# IN THE UNITED STATES DISTRICT COURT
# FOR THE DISTRICT OF COLORADO

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**AMENDED COMPLAINT FOR MALICIOUS PROSECUTION AND JUDICIAL DECEPTION (OPPOSED)**

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**Civil Action No. 17-cv-2444-CMA-NRN**

**Reid Pollack _____ , Plaintiff**

**v.**
**Polly Miller #545 Boulder County Sheriff's Department, in her personal and official capacity, Defendant**

## COMPLAINT

### A. PLAINTIFF INFORMATION

**Reid Pollack 4927 Thunderbird Circle #103 Boulder, Colorado 80303**

**720-503-2354 sumofallbooks@gmail.com**

### B. DEFENDANT INFORMATION

**Detective Polly Miller BCSD #545 c/o 5600 Flatiron Pkwy, Boulder, CO 80301**

**303-441-3600**

### C. JURISDICTION:

***Federal question pursuant to 28 U.S.C. § 1331 (claims arising under the Constitution, laws, or treaties of the United States)***

## D. STATEMENT OF THE LAWSUIT

### SUMMARY

**On July 5th, 2014 Deputy Powell investigated a non-emergency call for a ride which had been dispatched erroneously as a civil standby call. He investigated it as a potential domestic violence incident based on the dispatcher mistakenly identifying the call as a civil stand-by request. Powell determined there was insufficient evidence of probable cause for an arrest. Detective Polly Miller enters the investigation three weeks after Powell's determination. Without interviewing Karen or calling Human Services to conduct a cognitive interview Miller is looking to find sufficient evidence to establish probable cause. When she interviews Ms. Billie Riley who was out of town, Billie tells her an account of events the night of Karen's stroke four years earlier that inaccurately casts Reid's response as slow and in an unfavorable light. Reid's swift actions had help save Karen's life as hospital records indicate. Miller claims upon hanging up the phone that Billie's long distance phone testimony creates exigent circumstances and orders Reid's immediate warrantless arrest. But she does not have probable cause based on Powell's and Billie's testimony as she claims to have. If she had she would have submitted a probable cause affidavit drawing evidence from those interviews. In fact in her Probable Cause Arrest Affidavit Miller does not even mention that testimony upon which she had claimed to have probable cause hours earlier. Instead she manufactures an interview with Karen Rusnik by reconfiguring testimony from what Powell and Riley reported and then claimed she heard that testimony stated directly to her by Ms. Rusnik during the fabricated interview. Karen swears in her affidavit that she refused Miller's requested interview the day of Reid's arrest. Karen's affidavit states she did not make any of the statements to Miller that the Detective claims Karen made to her in the probable cause affidavit. Polly Miller**

**authored, and signed off, on an affidavit for Reid's arrest which had been validated by unquestionably false and patently misleading statements. The facts in this complaint demonstrate that the elements of both Judicial Deception and those of Malicious Prosecution are met. Miller knew that Reid counted on this home based eCommerce business to earn a living as she writes "he has a used book business that would require him to have access to several thousand books at his home in order to continue the business. If he doesn't work he doesn't make any money." Reid's eCommerce business is public record and all the sales records are recorded by the venues online. With the proximate cause being the arrest revenue of $7,500 per month stops flowing and Reid's entire inventory of 30,000 books remains unrecoverable. This lawsuit seeks redress for those damages and other injuries resulting from the arrest.**

**STATEMENTS OF FACT**

1. **Detective Polly Miller #545 Boulder County Sheriff's Department was acting under color of law when she ordered the arrest of Reid Pollack on July 25th 2014.**
2. **Following Polly Miller's order for the warrantless arrest of the Plaintiff Reid Pollack a continued prosecution of the Plaintiff is pursued for fourteen months until dismissal.**
3. **What was unusual about the July 25, 2014 arrest on allegations of domestic violence was that when members of the Boulder County Sheriff's department arrived at the couple's Niwot home they found an idyllic scene typifying domestic tranquility.**
4. **Karen Rusnik was gardening in the front yard and Reid was downstairs working on what until that day was his successful eCommerce business.**

5. **There had never been any call requesting police presence at the house and there had been no quarrel, no harsh words and not even a dirty look had been exchanged between the couple of fifteen years.**
6. **Listening to the call reveals even the dispatcher's portrayal of the call as a request for a civil standby had been erroneous and the unsuspecting caller had never intentionally requested a civil stand-by.**
7. **Karen had been looking for a ride to move her glass collection but her aphasia had prevented her from directly stating the reason for the call and her fair-whether 'friend' who had refused her a ride dialed the non-emergency number of the BCSD and finding humor in this handed the unsuspecting Karen the phone.**
8. **And so it was that when Deputy Powell returned the call Karen had been directly asked a number of question relating to domestic violence which caught her off guard and the surprise had instigated a discussion of events that had unfolded between her and her "ex".**
9. **Despite Powell's lack of probable cause determination on July 5th three weeks later under what Polly Miller characterized as "exigent circumstances" the detective ordered the Plaintiff's immediate arrest.**
10. **A finding of probable cause to arrest had been announced between an hour and two prior to execution of the arrest on July 25th by Miller whose decision was made according to her report immediately after hearing phone testimony by Billie Riley.**
11. **For the most part the events Billie described had taken place several years earlier and were events that cannot in any way be considered relevant to creating an "emergency" out of everyday mundane circumstances such as those occurring at the time the arrest was made.**

12. **The reporting of those traumatic events of four years ago had only to do with Billie's "screened" perceptions of how Reid saved Karen's life the night of her stroke. According to the professionals at the hospital no better course of action could possibly have been taken.**

13. **"Uncorroborated speculation and conjecture by an inexperienced citizen is not transformed into probability by a report to the authorities" People v. Severson, 39 Colo. App. 45, 561 P.2d 373 (1977).**

14. **On this day as Reid worked downstairs packaging books to be shipped, unbeknownst to him Karen was told about the immanent arrest and why police were there which she protested as best she was able to despite her significant speech impairment.**

15. **Karen's challenge in speaking was due to anomic aphasia resulting from complications following her stroke suffered four years earlier.**

16. **Deputy Powell's interviews on July 5th the only interviews of Karen conducted prior to the decision to arrest had concluded no probable cause existed to arrest Mr. Pollack.**

17. **However on this day three weeks later Miller declares upon hanging up the phone that Billie's long distance testimony suddenly created exigent circumstances and ordered Reid's immediate warrantless arrest.**

18. **However, if Miller had had probable cause following the call she would have submitted that as the evidence upon which the arrest had been predicated. It would be expected that the evidence taken from those interviews (with Powell and Riley) would appear as such in her affidavit.**

19. **But in fact in her probable cause affidavit submitted three days later Miller does not include the testimony from Powell's report as the evidence upon which she claims to have probable cause and only a tidbit of the Riley call appears.**

20. **Instead Miller manufactured an interview with Karen Rusnik by cherry picking elements from what Powell and Riley had allegedly reported and repackaged those elements constructing a domestic violence scene which was claimed by Miller to have occurred nearly a month earlier on June 30th.**

21. **In Miller's fabricated narrative she claims she heard the testimony stated directly to her by Karen Rusnik during what is now known to be an entirely fictionalized interview.**

22. **Karen Rusnik states in her sworn affidavit that she refused Miller's request for an interview the day of Reid's arrest and that none of the statements Miller claims Karen made on that day were ever stated by her to Miller.**

23. **For the record the defendant has never denied the allegation that she fabricated the interview with Ms. Rusnik.**

24. **Miller's fabrication of an interview which was the essence of her probable cause affidavit constitutes a willful and wanton act invoked as an effort to validate the affidavit with misleading information.**

25. **It is not reasonable that Miller would have done this had she been in possession of information that was true that would suit the same purpose i.e., validating that there was probable cause to arrest Mr. Pollack.**

26. **For fourteen months Miller failed to come forward with the truth that she had manufactured the interview.**

27. **As Miller was aware until his arrest the Plaintiff operated a successful eCommerce business from the basement of his home. She writes "[Reid] has a used book business that would require him to have access to several thousand books at his home in order to continue the business. If he doesn't work he doesn't make any money."**

28. **As a result of the arrest Reid's eCommerce business sat unattended disallowed from rescue or removal by the Boulder County Sheriff's Department.**

29. **It was the BCSD who failed on December 1st 2014 to show up to allow Reid in as scheduled to remove the books; and also failed to contact him that they were not going to appear; and finally failed to allow a rescheduling of the original appointment doing their part to reinforce the loss of his business which was set in motion by BCSD Detective Polly Miller's warrantless arrest.**

30. **The valued 30,000 book collection was modestly estimated at over $250,000 on the day of Reid's arrest and continued to lose value as Reid awaited his trial which never took place.**

31. **The Plaintiff maintained documentation of his many efforts to re-appropriate his significant trove of valuable books painstakingly amassed. These unsuccessful recovery efforts continued throughout the fourteen months he waited for his trial, but never again was he allowed access to the book collection in Colorado.**

32. **What can be stated definitively is that the arrest set in motion the deprivation and the PFA (Protection From Abuse) order, which Miller omits acting to withdraw, continued it.**

33. **However beyond the financial losses the even more tragic human result was that Karen remained homeless for the next three years forced to live on the streets of Boulder unable to negotiate the bureaucracy due to her stroke related aphasia, a failure to find the words**

**she needs to express herself. This resulted in her often sleeping in the freezing cold under bushes with no one to care for her.**

34. **Three days after Reid's arrest Miller submitted a probable cause affidavit containing the fabricated interview with Karen in paragraphs two and three.**

35. **Paragraphs one and five contain nothing relevant to a finding of probable cause and consist of background and follow-up information respectively.**

36. **Paragraph four is a misrepresentation of a few selected elements of her interview with Billie which contradicts testimony found elsewhere in Miller's report and Billie's written statement. Here are some examples:**

37. **Miller fails to accurately represent the truth as known to her. She leaves out important elements and represents others inaccurately. She also adds elements she knows to have been contradicted in Powell's report such as stating that Reid's actions caused Karen to have difficulty breathing when Karen actually says "she always had difficulty breathing due to her stroke" and is dismissive of the claim that Reid caused this.**

38. **Miller claims Billie told her Karen was "in shock" seven hours after a confabulated two second event. What Billie actually wrote is that after getting in the car Karen "said she wanted to go to my house because she had ice cream and did not want it to melt."**

39. **Thus it can be determined that after removing the forged interview with Karen probable cause is lacking and the Plaintiff's arrest unsupported.**

40. **What can also be inferred is that unless probable cause can be demonstrated to exist at the time police arrest the Plaintiff, the claim of exigent circumstances which is predicated on**

**the existence of probable cause at the time, is unsupported. The arrest then is a violation of the Plaintiff's fourth amendment rights.**

41. **The case was finally dismissed but not until October of 2015.**

**CLAIM ONE MALICIOUS PROSECUTION**

42. **Plaintiff hereby incorporates all other paragraphs of this Complaint as is fully set forth herein**

43. **"Under our cases, a § 1983 malicious prosecution claim includes the following elements: (1) the defendant caused the plaintiff's continued confinement or prosecution; (2) the original action terminated in favor of the plaintiff; (3) no probable cause supported the original arrest, continued confinement, or prosecution; (4) the defendant acted with malice; and (5) the plaintiff sustained damages." Wilkins v. DeReyes, 528 F.3d 790, 799 (10th Cir.2008).**

44. **CONDITION (1) requires that the defendant Polly Miller caused the plaintiff's continued confinement or prosecution.**

45. **It is "a Fourth Amendment violation to knowingly or recklessly use false information to initiate legal process when that process leads to an unreasonable seizure." Pierce v. Gilchrist, 359 F.3d 1279, 1298–99 (10th Cir.2004). Miller orders such an unreasonable seizure.**

46. **The defendant Polly Miller clearly caused the plaintiff's arrest without a warrant, and omits acting against his continued prosecution for fourteen months.**

47. **The substance of the probable cause affidavit is a manufactured interview with Karen Rusnik and after removing it from the affidavit what is left fails to establish probable cause**

48. **Deputy Powell had already determined that probable cause was lacking based on interviews with Karen Rusnik.**

49. **If not for Detective Miller's inclusion of this false information in the Arrest Warrant and her failure to disclose that this information was false, the state would not have continued to pursue, for 14 months, his prosecution for second-degree assault.**

50. **Thus the Plaintiff has plausibly pled the first element of his malicious prosecution claim.**

51. **CONDITION (2) requires that the original action terminated in favor of the plaintiff.**

52. **The charges were dismissed but the fact that lack of merit was the real reason for the dismissal remained undisclosed to the courts.**

53. **To satisfy the second element of this test, the plaintiff must show more than just the withdrawal or vacating of criminal charges—the plaintiff must demonstrate that the criminal proceedings were dismissed for reasons indicative of innocence, and not because of an agreement of compromise, an extension of clemency, or technical grounds having little or no relation to the accused‘s guilt. see Cordova v. City of Albuquerque, 2016 WL 873347, at *3-6 (10th Cir. Mar. 8, 2016)**

54. **Leading up to the trial and in an effort to find Ms. Rusnik the prosecutor‘s office instructed Sherriff‘s department employees to call Karen’s known acquaintances to determine her location, presumably to serve a subpoena.**

55. **One of those calls was received by Mr. Bradford Kenny who told the caller exactly were Ms. Rusnik could be found indicating specifically & accurately where she was living.**

56. **Despite knowing where the state appointed victim could be found, no one ever contacted Ms. Rusnik or served her a subpoena of any kind.**

57. **But then the reason given to the court for the dismissal was that Karen could not be located which was patently untrue.**

58. **The facts that later emerged were that Karen was ready and willing to testify but not for the prosecution.**

59. **This was no secret to Detective Miller as Karen had both protested Reid's arrest and had also later told Miller to "just stop it" referring to what Karen indicated to Miller she felt were wrongful actions that Miller had taken to cause Reid's arrest.**

60. **Karen's aphasia of which Miller was aware rendered her helpless to effectively protest the injustice alleged to be taking place in her behalf.**

61. **In a certain sense then Miller was preying on the woman's disability in order to maintain her deception in the testimony on record so as to keep her ruse from becoming discovered.**

62. **A full functioning individual would have been able to act more effectively in an effort to stop the proceedings but Karen certainly was not adequately abled to do so.**

63. **Miller altogether failed to contact Human Services within 24 hours of any reported abuse to an At-Risk person according to the dictates of the new law that had just gone into effect July 1, 2014.**

64. **It is unknown whether this was because**

    a. **Miller was aware there had been no abuse;**

    b. **To protect her willful and wanton falsification in the affidavit from being discovered; or**

    c. **Because she continued to interpret Karen's protests as a "recant" seen through the eyes of an officer calloused by too many years of domestic violence reporting.**

65. **There is evidence that to some extent all three reasons contributed to Miller's failure to attune her actions to the new law, even though technically there can be no recantation where there has been no deliberate report of abuse in the first place as in this case.**

66. **The state appointed victim's unwillingness to support the case appears to have been the actual reason Karen had not been contacted for the trial.**

67. **Certainly the facts at the very least demonstrate that prosecutors knowingly lied to the court in claiming an inability to find Karen since they had been made directly aware of her contact information by Brad Kenney.**

68. **From the outset Karen had been appointed as a victim against her wishes. Prosecutors later supplied false information to the court as the reason for dismissal.**

69. **The true reason Ms. Rusnik was not contacted was that she would testify for the Plaintiff (then the defendant) and, accordingly the assault charge against him was dismissed in his favor, thereby satisfying the favorable termination element of his malicious prosecution claim.**

70. **The "dispositive inquiry is whether the failure to proceed implies a lack of reasonable grounds for prosecution." Id. (quoting Murphy v. Lynn, 118 F.3d 938, 948 (2d Cir. 1997)) (emphasis added). In Wilkins, for example, the court concluded the terminations would be considered favorable to the plaintiffs because they "were not entered due to any compromise or plea for mercy," but rather "were the result of a judgment by the prosecutor that the case would not be proven beyond a reasonable doubt." Id.**

71. **In several decisions from other jurisdictions, involving the somewhat analogous situation in which a complaining witness failed to appear or refused to testify, courts have found that "a**

**reasonable jury could conclude that probable cause was lacking and the dismissal was indicative of innocence." Lopez v. City of Chicago, No. 09 C 3349, 2011 WL 1557757, at *3 (N.D. Ill. Apr. 25, 2011). See also Edwards v. Vill. of Park Forest, No. 07 C 4910, 2009 WL 2588882, at *6 (N.D. Ill. Aug.20, 2009) ("[A] reasonable jury could infer that the lack of probable cause was itself the reason for the officers' failure to appear."); Mahaffey v. Misner, No. 07 C 6758, 2009 WL 2392087, at *3 (N.D .Ill. July 31, 2009) (failure of complaining witness to appear "supports a finding of favorable termination" and defeats a motion for summary judgment); Woods v. Clay, No. 01 C 6618, 2005 WL 43239, at *15 (N.D. Ill. Jan.10, 2005) ("[G]enuine issue of material fact [existed] as to whether the charges were terminated in plaintiffs' favor [when] Officer Clay failed to appear in court, and as a consequence, those charges were dismissed."); Petrovic v. City of Chicago, No. 06 C 6111, 2008 WL 4286954, at *10 (N.D .Ill. Sept.16, 2008) (Where "[t]he prosecution simply abandoned the criminal proceedings because its complaining witness refused to testify . . . [a] rational jury could find that the nolle prosequi [dismissal] indicated [the plaintiff's] innocence.") Pollack v. Boulder Cnty., Civil Action No. 17-cv-02444-CMA-NRN, at *25-26 (D. Colo. Feb. 13, 2019)**

**RELEVANCE TO QUALIFIED IMMUNITY**

72. **This configuration established a buttress against veracity insofar as it allowed Miller to circumvent the need to come forward with conflicting information regarding Karen's objections to the case and other knowledge only she had that would set the record straight.**

73. **Nonetheless if prosecutors felt the case had merit it can be inferred they would have been candid about the reason for the dismissal instead of lying about their inability to find Karen.**

74. **Nor was it Karen who had filed the complaint against Reid but from the outset Polly Miller had taken on the role of complaint filer.**

75. **In the instant case the Detective is adopting the role of a complaining witness but has also attempted to claim qualified immunity. "But when defendants have "dual roles as witness and fabricator," extending protection from the testimony to the fabricated evidence "would transform the immunity from a shield to ensure" candor into "a sword allowing them to trample the statutory and constitutional rights of others." Paine, 265 F.3d at 982–83.**

76. **The detectives' ultimate testimony "does not serve to cloak these actions with absolute testimonial immunity," Spurlock, 167 F.3d at 1001; if it did, they would be rewarded for "compound[ing] a constitutional wrong," Gregory, 444 F.3d at 739."**

77. **There had never been any intent by Karen to file a complaint or testify against Reid because there had been no act of domestic violence to report or to testify about nor had any such event been intentionally reported.**

78. **In fact Ms. Rusnik's attitude had not changed from the case's initiation and prosecutors ought to have been made aware of that fact by Polly Miller.**

79. **CONDITION (3) requires that no probable cause supported the original arrest, continued confinement, or prosecution.**

80. **The fact that no probable cause supported the arrest was the conclusion Deputy Powell had already reached based on the only corroborated interview with Karen prior to Reid's arrest.**

81. **Deputy Powell's findings were that there was insufficient evidence to establish probable cause for an arrest of the Plaintiff.**

82. **There is no reason to believe the case would have proceeded any further if Miller had not filed her affidavit that the victim alleges contains the confabulated interview.**

83. **With Karen's testimony it can now be demonstrated that no probable cause existed for the arrest.**

**THE EXTENSIVE REACH OF A FABRICATED INTERVIEW**

84. **This lack of probable cause was difficult at the time to establish because the fabricated interview presented a daunting obstacle.**

85. **Backed by the no-contact order it appeared Miller was confident that Reid would not be able to establish a successful challenge to the veracity of the information she had manufactured to support the affidavit.**

86. **This confidence was based on Miller's history initiating cases targeting countless domestic violence related defendants and a basis in experience that demonstrated the unlikelihood of defendants standing up to the personal challenge such allegations presented.**

87. **In any event Miller continued to maintain her deception that Karen had testified precisely as Miller had documented in the affidavit and there is no doubt this presented a formidable challenge even in this case in which absolutely no factual basis for these charges existed.**

88. **Although Reid did not believe the reported interview had occurred at the time he did not find in himself many ways to utilize this personal belief to carry much weight against his adversaries.**

89. **His discussions with his Public defender about exposing the deception were not taken seriously and were met with the rebuttal that Police are always accused of lying and they are always believed over people like you (he took this to mean "over defendants").**

90. **It is a matter of fact that he was not present when the interview was alleged to have taken place so regardless of his personal conviction given he had not and could not at the time verify his contention he could not truly state that he KNEW with certainty that the interview had been manufactured.**

91. **Upon a cursory examination it can always be maintained that it appears the Plaintiff (then a defendant) could have done more at the time to prove the interview had been fabricated.**

92. **However, since he had been carted off to jail and was not actually present to witness what had occurred, and also (but only due to the arrest) suddenly lacked funds to hire a private investigator to interview Karen, he faced significant challenges finding any success in persuasion against the detective's allegations including the following:**

   a. **The interposed no-contact order between he and Karen;**
   b. **The no-contact order being extended to all third parties;**
   c. **The no-contact order being extended to the business located beneath the home even if Karen would agree to leave the home.**
   d. **Karen's inability to communicate her concerns to others due to anomic aphasia;**
   e. **Karen's increased isolation from friends and family in the four years following her stroke due to her inability to communicate effectively.**
   f. **Karen's inhibited perception of her interpersonal skills and lack of confidence in her ability to fend her way through any bureaucratic measures necessary to stop this abuse of her partner by authorities;**
   g. **Karen's insolation and lack of awareness of what to do because Miller had kept Human Services apart from the investigation;**

h. **Karen's extended isolation because following Miller's lead all the officers who ought to have called Human Services on Karen's behalf failed to do so.**

93. **There exist a number of additional elements that when combined illustrate, though still make it quite difficult to fully capture in actuality what stood behind any appearance suggesting Reid did not make a sufficiently confrontational stand and instead seemed prone to withdraw into himself, not the least of which was fear of a third, and this time devastating, arrest.**

94. **Listed are some of the elements that caused Reid's fear to be exacerbated:**

a. **An already accomplished second arrest for a violation that was based on no other evidence beyond one officer's word against his that he had "confessed" on the phone;**

b. **PTSD resulting from the moral implications of the allegations;**

c. **State appointed counsel who refused to act on his specific investigatory requests including demands to verify or refute the alleged interview;**

d. **Agoraphobia which set in after finding a friend's couch to stay on;**

e. **Moral stigma attached to domestic violence accusations in Boulder and across the county;**

f. **What amounted to an effective seizure of his business causing a lack of financial resources;**

g. **Compounded difficulties in obtaining financial assistance;**

**h. A personal savings and tax plan in which he had parlayed his resources back into additional inventory for the couple's retirement instead of into a bank savings account;**

**i. Based on the charges an overall diminishing of confidence in the Plaintiff by those around him, including some friends and family; and**

**j. The assignment of a questionable moral character to the Plaintiff due to the charges leveled against him by authorities.**

95. **CONDITION (4) requires that the defendant acted with malice.**

96. **The repackaging of cherry picked elements and fragments taken out of context then planted as claims to have issued from the mouth of the victim in the manufactured contents of an interview establishes malice on Miller's part.**

97. **The actions of defendant Polly Miller in manufacturing an interview with the victim were willful and wanton and in withholding the truth about this fact for over fourteen months demonstrates she unequivocally acted with malice.**

98. **Malice may also be inferred from lack of probable cause and it is shown by an analysis of the five paragraph affidavit that probable cause was lacking:**

**a. Paragraphs one and five contain nothing relevant to a finding of probable cause;**

**b. Paragraph four is a misrepresentation of a few selected elements of Miller's interview with Billie Riley which contradicts testimony found elsewhere in Miller's report and Billie's written statement; and**

**c. Paragraphs two and three contain the interview with victim Karen Rusnik which Ms. Rusnik claims was fabricated.**

99. **Finally even if probable cause would have been supported by an actual interview with the victim, based on Miller's own testimony the alleged interview had not taken place at the time she ordered the arrest.**

100. **Since there was no exigency to be found in a domestic scene of Karen gardening and Reid working downstairs on the family business, an arrest based on exigency was predicated on probable cause of domestic violence charges which based on the affidavit finds support AFTER the interview which according to Miller had not taken place prior to the arrest.**

101. **CONDITION (5) requires that the plaintiff sustained damages.**

102. **As Miller was aware until his arrest the Plaintiff operated a successful eCommerce business from the basement of his home.**

103. **Miller writes "[Reid] has a used book business that would require him to have access to several thousand books at his home in order to continue the business. If he doesn't work he doesn't make any money."**

104. **In the fourteen months the Plaintiff waited for a trial that never arrived his listed books depreciated significantly loosing over half of the $250,000 they were valued at on the day of his arrest.**

105. **The arrest was the proximate cause of the damages to the plaintiff. The losses it can be shown resulted directly from the arrest in some instances and in other cases resulted from events that were set in motion by the arrest.**

106. **Miller had every opportunity in the many months that passed to come forward truthfully but she failed to do so.**

107. **Thus she is responsible for the continued losses sustained by the plaintiff set in motion by an arrest based on a falsified interview constituting the substantial element of the affidavit.**

108. **Between the arrest and the hearing at which the Plaintiff would be able to plead Reid had already clearly sustained significant actual damages. These would only continue to mount with the passage of time.**

109. **Miller's confabulation in the case causing the arrest is the proximate cause of actual damages in this pre-pleading period alone in a significant amount to be reasonably calculated and factually supported.**

110. **This can be demonstrated and quantified by existent records kept online by the venues Amazon, Abe's and Alibris Books.**

111. **All of these records are kept by the venues independently online and are unalterable by the Plaintiff.**

112. **The other personal damages to reputation, pain and suffering, and other traumatic effects resulting from the filing of charges which in the public are considered heinous, are difficult to quantify by the Plaintiff though acceptable methods of doing so are available to the courts or a jury.**

113. **All five elements of the malicious prosecution are unequivocally established in the case of Polly Miller.**

114. **Miller's omission to terminate the initiated prosecution in which she validated probable cause by a fabricated interview with a person designated against her will, in contradiction to her knowledge of events, to be a victim, only extends the malicious prosecution and also increases the damages.**

115. **"It is a violation of the Fourth Amendment for an arrest warrant affiant to knowingly, or with reckless disregard for the truth, include false statements in the affidavit." (Franks v. Delaware, 438 U.S. 154, 155, 98 S.Ct. 2674, 57 L.Ed.2d 667 (1978)).**

116. **"An arrestee can bring a malicious-prosecution claim when legal process is initiated and results in an unreasonable seizure under the Fourth Amendment" Wilkins v. DeReyes, 528 F.3d 790, 797 (10th Cir.2008).**

117. **In these circumstances the defendant should have realized that the reckless use of a false interview to institute legal process would violate a clearly established constitutional right.**

118. **Precedent recognizes malicious-prosecution claims under the Fourth Amendment after the initiation of a legal process resulting in an unreasonable seizure, thus denying the defendant's motion to dismiss on the basis of qualified immunity.**

119. **Based on her statement regarding his business (count #103) Miller recognizes the significant leverage the inaccessibility of his business would exert on the Plaintiff and this was a privation she would count on.**

120. **It allowed her to believe regardless of the truth the Plaintiff would accept a plea as she had witnessed so many other defendants do under congruent circumstances.**

121. **What she could not have known is that Reid felt a moral obligation to stand up to this sort of abuse by authority in behalf of all those who do not have the intellectual resources or fortitude to do so.**

122. **But it was the deprivation of his book business and the passion for a vocation that he had painstakingly developed that was heartrending and motivated him to persevere.**

123. **Finally the callous treatment and lack of consideration to his partner, a woman who had already undergone such significant health challenges, that would keep him up at night and refused to allow him, no matter what the consequences, to forfeit these efforts to do the right thing.**

**THE PRESENT STATUS OF THE LAWSUIT**

124. **"During a recent interview with Judge Gallagher, he noted the complexity of federal court procedures and explained there are many ways that self-represented litigants can step on a landmine and lose their case. He also pointed out that it would be daunting even for many attorneys to put on a federal case." (Colorado Lawyer August/September 2018 p 9 left inset "THE PRO SE INTAKE UNIT")**

125. **It is understood if thus far defendant Polly Miller has been most concerned with sidestepping the allegation that she fabricated the interview with Ms. Rusnik rather than admit or deny it.**

126. **It is because the case has merit that this strategy makes sense insofar as only by managing to neither admit or deny this allegation can defendant Polly Miller avoid moving forward to trial.**

127. **Whereas if defendant Polly Miller either admits or denies this allegation the case goes to trial. This assertion is based on the following reasoning:**

   a. **If she contests that she fabricated the interview there is a material question of fact and accordingly the case moves forward to trial.**

   b. **If on the other hand she admits the deception she perpetrated by fabricating the interview then there is sufficient evidence for the case to proceed to trial.**

**CLAIM TWO**

**JUDICIAL DECEPTION**

128. **Plaintiff hereby incorporates all other paragraphs of this Complaint as is fully set forth herein**

129. **For a judicial deception claim to survive "we held … that the plaintiff must 1) make a substantial showing of deliberate falsehood or reckless disregard for the truth and 2) establish that, but for the dishonesty, the [arrest] would not have occurred." Chism v. Washington State, 661 F.3d 380, 386 (9th Cir. 2011) (quoting Liston v. Cty. of Riverside, 120 F.3d 965, 973 (9th Cir. 1997)).**

130. **If a plaintiff satisfies these requirements, "the matter should go to trial." Id. at 789**

131. **In the instant case the narrative of two whole paragraphs (#2 & #3) in the probable cause affidavit (Attachment A) are given as if they were statements made by Karen.**

132. **According to the victim Karen Rusnik's affidavit (Attachment B) the statements were never uttered by her to the detective. This reckless disregard for truth meets the first of the two criteria.**

133. **The probable cause affidavit contains five paragraphs as follows:**

a. **Paragraphs one and five contain nothing relevant to a finding of probable cause;**
b. **Paragraph four is a misrepresentation of a few selected elements of Miller's interview with Billie which contradicts testimony found in Billie's written statement and elsewhere in Miller's report.**
c. **Paragraphs two and three consist of the summary of a fabricated interview with Karen.**

134. **The second criteria "but for the dishonesty, the challenged action would not have occurred" is slightly more complex. Miller's false statements are versions of alleged statements drawn not from what Karen says to Miller but from Powell's summary of his interview with Karen.**

135. **What is clear is that Miller did not think that reporting them accurately from their actual source would have amounted to a finding of probable cause or at least may not have led to such a finding.**

136. **If she had she would have been truthful about their source. A deeper look into the statements made not by Karen but suggested by Powell indicate the problem lies in the fact that the way they appear in the summary is quite derivative of what Karen actually states to him in the fuller discovery report and do not entirely add up.**

137. **Secondly Powell finds that based on those statements as they were reported to him probable cause is lacking.**

138. **The question then becomes given the dated nature of Billie's testimony what added to Powell's report from Riley's report puts the testimony over the line that then validates probable cause?**

139. **Miller does not develop the answer to this nor does she need because she manufactures the interview with Ms. Rusnik instead.**

140. **The bottom line is if Miller could not find such evidence to report it as supportive of such a finding of probable cause in the affidavit then she herself had doubts as to whether probable cause could have been demonstrated based on what she had at the time of the arrest.**

141. **The fact that she shows malice and reports false statements from Karen instead of identifying the actual source means the second element is met in that it indicates without the deception Miller felt that probable cause may not have stood up to a judge's scrutiny.**

142. **If the plaintiff cannot discover any apparent purpose, improper purpose can be inferred from the lack of probable cause.**

143. **The act of deception on Miller's part indicates that she did not feel probable cause would be found without it and that at least in relation to Miller the second element of Judicial Deception is met.**

144. **In addition she invoked a false claim of exigency to pull off the arrest reinforcing the second element of a Judicial Deception claim because if not for that dishonesty no arrest of the Plaintiff could have been made.**

145. **The two paragraphs with the manufactured interview numbers two and three are most importantly those, had they been true, essential to establishing probable cause in the affidavit.**

146. **So if not for the dishonesty the paragraphs would be removed leaving the affidavit lacking probable cause for the Plaintiff's arrest.**

147. **"Whether the alleged judicial deception was brought about by material false statements or material omissions is of no consequence." United States v. Stanert, 762 F.2d 775, as amended, 769 F.2d 1410 (1985). In Stanert, we reasoned that by "reporting less than the total story, an affiant can manipulate the inferences a magistrate will draw." Id. at 781. To allow a magistrate "to be misled in such a manner could denude the probable cause requirement of all real meaning." Id**

148. **Qualified immunity is not available to government employees in a § 1983 claim based on judicial deception when the plaintiff can substantially prove, that but for the dishonesty of the officers, the warrant would not have been issued. "a substantial showing of the officers' deliberate falsehood or reckless disregard for the truth and have established that, but for the dishonesty, the … arrest would not have occurred. We also conclude that the officers are not entitled to qualified immunity … because the [Plaintiff's] right to not be … arrested as a result of judicial deception was clearly established at the time [the officer] submitted her affidavit" (Chism v. Washington State p 16314)**

**STATUTE OF LIMITATIONS FOR MALICIOUS PROSECUTION**

**AND FOR JUDICIAL DECEPTION**

149. **On February 7, 2019 at a hearing, counsel for the defendants agreed that the Plaintiff's malicious prosecution claim is not time barred.**

150. **The statute of limitations for a § 1983 malicious prosecution claim does not begin to run until the prior criminal proceeding is terminated in favor of the accused, Mondragon v. Thompson, 519 F.3d 1078, 1083 (10th Cir. 2008)**

151. **The statute of limitations for malicious prosecution claims accrue when the case is dismissed in the Plaintiffs favor as already demonstrated. (See for example counts 67-69)**

152. **Claims under § 1983 are governed by the forum state's statute of limitations. Wallace v. Kato, 549 U.S. 384, 387, 127 S.Ct. 1091, 166 L.Ed.2d 973 (2007).**

153. **Colorado has a two-year statute of limitation for personal injury actions Colo.Rev.Stat. § 13–80–102(1)(a).**

154. **Federal law determines the date on which the claim accrues and, therefore, when the limitations period starts to run. Wallace, 549 U.S. at 388, 127 S.Ct. 1091.**

155. **Judicial deception claims, by their very nature, accrue differently from "garden variety" claims. See Chism v. Washington, 661 F.3d 380, 386 n.9 (9th Cir. 2011) ("A judicial deception claim is different from a garden-variety claim that a warrant lacked probable cause on its face."). These claims involve false or misleading misrepresentations that may not be readily apparent at the time of the search. See, e.g., Smith v. Almada, 640 F.3d 931, 937 (9th Cir. 2011) (explaining that the crux of a judicial deception claim is not that an affidavit lacked probable cause on its face, but rather that an officer misled the judge about facts material to the existence of probable cause).**

156. **It is true that it has been held that In order to discover the underlying illegality in a judicial deception case, the plaintiff must have access to the underlying affidavit. See, e.g., United States v. Stanert, 762 F.2d 775, 781 (9th Cir. 1985).**

157. **In that case and others e.g. Klein v City of Beverly Hills which specifically states "We must decide when a judicial deception claim accrues," it has been ruled that accrual begins when the affidavit becomes available to the Plaintiff. In Klein that was not for three and a half years.**

158. **Only after examining the underlying affidavit can the plaintiff identify the critical facts showing that "[an officer] misled the magistrate judge when applying for the warrant, and had the magistrate considered all of the facts that the magistrate would not have found probable cause." Chism, 661 F.3d at 386 n.9 (alteration in original) (quoting Smith, 640 F.3d at 937).**

159. **"Under federal law, a claim accrues when the plaintiff knows or has reason to know of the injury which is the basis of the action." Maldonado v. Harris, 370 F.3d 945, 955 (9th Cir. 2004) (quoting Knox, 260 F.3d at 1013).**

160. **Looking at the facts in Klein to understand the ruling we find the plaintiff had reason to know of the injury only when the affidavit became available to him.**

161. **However those same facts also indicate that the time at which the affidavit becomes available may not also ALWAYS coincide with the Plaintiff knowing of the injury which is the basis of the action even though in that case they did.**

162. **Where defendants have asserted judicial deception claims should accrue on the date of the search regardless of whether the underlying affidavit is accessible the arguments against this indicate that the availability of the underlying affidavit may not always be the date triggering accrual even though in the cited cases that availability was the proper accrual date.**

163. **Some of the reasons given were as follows: "First, this rule would force plaintiffs without access to the underlying affidavits to file unripe and factually unsupported § 1983 suits, wasting legal and judicial resources as prospective plaintiffs seek to preserve their claims before the expiration of the applicable limitations period. Cf. Panetti v. Quarterman, 551 U.S. 930, 943 (2007) (rejecting an approach that would lead "conscientious defense attorneys . . . to file unripe (and, in many cases, meritless)" claims that would burden courts and litigants).**

164. **"Here, Defendants' rule would have compelled Klein to file an unripe lawsuit based on the hypothetical possibility of judicial deception."**

165. **In Klein the police had kept the affidavit sealed for over three years and so they held "that the discovery rule applies to a judicial deception claim."**

166. **The discovery rule generally provides that a cause of action accrues for purposes of the governing statute of limitations at the time when the plaintiff discovers or, in the exercise of reasonable care, should have discovered the complained of injury.**

167. **It is noted that does not rule out the possibility that a judicial deception is embedded in the affidavit in such a way that the Plaintiff may be prevented from determining said deception even when the affidavit becomes available. Such would be the case for example where other restrictions on discovery were caused by conditions set in place by the specific conditions unfolding due to the judicial deception which do not necessarily become known even when the affidavit is released.**

168. **In some cases such as the instant case the determining factor may require an examination of what constitutes "due diligence" and a consideration of other elements that further restrict the Plaintiff and that also follow from the arrest based on the affidavit but that continue to be withheld after the release of the affidavit and continue to hide facts necessary to challenge the arrest from view until the case is dismissed.**

169. **It is argued that in Judicial Deception claim accrual begins when the Plaintiff <u>KNEW</u> or had reason to KNOW and not merely THINK that Miller and/or the prosecution deceived the court.**

170. **In the instant case this knowledge was available to the Plaintiff when a reason was given to the court for dismissing the case which Mr. Pollack KNEW to be false.**

171. **Immediately following the dismissal when Reid shared the reason the court had given to dismiss the assault case with Brad Kenney, Mr. Kenney told the Plaintiff that he had provided a caller from BCSD Karen's contact information and thus he knew the deceptive nature of the dismissal.**

172. **He never in fact knew the Detective had fabricated the interview until later but he had enough reason to more generally support a claim of judicial deception beginning immediately following the dismissal of the assault charge in Oct of 2015 when Mr. Kenney provided him evidence.**

173. **Mr. Pollack personally knew from the date of his arrest that he had not committed the crime of which he had been accused.**

174. **This does not however mean that he KNEW that Miller had fabricated the interview because there were other possibilities that he could only rule out later. For example it is possible that Karen's aphasia could have led to a complete misunderstanding.**

175. **Regarding the judicial deception claim in the instant case it became clear during a discussion that even the defense counsel was initially unclear whether Judicial Deception was even a legitimate cause of action in Colorado.**

176. **If these professionals were uncertain about this fact how could the Plaintiff pro se be expected to know to file his action before he actually KNEW of the falsification of the interview even though he suspected it was the case.**

177. **In addition he had been stripped of his financial resources from the date of his arrest and could not hire a private investigator even if he had known that was a viable option not going to land him in jail.**

178. **His state appointed counsel refused to send an investigator and she refused to even obtain a copy of the phone call to dispatch. And it was not Mr. Pollack that had final say in such matters but rather it was Ms. Milfeld Reid's public defender.**

179. **A year into the case he did finally fire her but not until he found the resources to hire private counsel. The arrest had stripped him of the resources to take the steps required to KNOW the affidavit contained an essentially falsified validation of probable cause.**

180. **Finally even if it was in fact legal for him to do so the Plaintiff did not know for sure that he would not be arrested anyway since a number of actions in this case veered outside the boundaries of legality and under the circumstances he could not have risked a third arrest one that could have easily forced him into a plea deal in order to regain his freedom.**

181. **Access to the affidavit is only a trigger for accrual when one also has access via due diligence to the knowledge of facts that confute or confirm it.**

182. **In the above cited case the Plaintiff had access to the facts at the same time he had access to the affidavit. This is not true in the instant case.**

183. **Furthermore a wrongdoer should not be able to take advantage of hir own wrong. It is entirely plausible that Mr. Pollack only realized he might have a claim for judicial deception when he began work on the malicious prosecution pleading because judicial deception is a rare cause of action in Colorado and it is unclear if it was even known to the Magistrate or Defense counsel whether it was a stageable cause of action until this case.**

184. **Likewise it was not known to the Plaintiff though actual acts of judicial deception became all too familiar to him as causes fourteen months after the arrest occurred and begin to accrue for the reasons stated above at the same time the malicious prosecution cause**

**accrues and the statute of limitations ends at the same time on both causes even if for different reasons.**

185. **Furthermore, the common law principle applies here that a wrongdoer should not be able to take advantage of hir own wrong.**

186. **Reid was convinced that there more than likely had been no interview as sections of his nearly 300 page attestation submitted to his public defender sufficiently show.**

187. **That document however also details why he could not however truly have KNOWN it. Ms. Milfeld under these circumstances refused to act on it or get a private investigator to look into the likelihood that Miller had fabricated the interview.**

188. **Any efforts to communicate with Ms. Rusnik reveal to her interlocutor that a guided interview with Karen, an At-Risk adult suffering from anomic aphasia, is absolutely inappropriate and certain to lead to errors.**

189. **Even Powell's interviews bear marks of such inappropriateness in the misleading nature of the questions as reported and also based on the answers as recorded. But at least his investigation considers ALL the information and indicators and so comes to the correct conclusion.**

190. **He also adds the list of qualifications to Karen's testimony which Miller fails to do adding support to Karen's sworn statement that Miller never interviewed Karen. In his report Powell states the following:**

- **a. "It was very difficult to understand her"**
- **b. "She was slurring her words"**
- **c. "She took several moments to answer my questions"**

**d. "Her cognitive process was broken many times"**

**e. "I needed to remind her what we were talking about"**

**f. "Her story changed from her initial statement"**

**g. "I determined there were some statements that did not add up"**

191. **Mr. Pollack also had a public defender by default, but Nelissa Milfeld despite her posturing would do nothing he insisted needed to be done to assist him.**

192. **He had had all access to his finances interceded since the arrest causing all cash flow to be interrupted following the arrest.**

193. **So due to the arrest getting a private detective to investigate was not feasible and he was not successful at terminating Nelissa until he could afford a real attorney. Finally after a year he was able to do so.**

194. **It was immediately after the case was dismissed that Mr. Pollack could have filed a judicial deception claim because at that time as indicated above he KNEW of a deception.**

195. **Until that time his claim would have been only the word of someone who was not even present at the time of the alleged interview and so could not have witnessed the refusal of the interview.**

196. **It is at the time immediately following the dismissal with the prosecution lying exposed and Miller failing to come forward to testify or come forward with the truth about *why* she is not testifying since she had all along been the complainant, that the Plaintiff has a valid judicial deception claim with known elements supporting it.**

## E. REQUEST FOR RELIEF

197. **Plaintiff requests the following relief:**

198. **Plaintiff prays that this Court enter judgment for the Plaintiff and against each of the Defendants and grants:**

199. **Compensatory including damages for losses of Business and Business Chattels, damages for emotional distress, humiliation, loss of enjoyment of life, and other pain and suffering on all claims allowed by law in an amount of $2,000,000, or such greater amount as may be set by a jury;**

200. **Presumed damages for losses related to the loss of the Plaintiff's business**

201. **Economic losses on all claims allowed by law;**

202. **Special damages; lost earnings, and future loss of income.**

203. **Attorneys' fees and the costs associated with this action under 42 U.S.C. §1988, including expert witness fees, on all claims allowed by law;**

204. **Pre- and post-judgment interest at the lawful rate; and**

205. **Plaintiff offers the following guidelines which the available documentation justifies and so he seeks the following redress:**

206. **As a result of the Defendants combined actions and violation of the Plaintiff constitutional rights he has suffered loss of the Business Some of all Books, LLC and the business chattels which were listed for resale at the time of the Plaintiff's arrest at a competitive price totaling $257,000.00**

207. **Ongoing revenue is lost over the fourteen months the plaintiff awaits trial before the case is dismissed. Revenue of approximately $7,500 month on average amounts to $105,000 in lost revenue.**

208. **Ongoing revenue for the months since October of 2015 to the present $195,000.**

209. **Unlisted inventory of books making up partial sets $150,000**

210. **Future earnings into retirement $1,000,000**

211. **He has also suffered from the following**

212. **defamatory falsehood involved in the charges**

213. **difficulties including impairment of reputation,**

214. **personal humiliation,**

215. **mental anguish and suffering,**

216. **impaired self-confidence,**

217. **untethered moral compass,**

218. **retreat of the heart,**

219. **sleeplessness,**

220. **depression,**

221. **Any further relief that this court deems just and proper, and any other appropriate relief at law and equity.**

222. **The plaintiff seeks compensation for all losses and any damages as the jury sees fit to award him.**

## REQUESTS FOR A TRIAL BY JURY

**A trial by jury is hereby demanded on each and every one of the claims as pled herein.**

**PLAINTIFF'S SIGNATURE**

**I declare under penalty of perjury that I am the plaintiff in this action, that I have read this complaint, and that the information in this complaint is true and correct. See 28 U.S.C. § 1746; 18 U.S.C. § 1621. Under Federal Rule of Civil Procedure 11, by signing below, I also certify to the best of my knowledge, information, and belief that this complaint: (1) is not being presented for an improper purpose, such as to harass, cause unnecessary delay, or needlessly increase the cost of litigation;**

**(2) is supported by existing law or by a nonfrivolous argument for extending or modifying existing law; (3) the factual contentions have evidentiary support or, if specifically so identified, will likely have evidentiary support after a reasonable opportunity for further investigation or discovery; and (4) the complaint otherwise complies with the requirements of Rule 11.**

**s/ Reid Pollack** **April 21, 2019**

***Reid Pollack***
**Pro Se Litigant**
**4927 Thunderbird Circle #103**
**Boulder, CO. 80303**
**720-503-2354**
**sumofallbooks@gmail.com**

**CERTIFICATE OF SERVICE**

**I hereby certify that on April 21, 2019 I electronically filed the foregoing AMENDED COMPLAINT FOR MALICIOUS PROSECUTION AND JUDICIAL DECEPTION (OPPOSED) via U.S. District Court electronic filing service**

**s/ Reid Pollack**
***Reid Pollack***

# Narrative

In accordance with C.R.S. 19-1-301 through 304 concerning the Children's Code Records and Information Act, names of juveniles may or may not be released to the public depending upon the juvenile's involvement in the case.

Will you mention a Juvenile Name: Yes ☐ No ☒ Arresting Agency Case Number: 14-3639

On July 25, 2014, at about 1500 hours, I requested a Deputy to respond with me to 7644 Nikau in the city of Niwot, in Boulder County, Colorado. I was looking to contact an assault and domestic violence suspect named Reid Pollack at that address. This incident had occurred on June 30, 2014, but the victim, Karen Rusnik did not contact police until the 5th of July. She had left the home after the incident to stay with a friend and later was convinced to call the police and report what happened to her.

Karen is 58 years old had suffered 2 strokes in the last 5 years. She said her brain is still fine but she has a difficult time talking and communicating what she is trying to say. She has been on disability for the last five years. Due in part of this issue, there was not an arrest made on that day. However, after further investigation and interviewing Karen with more time for her to talk to me, she was able to confirm to me that on June 30th, she had been driving one of Reid's vehicles and it broke down She came home and went in the house to tell him and she said he was very angry and blamed her for the car breaking. He was angry because he would have to pay for someone to fix it and they were already struggling with their money situation.

Karen described her and Reid were facing each other in the hallway just inside the doorway. He was screaming and cussing at her and his anger grew. He reached out with both of his hands and wrapped them around her neck. She said he started to squeeze and the pressure increased until she was having difficulty breathing. She demonstrated this on my arm that I held up in front of her. She squeezed my arm showing how much he squeezed on her neck. She said it was difficult to breath during this time and she was scared at how much anger she could see in his eyes. She said it lasted a few seconds and then he walked away and went to his room. Karen said she was very scared and in shock of what happened so she called her best friend to pick her up and stayed with her and did not go back home.

I spoke to her best friend, Billie Riley and she confirmed the day she picked up Karen. She said she was very upset and appeared to be in shock. She remembers Karen telling her how Reid put his hands on her neck and squeezed so tight she had difficulty breathing. Billie remembers looking at her neck and seeing how red it was.

Reid was taken to the Boulder County Jail where he was booked and lodged on 2nd degree assault, at-risk adult and domestic violence. I did read the advisement of rights to Reid at the jail and asked him if he would like to speak to me. He signed the waiver and said he would. His recall of that day was very much the same except for he said he never got out of his bed that day. He said he was in bed when she told him about the car and then she left again. He denied ever putting his hands on Karen's neck or having an argument. I asked if it was normal for her to disappear and stay with friends and he said it was not, but he did not know why she did. He said it was kind of nice having her gone because he could get some work done at the house.

End of report

THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLORADO

Reid Pollack

Plaintiff

Boulder County,
Polly Miller,
Steve Kellison

Defendants

17-cv-02444-GPG

**AFFIDAVIT**

I, **Karen Rusnik** of **4869 Broadway**, in **Boulder** , **Colorado MAKE OATH AND SAY THAT**

Detective Polly Miller BCSD claims to have taken the statement entitled "NARRATIVE" from me after Reid's arrest on July 25, 2014. However, in fact following Reid's arrest I refused to speak with Detective Miller. To the best of my recollection, knowledge and belief on the day of the arrest I did not make any statements that the Detective claims I made to her in the one page report entitled "Narrative."

STATE OF COLORADO

COUNTY OF BOULDER

SUBSCRIBED AND SWORN T0 BEFORE ME
On the 2nd day of January, 2018

Signature

NOTARY PUBLIC

My commission expires 06-04-2021

STEVE KIM
NOTARY PUBLIC
STATE OF COLORADO
NOTARY ID 20114050711
MY COMMISSION EXPIRES JUNE 4, 2021

s/ Steve Kim

Karen Rusnik

s/ Karen Rusnik

s/ Reid Pollack

REID POLLACK