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8 United States District Court for the Western District of New York
9 68 Court Street, Buffalo NY 14202. Phone: 716 551-4211. Fax: 716 551-4850
10 Judge John T. Elfvin.

11 James M. Thomsen Sr.,
12 plaintiff

13 Case # 00 CV 0280 E (SC)
14 Document #5780 version 0.91
15 Court ordered 1st Amended complaint for Money
16 Damages, Declaratory Relief, Injunctive
17 Relief, and other relief pursuant to Title
18 42 U. S. C. § 1983 and RICO, USC. §
19 1962 a-d, 1982, et seq
20 Jury Demanded

21 v
22 County of Erie New York, Erie County Sheriff's
23 Department, Erie County District Attorneys
24 Office, Erie County Sheriff Patrick Gallivan, Erie
25 County Sheriff Chief Scott R. Patronik, 3rd officer
26 who beat plaintiff, Erie County Sheriff Detective
27 Charles Tirone , Erie County Holding Ctr.
28 Superintendent H. McCarthy Gipson, Assistant
Prosecutors Candace Vogel Erie County
Attorney Charles Sawyer, Channel 7 News,
Carol Alaimo,

Defendants

Jurisdiction

1. This court has jurisdiction in this cases pursuant to 42 USC 1983, et seq. and the RICO act.
2. This court has jurisdiction stemming directly from the constitution which is self-enacting. ¹
3. This court also has pendent jurisdiction regarding defamation and other torts.

Procedural Posture

4. Pursuant to order of this court plaintiff files this 1st amended complaint.
5. In view of the complexity of this case, plaintiff seeks leave to further amend this complaint consistent with the rules of complex litigation.

Prologue is deferred. Statement of the precipitant facts of the case

6. On April 2nd, 1999, Plaintiff surrendered to authorities in East Greenbush NY outside Albany NY. pursuant to an arrangement that he made.

¹*Bivens v Six Unknown Agents of the Federal Bureau of Narcotics* (1971) 403 US 388, 91 S Ct 1999, 29 L Ed 2d 619.

1 7. Thereafter Patronik maliciously banged plaintiff's head on the car and otherwise battered him
2 resulting in severe and lifelong mental and physical damages resulting in a social security rating of
3 100% disabled.

4 **Details of the Beating by Patronik**

5 8. Tirone yanked plaintiff out of the car.

6 9. Tirone and Patronik battered and kicked plaintiff.

7 10. A 3rd officer grabbed plaintiff's hair to try and lift him from the floor to stand.

8 11. Plaintiff's arthritic hip was broken at the time.

9 12. When his hands slipped off plaintiff's hair, this officer grabbed plaintiff's neck with one hand and
10 his arm with the other hand.

11 13. Plaintiff arm was at the time shackled to his waste so that plaintiff was unable to block blows
12 defensively

13 14. Photographs document plaintiffs bruises from the beating.

14 15. Plaintiff was suffering pulmonary edema, or lungs filled with Fluid from congestive heart failure,
15 his normal heart condition.

16 16. Plaintiff could not breath and started coughing up foam.

17 17. When Tirone, Patronik, and the 3rd officer saw the foam coming from plaintiff's mouth, they
18 stopped the beating.

19 18. Plaintiff had previously told Patronik that plaintiff did not know if he was HIV positive.

20 19. Plaintiff calculated that the fear of blood spatters would discourage a bloody bearing.

21 20. Only the guard from the holding center had on gloves

22 **Arrest was unjustified. No prosecution ensued.**

23 21. The arrest was not justified and no prosecution was ever prosecuted as more fully set forth below.

24 22. Thereafter plaintiff was never thereafter prosecuted.

25 23. The arrest was the culmination of months of violations of plaintiff's rights.

26 24. Plaintiff duly filed a timely complaint in this court.

27 **Beginning of this story**

28 25. In 1996, plaintiff, then age 42, met Carol Alaimo of Canada on the internet.

29 26. On or about January 28 1998 plaintiff, then age 43, married Carol Alaimo.

30 27. Carol was then a sexually promiscuous nudist.

31 28. Carol had before and after this date posted her nude photographs on the internet.

32 29. Her goal was to find sexual partners and a stable source of income.

33 30. Plaintiff moved from Erie County New York to live with his new wife in Canada.

34 31. October 28 ,1998 Plaintiff returned from a business trip and found proof on his computer that his
35 new wife, Carol, was having an affair with another man.

1 32. Plaintiff immediately moved back to Erie County, New York.
2 33. Thereafter Carol manipulated police in Canada and the United States.
3 34. The police falsely portrayed plaintiff as a computer hacker.
4 35. In fact plaintiff broke no law and hacked no computer.
5 36. On or about April 2, 1999, Channel 7 broadcast a defamatory news story listing plaintiff as one of
the 10 most wanted.

Details of the arrest, attempted kidnaping to Canada, and heart attack

6 37. Thereafter plaintiff arranged for his surrender on 2 April, 1999.
7 38. Plaintiff has to this date never been prosecuted for any of the alleged crimes that triggered his
8 arrest.
9 39. Details of the causes of action of all the plaintiff have been set forth in a complaint timely filed with
this court.
10 40. Plaintiff hereby incorporates into this complaint all previous filings in this case as though fully set
forth herein.
11 41. On April 2nd, 1999, plaintiff was arraigned in North Greenbush Court on false and pretextual
12 charges of wiretapping and eavesdropping charges faxed to the court.

Modern day patterns of police abuse

13
14 42. This pattern of falsely accusing persons and pretextually accusing them is an instrument of
oppression of this age.
15 43. See, for example, the case of Attorney Douglas Palaschak arrested at his farm just one month
16 later on May 14, 1999 on a falsified and pretextual warrant procured for writing a petition in traffic
17 court in California in 1997. See www.lawyerdude.8m.com Palaschak was innocent and a jury
found him innocent.
18 44. Police posted Palaschak's photograph in the newspaper as "most wanted fugitives" - similar to the
19 tactic used against plaintiff here.
20 45. Palaschak promptly filed a detailed civil rights complaint only to be ordered to pare it down - just
like in plaintiff's case.
21 46. Plaintiff was remanded to Rensselear County Holding Center.
22 47. This jail denied plaintiff a phone call.
23 48. This jail denied plaintiff bail.
24 49. This jail denied plaintiff opportunity to contact counsel.
25 50. In the months before he surrendered, plaintiff had defied the will of defendants Patronik and
Tirone.
26 51. Rensselear officials informed Patronik and Tirone.
27 52. Patronik and Tirone drove 100 mile per hour to the Rensselear jail.

1 53. This driving lunacy is typical.
2 54. In Palaschak's case, immature county deputies drove a handcuffed Palaschak at speed near 100
3 miles per hour on paved country roads.
4 55. In Palaschak's case police drove with one hand on the cell phone and the other on the radio at
5 times - leaving no hand on the steering wheel.
6 56. There was no urgency in Palaschak's case.
7 57. Similarly there was no urgency in plaintiff's case.
8 58. On April 2nd, 1999 at 11:52 pm, Patronik arrived at Rensselear Holding Center;
9 59. Patronik forced strip search and orifice check of Plaintiff.
10 60. Patronik shackled plaintiff.
11 61. Patronik maliciously adjusted the handcuffs to cut off blood flow to plaintiff's hands.
12 62. Plaintiff informed Patronik that plaintiff is disabled from a car crash in 1986 that caused his heart
13 to stop.
14 63. Plaintiff nearly died in 1986 until he was successfully resuscitated
15 Patronik callously jammed plaintiff into the back seat of the car trapping plaintiff's legs.
16 64. Minutes after midnight, in the early hours of 3 April 1999. Patronik attempted to kidnap plaintiff
17 and transport him to Canada.
18 65. Patronik had no extradition papers.
19 66. No extradition papers had been drawn up.
20 67. The transportation to Canada was completely illegal and a crime.
21 68. At 12:43 a.m. on 3 April 1999 Plaintiff suffered a heart attack.
22 69. Plaintiff asked Patronik and Tirone to return him to medical care due to mercury intoxication.
23 70. Rather that seek immediate local medical attention, Patronik and Tirone jeopardized plaintiff's life
24 by driving at 100 miles an hour and by refusing to drive to a nearby hospital.
25 71. Patronik and Tirone tortured and tormented Plaintiff over the next two hour drive at over 100 mph
26 back to Buffalo and Canada.
27 72. The heart attack caused plaintiff to lose consciousness.
28 73. Plaintiff regained consciousness after being knocked out for over an hour.
74. Patronik informed Plaintiff that he was being taken directly to Canada.
75. Plaintiff, in fear of dying from a heart attack, protested.
76. Plaintiff asserted his constitutional rights.
77. Plaintiff threatened a 1983 action.
78. Patronik answered "if you live that long".
79. Canadian customs prevented the kidnaping and blocked Patronik's attempt to take plaintiff into
80. Canada.

1 81. Patronik drove plaintiff to Erie County Holding Center.
2 82. Patronik beat and battered plaintiff because plaintiff was unable to extricate his trapped leg from
under the front seat of the car.
3 83. Plaintiff was unable to stand or walk.
4 84. The beating was serious.
5 85. Although healthy when booked at Rensselear, plaintiff displayed hip fractures, leg injures, and
head injuries in the documents at Erie county after the beating.
6 86. Reports from Erie document these injuries to plaintiff.
7 87. On April 3rd, 1999 at 2:41am Plaintiff was thrown into interrogation room and left without medical
8 care, observation or processing to give time for wounds to heal and condition to improve.
9 88. On April 3rd, 1999 at 7:28 Am Plaintiff is found to be unstable medically and sent in back of patrol
care without medical care, examination or ambulance treatment.
10 89. Plaintiff was admitted for heart attack and mercury intoxication.
11 90. Plaintiff was denied phone call to attorney for next four days.

Further violations and false imprisonment at the hospital

12 91. Plaintiff was denied adequate care at the hospital.
13 92. Plaintiff was imprisoned at the hospital.
14 93. Eventually the police admitted that the felony charges were false and "a case of overcharging".
15 94. Thereafter police falsely accused plaintiff for harassment that never occurred or a second false
arrest to create a coverup.

Prologue and Dirty tricks leading up to the false arrest of April 2, 1999

16 95. October 28,1998 Carol Alaimo, plaintiff's new wife called Canadian Authorities and friends to plan
17 retaliatory acts in retaliation for plaintiff's having left and having refused to permit her extra-marital
18 affair(s).
19 96. Carol utilized her position as a journalist for CTV W5 news in Toronto.
20 97. Carol thereby enticed both US and Canadian authorities.
21 98. The press conspired with Carol to have plaintiff falsely arrested.
22 99. The press enjoyed salacious news.
23 100. The televised defamation by Channel 7 is available.
24 101. Carol said in a telephone call to plaintiff with regard to her marriage vows that if she wants to "fuck
the entire Buffalo Bills football team, it is none of [plaintiff's] business" even though he is her
husband.
25 102. On November 2nd, 1998, Carol called Erie County through Canadian referral.
26 103. Carol telephoned defendants Vogel and Patronik at 6:45pm.
27 104. In this call she confirmed press coverage by the Toronto Star and US Publications.

1 105. Carol told Vogel and Patronik that plaintiff's website was an attack on her reputation.
2 106. Carol requested and received conspiratorial assistance in her plan for retaliation .
3 107. On November 2nd ,1998 Carol Alaimo Thomsen met with Patronik.
4 108. Carol filed an accusatory instrument.
5 109. At 8:50pm the Investigation started.
6 110. Patronik and Erie County Sheriff Department and Erie County District Attorney Office first
accessed, intercepted, and then disseminated plaintiff's private marital website to other parties
7 and selected media.
8 111. On November 16,1998 _____ offered false testimony to the Grand Jury.
9 112. On the basis of this perjury _____obtained a warrant for the search of Plaintiff's Earthlink
computer account.
10 113. The warrant permitted interception of messages.
11 114. On December 2nd ,1998 more false testimony was presented to the Grand Jury.
12 115. The result was a warrant for access to PSI and phone Records of Plaintiff.
13 116. _____ interviewed and intimidated witnesses _____ and _____
14 117. _____ tampered with evidence as follows_____
15 118. _____ filed the following false instruments_____
16 119. On December 10th,1998 Scott Patronik falsely identified himself to_____ in order to
induce _____ to grant access to Plaintiff's office in what he termed "undercover" activities
17 after 5pm.
18 120. On December 11th ,1998 Patronik filed false affidavits with Grand Island Court to acquire search
and seizure no knock warrant at 5:15pm
19 121. On December 11th,1998 Search warrant was executed at 8:19 pm nighttime hours in violation of
search warrant daytime only conditions.
20 122. It continued past 10pm and the search warrant limits.
21 123. Property not authorized by the search warrant including private investigator files, phone records,
and personal effects were seized.
22 124. On December 11th ,1998 EZ Pass surveillance and tracking was underway on Plaintiff.
23 125. Erie County Sheriff and Erie County District Attorney interfered with interstate commerce by
impersonating potential training clients and calling the plaintiff to purchase training in order to
24 track phone calls and reveal plaintiffs locations and movements.
25 126. On December 12th,1998 Patronik falsified a Police report as follows_____
26 127. On December 12th,1998 Plaintiff called Patronik after finding his card and search warrant.
27 128. Plaintiff offers his lap top computer and Canadian computer, passwords and testimony as
recorded by Police tape

1 129. Patronik told plaintiff that the crime of hacking was being investigated.
2 130. Plaintiff offers to assist and be interviewed.
3 131. Patronik declines the offer.
4 132. On December 13th ,1998 Patronik contacted US Border Patrol, FBI and Customs for computer
5 review assistance and services.
6 133. The FBI concluded insufficient probable cause.
7 134. The FBI declined assistance.
8 135. Two other agencies declined assistance.
9 136. On December 16th,1998 Patronik filed late property receipts for seized materials hiding, and
10 suppressing evidence that he does not record.
11 137. Having failed to record these receipts he nonetheless kept the equipment.
12 138. On December 17th ,1998 Patronik dictated the exact language needed.
13 139. Patronik thereby received a Canadian arrest warrant for an entirely different and unrelated
14 change.
15 140. Canadian law does not classify communications under question between husband and wife as a
16 violation.
17 141. Patronik thereby acquired supporting deposition to shore up missing evidence from BEC Canada
18 email service.
19 142. On December 18,1998 Arrest warrant was issued for Plaintiff in Grand Island without Grand Jury
20 indictment.
21 143. The Grand Jury never did indict plaintiff.
22 144. On December 19th,1998 Patronik interrogated associates of plaintiff.
23 145. Patronik seized computers from Ted Arts, 79 Fillmore Ave and thus interfered with interstate
24 commerce.
25 146. Patronik threatened Ted Arts.
26 147. Patronik thereby interfered with plaintiff's lawful business.
27 148. Patronik defamed plaintiff.
28 149. Patronik falsely accused plaintiff of being a "con man who has swindled others before and so
hopped up on pills he does not know what he is doing"
150. Plaintiff was taking prescription medication.
151. Patronik ruined plaintiff's schools and government contacts.
152. On December 20th ,1998 NCIC computer listed Plaintiff as dangerous and wanted felon.
153. Top 10 most wanted status was considered.
154. Plaintiff sought both legal and crisis medical intervention for nervous breakdown.
155. Erie County officials could not find defendant.

1 156. Therefore they could not have their planned press event.
2 157. They had planned to debut their new computer crime squad.
3 158. Patronik tampered with witnesses and plaintiffs doctor by extracting information, and falsely
4 159. Vogel, Gallivan, Patronik falsely edited evidence by trying to coordinate non matching Canadian
5 and Erie County laws.
6 160. Then rewrote witness information to suit their needs.
7 161. On Christmas 1998, Patronik had Carol Alaimo contact plaintiff's family in Albany NY.
8 162. Carol threatened them with obstruction of justice if they did not assist in false arrest of Plaintiff.
9 163. Patronik and Tirone demanded that Arts, Kaufman and Thomsen permit their phones to be
10 164. From January to March 1999 plaintiff complained to the committee to protect sensitive men and
11 JYA.com of the malicious prosecution.
12 165. Plaintiff assisted with internet posting seeking redress of grievances and posting web site articles
13 and information about the situation.
14 166. In March, 1999 Plaintiff contacted Patronik from NYC.
15 167. Plaintiff offered to return after his medical treatment.
16 168. Plaintiff offered to deal with the charges.
17 169. Patronik admitted there was no evidence of wiretapping, hacking or eavesdropping.
18 170. Patronik offered to support reduction of charge to misdemeanor harassment.
19 171. Patronik threatened to place Plaintiff on Crime Stoppers TV show as well as Ten Most Wanted
20 List if he does not meet his demands.

It all fall together as a RICO cause of action

21 172. Thereafter police obstructed justice and destroyed evidence as part of the coverup.
22 173. The coordination between the DA, Police, and the County Attorney with the press arrangement
23 with motives of personal and professional enrichment constitutes a RICO cause of action.
24 174. Defendants used plaintiff's seized computer for police training after installing their own hard drive.
25 175. Plaintiff's hard drive was eventually returned as was his other property.
26 176. The predicate acts are wire fraud (multiple counts),
27 177. obstruction of justice,
28 178. and attempted kidnaping.
179. Plaintiff incorporates all facts from all paragraphs of all previous complaints and pleadings filed
herein as though fully set forth herein.

Summary and Incorporation

180. The actions of defendants constitute causes of action for violations of the civil rights of plaintiff,

1 conspiracy to violate his civil rights, obstruction of justice, defamation, and RICO as more fully set
2 forth in his previous complaint(s) in this case.

3 181. The previous complaints assign causes of action to each defendant.

4 182. Carol was fired from her position at CTV W5 news in Toronto as a result of her lies to the police
5 and manipulation in her conspiracy against plaintiff described in this case.

6 183. Carol moved to Tucson , Arizona.

7 184. Carol remains married to plaintiff.

8 **Prayer**

9 185. Plaintiff demands a jury.

10 186. Plaintiff asks compensatory damages of \$100 million dollars.

11 187. Plaintiff seeks punitive damages of \$500 million dollars.

12 188. Plaintiff seeks declaratory relief declaring that indeed the attempted kidnaping and other crimes
13 committed by police were crimes.

14 189. Plaintiff seeks mandamus ordering the firing of the offending police and court ordered supervision
15 of the offending agencies.

16 190. Plaintiff seeks injunctive relief imposing sensitivity training, extradition training, and computer
17 rights training upon the offending police officers and agencies.

18 191. Plaintiff seeks such other relief as may be granted by the court.

19 Signed _____ James Thomsen, plaintiff. Date: Wednesday, April 23, 2003
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