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14 IN THE UNITED STATES DISTRICT COURT
15 FOR THE DISTRICT OF OREGON
16 EUGENE DIVISION
17
18

19 NICHOLAS JAMES MCGUFFIN, as an
individual and as guardian *ad litem*, on
20 behalf of S.M., a minor,

21 Plaintiffs,

22 v.

23 MARK DANNELS, PAT DOWNING,
SUSAN HORMANN, MARY KRINGS,
24 KRIS KARCHER, SHELLY MCINNES,
RAYMOND MCNEELY, KIP OSWALD,
25 MICHAEL REAVES, JOHN RIDDLE,
SEAN SANBORN, ERIC
26 SCHWENNINGER, RICHARD

Civil No. 6:20-cv-1163

COMPLAINT FOR DAMAGES

DEMAND FOR JURY TRIAL

1 WALTER, CHRIS WEBLEY,
2 ANTHONY WETMORE, KATHY
3 WILCOX, CRAIG ZANNI, DAVID
4 ZAVALA, ESTATE OF DAVE HALL,
5 VIDOCQ SOCIETY, CITY OF
6 COQUILLE, CITY OF COOS BAY,
7 COOS COUNTY, and OREGON STATE
8 POLICE,

9 Defendants.

10
11 COMES NOW Plaintiffs Nicholas James McGuffin and S.M., by and through
12 their attorneys, Maloney Lauersdorf Reiner PC and Loevy & Loevy, and allege and
13 claim as follows:

14 I. INTRODUCTION

15 1. Nicholas McGuffin spent nine years in prison for a crime that he did
16 not commit—the murder of Leah Freeman.

17 2. McGuffin was wrongfully convicted because Defendants fabricated and
18 suppressed evidence and otherwise violated McGuffin’s rights under the United
19 States constitution, the Oregon constitution, and the law.

20 3. After fighting for his innocence for nearly two decades, McGuffin was
21 exonerated when his conviction was vacated and the Coos County District
22 Attorney’s Office dismissed all charges against him.

23 4. Though nothing can bring back that time, McGuffin now brings this
24 action to redress the devastating injuries that Defendants caused him.

25 II. PARTIES

26 5. Plaintiff Nicholas James McGuffin is, and was at all times material
and relevant to this action, an individual and resident of the state of Oregon.

6. Plaintiff S.M. is, and was at all times material and relevant to this
action, a minor individual and resident of the state of Oregon. S.M. appears in this
lawsuit through her father, Nicholas McGuffin, as her guardian *ad litem*.

1 7. Defendants Mark Dannels, Dave Hall, Shelly McInnes (formerly
2 Grant), Raymond McNeely, Michael Reaves, Sean Sanborn, Chris Webley, and
3 David Zavala are, or were at times material and relevant to this action, police
4 officers of Defendant City of Coquille acting under color of law and within the scope
5 of their employment by and for Defendant City of Coquille. They are sued in their
6 individual capacity.

7 8. Defendants Reaves and Dannels were, at times material and relevant
8 to this action, the Chief of Police of Defendant City of Coquille. Defendants Reaves
9 and Dannels were final policymakers, or had been delegated such authority by and
10 for Defendant City of Coquille. Defendants Reaves and Dannels are sued in both
11 their individual and official capacities.

12 9. Defendant Richard Walter is, or was at all times material and relevant
13 to this action, an individual employed by the Vidocq Society and an agent of
14 Defendant City of Coquille acting under color of law and within the scope of his
15 agency for Defendant City of Coquille.

16 10. The Vidocq Society is a Pennsylvania corporation and is, or was at all
17 times material and relevant to this action, the employer of Defendant Walter. At all
18 times material and relevant to this action, Defendant Vidocq Society acted as an
19 agent of Defendant City of Coquille and was acting under color of law and within
20 the scope of its agency for Defendant City of Coquille.

21 11. Defendant City of Coquille, which includes the City of Coquille Police
22 Department and its officers, employees, and reserves, is an Oregon municipal
23 corporation and is, or was at times material and relevant to this action, the
24 employer of Defendants Dannels, Hall, McInnes, McNeely, Reaves, Sanborn,
25 Webley, and Zavala. Defendant City of Coquille is liable for the acts of these
26 individuals while acting within the scope of their employment and/or agency for

1 Defendant City of Coquille. Defendant City of Coquille is liable for the acts of
2 Defendant Walter and the Vidocq Society while acting within the scope of their
3 employment and/or agency for the City of Coquille. In addition, Defendant City of
4 Coquille is responsible for the policies, practices, and customs of Defendant City of
5 Coquille, including the City of Coquille Police Department.

6 12. Defendants Pat Downing, Kris Karcher, Kip Oswald, and Craig Zanni
7 are, or were at times material and relevant to this action, officers or employees of
8 the Coos County Sheriff's Office or the Coos County Medical Examiner, and acting
9 within the scope of their employment for Coos County. They are sued in their
10 individual capacity.

11 13. Defendant Zanni was, at times material and relevant to this action,
12 the Sheriff of Defendant Coos County. Defendant Zanni was a final policymaker, or
13 had been delegated such authority by and for Defendant Coos County. Defendant
14 Zanni is sued in both his individual and official capacities.

15 14. Defendant Coos County, which includes the Coos County Sheriff's
16 Office and the Coos County Medical Examiner, and their respective officers,
17 employees, and reserves, is an Oregon municipal corporation and is, or was at times
18 material and relevant to this action, the employer of Defendants Downing, Karcher,
19 Oswald, and Zanni. Defendant Coos County is liable for the acts of these
20 individuals while acting within the scope of their employment by and for Defendant
21 Coos County. In addition, Defendant Coos County is responsible for the policies,
22 practices, and customs of Defendant Coos County, including the Coos County
23 Sheriff's Office and the Coos County Medical Examiner.

24 15. Defendants Susan Hormann, Mary Krings, John Riddle, and Kathy
25 Wilcox are, or were at times material and relevant to this action, employees or
26 officers of the Oregon State Police acting under color of law and within the scope of

1 their employment by and for the Oregon State Police. They are sued in their
2 individual capacity.

3 16. Defendant Oregon State Police is, or was at times material and
4 relevant to this action, the employer of Defendants Hormann, Krings, Riddle, and
5 Wilcox. Defendant Oregon State Police is liable for the acts of these Defendants
6 while acting within the scope of their employment. In addition, Defendant Oregon
7 State Police is responsible for its policies, practices, and customs.

8 17. Defendants Eric Schwenninger and Anthony Wetmore are, or were at
9 times material and relevant to this action, police officers of Defendant City of Coos
10 Bay acting under color of law and within the scope of their employment by and for
11 Defendant City of Coos Bay. They are sued in their individual capacity.

12 18. Defendant City of Coos Bay, which includes the City of Coos Bay Police
13 Department and its officers, employees, and reserves, is an Oregon municipal
14 corporation and is, or was at times material and relevant to this action, the
15 employer of Defendants Schwenninger and Wetmore. Defendant City of Coos Bay is
16 liable for the acts of these Defendants while acting within the scope of their
17 employment by and for Defendant City of Coos Bay. In addition, Defendant City of
18 Coos Bay is responsible for the policies, practices, and customs of Defendant City of
19 Coos Bay, including the City of Coos Bay Police Department.

20 III. JURISDICTION AND VENUE

21 19. This Court has jurisdiction over Plaintiffs' federal claims pursuant to
22 28 U.S.C §§ 1331 and 1343.

23 20. This Court has jurisdiction over Plaintiffs' state law claims pursuant to
24 28 U.S.C. § 1367.

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1 21. Venue in this court is proper under 28 U.S.C. § 1391(b)(1)-(2) and LR
2 3-2(b) because the majority of Defendants reside or were incorporated in this
3 judicial district, and the acts, events, and omissions giving rise to the claims
4 asserted herein occurred primarily within this district.

5 IV. FACTUAL ALLEGATIONS

6 A. Background

7 22. McGuffin grew up in Coquille, Oregon and attended Coquille High
8 School, where he and Freeman met and began dating in 1999.

9 23. On the night of June 28, 2000, while walking alone after leaving her
10 friend Cherie Mitchell's house, Freeman was abducted and murdered.

11 24. In August of 2010, after nearly ten years of being intimidated and
12 harassed by Defendants, McGuffin was arrested without probable cause and then
13 prosecuted for Freeman's murder.

14 25. McGuffin was convicted by 10-2 verdict of manslaughter, and
15 sentenced to 120 months in prison, plus three years of post-prison supervision.

16 26. In December of 2019, all charges against McGuffin were dismissed,
17 and McGuffin was released, free and fully exonerated, from South Fork Forest
18 Prison Camp, in Tillamook, Oregon.

19 27. McGuffin was continuously confined in either jail or prison from the
20 time of his arrest until his exoneration in December of 2019.

21 28. McGuffin had absolutely nothing to do with the abduction or murder of
22 Leah Freeman.

23 B. Freeman's Abduction and Murder

24 29. On the evening of June 28, 2000, McGuffin drove Freeman in his blue
25 Ford Mustang to the home of Leah's friend, Cherie Mitchell.

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1 30. McGuffin dropped Freeman off at the Mitchell residence at
2 approximately 7:00 p.m. on June 28, 2000. McGuffin did not see, speak with, or
3 otherwise interact with Freeman ever again after dropping her off at the Mitchell
4 residence.

5 31. McGuffin was scheduled to return to the Mitchell residence to pick up
6 Freeman around 9:00 p.m. for a double date with McGuffin and their friends, Brent
7 Bartley, and Bartley's girlfriend, Nicole Price.

8 32. Sometime before 9:00 p.m., Freeman and Mitchell argued, Freeman
9 grew angry with Mitchell, and Freeman left the Mitchell residence alone on foot.

10 33. Mitchell followed Freeman out of the house and watched Freeman
11 walk by herself in the direction of North Central Boulevard.

12 34. Multiple other witnesses saw Freeman walking alone on North Central
13 Boulevard in the direction of Coquille High School.

14 35. Witnesses also saw Freeman standing outside the high school, and
15 then across the street from the high school on the corner of West Central Boulevard
16 and North Elm Street.

17 36. The last witness known to have seen Freeman alive reported seeing
18 her standing on the corner of West Central Boulevard and North Elm Street, in
19 between the cemetery and the gas station, between 9:15 p.m. and 9:30 p.m. on June
20 28, 2000.

21 37. Freeman's right Nike tennis shoe was found around 11:30 p.m. that
22 evening on North Elm Street, near the cemetery and the gas station.

23 38. On July 5, 2000, Defendant Kip Oswald, a Coos County Sheriff's
24 Deputy, reported finding Freeman's left Nike tennis shoe on Hudson Ridge,
25 approximately ten miles from the location where she had last been seen alive.

26 ///

1 39. Defendant Oswald knew the shoe was connected to Freeman's
2 abduction, but did not photograph it, its condition, position, or location, and did not
3 conduct any other steps to preserve evidence from the area around where the left
4 shoe was found.

5 40. On August 3, 2000, Freeman's body was found deep in the woods on an
6 embankment of the Coquille River, approximately eight miles from the location
7 where she had last been seen alive.

8 **C. McGuffin's Alibi**

9 41. Shortly after 9:00 p.m. on the night that Freeman was abducted,
10 McGuffin arrived at the Mitchell residence in his Ford Mustang to pick up
11 Freeman.

12 42. There, McGuffin learned from Mitchell that Freeman had left and
13 started walking toward town.

14 43. McGuffin began to search for Freeman.

15 44. McGuffin spent more than five hours searching for Freeman, and more
16 than 20 witnesses saw and interacted with McGuffin during that time, including
17 Freeman's mother, sister, and friends, McGuffin's family and friends, and at least
18 two City of Coquille Police Department police officers, including Officer Danny Lee
19 and Defendant Zavala, each of whom pulled McGuffin over at different times while
20 he was driving his Ford Mustang.

21 45. The next morning, McGuffin continued his search for Freeman with
22 Freeman's sister, Denise. McGuffin, Denise, and Freeman's mother together
23 reported Freeman missing to the City of Coquille Police Department (CPD).

24 46. The CPD, with knowledge and direction of the then-Chief of Police,
25 refused to investigate or even search for Freeman.

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1 47. McGuffin and Freeman’s family continued to search for Freeman, but
2 failed to locate her on their own.

3 **D. The Faulty and Reckless Initial Investigation into Freeman’s Murder**

4 48. Acting pursuant to the policies, practices, and customs of the City of
5 Coquille, then-Chief of Police Defendant Reaves and City of Coquille police officers
6 and investigators initially refused to investigate Freeman’s abduction.

7 49. In a departure from established practices and procedures, the City of
8 Coquille even rejected assistance from other investigating law enforcement
9 agencies.

10 50. Eventually, the CPD and Defendant City of Coquille decided to
11 actually conduct an investigation. Defendant City of Coquille, by and through
12 Defendant Reaves, appointed an inexperienced police officer, Defendant Hall, to
13 lead the investigation into Freeman’s abduction, despite the fact that Defendant
14 Hall had no major case experience and had never worked a major crime, let alone a
15 murder investigation.

16 51. Defendants Reaves, Hall, McInnes, and Zavala, of the City of Coquille
17 Police Department as well as Defendants Downing, Oswald, and Zanni of the Coos
18 County Sheriff’s Office, and Defendant Wetmore of the City of Coos Bay Police
19 Department, and Defendant Karcher of the Office of the Coos County Medical
20 Examiner (collectively, the “Original Investigating Officers”) participated in the
21 investigation.

22 52. There was no physical evidence or evidence of motive connecting
23 McGuffin to Freeman’s abduction or murder.

24 53. In fact, evidence available to law enforcement at the time—including
25 witness statements, physical evidence, and CPDs own contact with him—made it
26 obvious that McGuffin was innocent.

1 54. Despite his innocence, the Original Investigating Officers decided to
2 pursue McGuffin as a suspect, agreed to violate his constitutional rights in order to
3 implicate him in Freeman’s abduction and murder, and began to deliberately
4 fabricate evidence against McGuffin.

5 55. Acting pursuant to the policies, practices, and customs of the City of
6 Coquille, the City of Coos Bay, and Coos County, including inadequate training and
7 procedural safeguards, the Original Investigating Officers fabricated evidence in
8 order to implicate McGuffin in the abduction and murder of Freeman.

9 56. The Original Investigating Officers fabrication of evidence included
10 attempts to coerce false confessions by convincing McGuffin and his friend, Brent
11 Bartley, to participate in polygraph examinations, even though the Original
12 Investigating Officers had already decided that, no matter the actual results, they
13 would manipulate McGuffin by withholding the actual results and telling him that
14 he had failed the test.

15 57. The Original Investigating Officers, in reports and warrant
16 applications falsely reported that McGuffin failed the polygraph examination when,
17 in fact, McGuffin had passed the examination.

18 58. The Original Investigating Officers also reported the fabricated results
19 of the McGuffin polygraph examination to the public, through media outlets, in an
20 effort to manipulate public opinion and implicate McGuffin in the abduction and
21 murder of Freeman despite his innocence.

22 59. The Original Investigating Officers also pressured Bartley to
23 participate in multiple polygraph examinations, so that they could falsely claim he
24 was being “deceptive” and had “failed” the examinations.

25 60. The Original Investigating Officers presented the fabricated polygraph
26 evidence in two search warrants for McGuffin’s property.

1 61. The Original Investigating Officers fabricated additional evidence in
2 an effort to undermine McGuffin's alibi, including reports of CPD traffic stops with
3 McGuffin the night of Freeman's abduction and murder.

4 62. Rather than truthfully reporting McGuffin's actions and statements,
5 these documents include information McGuffin never said and misrepresented facts
6 to falsely implicate McGuffin in Freeman's abduction and murder.

7 63. Acting pursuant to the policies, practices, and customs of the City of
8 Coquille, the City of Coos Bay, and Coos County, including inadequate training and
9 procedural safeguards, the Original Investigating Officers suppressed, tampered
10 with, and/or destroyed evidence, including photographs and video recordings of the
11 crime scene.

12 64. The Original Investigating Officers also suppressed evidence
13 confirming McGuffin's innocence, including documents related to Nick Backman,
14 who saw Freeman after she left the Mitchell residence while he was using an ATM.

15 65. The Original Investigating Officers' also suppressed evidence of their
16 own misconduct. In addition to actions described above, and others still unknown to
17 Plaintiffs, the Original Investigating Officers suppressed their attempts to persuade
18 witness Kristen Steinhoff to falsely implicate McGuffin in the abduction and
19 murder of Freeman.

20 66. The destroyed evidence also included a videotape from the US Bank on
21 North Central Boulevard, which would have recorded, with time stamps, McGuffin
22 driving along North Central Boulevard during his search for Freeman on the night
23 of June 28, 2000.

24 67. Acting pursuant to the policies, practices, and customs of the City of
25 Coquille, the City of Coos Bay, and Coos County, including inadequate training and
26 procedural safeguards, the Original Investigating Officers worked in concert with

1 other law enforcement agencies and individuals who agreed to assist Defendant
2 City of Coquille police officers in their efforts to falsely implicate McGuffin in the
3 abduction and murder of Freeman despite his innocence.

4 68. These other agencies and individuals included, among others, the
5 Forensic Services Division of Defendant Oregon State Police (the “OSP Lab”) and
6 Defendants Krings, Hormann, and Wilcox (the “OSP Lab Defendants”) of the OSP
7 Lab.

8 69. Suppression, tampering with, and/or destruction of evidence also
9 occurred at these other agencies, or with the help of these individuals. For example,
10 a videotape of the original crime scene where Freeman’s body was found had been
11 created, but was either suppressed and/or destroyed by the Original Investigating
12 Officers.

13 70. In July 2000, employees of the OSP Lab examined Freeman’s right
14 Nike tennis shoe that was found on North Elm Street next to the cemetery on the
15 night that Freeman was abducted.

16 71. No blood was found on the right Nike tennis shoe.

17 72. Employees of the OSP Lab also tested the right Nike tennis shoe for
18 DNA, and found the DNA of Freeman and an unidentified male on the right Nike
19 tennis shoe.

20 73. The male DNA on the right Nike tennis shoe did not match McGuffin.

21 74. The presence of DNA of an unidentified male on the right Nike tennis
22 shoe was obviously of value, both for purposes of solving the crimes, and as
23 exculpatory evidence of McGuffin’s innocence.

24 75. Despite the nature and obvious importance of the DNA evidence found
25 on the right Nike tennis shoe, this exculpatory evidence was suppressed by the
26 Original Investigating Officers and OSP Lab Defendants.

1 76. The OSP Lab Defendants also fabricated evidence by issuing a report
2 falsely indicating that only Freeman's DNA was found on the right Nike tennis
3 shoe.

4 77. Employees of the OSP Lab examined the left Nike tennis shoe that was
5 found on Hudson Ridge approximately one week after Freeman disappeared.

6 78. Blood was found on the left Nike tennis shoe.

7 79. The OSP Lab also tested the left Nike tennis shoe for DNA, and found
8 the DNA of Freeman and a male on the left Nike tennis shoe.

9 80. Though they knew the male DNA from the left shoe did not belong to
10 Defendant Oswald, the OSP Lab Defendants and Original Investigating Officers
11 falsely suggested that this DNA was Oswald's in a report.

12 81. Defendants also suppressed evidence that would have shown the male
13 DNA on the left shoe did not belong to Defendant Oswald.

14 82. Despite these efforts, the Original Investigating Officers and OSP Lab
15 Defendants did not obtain McGuffin's arrest or indictment.

16 83. Having refused to consider other potential suspects, follow-up on the
17 DNA evidence, or pursue other leads or possibilities, the investigation of Freeman's
18 abduction and murder went "cold," and the CPD temporarily "closed" the
19 investigation.

20 84. Despite McGuffin's innocence, his extensive alibi, and the lack of
21 evidence implicating McGuffin in the abduction and murder of Freeman, the
22 Original Investigating Officers continued to target and harass McGuffin for the
23 purpose of intimidating and provoking him in an effort to fabricate additional
24 evidence that might be used against McGuffin.

25 85. This harassment and misconduct included officers routinely following
26 McGuffin, interfering in McGuffin's personal relationships, including his long-term

1 relationship with the girlfriend who would become the mother of his daughter, S.M.,
2 and repeatedly arresting McGuffin when he would visit this girlfriend.

3 86. This harassment and misconduct also included officers confronting
4 McGuffin at his place of employment, Bandon Dunes Golf Resort, and accusing
5 McGuffin of kidnapping and murdering another young girl, Brooke Wilberger, in
6 Corvallis, Oregon, and attempting to ask him about Freeman's murder.

7 87. Defendants knew at the time of the accusation that McGuffin was
8 represented by an attorney, and that they were not permitted to question him about
9 Freeman's murder, but did so anyway.

10 **E. The Faulty and Reckless Investigation into the Cold Case**

11 88. At the same time that the Original Investigating Officers were
12 pursuing their campaign of harassment and intimidation, public pressure to solve
13 the cold case with a conviction was intensifying, due in part to the seriousness of
14 the crimes at issue, but also in large part to the fact that the Original Investigating
15 Officers were very publicly targeting McGuffin and repeatedly reported to the media
16 that McGuffin was implicated in Freeman's abduction and murder despite his
17 innocence.

18 89. Defendant Reaves resigned from his position as CPD Police Chief in
19 2008.

20 90. Defendant City of Coquille coordinated with the District Attorney on
21 the selection of a new chief, and the City and the District Attorney required the new
22 Chief to commit to "closing" the Freeman case by obtaining a conviction.

23 91. Defendant Dannels made such a commitment and was hired as the
24 new Chief of Police for Defendant City of Coquille in 2008.

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1 92. As the Chief of Police, Defendant Dannels re-opened the Freeman
2 investigation and assembled a team of police officers to try to obtain a conviction for
3 the Freeman murder (the “Cold Case Investigation”).

4 93. Officers involved in the Cold Case Investigation included Defendants
5 Dannels, McNeely, Sanborn, and Webley of the City of Coquille Police Department;
6 Defendants Karcher and Zanni of Coos County; Defendant Schwenninger of the City
7 of Coos Bay Police Department; and Defendants Hormann and Wilcox of the OSP
8 Lab (the “Cold Case Investigators”).

9 94. The Cold Case Investigation focused almost exclusively on McGuffin
10 from its inception, employed similar tactics and built upon the efforts of the
11 Original Investigating Officers to implicate McGuffin, including through the
12 suppression and/or destruction, and the fabrication of, evidence.

13 95. Intense public pressure and increased media attention, much of which
14 was at the invitation of the Cold Case Investigators, exacerbated the sense of
15 urgency among the Defendants to obtain a conviction for Freeman’s abduction and
16 murder.

17 96. As Defendant McNeely explained to a national news outlet in 2010, the
18 Freeman case was the “black sheep of Coquille” and most people thought it “could
19 have got solved back in 2000,” a reference to the Original Investigating Officers’
20 targeting of McGuffin.

21 97. The Cold Case Investigators knew that the Original Investigating
22 Officers crafted a false narrative of McGuffin’s guilt based on junk science,
23 including a “statement analysis,” fabricated polygraph results, and other fabricated
24 evidence as alleged above.

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1 98. The Cold Case Investigators also knew about exculpatory evidence
2 establishing McGuffin's innocence, including McGuffin's alibi, which they attempted
3 to undermine by fabricating additional evidence, and the exculpatory DNA
4 evidence, which they suppressed through McGuffin's trial and for years thereafter.

5 99. Despite their knowledge of the Original Investigating Officers'
6 misconduct, lack of credibility, unreliable and unconstitutional methods, and
7 violations of McGuffin's rights, the Cold Case Investigators relied upon the Original
8 Investigating Officers' prior investigation and built-upon that investigation using
9 unconstitutional tactics of their own in furtherance of the same goal: arresting and
10 prosecuting McGuffin for a crime that he did not commit.

11 **F. The Cold Case Investigators' Fabrication and Suppression of Evidence**

12 100. By 2010, the Cold Case Investigators were focused exclusively on
13 arresting and convicting McGuffin, and were not conducting any meaningful
14 investigation into other leads or suspects.

15 101. The Cold Case Investigators faced several hurdles in their quest to
16 convict McGuffin, however, including McGuffin's obvious innocence.

17 102. In order to overcome these hurdles and reach their ultimate goal, the
18 Cold Case Investigators fabricated additional evidence falsely implicating McGuffin
19 in Freeman's abduction and murder, and suppressed other evidence, including DNA
20 evidence and evidence of the misconduct of the Original Investigating Officers and
21 themselves.

22 103. The Cold Case Investigators' efforts to fabricate evidence implicating
23 McGuffin included the City of Coquille hiring Defendant Vidocq Society, an
24 unlicensed private "investigation" firm, and Defendant Walter, a "profiler" and
25 employee of Defendant Vidocq Society.

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1 104. Defendants Vidocq Society and Walter acted as agents of Defendant
2 City of Coquille during their participation in the Freeman investigation.

3 105. The Cold Case Investigators provided Defendant Walter with access to
4 the Freeman case file, including the previously fabricated reports, and agreed to
5 have Defendant Walter generate a false “profile” that would purportedly implicate
6 McGuffin in the abduction and murder of Freeman.

7 106. Defendant City of Coquille and the Cold Case Investigators agreed to
8 utilize Vidocq Society and Defendant Walter because they knew they would be
9 willing to claim they developed a “profile” that would falsely purport to link
10 McGuffin to the crime, even though he was innocent.

11 107. The Cold Case Investigators and Defendant Walter also deliberately
12 fabricated evidence for the purpose of crafting a theory of how Freeman was
13 murdered by falsely reporting that blood had been found on Freeman’s right Nike
14 tennis shoe when it had not.

15 108. Defendant CPD Police Chief Dannels falsely reported, and repeated on
16 the nationally televised ABC network news program “20/20,” while standing near
17 the cemetery, that Freeman’s shoe was found on the road right there with blood on
18 it.

19 109. The Cold Case Investigators and Defendant Walter all knew that
20 Freeman’s right Nike tennis shoe had been carefully examined and no blood
21 whatsoever was found on the shoe. Nonetheless, they falsely reported that blood
22 was found on Freeman’s right Nike tennis shoe in an effort to explain how her
23 abduction and murder occurred, and to implicate McGuffin in those crimes, despite
24 his innocence.

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1 110. The Cold Case Investigators and Defendant Walter also deliberately
2 fabricated evidence of potential motives by falsely reporting that Freeman may
3 have been pregnant at the time of her murder, and that McGuffin may have been
4 afraid that he would be charged with statutory rape if the pregnancy was
5 discovered.

6 111. Defendant McNeely falsely repeated this fabricated evidence of an
7 alleged motive on the nationally televised ABC network news program “20/20.”

8 112. At the time that the Cold Case Investigators fabricated this evidence,
9 and Defendant McNeely repeated it on national television, they all knew Freeman
10 was not pregnant when she was abducted and killed.

11 113. At the time that the Cold Case Investigators fabricated this evidence,
12 and Defendant McNeely repeated it on national television, they knew that
13 consensual sex between McGuffin and Freeman was not “statutory rape” as a
14 matter of Oregon law.

15 114. Defendant Walter bolstered this fabricated motive with his own false
16 “profile” of Freeman’s murderer by reporting, and repeating on “20/20,” that based
17 upon his understanding of how the murder happened, he concluded that Freeman’s
18 murderer wanted to get Freeman out of the way.

19 115. At the time that Defendant Walter conjured up his false “profile” and
20 reported his conclusions regarding the murderer’s motives, Defendant Walter had
21 no knowledge of how the murder actually happened and simply fabricated a false
22 “profile” and motive based upon the agreement he had made with the Cold Case
23 Investigators and City of Coquille to attempt to effect the arrest, indictment, and
24 conviction of McGuffin for a crime he did not commit.

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1 116. The Cold Case Investigators also fabricated evidence for the purpose of
2 undermining McGuffin's alibi, including fabricating false testimony placing
3 McGuffin and Freeman together at Cherie Mitchell's house after 9:00 p.m. on the
4 night Freeman was abducted

5 117. This fabricated evidence included the false testimony of witnesses
6 Scott Hamilton, Richard Bryant, and John Lindegren, which was used against
7 McGuffin to secure his indictment and conviction.

8 118. Lindegren had seen Cherie Mitchell and her boyfriend outside of her
9 home the night Freeman was abducted, but the Cold Case Investigators, in
10 fabricating evidence, convinced Lindegren to say that the people were Freeman and
11 McGuffin, even though they knew that this was false. The Cold Case Investigators
12 further documented this false "identification" in police reports, despite knowing that
13 the claim Lindegren had seen McGuffin and Freeman, rather than Mitchell and her
14 boyfriend, was both false and fabricated.

15 119. Defendants also suppressed evidence related to Lindegren's purported
16 identification, including their own actions and the fact that the Original
17 Investigating Officers knew and had determined Lindegren had seen Mitchell and
18 her boyfriend, not McGuffin and Freeman.

19 120. The Cold Case Investigators further falsely reported, and Defendant
20 Dannels repeated on the nationally televised ABC network news program "20/20,"
21 that several witnesses actually placed McGuffin with Freeman after 9:00, despite
22 knowing this statement was untrue.

23 121. The Cold Case Investigators similarly and deliberately fabricated
24 evidence by coercing witness Scott Hamilton to claim falsely that McGuffin had
25 admitted picking Freeman up after 9:00 p.m. on June 28, 2000, and dropping her off
26 by the McKay's Market on North Central Boulevard.

1 122. The Cold Case Investigators knew that Hamilton’s fabricated
2 testimony was false, and deliberately suppressed this fact.

3 123. The Cold Case Investigators also knew that they had fabricated
4 Hamilton’s false testimony by using investigative techniques with Hamilton that
5 were so coercive and abusive that they knew or should have known the use of the
6 techniques would lead to false evidence. These techniques included threatening
7 Hamilton, falsely telling Hamilton that McGuffin had implicated Hamilton in
8 Freeman’s abduction and murder, falsely suggesting or promising Hamilton that he
9 could save himself from criminal prosecution by implicating McGuffin, and by
10 coaching Hamilton or expressly telling Hamilton what they wanted him to say.

11 124. Defendant Hall also similarly and deliberately fabricated evidence by
12 coercing his stepson, Richard Bryant, into falsely testifying that McGuffin had
13 made a statement amounting to a “jailhouse confession” about Freeman’s death.

14 125. McGuffin never made any confession whatsoever, and the Cold Case
15 Investigators knew that Bryant’s connection to Defendant Hall, who had previously
16 fabricated evidence in an attempt to secure McGuffin’s arrest and conviction, was
17 the reason that Bryant made the statement.

18 126. The Cold Case Investigators suppressed the corrupt origins of
19 Bryant’s claims in order to use them as evidence to indict and convict McGuffin for
20 the abduction and murder of Freeman.

21 127. The Cold Case Investigators similarly and deliberately fabricated
22 evidence by coercing witness Steinhoff to testify falsely that McGuffin threatened
23 Steinhoff not to speak to the police.

24 128. The Cold Case Investigators deliberately fabricated this false evidence
25 by using investigative techniques with Steinhoff that were so coercive and abusive
26 that the Cold Case Investigators knew or should have known that use of the

1 techniques would lead to false evidence.

2 129. The techniques that Cold Case Investigators used to coerce Steinhoff
3 into providing false testimony included repeatedly subjecting her to intense
4 interrogation; scaring her children; telling Steinhoff that she had failed a polygraph
5 examination and they knew she was withholding information about Freeman’s
6 abduction and murder; telling Steinhoff that other witnesses had reported that
7 Steinhoff took part in Freeman’s abduction and murder; suggesting that Steinhoff
8 would be arrested if she did not implicate McGuffin in Freeman’s abduction and
9 murder, and that she should think about what would happen to her four children if
10 she was arrested; threatening Steinhoff to the point of her breaking down in tears;
11 and not allowing Steinhoff to leave or end the interrogation despite her requests
12 and repeated pleas that she did not have any information to provide.

13 130. The Cold Case Investigators ultimately succeeded in fabricating false
14 evidence from Steinhoff—that McGuffin had threatened her when, in fact, he had
15 not—through their tactics.

16 131. Beaten down and frightened, Steinhoff adopted Defendants’
17 misrepresentations as her own and repeated them back to Defendants Dannels and
18 Riddle, even though Steinhoff and the Cold Case Investigators knew that McGuffin
19 had never said any such thing or otherwise threatened Steinhoff.

20 132. The Cold Case Investigators, along with the Original Investigating
21 Officers, also fabricated evidence for the purpose of creating the false inference that
22 McGuffin had used his Ford Mustang to transport Freeman’s body after she was
23 abducted and murdered, including falsely reporting, and repeating on “20/20,” that
24 the Ford Mustang had been “wiped clean” shortly after Freeman’s abduction and
25 murder, when that claim was untrue and Defendants knew there was nothing to
26 suggest McGuffin’s car had been cleaned or “wiped” in any way at all.

1 133. The Cold Case Investigators also deliberately suppressed, tampered
2 with, and/or destroyed relevant and material impeachment evidence that
3 undermined the credibility of key prosecution witnesses, including evidence of their
4 own misconduct and violations of McGuffin's rights described herein.

5 **G. The Arrest and Defamation of McGuffin for a Crime He Did Not Commit**

6 134. On August 23, 2010, based upon evidence fabricated by Defendants
7 and without any probable cause, McGuffin was arrested and charged with
8 Freeman's murder.

9 135. To add further insult, the Cold Case Investigators invited producers
10 from the nationally televised ABC network program "20/20" to have what the show
11 called "exclusive access" to the investigation.

12 136. The Cold Case Investigators fed the "20/20" producers false
13 information to claim McGuffin had murdered Freeman, despite McGuffin's
14 innocence.

15 137. The "20/20" cameras were invited to film the arrest, and the Cold Case
16 Investigators made a dramatic, unlawful arrest for the cameras by stopping
17 McGuffin along the side of the road and accosting him as he was driving home from
18 work.

19 138. Along the way, Cold Case Investigators made false and inflammatory
20 statements about McGuffin, including that everyone should assume that McGuffin
21 was carrying a gun.

22 139. Cold Case Investigators even attempted to use the media to question
23 McGuffin on-camera about the Freeman case, despite the fact that they knew
24 McGuffin was represented by counsel and they were not permitted to speak with
25 him.

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1 140. In the show, Cold Case Investigators and Defendant Walter made
2 knowingly false statements on the air concerning McGuffin, including false
3 statements that: (1) there was blood on the shoe found Freeman's right shoe; (2)
4 McGuffin could have wanted to kill freeman either because Freeman was pregnant
5 or McGuffin was afraid of getting in trouble for statutory rape; (3) McGuffin's car
6 had been "wiped," when they searched it; and (4) several witnesses placed McGuffin
7 with Freeman after 9:00 p.m. the night she was abducted.

8 141. At the time of these statements, the defendants knew or should have
9 known that they were false.

10 142. The "20/20" television show was broadcast to the public, including the
11 jury pool in Coos County, before McGuffin's criminal trial.

12 143. The "20/20" television show was also published on the internet for the
13 public, including the jury pool in Coos County, before McGuffin's criminal trial.

14 144. The "20/20" television show was broadcast to the public in 2010, before
15 jury selection in McGuffin's criminal trial, and included information that would
16 have been inadmissible at trial. This inadmissible evidence was deliberately
17 provided to "20/20" by Defendants.

18 **H. McGuffin's Wrongful Conviction**

19 145. Between the date of his arrest and trial, McGuffin was continuously
20 confined and deprived of his liberty.

21 146. In July 2011, McGuffin was tried for Murder in the First Degree.

22 147. McGuffin was acquitted of murder and convicted of the lesser-included
23 offense of manslaughter by a non-unanimous jury.

24 148. McGuffin was sentenced to 120 months in prison, plus three years of
25 post-prison supervision.

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1 149. The basis for McGuffin's arrest, indictment, and conviction was
2 evidence that was fabricated by the Defendants, including, for example, as
3 described above.

4 150. At grand jury and trial, Defendants continued to suppress exculpatory
5 evidence, including the DNA results, their own misconduct, and other exculpatory
6 and material evidence, including, but not limited to, the evidence described above.

7 151. Without the Defendants' fabrication and suppression of evidence,
8 McGuffin would not have been convicted.

9 152. No direct, tangible, or objective evidence linked McGuffin to the
10 abduction and murder of Leah Freeman, and no reasonable jury could have
11 convicted McGuffin in the absence of the evidence fabricated by Defendants, or if
12 presented with the evidence suppressed by Defendants.

13 153. McGuffin appealed his conviction to the Oregon Court of Appeals, and
14 the judgment of conviction was affirmed without opinion in December 2013.

15 154. McGuffin's petition for review was denied by the Oregon Supreme
16 Court in 2014.

17 **I. McGuffin's Exoneration**

18 155. McGuffin filed a petition for post-conviction relief.

19 156. The post-conviction court found that McGuffin's constitutional rights
20 were violated by, among other reasons, the suppression of the exculpatory DNA
21 evidence.

22 157. The post-conviction court vacated McGuffin's conviction.

23 158. In December 2019 the charges against McGuffin were dismissed and
24 McGuffin was released from custody.

25 159. By the time McGuffin was released from custody he had served over
26 nine years in jail and prison for a crime that he did not commit.

1 **J. McGuffin's Damages**

2 160. Even before his wrongful arrest, prosecution, and conviction, McGuffin
3 spent years being intimidated, harassed, and tormented by police officers at the
4 hands of the Defendants. Defendants even enlisted the help of other police officers
5 and law enforcement agencies to follow McGuffin around and harass him. The
6 police even went on "20/20" and told the media they wanted McGuffin to know he
7 was being watched.

8 161. The Defendants also provided photographs of McGuffin's mother,
9 father, and brother—none of whom had been implicated in a crime—to various news
10 media and those photographs were published and disseminated publicly before
11 trial.

12 162. Defendants' open and very public targeting of McGuffin and his family,
13 and Defendants' deliberate dissemination of fabricated and false information to the
14 news media, resulted in McGuffin and his family members, including his young
15 daughter, S.M., being subjected to public humiliation, harassment, and even death
16 threats.

17 163. McGuffin spent over nine years incarcerated in jail and then prison for
18 a crime that he did not commit.

19 164. McGuffin was wrongfully convicted when his daughter, S.M., was only
20 three years old, and incarcerated hundreds of miles from his family, including S.M.,
21 causing him to miss out on birthdays, holidays, first days of school, and every other
22 highlight of parenting a young child, such as teaching her how to swim and ride a
23 bike.

24 165. During his incarceration, McGuffin's only option for maintaining a
25 relationship with his daughter was to have his parents bring her to the prison to
26 visit him. S.M. spent her formative years missing her dad, and being exposed to

1 prison life in order to have any kind of relationship with him.

2 166. During his incarceration, McGuffin was further deprived of the ability
3 to interact freely with his loved ones; to be present for holidays, births, deaths, and
4 other life events; to pursue his passions and interests; to engage in meaningful
5 labor and pursue his chosen career in the culinary field; and to live freely as an
6 autonomous being.

7 167. As a result of his wrongful incarceration, McGuffin was forced to leave
8 his lucrative position as an Executive Banquet Chef at one of the most highly
9 regarded restaurants in Coos County and abandon the training and skills he had
10 developed through culinary school and his time as a chef.

11 168. In addition to causing the severe trauma of McGuffin's wrongful
12 imprisonment and loss of liberty, Defendants' misconduct caused and continues to
13 cause McGuffin extreme physical and psychological pain and suffering, humiliation,
14 constant fear, anxiety, deep depression, despair, rage, and other physical and
15 psychological effects.

16 169. The Defendants' misconduct further caused and continues to cause
17 McGuffin's loss of reputation in his community and loss of employment options in
18 his chosen vocation.

19 170. The Defendants' misconduct further caused and continues to cause
20 S.M. the loss of care, comfort, consortium, love, and emotional and financial support
21 from her father.

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1 **V. POLICIES AND PRACTICES THAT WERE THE MOVING FORCE BEHIND**
2 **THE CONSTITUTIONAL VIOLATIONS**

3 171. The violation of McGuffin's constitutional rights and resulting
4 wrongful conviction were not mere accidents or anomalies but, instead, were caused
5 by the policies, practices, and/or customs of the City of Coquille, Oregon State
6 Police, the OSP Lab, Coos County, and the City of Coos Bay (the "Municipal
7 Defendants").

8 172. The constitutional violations that were the proximate cause of
9 McGuffin's wrongful conviction further arose out of the Municipal Defendants'
10 failure to train and supervise the Defendants in a manner that amounts to
11 deliberate indifference.

12 173. In addition, the Municipal Defendants failed to adopt adequate
13 procedural safeguards concerning the suppression of material evidence; the
14 fabrication of evidence; the prosecution of individuals in the absence of probable
15 cause; the interview, interrogation, and coercion of witnesses; and other law
16 enforcement functions that violated McGuffin's constitutional rights.

17 174. The Municipal Defendants withheld material exculpatory and/or
18 impeachment evidence as alleged above, and did so pursuant to the municipalities'
19 policies, practices, and/or customs that permit the suppression of such evidence,
20 even where it would obviously be exculpatory and/or impeaching, as it was here.

21 175. The violations of McGuffin's constitutional rights by the Original
22 Investigating Officers, the OSP Lab Defendants, and the Cold Case Investigators
23 were approved of and ratified by the Municipal Defendants and/or by the final
24 policymaker for the respective Municipal Defendant such that the actions of the
25 individual Defendants constitute the official policy, practices, and/or customs of the
26 respective Municipal Defendant.

1 176. In addition, the Cold Case Investigators knowingly gave false
2 statements and provided false information to the media in order to influence
3 potential fact finders in the small community of Coos County as alleged above.

4 177. These acts were committed, or ratified, by officials whose acts fairly
5 represent official policy such that the challenged action constituted official policy.

6 178. These unlawful acts were, furthermore, the result of longstanding
7 policies, practices, or customs that constitute the standard operating procedure of
8 the Municipal Defendants.

9 179. The unlawful acts of the Original Investigating Officers before the
10 involvement of the Cold Case Investigators were known to, accepted by, and built
11 upon by the Cold Case Investigators, including Defendant Dannels, who was the
12 official policymaker at the time he approved of, accepted, and ratified these acts.

13 180. The Municipal Defendants recognized the need for adequate training of
14 their employees and were deliberately indifferent to the necessity of training
15 regarding *Brady* obligations and evidence collection, handling, and preservation.

16 181. The Municipal Defendants knew very well that their training,
17 supervision, procedures, practices, and customs to prevent due process violations
18 related to the suppression and/or fabrication of evidence were inadequate, but
19 refused to implement adequate training and supervision or other programs to
20 prevent violations of due process, exhibiting deliberate indifference to such
21 violations.

22 VI. FIRST CLAIM FOR RELIEF: 42 U.S.C. §1983

23 (Count 1 – Violation of Fourteenth Amendment)

24 182. McGuffin incorporates by reference herein the allegations set forth
25 above in paragraphs 1 through 181 in their entirety.

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1 183. As alleged above, Defendants, while acting individually, jointly, and/or
2 in conspiracy with each other, as well as under color of law and within the scope of
3 their employment, deprived McGuffin of his constitutional right to due process and
4 his right to a fair trial.

5 184. In the manner described more fully above, Defendants deliberately
6 withheld exculpatory and impeachment evidence from McGuffin, his attorneys, and
7 prosecutors, among others, thereby misleading and misdirecting McGuffin's
8 criminal prosecution.

9 185. In addition, as described more fully above, Defendants fabricated and
10 solicited false evidence, including statements and testimony they knew to be false,
11 fabricated police reports and other evidence falsely implicating McGuffin, obtained
12 charges against McGuffin, obtained his conviction using that false evidence, and
13 failed to correct fabricated evidence they knew to be false when it was used against
14 McGuffin in grand jury proceedings and during his criminal trial.

15 186. In addition, Defendants extracted and/or concocted fabricated
16 statements from witnesses by using coercive means and/or despite knowledge of
17 McGuffin's innocence, which Defendants used to incriminate McGuffin before and
18 during his criminal proceedings and to secure his conviction.

19 187. In addition, based on information and belief, Defendants concealed and
20 fabricated additional evidence that is not yet known to McGuffin.

21 188. Defendants' misconduct described in this count resulted in McGuffin's
22 unjust and wrongful criminal prosecution and conviction, deprived him of his
23 liberty, caused witnesses to provide false and involuntary statements that were
24 used to incriminate him, and denied him his constitutional right to a fair trial
25 guaranteed by the Fourteenth Amendment. Absent this misconduct, McGuffin's
26 prosecution could not, and would not, have been pursued.

1 189. The misconduct described in this count was objectively unreasonable
2 and was undertaken intentionally, with malice, with reckless indifference to the
3 rights of others, and with total disregard for the truth and McGuffin's clear
4 innocence.

5 190. As a result of Defendants' misconduct described in this count,
6 McGuffin suffered loss of liberty, great mental anguish, humiliation, degradation,
7 physical and emotional pain and suffering, and other grievous and continuing
8 injuries and damages.

9 191. Defendants' misconduct described in this count was undertaken
10 pursuant to the policies, practices, and customs of the City of Coquille, Oregon State
11 Police, the OSP Lab, Coos County, and the City of Coos Bay as more fully described
12 below.

13 **(Count 2 – Illegal Detention and Prosecution)**

14 192. McGuffin incorporates by reference herein the allegations set forth
15 above in paragraphs 1 through 191 in their entirety.

16 193. In the manner described more fully above, Defendants, individually,
17 jointly, and in conspiracy with each other, as well as under color of law and within
18 the scope of their employment, accused McGuffin of criminal activity and exerted
19 influence to initiate, continue, and perpetuate judicial proceedings against
20 McGuffin without any probable cause for doing so and in spite of the fact that they
21 knew McGuffin was innocent, in violation of his rights secured by the Fourth and
22 Fourteenth Amendments.

23 194. In so doing, Defendants caused McGuffin to be deprived of his liberty,
24 detained without probable cause, and improperly subjected to judicial proceedings
25 for which there was no probable cause.

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1 195. The misconduct described in this count was objectively unreasonable
2 and was undertaken intentionally and with malice.

3 196. As a result of Defendants' misconduct described in this count,
4 McGuffin suffered loss of liberty, great mental anguish, humiliation, degradation,
5 physical and emotional pain and suffering, and other grievous and continuing
6 injuries and damages.

7 197. Defendants' misconduct described in this count was undertaken
8 pursuant to the policies, practices, and customs of the City of Coquille, Oregon State
9 Police, the OSP Lab, Coos County, and the City of Coos Bay as more fully described
10 below.

11 **(Count 3 – Failure to Disclose Exculpatory Information)**

12 198. McGuffin incorporates by reference herein the allegations set forth
13 above in paragraphs 1 through 197 in their entirety.

14 199. Defendants failed to disclose exculpatory evidence leading to
15 McGuffin's detention in violation of his right to due process.

16 200. As alleged above, Defendants failed to disclose, among other things,
17 material evidence, including, but not limited to: evidence of their own misconduct
18 and other credibility/impeachment evidence; exculpatory DNA evidence; evidence of
19 the victim's whereabouts and actions (*e.g.*, the Backman documents, US Bank
20 videos); and the fact that they had fabricated police reports and witness statements.

21 201. Defendants knew there was no credible evidence tying McGuffin to
22 Freeman's abduction and murder. Had they disclosed this exculpatory evidence,
23 the evidence would have proved McGuffin's innocence, cast doubt on the entire
24 police investigation and prosecution, and led to the end of McGuffin's detention and
25 prosecution.

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1 202. Defendants performed the above-described acts under color of state
2 law, deliberately, intentionally, with malice or reckless disregard for the truth and
3 McGuffin's rights, and with deliberate indifference to McGuffin's clearly established
4 constitutional rights.

5 203. As a result of Defendants' misconduct described in this count,
6 McGuffin suffered loss of liberty, great mental anguish, humiliation, degradation,
7 physical and emotional pain and suffering, and other grievous and continuing
8 injuries and damages.

9 204. Defendants' misconduct described in this count was undertaken
10 pursuant to the policies, practices, and customs of the City of Coquille, Oregon State
11 Police, the OSP Lab, Coos County, and the City of Coos Bay as more fully described
12 below.

13 **(Count 4 – Failure to Intervene)**

14 205. McGuffin incorporates by reference herein the allegations set forth
15 above in paragraphs 1 through 204 in their entirety.

16 206. In the manner described above, and during the constitutional
17 violations described above, one or more Defendants stood by without intervening to
18 prevent the violation of McGuffin's constitutional rights, even though they had the
19 duty and the opportunity to do so.

20 207. These Defendants had a duty and reasonable opportunity to prevent
21 this harm to McGuffin, but they failed to do so.

22 208. The misconduct described in this count was objectively unreasonable
23 and was undertaken intentionally with willful indifference to McGuffin's
24 constitutional rights.

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1 223. Defendants' misconduct described in this count was undertaken
2 pursuant to the policies, practices, and customs of the City of Coquille, Oregon State
3 Police, Coos County, and the City of Coos Bay as more fully described below.

4 **(Count 7 – Unconstitutional Policies, Practices, and**
5 **Customs of the City of Coquille, Oregon State Police, the**
6 **OSP Lab, Coos County, and the City of Coos Bay)**

7 224. McGuffin incorporates by reference herein the allegations set forth
8 above in paragraphs 1 through 223 in their entirety.

9 225. McGuffin's injuries were caused by the policies, practices, and customs
10 of the City of Coquille, Oregon State Police, the OSP Lab, Coos County, and the City
11 of Coos Bay, as well as by the actions of policy-making officials for the City of
12 Coquille, Oregon State Police, the OSP Lab, Coos County, and the City of Coos Bay.

13 226. At all times relevant and material to this action, and for a period of
14 time before and after, the City of Coquille, Oregon State Police, the OSP Lab, Coos
15 County, and the City of Coos Bay failed to promulgate proper or adequate rules,
16 regulations, policies, and procedures governing the conduct of interviews,
17 interrogations, and questioning of criminal suspects and witnesses by officers and
18 agents of the City of Coquille and/or the City of Coquille Police Department, the
19 Oregon State Police and/or OSP Lab, Coos County and/or the Coos County Sheriff's
20 Office and/or the Coos County Medical Examiner, and the City of Coos Bay and/or
21 the City of Coos Bay Police Department.

22 227. At all times relevant and material to this action, and for a period of
23 time before and after, the City of Coquille, Oregon State Police, the OSP Lab, Coos
24 County, and the City of Coos Bay failed to promulgate proper or adequate rules,
25 regulations, policies, and procedures governing the collection, documentation,
26 preservation, testing, and disclosure of evidence, including physical evidence;
writing of police reports and taking of investigative notes; obtaining statements and

1 testimony from witnesses; and the maintenance of investigative files and disclosure
2 of those files in criminal proceedings by officers and agents of the City of Coquille
3 and/or the City of Coquille Police Department, the Oregon State Police and/or OSP
4 Lab, Coos County and/or the Coos County Sheriff's Office and/or the Coos County
5 Medical Examiner, and the City of Coos Bay and/or the City of Coos Bay Police
6 Department.

7 228. In addition or alternatively, the City of Coquille, Oregon State Police,
8 the OSP Lab, Coos County, and the City of Coos Bay failed to promulgate proper
9 and adequate rules, regulations, policies, and procedures for the training and
10 supervision of officers and agents of the City of Coquille and/or the City of Coquille
11 Police Department, the Oregon State Police and/or OSP Lab, Coos County and/or
12 the Coos County Sheriff's Office and/or the Coos County Medical Examiner, and the
13 City of Coos Bay and/or the City of Coos Bay Police Department with respect to the
14 conduct of interviews and interrogations and techniques to be used when
15 questioning criminal suspects and witnesses.

16 229. In addition or alternatively, the City of Coquille, Oregon State Police,
17 the OSP Lab, Coos County, and the City of Coos Bay failed to promulgate proper
18 and adequate rules, regulations, policies, and procedures for the training and
19 supervision of officers and agents of the City of Coquille and/or the City of Coquille
20 Police Department, the Oregon State Police and/or OSP Lab, Coos County and/or
21 the Coos County Sheriff's Office and/or the Coos County Medical Examiner, and the
22 City of Coos Bay and/or the City of Coos Bay Police Department with respect to the
23 collection, documentation, preservation, testing, and disclosure of evidence,
24 including physical evidence; writing of police reports and taking of investigative
25 notes; obtaining statements and testimony from witnesses; and the maintenance of
26 investigative files and disclosure of those files in criminal proceedings

1 230. Officers and agents of the City of Coquille and/or the City of Coquille
2 Police Department, the Oregon State Police and/or OSP Lab, Coos County and/or
3 the Coos County Sheriff's Office and/or the Coos County Medical Examiner, and the
4 City of Coos Bay and/or the City of Coos Bay Police Department committed these
5 failures to promulgate proper or adequate rules, regulations, policies, and
6 procedures.

7 231. Had officers and agents of the City of Coquille and/or the City of
8 Coquille Police Department, the Oregon State Police and/or OSP Lab, Coos County
9 and/or the Coos County Sheriff's Office and/or the Coos County Medical Examiner,
10 and the City of Coos Bay and/or the City of Coos Bay Police Department
11 promulgated appropriate rules, regulations, policies, and procedures, then the
12 violation of McGuffin's constitutional rights would have been prevented.

13 232. In addition, at all times relevant and material to this action, and for a
14 period of time before, the City of Coquille, Oregon State Police, the OSP Lab, Coos
15 County, and the City of Coos Bay had notice of practices and customs by their
16 respective officers and agents pursuant to which individuals suspected of criminal
17 activity, like McGuffin, were routinely deprived of exculpatory evidence, falsely
18 charged, defamed and insulted in the media, subjected to the fabrication of
19 evidence, and prosecuted with false evidence.

20 233. In addition, at all times relevant and material to this action, and for a
21 period of time before, the City of Coquille, Oregon State Police, the OSP Lab, Coos
22 County, and the City of Coos Bay had notice of practices and customs of their
23 officers and agents that included one or more of the following: (1) officers did not
24 record investigative information in police reports, did not maintain proper
25 investigative files, and/or did not disclose investigative materials to criminal
26 defendants; (2) officers falsified statements and testimony of witnesses; (3) officers

1 fabricated false evidence implicating criminal defendants in criminal conduct; (4)
2 officers failed to maintain and/or preserve evidence and/or destroyed evidence,
3 including physical evidence; and/or (5) officers pursued wrongful convictions
4 through profoundly flawed investigations.

5 234. These practices and customs, individually and/or together, were
6 allowed to flourish because the leaders, supervisors, and policymakers of City of
7 Coquille, Oregon State Police, the OSP Lab, Coos County, and the City of Coos Bay
8 directly encouraged and were thereby the moving force behind the very type of
9 misconduct at issue by failing to adequately train, supervise, and control their
10 officers, agents, and employees on proper techniques and by failing to adequately
11 punish and discipline prior instances of similar misconduct, thus directly
12 encouraging future abuses like those affecting McGuffin.

13 235. The above practices and customs, so well settled as to constitute *de*
14 *facto* policies of the City of Coquille, Oregon State Police, the OSP Lab, Coos
15 County, and the City of Coos Bay were able to exist and thrive, individually and/or
16 together, because policymakers with authority over the same exhibited deliberate
17 indifference to the problem, thereby effectively ratifying it.

18 236. In addition, the misconduct described in this count was undertaken
19 pursuant to the City of Coquille, Oregon State Police, the OSP Lab, Coos County,
20 and the City of Coos Bay policies and practices in that the constitutional violations
21 committed against McGuffin were committed with the knowledge or approval of
22 persons with final policymaking authority for the City of Coquille, Oregon State
23 Police, the OSP Lab, Coos County, and the City of Coos Bay, or were actually
24 committed by persons with such final policymaking authority.

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1 237. McGuffin's injuries were directly and proximately caused by officers,
2 agents, and employees of the City of Coquille, Oregon State Police, the OSP Lab,
3 Coos County, and the City of Coos Bay, including but not limited to Defendants,
4 who acted pursuant to one or more of the policies, practices, and customs set forth
5 above in engaging in the misconduct described in this count.

6 VII. SECOND CLAIM FOR RELIEF

7 (State Law – False Imprisonment)

8 238. Plaintiffs incorporate by reference herein the allegations set forth
9 above in paragraphs 1 through 237 in their entirety.

10 239. By letters dated May 8, 12, and 27, 2020, Plaintiffs provided notice to
11 the Defendants of their state law claims as required by ORS 30.275.

12 240. McGuffin was incarcerated beginning on August 23, 2010.

13 241. The incarceration was not lawful. The indictment against McGuffin
14 was made without probable cause because it was based on fabricated evidence as
15 alleged above, and was made without regard to exculpatory evidence that had been
16 deliberately suppressed as alleged above.

17 242. The Defendants violated McGuffin's rights by incarcerating him
18 without probable cause.

19 243. Defendants City of Coquille, Oregon State Police, OSP Lab, Coos
20 County, and the City of Coos Bay are responsible for the misconduct of their
21 respective agents and employees who acted as alleged above under a theory of
22 vicarious liability and/or respondeat superior.

23 244. As a result of the misconduct of the Defendants, McGuffin suffered loss
24 of liberty, great mental anguish, humiliation, degradation, physical and emotional
25 pain and suffering, and other grievous and continuing injuries and damages as set
26

1 forth above.

2 245. As a result of the misconduct of the Defendants, S.M. suffered a loss of
3 consortium as set forth above.

4 **VIII. THIRD CLAIM FOR RELIEF**
5 **(State Law – Malicious Prosecution)**

6 246. Plaintiffs incorporate by reference herein the allegations set forth
7 above in paragraphs 1 through 245 in their entirety.

8 247. Based on the misconduct alleged above, the Defendants caused
9 McGuffin to be unreasonably seized and further caused McGuffin to be improperly
10 subjected to judicial proceedings for which there was no legitimate probable cause.
11 These judicial proceedings were instituted and continued maliciously, resulting in
12 injury, and all such proceedings were ultimately terminated in McGuffin’s favor in a
13 manner indicative of his innocence.

14 248. As alleged above, the Defendants accused McGuffin of criminal activity
15 knowing those accusations to be without genuine probable cause, and they made
16 statements to prosecutors and grand jurors with the intent of exerting influence to
17 institute and continue judicial proceedings against McGuffin.

18 249. The proceedings lacked probable cause because they were based on
19 fabricated evidence as alleged above, and were made without regard to exculpatory
20 evidence that had been deliberately withheld and suppressed as alleged above.

21 250. The Defendants’ statements about McGuffin’s alleged culpability were
22 made with knowledge that the statements were false and perjured.

23 251. The misconduct alleged above was undertaken with malice,
24 willfulness, and/or reckless indifference.

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1 252. The Municipal Defendants, and Defendant Vidocq Society, are
2 responsible for the misconduct of their respective agents and employees who acted
3 as alleged above under a theory of vicarious liability and/or respondeat superior.

4 253. As a result of the misconduct of the Defendants, McGuffin suffered loss
5 of liberty, great mental anguish, humiliation, degradation, physical and emotional
6 pain and suffering, and other grievous and continuing injuries and damages as set
7 forth above.

8 254. As a result of the misconduct of the Defendants, S.M. suffered a loss of
9 consortium as set forth above.

10 **IX. FOURTH CLAIM FOR RELIEF**

11 **(State Law – Invasion of Privacy – False Light)**

12 255. Plaintiffs incorporate by reference herein the allegations set forth
13 above in paragraphs 1 through 254 in their entirety.

14 256. The Defendants placed McGuffin in a false light by falsely reporting to
15 the media and the public that McGuffin had committed statutory rape and had
16 struck Freeman in the face and killed her as alleged above.

17 257. As alleged above, the Defendants knew or were recklessly indifferent
18 to the fact that the publicized matters were false when they publicized them.

19 258. The false light in which each of the Defendants placed McGuffin would
20 be highly offensive to a reasonable person.

21 259. The Municipal Defendants, and Defendant Vidocq Society, are
22 responsible for the misconduct of their respective agents and employees who acted
23 as alleged above under a theory of vicarious liability and/or respondeat superior.

24 260. As a result of the misconduct of the Defendants, McGuffin suffered loss
25 of liberty, great mental anguish, humiliation, degradation, physical and emotional
26 pain and suffering, and other grievous and continuing injuries and damages as set

1 forth above.

2 261. As a result of the misconduct of the Defendants listed in the Counts
3 below, S.M. suffered a loss of consortium as set forth above.

4 **X. FIFTH CLAIM FOR RELIEF**

5 **(State Law – Defamation *Per Se*)**

6 262. Plaintiffs incorporate by reference herein the allegations set forth
7 above in paragraphs 1 through 261 in their entirety.

8 263. The Defendants made defamatory statements about McGuffin by
9 falsely reporting to the media and the public that McGuffin had committed
10 statutory rape and had struck Freeman in the face and killed her as alleged above.

11 264. The defamatory statements imputed to McGuffin the commission of a
12 crime involving moral turpitude.

13 265. As alleged above, the Defendants knew or were recklessly indifferent
14 to the fact that the publicized matters were false when they publicized them.

15 266. The Municipal Defendants, and Defendant Vidocq Society, are
16 responsible for the misconduct of their respective agents and employees who acted
17 as alleged above under a theory of vicarious liability and/or respondeat superior.

18 267. As a result of the misconduct of the Defendants, McGuffin suffered loss
19 of liberty, great mental anguish, humiliation, degradation, physical and emotional
20 pain and suffering, and other grievous and continuing injuries and damages as set
21 forth above.

22 268. As a result of the misconduct of the Defendants, S.M. suffered a loss of
23 consortium as set forth above.

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1 **XI. SIXTH CLAIM FOR RELIEF**

2 **(State Law – Civil Conspiracy)**

3 269. Plaintiffs incorporate by reference herein the allegations set forth
4 above in paragraphs 1 through 268 in their entirety.

5 270. The Defendants and other co-conspirators, known and not yet known
6 to Plaintiffs, reached an agreement amongst themselves to “close” the Freeman case
7 by arresting and indicting McGuffin with the intent that he would be convicted.

8 271. The Defendants had a meeting of the minds as alleged above.

9 272. The Defendants took one or more unlawful overt steps in furtherance
10 of the conspiracy by fabricating evidence as alleged above; suppressing, tampering
11 with, or destroying material exculpatory and impeachment evidence as alleged
12 above; manipulating witnesses as alleged above; and concealing their misconduct,
13 all in violation of McGuffin’s constitutional rights, including, for example, as alleged
14 above.

15 273. The misconduct alleged above was objectively unreasonable and was
16 undertaken intentionally with willful indifference to McGuffin’s constitutional
17 rights.

18 274. As a result of the misconduct alleged above, McGuffin was indicted and
19 ultimately wrongly convicted.

20 275. The Municipal Defendants, and Defendant Vidocq Society, are
21 responsible for the misconduct of their respective agents and employees who acted
22 as alleged above under a theory of vicarious liability and/or respondeat superior.

23 276. As a result of the misconduct of the Defendants, McGuffin suffered loss
24 of liberty, great mental anguish, humiliation, degradation, physical and emotional
25 pain and suffering, and other grievous and continuing injuries and damages as set
26 forth above.

1 277. As a result of the misconduct of the Defendants, S.M. suffered a loss of
2 consortium as set forth above.

3 **XII. SEVENTH CLAIM FOR RELIEF**

4 **(State Law – Negligent Training and Supervision)**

5 278. Plaintiffs incorporate by reference herein the allegations set forth
6 above in paragraphs 1 through 277 in their entirety.

7 **Count 1 (Against the Municipal Defendants)**

8 279. The Municipal Defendants had a duty to properly train and supervise
9 their respective agents and employees.

10 280. The Municipal Defendants breached their duty to train and supervise
11 their respective agents and employees by creating policies, practices, and customs to
12 prohibit the misconduct alleged above.

13 281. The Municipal Defendants also breached their duty to train and
14 supervise their respective agents and employees by failing to institute policies,
15 practices, and customs that would prohibit the misconduct alleged above.

16 282. As a result of the Municipal Defendants' negligence, the individual
17 Defendants violated McGuffin's constitutional rights by committing the misconduct
18 alleged above.

19 283. As a result of the negligent training and supervision by the Municipal
20 Defendants, McGuffin suffered loss of liberty, great mental anguish, humiliation,
21 degradation, physical and emotional pain and suffering, and other grievous and
22 continuing injuries and damages as set forth above.

23 284. As a result of the negligent training and supervision by the Municipal
24 Defendants, S.M. suffered a loss of consortium as set forth above.

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1 (Count 2 – Against Defendant Vidocq Society)

2 285. Defendant Vidocq Society had a duty to properly train and supervise
3 Defendant Walter.

4 286. Defendant Vidocq Society breached its duty to train and supervise
5 Defendant Walter by failing to institute policies, practices, and customs that would
6 prohibit the misconduct alleged above.

7 287. As a result of Defendant Vidocq Society’s negligence, Defendant Walter
8 violated McGuffin’s constitutional rights by committing the misconduct alleged
9 above.

10 288. As a result of the negligent training and supervision by Defendant
11 Vidocq Society, McGuffin suffered loss of liberty, great mental anguish, humiliation,
12 degradation, physical and emotional pain and suffering, and other grievous and
13 continuing injuries and damages as set forth above.

14 289. As a result of the negligent training and supervision by Defendant
15 Vidocq Society, S.M. suffered a loss of consortium as set forth above.

16 **XIII. EIGHTH CLAIM FOR RELIEF**

17 **(State Law – Intentional Infliction of Emotional Distress)**

18 290. Plaintiffs incorporate by reference herein the allegations set forth
19 above in paragraphs 1 through 289 in their entirety.

20 291. The acts and misconduct of the Defendants as alleged above were
21 extreme and outrageous. The actions were rooted in an abuse of power or authority,
22 and they were undertaken with intent to cause, or were in reckless disregard of the
23 probability that their actions would cause, severe emotional distress to McGuffin
24 and S.M. as alleged above.

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1 292. As a direct and proximate result of the actions by the Defendants,
2 McGuffin has suffered and continues to suffer physical sickness and severe
3 emotional distress.

4 293. As a result of the misconduct by the Defendants, McGuffin suffered
5 loss of liberty, great mental anguish, humiliation, degradation, physical and
6 emotional pain and suffering, and other grievous and continuing injuries and
7 damages as set forth above.

8 294. As a result of the misconduct by the Defendants, S.M. suffered a loss of
9 consortium as set forth above.

10 **XIV. EIGHTH CLAIM FOR RELIEF**

11 **(State Law – Negligent and/or Intentional Spoliation of Evidence)**

12 295. Plaintiffs incorporate by reference herein the allegations set forth
13 above in paragraphs 1 through 294 in their entirety.

14 296. The Defendants had a duty to preserve evidence.

15 297. The Defendants breached their duty to preserve evidence by
16 negligently and/or intentionally suppressing, tampering with, and/or destroying
17 evidence that was exculpatory and materially favorable to McGuffin.

18 298. Defendants knew or should have known that the information, physical
19 items, and records that were suppressed, tampered with, and/or destroyed would be
20 required as evidence.

21 299. As a direct and proximate result of the actions by the Defendants, the
22 value of Plaintiffs' claims in this lawsuit were diminished.

23 300. As a result of the misconduct by Defendants, Plaintiffs are entitled to
24 any diminished value of their claims.

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1 **XV. NINTH CLAIM FOR RELIEF**

2 **(State Law – Indemnification)**

3 301. Plaintiffs incorporate by reference herein the allegations set forth
4 above in paragraphs 1 through 300 in their entirety.

5 302. Oregon law provides that the State of Oregon and the Municipal
6 Defendants are directed to pay any tort judgment for compensatory damages for
7 which their employees and agents are liable within the scope of their employment
8 activities.

9 303. The individual Defendants were employees or agents of the State and
10 the Municipal Defendants, and were acting within the scope of their employment or
11 agency at all times relevant in committing the acts and omissions described in this
12 complaint.

13 **XVI. TENTH CLAIM FOR RELIEF**

14 **(Attorney Fees Pursuant to 42 U.S.C. § 1988(b) and (c))**

15 304. Plaintiffs incorporate by reference herein the allegations set forth
16 above in paragraphs 1 through 303 in their entirety.

17 305. Pursuant to 42 U.S.C. § 1988(b) and (c), Plaintiffs are entitled to their
18 attorney fees incurred in this action.

19 **XVII. JURY DEMAND**

20 Plaintiffs request a trial by jury of twelve.

21 **XVIII. PRAYER FOR RELIEF**

22 WHEREFORE, Plaintiffs respectfully pray for the following relief:

- 23 1. Judgment against Defendants and in favor of Plaintiffs on all claims
24 for relief stated herein;
- 25 2. An award of Plaintiffs' economic and non-economic damages;
- 26 3. An award of punitive damages;

1 4. An award of Plaintiffs' costs and attorney fees in this action pursuant
2 to 42 U.S.C. § 1988(b) and (c); and

3 5. Such other relief as the Court finds just and equitable.

4
5 DATED: July 20, 2020

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