26 64. In or around January or February of 2022 TIPPETTS began seeking therapy with
27 the EAP and later with another therapist in Las Vegas due to the hostile work environment he was
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1 experiencing. TIPPETTS treatment continues to the time of filing this complaint and includes
2 treatment from two professionals.

3 65. In or around February there were two internal affairs complaints against
4 TIPPETTS brought by Captain Means, who stated that he only addressed the issues because they
5 were brought to his attention by Captain Boruchowitz.

6 66. On March 25, 2022, TIPPETTS received an email from Sergeant Means asking
7 why Boruchowitz was updating the code reds for the robbery in Beatty on the night of March 24th
8 instead of the night sergeants.

9 67. On March 25, 2022, TIPPETTS responded to the email from Means and stated that
10 he had already addressed the matter and had advised the acting Sergeant of proper procedure.

11 68. In or around March or April 2022, TIPPETTS attended McGill's meet and greet at
12 Fight Science Academy.

13 69. In or around April or May 2022, TIPPETTS was put in an Internal Affairs
14 complaint stating that Captain Boruchowitz complained about various issues with troops. A stop
15 gap counselling was issued to rectify, but the Internal Affairs investigation continued.

16 70. On July 14, 2022, Boruchowitz sent emails to Sergeant Means containing false and
17 untrue information about TIPPETTS' work productivity.

18 71. As a result of such emails, Means requested TIPPETTS' on and off duty log as
19 well as his GPS log.

20 72. When Boruchowitz sent over the logs, he admitted to Captain Means that his
21 emails were wrong, and that TIPPETTS' log showed that he was working when he was supposed
22 to. Despite this, Boruchowitz continued to proffer that TIPPETTS was coming in at times later in
23 the day in order to avoid having contact with him and WEHRLY.

24 73. On or around July 21, 2022, TIPPETTS received emails from Captain Means
25 scrutinizing him whereas other officers in the same position were allowed to participate in similar
26 actions and actual misconduct without the same scrutiny.

27 74. On August 15, 2022, TIPPETTS filed a hostile work environment claim with the
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1 County.

2 75. On or about August 28, 2022, TIPPETTS was forced to begin using sick leave at
3 the recommendation of his doctor to avoid the hostile work environment permitted by WEHRLY
4 and the County. He has incurred a significant financial loss in using this sick leave.

5 76. While on sick leave, TIPPETTS, and two others similarly situated, were issued
6 “Stop Orders,” which essentially removed TIPPETTS right to identify as a law enforcement officer
7 and directed the NCSO employees to not let him on the premises and similar repercussions. Stop
8 Orders of this nature had not been used by WEHRLY previously and were designed to attack
9 TIPPETTS and others claiming a hostile work environment due to her actions.

10 77. One of the Stop Orders was issued to Deputy Kakavulias despite his being on leave
11 several months prior to this time period. The retroactive Stop Order was issued only to cover up
12 the retaliatory nature of TIPPETTS Stop Order and likely because Deputy Kakavulias started
13 affiliating with Cops for Joe.

14 78. On September 18, 2022, TIPPETTS and FOWLES created and founded the Cops
15 for Joe McGill political action committee (the “PAC”). The PAC is registered with the Nevada
16 Secretary of State and became very active on social media.

17 79. On September 19, 2022, TIPPETTS received a letter from WEHRLY notifying
18 him that he was being laid off effective October 3, 2022.

19 80. TIPPETTS immediately filed a grievance with WEHRLY contesting the validity of
20 his proposed layoff because it violated federal law and the CBA. The grievance further notified
21 her that the applicable CBA would require her to first remove her son, George Wehrly, from his
22 acting lieutenant position before laying off actual lieutenants.

23 81. On September 20, 2022, TIPPETTS sent an email to County Manager Sutton
24 notifying the county of the situation with the proposed layoff violating FMLA.

25 82. WEHRLY thereafter admitted that TIPPETTS could avoid a layoff if he elected to
26 take the lieutenant position currently filled by her son, George Wehrly, but that she did not think
27 TIPPETTS would take the position since it would require relocation.

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1 83. TIPPETTS, through his counsel, notified WEHRLY that he would take the
2 lieutenant position filled by her son, George Wehrly.

3 84. Shortly after notifying WEHRLY that he would take her son’s position, TIPPETTS
4 received an email from Captain Boruchowitz stating that WEHRLY was reviewing the procedure
5 for layoffs and had rescinded the layoff notice for the time being, emphasizing that TIPPETTS
6 would still be laid off, but presuming WEHRLY first had to find a way to legally lay TIPPETTS
7 off without having to demote her son, George Wehrly.

8 CLEVELAND

9 85. In or around April of 2022, CLEVELAND began to support Joe McGill both
10 visually by putting a sign in his yard and vocally by posting on social media in support of Joe
11 McGill.

12 86. At some point Christine Murphy and Ashley Castillo saw the sign in
13 CLEVELAND’S yard when they were going door to door. They were active in Eric Murphy’s
14 campaign, which later shifted to support Wehrly after Murphy lost the primary election and
15 WEHRLY provided him with several benefits.

16 87. On June 30, 2022, CLEVELAND as Treasurer of the Nye County Sergeant’s
17 Association (“NCSA”), publicly signed a letter of endorsement for Joe McGill for Sheriff on behalf
18 of his membership and circulated the letter.

19 88. Around the end of August 2022, CLEVELAND put in a C1 for his back and went
20 to a worker’s compensation doctor and was given restrictions to not wear a duty belt.

21 89. One week after receiving the restrictions, CLEVELAND was given a light duty
22 offer and was told to report to work to get the ICE billing reports sent off. He was classified as a
23 detention technician in the letter offer.

24 90. When CLEVELAND reported to work on light duty, he was treated differently
25 from how other Sergeants on light duty had been treated. Specifically, his position and duties were
26 targeted, and he was no longer allowed to supervise his deputies. Supervising his deputies in no
27 way violated his restrictions. In previous incidents, the NCSO had permitted Sergeant Eisenloffel,
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1 who had a cast on his forearm/wrist, and Sergeant Harris, who was in a sling for a broken
2 collarbone, to supervise their deputies and act in the capacity of a Sergeant while on light duty.
3 Because of the disparity in treatment, CLEVELAND felt that he and his deputies were targeted by
4 the NCSO and unfairly treated.

5 91. In September of 2022, Pahrump held the annual Fall Festival.

6 92. CLEVELAND worked at the Fall Festival with other officers, operating the
7 NCSO's off-highway vehicle ("OHV") until he was directed by Sergeant Augustine that the OHV
8 was not to be used at the event except by NCSO Auxiliary.

9 93. After the OHV was parked, WEHRLY's NCSO secretary, who was working at
10 WEHRLY's campaign booth at the Fall Festival, directed CLEVELAND to drive her in the OHV
11 to her vehicle to retrieve a helium tank to be used by WEHRLY in her campaign booth.

12 94. CLEVELAND refused to take Janice due to Sergeant Augustine's direction, but
13 Janice claimed it had been approved by the Undersheriff and convinced another officer to use the
14 OHV at her direction.

15 95. CLEVELAND reported this incident, including WEHRLY's improper use of
16 NCSO personnel and the OHV for her personal benefit, to Sergeant Augustine. There have been
17 several other reports of WEHRLY using Janice during on-duty hours for her personal use on the
18 campaign, all of which time is being paid for by the County.

19 96. On September 24, 2022, CLEVELAND was off duty and acting as a private citizen.
20 He walked around the Fall Festival with his family and displayed a "Cops for McGill" political
21 sign in support of Joe McGill.

22 97. CLEVELAND also participated in other Cops for McGill events.

23 98. On August 24, 2022, CLEVELAND was monitoring video surveillance of the jail
24 and overheard a conversation between a Sergeant and a Lieutenant. The Sergeant was complaining
25 that CLEVELAND should be moved from his specialty Sergeant position to a normal Sergeant
26 position so they could get rid of a separate Sergeant.

27 99. On September 27, 2022, CLEVELAND was placed on administrative leave and
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1 investigated for dishonesty and violations of NRS 200.650 for “surreptitiously” listening to the
2 conversation in the jail facility while he was on surveillance duty. Notably this investigation was
3 initiated just after the events at the Fall Festival despite the allegations being more than a month
4 old.

5 100. There is no expectation of privacy in the jail facility and all employees in the NCSO
6 are put on written notice that their conversations in the jail facility are recorded. As such, no
7 officer with the NCSO could, in good faith, allege a violation of NRS 200.650 based upon
8 CLEVELAND’s actions.

9 101. It has been reported to CLEVELAND that the actual reason for his being put on
10 leave, as stated by Janice to others, is because he refused to use the OHV for the WEHRLY
11 campaign and because he reported WEHRLY’s improper use of County resources for her personal
12 gain.

13 102. On October 4, 2022, CLEVELAND was ordered to come in while on administrative
14 leave to train two Lieutenants on how to do billing and run the daily operations of his division. He
15 was treated negatively during this time at work.

16 FOWLES

17 103. On or around March 2, 2022, FOWLES made the decision to support Joe McGill
18 for Sheriff. FOWLES called McGill and expressed his support, offered him advice regarding his
19 campaign platform, and requested that McGill bring him a yard sign.

20 104. On March 4, 2022, McGill gave FOWLES a yard sign. They talked in the driveway
21 about a potential undersheriff for McGill. McGill told FOWLES that he would be at the grand
22 opening of the sharper image barber shop in Pahrump the next day campaigning. FOWLES put
23 McGill’s campaign sign in his front yard and published a picture of it in his yard on his personal
24 Facebook page.

25 105. On March 5, 2022, FOWLES met McGill at the barbershop grand opening and
26 donated \$1,000.00 cash to his campaign, effectively placing himself on the public donor list per
27
28

1 NRS. McGill gave him a campaign shirt and FOWLES wore it while campaigning with McGill
2 that day.

3 106. On or around March 6 through April 1, 2022, FOWLES continually advocated for
4 McGill’s campaign on social media. This led to the irritation of Captain Boruchowitz and
5 WEHRLY. During this time, FOWLES also talked to TIPPETTS and Sergeant Nick Augustine to
6 gain their support for McGill. Sergeant Augustine was later labeled by WEHRLY as “collateral
7 damage” relative to her retaliation against FOWLES and TIPPETTS.

8 107. FOWLES publicly promoted a meet and greet for McGill, which was scheduled for
9 April 9, 2022.

10 108. On March 29, 2022, FOWLES was served an Internal Affairs notice that he was
11 being investigated for leaving work early and adjusting his schedule. It was alleged that there was
12 a gap in response for a detective even though FOWLES instructed dispatch (on a recorded line) to
13 notify the on-call detective and they did not. FOWLES was blamed for the response time gap and
14 investigated for adjusting his schedule. This investigation had no merit because FOWLES had
15 been freely permitted, for at least the previous two years, to adjust his schedule at his discretion
16 given the nature of his assignment.

17 109. On March 30, 2022, FOWLES was served another Internal Affairs notice for
18 assisting a citizen with a VIN check. Until this point, FOWLES had been free to assist the public
19 when needed in similar circumstances. Eric Murphy’s campaign manager, Ashley Castillo, was
20 the complainant in this Internal Affairs notice.

21 110. Despite the retaliation he had already been subject to, FOWLES continued to
22 advocate throughout April for McGill’s campaign both in person and on social media. While off
23 duty, FOWLES also attended in person public events, meet and greets, and fundraisers for McGill.

24 111. On or around May 20, 2022, FOWLES donated an additional \$500 to McGill’s
25 campaign to fund a billboard which again placed him on the public donor list.

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1 112. On June 30, 2022, FOWLES, as Vice President of the NCSA, publicly signed a
2 letter of endorsement for Joe McGill for Sheriff on behalf of his membership and circulated the
3 letter.

4 113. On August 29, 2022, FOWLES formally advised County Manager Tim Sutton and
5 HR Director Elona Goldner in writing that he was being subjected to retaliation and a hostile work
6 environment.

7 114. On September 18, 2022, TIPPETTS and FOWLES created and founded the Cops
8 for Joe McGill political action committee (the “PAC”). The PAC is registered with the Nevada
9 Secretary of State and has been very active on social media.

10 115. On September 21, 2022, FOWLES participated in an in-person conversation with
11 Captain Means where Means told FOWLES that WEHRLY was irritated with FOWLES and that
12 she wants to discipline FOWLES by writing him up without affording him due process, Garrity,
13 or an investigation pursuant to NRS 289. Means also told FOWLES that WEHRLY stated that she
14 “just wants to squeeze [his] head.”

15 116. On October 10, 2022, Captain Means told FOWLES in person that he may now
16 be investigated for a use of force incident that occurred approximately 6 weeks prior. This use of
17 force was lawful and previously cleared by Captain Means so there would be no reason for a new
18 investigation other than retaliation by WEHRLY.

19 117. On October 27, 2022, FOWLES was written up for “wrinkled pants,” which is not
20 something anyone else has or would be written up for and is unprecedented in FOWLES’ time as
21 an employee of the County.

22 FOWLES AND TIPPETS AND THE FACEBOOK INCIDENT

23 118. On or around May 22, 2022, Boruchowitz posted a fraudulently obtained video
24 and defamatory commentary about Joe McGill on a Facebook page, Pahrump Politics.

25 119. TIPPETTS created the Pahrump Politics Facebook page, along with several other
26 similar pages, with Boruchowitz during the 2014 election.

27 120. TIPPETTS made FOWLES an editor on the Pahrump Politics page so that he could
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1 remove the video and defamatory writing.

2 121. TIPPETTS also removed Boruchowitz from being an administrator of the Pahrump
3 Politics page.

4 122. After being removed from Pahrump Politics, Boruchowitz was furious and stated
5 to various people that he was going to "destroy" TIPPETTS and FOWLES. Boruchowitz also
6 removed TIPPETTS as an administrator from the remaining Facebook pages the two had created.

7 123. On May 24, 2022, Boruchowitz created a new Facebook page called "The REAL
8 Pahrump Politics." Boruchowitz began using this page to defame and slander FOWLES and his
9 family and TIPPETTS.

10 124. On May 25, 2022, Boruchowitz published an apparent homemade video on "The
11 REAL Pahrump Politics" page falsely accusing TIPPETTS and FOWLES of "forgery."

12 125. On or around May 25 through June 13, 2022, Boruchowitz continued to use "The
13 REAL Pahrump Politics" page and the "Nye County News" page, of which he is also a publisher,
14 to circulate slanderous material about TIPPETTS and FOWLES, including their friends and
15 family. These posts and content reached thousands of viewers.

16 126. WEHRLY was made aware of Boruchowitz' behavior and excused it. Additional
17 information was learned to show that WEHRLY encouraged and assisted Boruchowitz' actions.

18 127. On or about August 11, 2022, FOWLES and TIPPETTS were served an Internal
19 Affairs investigation notice referencing the Pahrump Politics Facebook incident.

20 128. There was no reason for the delay of almost three months to begin an investigation
21 other than tying it to political happenings of the election and FOWLES and TIPPETTS active
22 campaigning for McGill.

23 129. FOWLES and TIPPETTS were later notified that a criminal investigation was being
24 conducted by the Undersheriff regarding the Facebook incident.

25 130. The stated justification for the internal and criminal investigations was the
26 allegations that TIPPETTS and FOWLES had violated NRS 205.4765, 205.477, 205.481 and NRS
27 199.480; however, there was no legitimate basis under the statutes for making such allegations.
28

1 131. On August 24, 2022, FOWLES and TIPPETTS provided a criminal interview to
2 the Undersheriff after their internal interview with Detective Brainard.

3 132. It was learned that the internal and criminal investigations were pushed forward at
4 the behest of the Sheriff despite her knowledge that none of the criminal statutes had been violated
5 by TIPPETTS or FOWLES. It was also learned that WEHRLY pushed for and tried to force an
6 unlawful arrest of TIPPETTS and FOWLES.

7 133. WEHRLY and the NCSO were also provided the information showing that Captain
8 Boruchowitz had taken the same action on at least four Facebook pages by removing TIPPETTS
9 as an administrator; however, WEHRLY refused to investigate or otherwise treat Boruchowitz in
10 the same manner that she treated FOWLES and TIPPETTS.

11 134. On October 3, 2022, WEHRLY stated that she was going to push the charges for
12 the Facebook incident because she heard FOWLES and TIPPETTS were at a straw pull on October
13 2, 2022, talking badly about her.

14 135. On October 3, 2022, Captain Means placed FOWLES on administrative leave due
15 to pending criminal charges associated with the Facebook incident. FOWLES was told that a
16 criminal report requesting that he be charged had been sent to the Nye County District Attorney
17 and that termination was likely the outcome of his Internal Affairs investigation.

18 136. When FOWLES' wife (an NCSO employee) returned home from work, she had an
19 emotional breakdown lasting all night.

20 137. That evening, WEHRLY published a vague press release on Facebook using the
21 official NCSO Facebook page telling the public that FOWLES and TIPPETTS were accused of
22 computer crimes, that the investigator had determined probable cause existed, and that she was
23 requesting the District Attorney prosecute FOWLES and TIPPETTS.

24 138. On October 5, 2022, the District Attorney issued a denial to prosecute FOWLES
25 and TIPPETS based on the lack of any criminal actions. FOWLES was then ordered to return to
26 work.

27 139. Because of WEHRLY'S actions, news media outlets across southern Nevada
28

1 reported on the false allegations against FOWLES and TIPPETTS.

2 **FIRST CLAIM FOR RELIEF**
3 (First Amendment Retaliation
4 For Exercising Freedom of Association)

5 140. Plaintiffs reallege and incorporate herein by reference each and every allegation
6 contained in the preceding paragraphs of this Complaint as though fully set forth herein.

7 141. Plaintiffs engaged in freedom of association protected under the First Amendment
8 to the United States Constitution on a matter of public concern. Such association included
9 attending campaign events for a political candidate, Joe McGill, socializing with him outside of
10 the workplace at various community events, and publicly supporting his candidacy for Sheriff of
11 Nye County as private citizens. Elected officials represent the public and therefore elections for
12 public office are a matter of public concern.

13 142. Plaintiffs' actions constituted a right to associate on a matter of public concern.
14 Plaintiff's actions took place during off duty hours and did not disrupt the workplace or the mission
15 of the County or NCSO. Thus, Plaintiff's actions were protected by the First Amendment.

16 143. As a result of Plaintiffs' First Amendment activity, Defendants engaged in adverse
17 actions against Plaintiffs which were and continue to be reasonably likely to deter protected
18 activity under the First Amendment. Such action included continuously harassing Plaintiffs,
19 creating false claims to bring against Plaintiffs, citing them with minor infractions, and creating
20 and maintaining a hostile and abusive work environment.

21 144. Defendants WEHRLY and NYE COUNTY participated in and caused this
22 retaliatory action.

23 145. Plaintiffs' protected activity, their freedom of association, was a substantial or
24 motivating factor behind Defendants' adverse action.

25 146. Absent the protected activity, Plaintiffs would not have suffered the damages
26 alleged herein.

27 147. As a result, Defendants, and each of them, are liable under 42 U.S.C. 1983 for
28 damages, including past and future general damages for emotional distress, anguish, frustration,

1 humiliation, grief, harm to reputation, harm to career, as well as past and future special damages,
2 including loss of income, benefits, seniority, pension, all in sums to be proven at trial, equitable
3 relief, attorneys’ fees and costs.

4 148. As a direct and proximate result of these actions by Defendants, the Plaintiff
5 suffered damages and harm as alleged in this claim in an amount in excess of \$15,000.

6 **SECOND CLAIM FOR RELIEF**
7 (First Amendment Retaliation
8 For Exercising Freedom of Speech)

9 149. Plaintiffs reallege and incorporate herein by reference each and every allegation
10 contained in the preceding paragraphs of this Complaint as though fully set forth herein.

11 150. Plaintiffs engaged in freedom of speech protected under the First Amendment to
12 the United States Constitution on a matter of public concern. Such speech included placing signs
13 in support of Joe McGill in their yards, posting content in support of Joe McGill on social media
14 pages, and speaking as private citizens about supporting Joe McGill’s candidacy. Elected officials
15 represent the public and therefore elections for public office are a matter of public concern.

16 151. Plaintiffs’ actions constituted a right to free speech by private citizens on a matter
17 of public concern. Plaintiff’s actions took place during off duty hours with Plaintiffs acting as
18 private citizens and did not disrupt or interfere with the workplace or the effective and efficient
19 management of the County or NCSO. Thus, Plaintiffs’ actions were protected by the First
20 Amendment.

21 152. As a result of Plaintiffs’ First Amendment activity, Defendants engaged in adverse
22 actions against Plaintiffs which were and continue to be reasonably likely to deter protected free
23 speech activity under the First Amendment. Such action included continuously harassing
24 Plaintiffs, creating false claims to bring against Plaintiffs, citing them with minor infractions, and
25 creating and maintaining a hostile and abusive work environment.

26 153. Defendants WEHRLY and NYE COUNTY participated in and caused this
27 retaliatory action.

28 154. Plaintiffs’ protected activity, their freedom of speech, was a substantial or

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1 motivating factor behind Defendants’ adverse action.

2 155. Absent the protected activity, Plaintiffs would not have suffered the damages
3 identified herein.

4 156. As a result, Defendants, and each of them, are liable under 42 U.S.C. 1983 for
5 damages, including past and future general damages for emotional distress, anguish, frustration,
6 humiliation, grief, harm to reputation, harm to career, as well as past and future special damages,
7 including loss of income, benefits, seniority, pension, all in sums to be proven at trial, equitable
8 relief, attorneys’ fees and costs.

9 157. As a direct and proximate result of these actions by Defendants, the Plaintiff
10 suffered damages and harm as alleged in this claim in an amount in excess of \$15,000.

11 **THIRD CLAIM FOR RELIEF**
12 (Failure to Properly Select, Train and Supervise Personnel)

13 158. Plaintiffs reallege and incorporate herein by reference each and every allegation
14 contained in the preceding paragraphs of this Complaint as though fully set forth herein.

15 159. The facts previously set forth herein are in derogation of TIPPETTS, FOWLES,
16 CLEVELAND, and LYNN’S rights to due process as guaranteed by the Fifth and Fourteenth
17 Amendments to the Constitution of the United States, and Article I, Section 8, Clause 5 of the
18 Constitution of the State of Nevada, and as enforced through 42 U.S.C. §1983.

19 160. The actions of the Defendants, and each of them, as described herein, are in
20 violation of TIPPETTS, FOWLES, CLEVELAND, and LYNN’S equal protection rights in the
21 following respects:

22 a. The COUNTY’S and the NCSO’s failure to properly select, train and supervise
23 personnel, which contributed, in whole or in part, to the deprivation of TIPPETTS, FOWLES,
24 CLEVELAND, and LYNN’S constitutional rights as herein set forth.

25 161. The above-referenced actions, which had the effect of denying TIPPETTS,
26 FOWLES, CLEVELAND, and LYNN’S continued employment with the COUNTY, in holding
27 them up to continued and ongoing public humiliation and contempt, and in denying them access
28 to information which was necessary to their defenses, were so entirely without evidentiary

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1 foundation, reason or basis and were so arbitrary, capricious and unfounded, that TIPPETTS,
2 FOWLES, CLEVELAND, and LYNN’S have been denied due process of law, all of which
3 resulted in TIPPETTS, FOWLES, CLEVELAND, and LYNN’S general and special damages in
4 amounts to be proven upon trial.

5 162. Defendants, and each of them, were responsible for the supervision and
6 employment of its agents and to properly ensure that its agents performed their duties and functions
7 in accordance with state and federal law.

8 163. Defendants negligently, willfully, carelessly and recklessly failed to properly
9 supervise their employees and others, who were allowed to engage in retaliatory, harassing and
10 hostile conduct against Plaintiffs.

11 164. As a direct and proximate result of these actions by Defendants, the Plaintiff
12 suffered damages and harm as alleged in this claim in an amount in excess of \$15,000.

13 165. It has been necessary for the Plaintiffs to retain legal counsel to prosecute this action
14 and, therefore, they are entitled to recover attorneys’ fees, costs and expenses incurred herein.

15 **FOURTH CLAIM FOR RELIEF**
16 (Civil Conspiracy to Violate Constitutionally
Protected Rights and Other State Based Rights)

17 160. Plaintiffs reallege and incorporate herein by reference each and every allegation
18 contained in the preceding paragraphs of this Complaint as though fully set forth herein.

19 161. The facts previously set forth herein are in derogation of TIPPETTS, FOWLES,
20 CLEVELAND, and LYNN’S rights to due process as guaranteed by the Fifth and Fourteenth
21 Amendments to the Constitution of the United States, and Article I, Section 8, Clause 5 of the
22 Constitution of the State of Nevada, and as enforced through 42 U.S.C. §1983.

23 162. The actions of the Defendants, COUNTY and WEHRLY, and each of them, as
24 described herein, constitute civil conspiracies to violate TIPPETTS, FOWLES, CLEVELAND,
25 and LYNN’S constitutionally protected rights in the following respects:

26 a. Confederacy between, among others, WEHRLY and COUNTY, formed for the
27 purpose of depriving TIPPETTS, FOWLES, CLEVELAND, and LYNN’S of those rights set forth
28

1 herein.

2 163. The above-referenced actions, which had the effect of denying TIPPETTS,
3 FOWLES, CLEVELAND, and LYNN’S continued employment with the COUNTY, in holding
4 them up to continued and ongoing public humiliation and contempt, and in denying them access
5 to information which was necessary to their defenses, were so entirely without evidentiary
6 foundation, reason or basis and were so arbitrary, capricious and unfounded, that TIPPETTS,
7 FOWLES, CLEVELAND, and LYNN’S have been denied due process of law, all of which
8 resulted in TIPPETTS, FOWLES, CLEVELAND, and LYNN’S general and special damages in
9 amounts to be proven upon trial.

10 164. As a direct and proximate result of these actions by Defendants, the Plaintiff
11 suffered damages and harm as alleged in this claim in an amount in excess of \$15,000.

12 165. It has been necessary for the Plaintiffs to retain legal counsel to prosecute this action
13 and, therefore, they are entitled to recover attorneys’ fees, costs and expenses incurred herein.

14 **FIFTH CLAIM FOR RELIEF**
15 (Negligent Infliction of Emotional Distress)

16 166. Plaintiffs reallege and incorporate herein by reference each and every allegation
17 contained in the preceding paragraphs of this Complaint as though fully set forth herein.

18 167. The facts previously set forth herein give rise to TIPPETTS, FOWLES,
19 CLEVELAND, and LYNN’S causes of action for negligent infliction of emotional distress, since
20 the conduct of the Defendants, and each of them, all acting either individually as a result of their
21 own personal vendettas toward TIPPETTS, FOWLES, CLEVELAND, and LYNN or,
22 alternatively, acting in their representative capacities under color of state law, was so negligent,
23 careless and reckless so as to cause emotional and stressful responses which have been seen from
24 TIPPETTS, FOWLES, CLEVELAND, and LYNN as a result of said conduct, and such negligent,
25 careless and reckless conduct was neither consented to by TIPPETTS, FOWLES, CLEVELAND,
26 or LYNN, nor otherwise privileged, all of which resulted in TIPPETTS, FOWLES,
27 CLEVELAND, and LYNN’S general and special damages in an amount to be proven upon trial.

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1 168. As a direct and proximate result of these actions by Defendants, the Plaintiff
2 suffered damages and harm as alleged in this claim in an amount in excess of \$15,000.

3 169. It has been necessary for the Plaintiffs to retain legal counsel to prosecute this action
4 and, therefore, they are entitled to recover attorneys' fees, costs and expenses incurred herein.

5 **SIXTH CLAIM FOR RELIEF**
6 (Violations of 42 U.S.C. Section 1983)

7 170. Plaintiffs reallege and incorporate herein by reference each and every allegation
8 contained in the preceding paragraphs of this Complaint as though fully set forth herein.

9 171. The Defendants' acts and omissions complained of herein were done by Defendants
10 while acting under color of law, said acts and omissions subjected Plaintiffs to the deprivation of
11 well-established rights secured by the federal Constitution and by the laws of the United States
12 and the State of Nevada, including the right to be free from illegal employment practices, including
13 retaliation for exercising First Amendment rights, a hostile work environment, and the right to
14 equal protection of the laws.

15 172. The rights referred to in the paragraph above were rights which were known or
16 should have been known to any reasonable person and therefore Defendants and its agents are not
17 immune from liability for this deprivation of rights to Plaintiffs; said acts and omissions of
18 Defendants complained of herein, except those done negligently, were done with the intent to
19 discriminate and retaliate against the Plaintiffs based on their First Amendment rights to free
20 speech and freedom of association as well as their exercise of basic rights. Said acts and omissions
21 constituted a conscious failure on the part of Defendants to protect Plaintiff from harm and the
22 deprivation of rights set forth above and were further done pursuant to a custom, practice or policy
23 of the Defendants.

24 173. As a direct and proximate result of these actions by Defendants, the Plaintiff
25 suffered damages and harm as alleged in this claim in an amount in excess of \$15,000.

26 174. Furthermore, the aforementioned intentional and reckless acts of Defendants and
27 its agents were willful and malicious and were intended to oppress and cause injury to Plaintiff.
28 Plaintiff is therefore entitled to an award of punitive damages.

SEVENTH CLAIM FOR RELIEF
(Intentional Infliction of Emotional Distress)

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2 175. Plaintiffs reallege and incorporate herein by reference each and every allegation
3 contained in the preceding paragraphs of this Complaint as though fully set forth herein.

4 176. Defendants’ conduct, and that of its agents, as alleged in this claim was outrageous
5 and beyond the bounds of conduct usually tolerated in a civilized community and was done by
6 Defendants with an intention to cause, or reckless disregard of the probability of causing,
7 emotional distress to Plaintiffs. Alternatively, Plaintiffs allege that Defendants’ acts were done
8 intentionally and Defendant and its agents knew or should have known that said conduct would
9 injure the Plaintiff.

10 177. As a direct and proximate result of these actions by Defendants, the Plaintiff
11 suffered damages and harm as alleged in this claim in an amount in excess of \$10,000.

12 178. Furthermore, the aforementioned intentional and reckless acts of Defendants and
13 its agents were willful and malicious and were intended to oppress and cause injury to Plaintiffs.
14 Plaintiffs are therefore entitled to an award of punitive damages.

EIGHTH CLAIM FOR RELIEF
(Violation of Family Medical Leave Act)

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16 179. Plaintiffs reallege and reincorporate herein by reference each and every allegation
17 contained in the preceding paragraphs of this Complaint as though fully set forth herein.

18 180. Plaintiff TIPPETTS, who was forced to take medical leave because of the struggles
19 he faced with mental health brought about by the hostile work environment, exercised his rights
20 under the Family Medical Leave Act (“FMLA”). Defendants and each of them committed the
21 aforementioned conduct including the attempt to terminate TIPPETTS in reckless and willful
22 violation of Plaintiff TIPPETTS’ federally protected rights. Defendants’ aforementioned conduct
23 including such termination attempts and threats resulted in Defendant engaging in activity that
24 chilled the exercise of Plaintiff TIPPETTS’ rights, caused interference, caused harassment,
25 retaliated against Plaintiff TIPPETTS for exercising his rights under the FMLA, and/or
26 discriminated against Plaintiff in violation of the FMLA, 29 U.S.C. §2615 et. seq. Defendants’
27 aforementioned conduct and resulting termination of Plaintiff TIPPETTS was motivated by the
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1 exercise of Plaintiff’s rights under the FMLA and was in violation of the FMLA.

2 181. Other employees of Defendant Nye County who held same or similar positions took
3 time off of work for various reasons under the FMLA including but not limited to: caring for sick
4 family members, vacation and being sick. All of these employees, except one, were not terminated,
5 laid off, or otherwise threatened with cessation of employment.

6 182. Defendants departed with normal procedures with regard to Plaintiff TIPPETTS
7 and attempted to terminate Plaintiff TIPPETTS for taking time off due to the hostile work
8 environment and Plaintiff TIPPETTS’ mental health.

9 183. Defendants attempted to discharge Plaintiff TIPPETTS for taking FMLA leave and
10 exercising his FMLA protected rights. Defendants did not allow Plaintiff to utilize his federally
11 protected FMLA leave and informed him of his termination while he was on FMLA.

12 184. Defendants interfered with, restrained, and/or denied the exercise of or the attempt
13 to exercise Plaintiff TIPPETS’ rights under the FMLA.

14 185. As a direct and proximate result of these actions by Defendants, the Plaintiff
15 suffered damages and harm as alleged in this claim in an amount in excess of \$15,000.

16 186. Furthermore, the aforementioned intentional and reckless acts of Defendants and
17 its agents were willful and malicious and were intended to oppress and cause injury to Plaintiff.
18 Plaintiff is therefore entitled to an award of punitive damages.

19 **NINTH CLAIM FOR RELIEF**
20 (Malicious Prosecution)

21 187. Plaintiffs reallege and incorporate herein by reference each and every allegation
22 contained in the preceding paragraphs of this Complaint as though fully set forth herein.

23 188. The acts and conduct of the Defendants also constitute the state law claims of
24 malicious prosecution.

25 189. The criminal charges as stated above were without reasonable grounds for said
26 Defendants to believe Plaintiffs committed an offense, and Defendants knew they were without
27 probable cause to criminally charge Plaintiffs.

28 190. Neither at the time of the criminal charges or threatened criminal charges as stated

1 above, nor at any other time were Plaintiffs informed of legitimate grounds for said criminal
2 charges. Said criminal charges were dismissed.

3 191. As a result of their concerted unlawful and malicious filing or threat of criminal
4 charges against Plaintiffs, Defendants intentionally, or with deliberate indifference and callous
5 disregard of Plaintiffs' rights, deprived Plaintiffs of their liberty without due process of law and
6 deprived them of equal protection of the laws, in violation of the Fifth and Fourteenth Amendments
7 of the Constitution of the United States and 42 U.S.C. §1983, all to their damages in an amount in
8 excess of \$15,000.

9 **TENTH CLAIM FOR RELIEF**
(Defamation, Libel and Slander)

10 192. Plaintiffs reallege and reincorporate herein by reference each and every allegation
11 contained in the preceding paragraphs of this Complaint as though fully set forth herein.

12 193. On multiple occasions, WEHRLY made or caused to be made false and defamatory
13 statements concerning Defendants.

14 194. The statements made by or at the direction of WEHRLY include, but are not limited
15 to, the following:

- 16 a. That TIPPETTS and FOWLES committed forgery;
- 17 b. That FOWLES and TIPPETTS had committed computer crimes;
- 18 c. That Defendants had lied or were dishonest;
- 19 d. That Defendants were incompetent in their employment;
- 20 e. That LYNN had cause to be demoted;
- 21 f. That CLEVELAND had committed crimes; and
- 22 g. That TIPPETTS was not working when he was supposed to.

23 195. Upon information and belief, WEHRLY has made and published other similar false
24 and defamatory statements about Plaintiffs.

25 196. The statements published by WEHRLY are of such a nature that damages are
26 presumed because they are of the type that would tend to injure Plaintiffs in their occupation or
27 allege criminal conduct.
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197. WEHRLY made these false and defamatory statements with at least negligence as to their falseness.

198. As a result of WEHRLY’S actions herein, Plaintiffs have suffered damages in excess of \$15,000.

199. Plaintiffs are entitled to an award of attorney fees and other costs.

WHEREFORE, Plaintiff prays for relief as follows:

1. For an entry of judgement in favor of Plaintiffs and against Defendants in an amount exceeding \$15,000.00;
2. For an award of their attorney fees and costs;
3. For punitive damages;
4. For statutory damages; and
5. For such other relief this Court may deem just and equitable.

Dated this 3rd day of November, 2022.

HUNTLEY LAW

/s/ Brent D. Huntley

BRENT D. HUNTLEY, ESQ.
 Nevada Bar No. 12405
 8275 South Eastern Ave., Suite 200
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Attorney for Plaintiffs

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CIVIL COVER SHEET

The JS 44 civil cover sheet and the information contained herein neither replace nor supplement the filing and service of pleadings or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. (SEE INSTRUCTIONS ON NEXT PAGE OF THIS FORM.)

I. (a) PLAINTIFFS

Adam Tippetts, Cory Fowles, Michael Cleveland, Allen Ivnn

(b) County of Residence of First Listed Plaintiff Nye (EXCEPT IN U.S. PLAINTIFF CASES)

(c) Attorneys (Firm Name, Address, and Telephone Number)

Brent D. Huntley, Esq., 8275 S. Eastern Ave, Ste. 200, Las Vegas, NV 89123; (702) 849-2598

DEFENDANTS

Nye County; Sharon Wehrly

County of Residence of First Listed Defendant Nye (IN U.S. PLAINTIFF CASES ONLY)

NOTE: IN LAND CONDEMNATION CASES, USE THE LOCATION OF THE TRACT OF LAND INVOLVED.

Attorneys (If Known)

II. BASIS OF JURISDICTION (Place an "X" in One Box Only)

- 1 U.S. Government Plaintiff, 2 U.S. Government Defendant, 3 Federal Question (U.S. Government Not a Party), 4 Diversity (Indicate Citizenship of Parties in Item III)

III. CITIZENSHIP OF PRINCIPAL PARTIES (Place an "X" in One Box for Plaintiff and One Box for Defendant)

- Citizen of This State, Citizen of Another State, Citizen or Subject of a Foreign Country, PTF DEF, Incorporated or Principal Place of Business In This State, Incorporated and Principal Place of Business In Another State, Foreign Nation

IV. NATURE OF SUIT (Place an "X" in One Box Only)

Click here for: Nature of Suit Code Descriptions.

Table with columns: CONTRACT, REAL PROPERTY, TORTS, CIVIL RIGHTS, PRISONER PETITIONS, FORFEITURE/PENALTY, LABOR, IMMIGRATION, BANKRUPTCY, SOCIAL SECURITY, FEDERAL TAX SUITS, OTHER STATUTES. Includes various legal categories like Personal Injury, Property Damage, Labor, etc.

V. ORIGIN (Place an "X" in One Box Only)

- 1 Original Proceeding, 2 Removed from State Court, 3 Remanded from Appellate Court, 4 Reinstated or Reopened, 5 Transferred from Another District (specify), 6 Multidistrict Litigation - Transfer, 8 Multidistrict Litigation - Direct File

VI. CAUSE OF ACTION

Cite the U.S. Civil Statute under which you are filing (Do not cite jurisdictional statutes unless diversity):

42 USC Section 1983

Brief description of cause:

Employment retaliation and false criminal claims in retaliation to 1st amendment exercise.

VII. REQUESTED IN COMPLAINT:

CHECK IF THIS IS A CLASS ACTION UNDER RULE 23, F.R.Cv.P. DEMAND \$

CHECK YES only if demanded in complaint:

JURY DEMAND: [X] Yes [] No

VIII. RELATED CASE(S) IF ANY

(See instructions):

JUDGE DOCKET NUMBER

DATE SIGNATURE OF ATTORNEY OF RECORD

11/3/22 /s/ Brent D. Huntley

FOR OFFICE USE ONLY

RECEIPT # AMOUNT APPLYING IFP JUDGE MAG. JUDGE