

ORIGINAL

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FILED  
U.S. DISTRICT COURT  
DISTRICT OF WYOMING

APR 13 2010

Stephan Harris, Clerk  
Cheyenne

ATTORNEYS FOR PLAINTIFF

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF WYOMING

RICHARD J. SMIDT, )  
Plaintiff, )

v. )

FRANKLIN J. RYLE, in his individual capacity; )  
WYOMING DEPARTMENT OF )  
TRANSPORTATION DIRECTOR JOHN COX, )  
in his individual capacity; WYOMING HIGHWAY )  
PATROL COLONEL SAM POWELL, in his )  
individual capacity; JESS OYLER, in his )  
individual capacity; JOHN BUTLER, in his )  
individual capacity; KEITH GROENEWEG, in )  
his individual capacity; WILLIE PRICE, in his )  
individual capacity; DEVAN HENDERSON, )  
in his individual capacity; and NATE HUGHES, )  
in his individual capacity, )  
Defendants. )

10CV0072-B  
Civil No. \_\_\_\_\_

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**COMPLAINT AND JURY DEMAND**

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Plaintiff Richard J. Smidt ("Plaintiff"), through his attorneys, Speight, McCue & Crank, P.C., complain of Defendants Franklin J. Ryle, John Cox, Sam

Powell, John Butler, Jess Oylar, Keith Groeneweg, Devan Henderson, Willie Price, and Nate Hughes (“Defendants”) as follows:

**PARTIES, JURISDICTION AND VENUE**

1. Plaintiff Richard J. Smidt is an individual residing in Arvada, Colorado, and is a citizen of the State of Colorado. Plaintiff is employed as a truck driver for the Wal-Mart Corporation. Plaintiff works out of the Wal-Mart Distribution Center located southwest of Cheyenne, Wyoming. Plaintiff frequently delivered materials to Wal-Mart stores located in Wyoming.

2. Defendant John Cox is an individual residing in Cheyenne, Wyoming and was at all times alleged herein the director of the Wyoming Department of Transportation (“WYDOT”), an agency of the State of Wyoming. Cox’s job duties include oversight of the Wyoming Highway Patrol. Prior to his appointment as Director of WYDOT, Cox served as Colonel of the Wyoming Highway Patrol. At all times relevant to the events described in this Complaint he was acting in the course and scope of his employment. Defendant Cox is sued in his individual capacity.

3. Defendant Sam Powell is an individual residing in Cheyenne, Wyoming and was at times alleged herein the Colonel of the Wyoming Highway Patrol (“WHP”). As Colonel of the WHP, Defendant Powell was tasked with administrative responsibilities and ultimate supervisory responsibility over the

WHP. Defendant Powell's duties included supervision as the commanding officer of Defendants Franklin J. Ryle, John Butler, Jess Oyler, Keith Groeneweg, Devan Henderson, Willie Price, and Nate Hughes. At all times relevant to the events described in this Complaint he was acting in the course and scope of his employment. During the time frame alleged herein, Defendant Powell was a peace officer as defined by Wyoming statutes. Defendant Powell is sued in his individual capacity.

4. Defendant Franklin Ryle was during all times alleged herein, an individual residing in Douglas, Wyoming. During all times alleged herein Franklin Ryle was a trooper with the WHP. Franklin Ryle was a peace officer as defined by Wyoming statutes. All acts of Defendant Ryle alleged herein were done in the course and scope of his employment with the WHP. Defendant Ryle is sued in his individual capacity. Based on information and belief, Defendant Franklin Ryle currently is a prisoner at the Natrona County Detention Center in Casper, Wyoming.

5. Defendant Devan Henderson was during all times alleged herein, an individual residing in Casper, Wyoming. During all times alleged herein Defendant Devan Henderson was a trooper with the WHP. Defendant Devan Henderson was a peace officer as defined by Wyoming statutes. At all times relevant to the events described in this Complaint he was acting in the course

and scope of his employment. Defendant Henderson is sued in his individual capacity.

6. Defendant John Butler was during all times alleged herein, an individual residing in Cheyenne, Wyoming and was a major of the WHP in charge of field operations. Defendant Butler was charged with supervisor duties over WHP troopers, including Defendants Ryle and Henderson. Defendant John Butler was and remains a peace officer as defined by Wyoming statutes. At all times relevant to the events described in this Complaint he was acting in the course and scope of his employment. Defendant Butler is sued in his individual capacity.

7. Defendant Jess Oyler was during all times alleged herein, an individual residing in Cheyenne, Wyoming and was the Lieutenant Colonel of the WHP. Defendant Oyler was charged with supervisor duties over WHP troopers, including Defendants Ryle, Henderson, Butler, and Groeneweg. Defendant Jess Oyler was and remains a peace officer as defined by Wyoming statutes. At all times relevant to the events described in this Complaint he was acting in the course and scope of his employment. Defendant Oyler is sued in his individual capacity.

8. Defendant Keith Groeneweg was during all times alleged herein, an individual residing in Cheyenne, Wyoming and was a major of the WHP in

charge of support services. Defendant Groeneweg was charged with supervisor duties over certain WHP troopers, including Defendants Ryle and Henderson. Defendant Keith Groeneweg was and remains a peace officer as defined by Wyoming statutes. At all times relevant to the events described in this Complaint he was acting in the course and scope of his employment. Defendant Groeneweg is sued in his individual capacity.

9. Defendant Willie Price was during all times alleged herein, an individual residing in Casper, Wyoming and a captain of the WHP in charge of District 2 of the WHP. Defendant Price was charged with supervisor duties over certain WHP troopers, including Defendants Ryle and Henderson. Defendant Willie Price was and remains a peace officer as defined by Wyoming statutes. At all times relevant to the events described in this Complaint he was acting in the course and scope of his employment. Defendant Price is sued in his individual capacity.

10. Defendant Nate Hughes was during all times alleged herein, an individual residing in Douglas, Wyoming and a lieutenant of the WHP in charge of Division M of the WHP. Defendant Hughes, during the time period when Ryle kidnapped Plaintiff was charged with direct supervisor duties over certain WHP troopers, including Defendant Ryle. Defendant Nate Hughes was and remains a peace officer as defined by Wyoming statutes. At all times relevant

to the events described in this Complaint he was acting in the course and scope of his employment. Defendant Hughes is sued in his individual capacity.

11. The amount in controversy in this matter exceeds \$75,000.

12. This Court has jurisdiction over Plaintiff's civil rights claims under 28 U.S.C. §§ 1331, 1332 and 1343.

13. Pursuant to 28 U.S.C. § 1367(a), this Court has supplemental jurisdiction over state law claims alleged in this Complaint that arose under Wyoming law and under the Constitution of the State of Wyoming.

14. The acts giving rise to this action occurred and were committed in Wyoming. Venue is proper in this district pursuant to 28 U.S.C. § 1391.

15. Plaintiff served notice on the appropriate governmental entities, pursuant to, and in compliance with, the provisions of the Wyoming Governmental Claims Act generally, W.S. §1-39-101 *et. seq.* and W.S. §1-39-113, specifically, and the signature and certification requirements of Article 16 § 7 of the Constitution of the State of Wyoming through submission of written verified claims signed by Plaintiff Rick Smidt under penalty of perjury. Plaintiff's written Notices of Claim were received by Rita Meyer, Wyoming State Auditor, Bruce Salzburg, Wyoming Attorney General, John Cox, Director, Wyoming Department of Transportation Mike McVay, Director, Department of

Administration and Information, and Sandy Padilla, Risk Manager on April 12, 2010.

### **GENERAL ALLEGATIONS**

16. On January 8, 2009, Defendant Ryle violated Plaintiff Rick Smidt's constitutional rights as guaranteed by the Fourth, Fifth, Sixth, and Fourteenth Amendment of the U.S. Constitution, Wyoming Constitution, and Wyoming state law, when Rick Smidt was illegally kidnapped and nearly murdered by WHP Trooper Ryle.

17. Rick Smidt's rights were violated not only by Defendant Ryle's actions, but by the actions and inactions of Defendant Ryle's WHP supervisors, Defendants Cox, Powell, Butler, Oyler, Groeneweg, Price, and Hughes (the "Supervisors") in failing to properly train, supervise, discipline, and control Defendant Ryle which led to Plaintiff's kidnapping and near murder. The Supervisors' actions and inactions deprived Plaintiff of his constitutional rights as guaranteed by the Fourth, Fifth, Sixth and Fourteenth Amendments to the United States Constitution. Defendants' action further violated the Wyoming Constitution and state law. The Supervisors' actions and inactions, along with Henderson's failure to intervene to protect innocent citizens from the illegal actions of Ryle, violated Rick Smidt's constitutional rights.

18. Plaintiff's constitutional rights guaranteed by the United States Constitution, Wyoming Constitution, and Wyoming state law were further violated on February 23, 2009 when he was fraudulently induced by Defendants Cox, Powell, Butler, Oyler, and Groeneweg into entering a Settlement and Release with the State of Wyoming and all of its employees. Defendants Cox, Powell, Butler Oyler, and Groeneweg violated Plaintiff's rights by intentionally, knowingly, and willfully withholding from Rick Smidt that Defendant Ryle's true scheme, plot, plan, and intent in stopping Rick Smidt on January 8, 2009, was to kidnap and murder Rick Smidt, thereby preventing Rick Smidt from having the information necessary to knowingly and meaningfully evaluate the fairness and appropriateness of the Settlement and Release presented to him by the Defendants. The above Defendants' actions denied Plaintiff his substantive constitutional right of access to the courts guaranteed by the First, Fifth, and Fourteenth Amendment and the Due Process Clause of the United States and Wyoming Constitutions and violated state law.

#### **RELEVANT FACTS**

19. In 2003, Defendant Ryle and other WHP officers smuggled illegal anabolic steroids into the United States from Mexico. Defendant Ryle also purchased illegal anabolic steroids from fellow WHP Trooper Adam Longo.



Defendant Ryle possessed illegal anabolic steroids which he kept in his desk drawer in his WHP office as late as January 16, 2009, just shortly after almost murdering Rick Smidt.

20. Defendant Ryle had been seeking psychological treatment from a WHP selected, approved and contracted social worker, Kathy Majerus, since August 2004. Majerus had 25 therapy sessions with Defendant Ryle between August 2004 and August 2008. Majerus testified at the sentencing hearing on November 19-20, 2009, (hereinafter "Sentencing Hearing"), that upon last seeing Defendant Ryle in August 2008, Majerus characterized Defendant Ryle as "quasi-stable." Majerus testified that between August 2004 and August 2008, she observed that Defendant Ryle generally became explosive, irritable, distressed, and aggressive. When failing to properly take his medications, Majerus described Defendant Ryle as having increasingly more intense bouts of depression, which resulted in increased explosiveness and more anger. Majerus opined that this caused Defendant Ryle to ruminate and make horrible decisions.

21. Based upon information and belief, Defendants Cox, Powell, Butler, Oyler, and Groeneweg had contracted with Majerus to provide mental evaluations to WHP troopers to assist Defendants Cox, Powell, Butler, Oyler, and Groeneweg in supervising WHP troopers and insure the safety of Wyoming

citizens and others by insuring that all WHP troopers were mentally stable and fit for duty.

**PATTERN OF OFFICIAL MISCONDUCT AND CONSTITUTIONAL VIOLATIONS**

22. In 2006, Defendant Ryle illegally accessed the National Crime Information Center (“NCIC”) to identify and locate Mark Nelson, who Defendant Ryle believed was having an affair with his wife, Andrea Ryle. Defendant Ryle traveled to Colorado to stalk and attempt to extort Mark Nelson. Defendant Ryle threatened Nelson with violence and used his position as a law enforcement officer to commit these crimes.

23. Defendant Ryle ultimately confessed to illegally accessing NCIC information, traveling to Colorado to threaten Mark Nelson, and attempting to extort money from Nelson. The Lakewood Police department forwarded their complete report to the WHP. Defendants Cox, Powell, Butler, Oyler, Groeneweg, Price, and Hughes did not fire Defendant Ryle as a WHP trooper thereby endangering Rick Smidt and other citizens of Wyoming and the U.S. who subsequently came in contact with Defendant Ryle.

**THE MURDEROUS KIDNAPPING SCHEME, PLOT, AND PLAN**

24. Prior to December 3, 2008, Defendant Ryle approached Defendant Henderson to seek Henderson’s cooperation and assistance to help Defendant Ryle kill his wife by crashing a semi-tractor trailer into a car containing Andrea

Ryle. Defendant Henderson did not arrest Defendant Ryle for this illegal solicitation to commit murder, nor did he report Defendant Ryle's plans to any superior WHP officers.

25. On or about December 3, 2008, Defendant Ryle once again approached Defendant Henderson seeking Henderson's assistance and cooperation in killing his wife, Andrea Ryle. Defendant Ryle asked Henderson if Henderson "wanted in on it." Defendant Henderson did not arrest Defendant Ryle for this illegal solicitation to commit murder, nor did he report Defendant Ryle's plans to any WHP superior officers.

26. Defendant Ryle, during these conversations, discussed with Henderson several variations of Defendant Ryle's plan to kill his wife and try and file a fraudulent civil suit. In one variation, Defendant Ryle planned to stop a Wal-Mart truck or a Halliburton truck. Defendant Ryle was going to kill the driver by breaking his neck, by choking him, or by forcing him at gunpoint to drink alcohol. Defendant Ryle was then going to stage a crash involving the truck and Defendant Ryle's car. Andrea Ryle would be in that car and would be killed. Another plan was for Henderson to drive the truck into Defendant Ryle's patrol car injuring Defendant Ryle, who would then sue Wal-Mart for millions of dollars and collect insurance money. Defendant Ryle had taken several overt acts in furtherance of his plan to either murder his wife or stage a

crash to pursue a fraudulent civil action. A search of Defendant Ryle's patrol car, after Defendant Ryle kidnapped Rick Smidt, revealed a full bottle of vodka in the glove box and a hammer which Defendant Ryle planned to use to break his own limbs to simulate crash injuries.

27. Defendant Ryle's solicitation of Henderson continued in January 2009, when Defendant Ryle once again spoke to Henderson about a plan to kill Andrea Ryle. Defendant Ryle told Defendant Henderson he wanted to kill Andrea Ryle because she was a drug user and he did not want her to get any of his retirement money if they divorced. Defendant Ryle asked Henderson several times if Henderson would be "in" on the plan to kill Andrea Ryle. Defendant Ryle shared with Henderson his plan to disable the patrol car video recorder during the staged accident. Once again, Henderson did not arrest Defendant Ryle for the illegal solicitations to commit murder and did not report Defendant Ryle's plans, statements, or actions to any superior WHP officers.

28. Sometime between January 2 and January 10, 2009, Defendant Henderson received a phone call from Defendant Ryle in which Defendant Ryle said he had "stopped the perfect truck." Defendant Ryle told Henderson that when he stopped the truck, there were too many people around for him to "do it." Defendant Ryle informed Henderson that the truck had an electronic log book and a GPS system.

29. Rick Smidt began his work day on January 8, 2009, at the Wal-Mart Distribution Center located southwest of Cheyenne. His route that day took him from Cheyenne to Casper.

30. At 6:01 p.m., while returning back to Cheyenne, Plaintiff was approximately nine (9) miles southeast of Douglas on I-25 when he was stopped by Trooper Ryle. Rick Smidt, in response to the show of legal authority of Defendant Ryle via his patrol car and flashing lights stopped his truck at a parking area located near milepost (MP) 129. The area where Defendant Ryle stopped Rick Smidt was dark and there were no houses, lights, or businesses in this area of Interstate Highway 25.

31. Defendant Ryle walked up to the driver's door of Rick Smidt's truck and asked for Smidt's driver's license and log book.

32. Rick Smidt gave Defendant Ryle his driver's license. Defendant Ryle put chock blocks between the truck's wheels and ordered Smidt to restart the engine and leave the truck running. Rick Smidt followed Defendant Ryle's instructions and was then put by Defendant Ryle in the caged back seat of the patrol car where he could be questioned. The "cage" was a small area in the right back seat to hold prisoners and still allow room for Defendant Ryle's police dog in the rear seat of the vehicle.

33. Defendant Ryle asked Rick Smidt if he had any tickets lately. Rick Smidt said he did not recall any.

34. Defendant Ryle then walked around his patrol car, opened the right rear door where Rick Smidt sat, placed his hand on his handgun, and informed Rick Smidt that he was under arrest for a failure to appear on an outstanding warrant from Colorado.

35. Defendant Ryle then handcuffed Rick Smidt and placed him back into the caged right rear seat of his patrol car. Defendant Ryle told Rick Smidt he was taking him to jail.

36. Rick Smidt asked Defendant Ryle to secure the Wal-Mart truck. Defendant Ryle refused to secure the Wal-Mart truck and informed Rick Smidt that another officer would secure the truck later. Rick Smidt was very upset and concerned that he was being forced to leave the truck and trailer entrusted to him pursuant to his employment with Wal-Mart unsecured and with his wallet and cellular phone in the truck.

37. Defendant Ryle drove a short distance southbound on I-25, made a U-turn, and drove north into Douglas. Defendant Ryle told Rick Smidt he had to make a brief stop. Defendant Ryle stopped the car, locked the doors, and left Rick Smidt in the back seat while he went into a private home for about 10 minutes.

38. Defendant Ryle had actually taken Rick Smidt to Ryle's house in Douglas. Andrea Ryle stated that on January 8, 2009, at approximately 6:10 p.m., she received a phone call from her husband (Defendant Ryle), who said he had the "opportunity of a lifetime." Defendant Ryle instructed her to take their children to her mother's home in Douglas. She was to tell her mother she had to go to a meeting. Defendant Ryle told her to leave the children with her mother and return to their home in Douglas to await further instructions. A short time later, Defendant Ryle called Andrea Ryle, who informed him she needed help getting the children ready to go. Andrea Ryle got the children ready to leave, and Defendant Ryle arrived home. Defendant Ryle appeared anxious and in a hurry to Andrea Ryle.

39. Defendant Ryle told Andrea Ryle he received a call about a Wal-Mart truck that was weaving on I-25. Defendant Ryle told her he found the truck stopped near milepost 131. Defendant Ryle claimed the truck driver was dead. Defendant Ryle said he did not call the stop in to the WHP dispatcher but was sure the driver was dead, because he checked the driver's pulse.

40. Defendant Ryle told Andrea Ryle that his plan was for Andrea Ryle to get into her car and follow him in his patrol car to a point a few miles past the Wal-Mart truck. There he was going to park the patrol car on the side of the road. Defendant Ryle told Andrea Ryle that she was going to drive him

back to the truck. Defendant Ryle told his wife he was going to drive the truck down the road and crash it into his patrol car. He asked her to help him with the murder scheme.

41. Andrea Ryle asked Defendant Ryle what he planned to do with the truck driver. She was concerned that the truck driver would have marks inconsistent with the vehicle accident. She also expressed concern that they might be caught by law enforcement. Defendant Ryle told Andrea Ryle he would “smash” the truck driver’s head against the windshield to make it appear he died from injuries from the crash.

42. Defendant Ryle told Andrea Ryle this was an “opportunity of a lifetime” and if she did not help, she would regret it for the rest of her life. Defendant Ryle said if she helped him stage the accident, he “would not ever have to work again.”

43. Defendant Ryle was at the house about 10 minutes. Defendant Ryle and Andrea Ryle left the house. She took the children to her mother’s house at about 6:45 p.m. She left her mother’s home, bought alcohol at the liquor store, and then returned home and stayed in her vehicle outside her house waiting for further instructions from her husband.

44. A short time later, Defendant Ryle called Andrea Ryle and said something came up. Some time later, Defendant Ryle returned to his house.



Defendant Ryle told Andrea Ryle that when he returned to the Wal-Mart truck, he found that the driver had been taken to the hospital by the Wheatland ambulance service. Defendant Ryle told her not to worry. He said that when the driver awakened, he would not remember anything that happened. Defendant Ryle left the house after telling Andrea Ryle they should never speak of this incident again.

45. Andrea Ryle later advised investigators that some time after January 8, 2009, she took her children and moved out of the house to get away from her husband, Trooper Ryle. She told her brother, Pete Abrams, about what happened and what her husband told her on the night of January 8, 2009.

46. Andrea Ryle told investigators that she and her husband had financial difficulties and they had previously “joked” that if Trooper Ryle were injured by a Wal-Mart truck, they would get a big financial settlement and never have to work again. However, after thinking about the events of January 8, 2009, she became concerned that her husband may have been planning to kill her with the Wal-Mart truck since he had been asking her to take out a life insurance policy on herself.

47. Upon returning to his patrol car from his house, Defendant Ryle, rather than heading to jail or directly back to the truck, drove west through the

town of Douglas. Rick Smidt heard Defendant Ryle receive a communication informing Defendant Ryle that “Colorado won’t extradite.” Defendant Ryle then got onto the interstate at the west end of Douglas and headed back toward Plaintiff’s truck.

48. Upon returning Rick Smidt back to the Wal-Mart truck, Defendant Ryle spent some time contemplating his further actions. Ultimately, Ryle removed the handcuffs, returned Rick Smidt to his truck, and told Rick Smidt he was free to go.

49. Plaintiff Rick Smidt was illegally detained by Defendant Ryle for approximately 70 minutes the evening of January 8, 2009.

50. On or about January 9, 2009, Andrea Ryle questioned Defendant Ryle about what happened to the truck driver. Defendant Ryle informed Andrea that he had mistakenly believed the driver was dead and that the truck driver was transferred by an ambulance to Guernsey. Defendant Ryle and Andrea argued and he threatened to get his firearm and “do away with all of them.”

51. Defendant Ryle had discussed his plan to kidnap, murder, and stage an accident involving a Wal-Mart truck with Andrea Ryle on a number of occasions prior to January 8, 2009. After Trooper Ryle falsely arrested and kidnapped Rick Smidt, Andrea Ryle, who feared Trooper Ryle may have also

intended to kill her in his scheme, contacted her brother, Pete Abrams, a Casper Police Officer. Pete Abrams subsequently contacted Defendant Butler at Patrol Headquarters in Cheyenne.

52. On or about January 14, 2009, Pete Abrams told Defendant Butler that Andrea Ryle told him that Defendant Ryle planned to stage an accident between a Wal-Mart truck and Defendant Ryle's patrol car in order to collect a financial settlement from Wal-Mart. Pete Abrams told Defendant Butler that according to Andrea Ryle, Defendant Ryle contacted her on January 8, 2009, and said he had stopped a Wal-Mart truck on I-25 near Douglas, Wyoming, and the driver of the truck had died during the traffic stop.

53. Pete Abrams told Defendant Butler that Defendant Ryle wanted Andrea Ryle to assist him in staging an accident with the truck so that she and Defendant Ryle could collect money from Wal-Mart. Pete Abrams said Andrea Ryle informed him that a short time later, Defendant Ryle called her and cancelled his plans to stage the accident because the truck driver had not died.

54. After receiving this information, Defendant Butler did some initial investigation, then spoke with Andrea Ryle, and she told him essentially the same information reported by Pete Abrams. Andrea Ryle also informed Defendant Butler that her husband had transported steroids from Mexico into

the United States, had taken bond money he collected from traffic law violators and converted it to his own use, and was threatening and abusive towards her.

55. As of January 14, 2009, after Defendant Butler had interviewed Andrea Ryle and her brother, Defendant Butler knew that:

- a. Defendant Ryle had illegally arrested and kidnapped a Wal-Mart truck driver who Defendant Ryle planned to murder and stage an accident to cover up the murder and facilitate a fraudulent civil suit;
- b. Defendant Ryle had illegally smuggled steroids into the United States;
- c. Defendant Ryle had illegally converted bond money from persons who he issued traffic citations to;
- d. Defendant Ryle was threatening and abusive towards his wife;
- e. Defendant Ryle had significant other violations of WHP rules including the criminal acts involved with the Mark Nelson matter.

56. Based on information and belief, Defendant Butler shared this information with the upper echelon of WHP management, the so called "T-4" or "Top Four" administrators of WHP which included Defendants Powell, Butler, Groeneweg, and Oyler.

57. The last time that Henderson heard Defendant Ryle mention the plan to “get rid” of Andrea Ryle was on January 9 or 10, 2009, when Henderson and Defendant Ryle drove to Colorado to fly to California to attend a police K-9 dog training school.

58. Henderson said that on January 10, 2009, he and Defendant Ryle were driving from Douglas to Cheyenne. During the trip, Defendant Ryle continued to ask Henderson if he was “in” on the plan to stage an accident. Defendant Ryle told Henderson the truck would have to be a Halliburton truck, because Wal-Mart trucks are equipped with a GPS system.

59. Defendant Ryle told Defendant Henderson that “Peech” was “in” on the plan. Peech is Converse County Deputy Ben Peech, a former WHP Trooper. Defendant Henderson later spoke with Deputy Peech about Defendant Ryle’s plan. Both Henderson and Deputy Peech later discussed Defendant Ryle’s solicitations. Neither Henderson nor Peech arrested Defendant Ryle or reported his criminal activity to Defendant Ryle’s superior WHP officers.

60. Rick Smidt reported the January 8, 2009 stop to Wal-Mart management. After encouragement by Wal-Mart management and himself troubled by the facts surrounding the January 8, 2009 stop by Defendant Ryle, on January 15, 2009, Rick Smidt went to the WHP office in Cheyenne, and reported to Major Butler that he had been stopped by Defendant Ryle while

driving on I-25 near Douglas on January 8, 2009. Rick Smidt reported the facts of that traffic stop to Butler, Groeneweg, and another WHP administrator. Rick Smidt still had no idea on January 15, 2009, that Defendant Ryle intended to murder him or to crash the Wal-Mart truck to pursue a fraudulent civil case. Rick Smidt believed he was just the victim of mistaken identity.

61. Rick Smidt told Butler that he was not trying to get Defendant Ryle in trouble, but that he feared he could get in trouble with his employer for leaving the truck unlocked and unattended on the highway as he had been forced to do that night.

62. Rick Smidt stated to investigators that he did not initially complain to the WHP about the incident for fear of causing problems for other Wal-Mart drivers, but Wal-Mart management convinced him to report it.

**RYLE'S MURDEROUS KIDNAPPING SCHEME, PLOT, AND PLAN REVEALED TO DEFENDANTS POWELL, BUTLER, GROENEWEG, AND OYLER.**

63. As of January 15, 2009, when Plaintiff Rick Smidt voluntarily went to the WHP to report his encounter with Defendant Ryle, Defendant Butler, and based on information and belief, Defendants Powell and Groeneweg and Oyler also, knew full well that Rick Smidt had been kidnapped and had almost been murdered by one of their own troopers. Instead of informing Rick Smidt of these facts, Defendants Powell, Butler, Oyler, and Groeneweg chose to conceal Defendant Ryle's true intentions from him.

64. As a result of the reports of Pete Abrams, Rick Smidt, and Defendant Butler's interview of Andrea Ryle, the WHP contacted the Wyoming Division of Criminal Investigations ("DCI") on or about January 16, 2009, to begin an investigation into said allegations. DCI eventually contacted the Federal Bureau of Investigations ("FBI") field office in Cheyenne, Wyoming, which joined in the investigation. DCI agents assigned to the investigation included Agents Mike Carlson and Darrin Cregger. The FBI agent assigned to the case was Richard P. Fanelli.

65. In response to this information, WHP had Defendant Ryle and Henderson report to the WHP headquarters in Cheyenne on January 16, 2009, upon their return from the California dog training seminar. At WHP headquarters, Defendant Ryle and Henderson were met by the investigators assigned by DCI to this matter. Defendants Ryle and Henderson were interviewed by the DCI investigators.

66. When interviewed by DCI Agents Carlson and Cregger at the WHP office in Cheyenne on January 16, 2009, investigators asked Defendant Ryle if he planned to use the Wal-Mart driver and truck to stage an accident to collect insurance money. Defendant Ryle denied making such a scheme or discussing such a plan with anyone. Defendant Ryle said he and "every other Trooper"

have joked that if they were ever hit by a truck, they hoped it was a Wal-Mart truck.

67. When asked about Andrea Ryle's statements, Defendant Ryle said his wife was an alcoholic and that any allegations made by her about him were just "setting the stage" for a divorce. Trooper Ryle stated that he hated his wife's family and wished they would "all die in a fiery crash."

68. There is no video recording of the traffic stop of Rick Smidt. During his interview on January 16, 2009, Defendant Ryle told Agent Carlson that earlier in the day, the WHP installed a new video camera in his patrol car. Records reflect that the video and audio recorder in Defendant Ryle's patrol car had been installed, was operational around 3:00 p.m. on January 8, 2009, and should have recorded Defendant Ryle's traffic stop and arrest of Rick Smidt. Defendant Ryle told Agent Carlson that he must have forgotten to insert a hard-drive in the new camera. WHP Troopers can turn the patrol car video recorder on or off.

69. After the interview on January 16, 2009, Majerus testified that she and a "WHP Administrator" and a "support person" "met with Defendant Ryle after it became apparent he was not going to be arrested."

70. On January 16, 2009, investigators and the WHP administrators learned that Defendant Ryle's illegal acts in January 2009 were not limited to



the kidnapping and his attempts to cover up his get-rich-quick murder scheme. Defendant Ryle also attempted to have his fellow WHP trooper Defendant Henderson destroy evidence of his other criminal activities as detailed below.

71. On January 16 2009, DCI interviewed Defendant Henderson. Defendant Henderson stated that on December 3, 2008, while he was in Denver with his son who was hospitalized with an illness, Henderson received a telephone call from Defendant Ryle in which Defendant Ryle described a plan to “get rid” of Andrea Ryle and asked Henderson if he “wanted in on it.” Henderson said he told Defendant Ryle he wanted nothing to do with it and said he thought Defendant Ryle was just joking around. Henderson admitted that prior to that telephone call, Defendant Ryle had spoken to Henderson of a plan to have a semi-truck and trailer crash into a car containing Andrea Ryle. Defendant Ryle said he would need Henderson’s help in driving him back from the car to the tractor-trailer rig. Defendant Ryle was “so persistent” in talking about the plan that Henderson became annoyed and asked him if he was serious. Defendant Ryle “just chuckled,” and Henderson took that to mean he was only joking. The last time Henderson heard Defendant Ryle mention the plan to “get rid” of Andrea Ryle was on January 9 or 10, 2009, when

Henderson and Defendant Ryle were driving to Colorado as part of their travel to attend a police K-9 dog training school in California.

72. Based upon information and belief, as of January 16, 2009, Defendants Cox, Powell, Butler, Oyler, and Groeneweg knew that Defendant Ryle had solicited Defendant Henderson on several occasions to assist Defendant Ryle in a plot, scheme, and plan to murder Andrea Ryle and an unidentified truck driver and that Defendant Henderson had failed to either arrest Defendant Ryle for his illegal solicitation to commit murder or report the solicitations to WHP superior officers.

73. On or about January 16, 2009, despite their explicit knowledge of Defendant Ryle's solicitation of Henderson to commit murder or engage in other criminal acts and Defendant Henderson's total and abject failure to either arrest Defendant Ryle or report his criminal activities to WHP supervisors, Defendants Cox, Powell, Butler, Oyler, and Groeneweg failed to take any action against Henderson. Defendant Henderson continued to be a fully certified, empowered, and employed Wyoming Peace Officer with all of the authority accorded Wyoming Peace Officers, including the power to stop, arrest, detain, use deadly force, and seek prosecution of United States and Wyoming citizens.

74. On January 28, 2009, investigators, through search warrant, obtained records from the cell phone providers for Defendant Henderson and

Defendant Ryle. Records show that on the night of January 16, 2009, hours after Defendant Ryle and Henderson were interviewed by investigators, Defendant Ryle sent a text message to Henderson asking Henderson to go to Defendant Ryle's desk in the WHP office in Douglas to locate a bag containing "2 vials and a syringe" and to "make it vanish." Defendant Ryle told Henderson it contained "juice I havnt done n a while" and "U can have it. I got bigger problems now." Defendant Ryle texted, "cant go into anymore details now." Henderson did not remove the vial and needles, and they were seized as evidence.

75. On January 30, 2009, Henderson, only after being informed of the cell phone text messages between Henderson and Defendant Ryle, admitted that in 2003 or 2004, while in Mexico, he and Defendant Ryle obtained steroids and smuggled them into the United States. Henderson also informed state and federal investigators that fellow trooper Adam Longo was involved with steroid smuggling and use.

76. Based upon information and belief, Defendant Henderson and Defendant Longo informed WHP supervisors that they had been involved in smuggling steroids into the U.S. from Mexico and had used steroids during the time they were employed by the WHP as WHP troopers.

77. Based upon information and belief, Defendants Cox, Powell, Butler, Oyler, and Groeneweg did not suspend or relieve Henderson of his duties as a WHP trooper until February 19, 2009, even though Defendant Henderson had confessed to engaging in a number of conversations with Defendant Ryle concerning the murder of Andrea Ryle, the murder of an innocent truck driver, the murder of some unknown Halliburton truck driver, and Defendant Henderson's confession that Henderson, Defendant Ryle, and Trooper Longo had illegally smuggled steroids into the U.S., had used steroids, and had violated federal and Wyoming controlled substance statutes.

78. Based upon information and belief, Defendants Cox, Powell, Butler, Oyler, and Groeneweg did not suspend or relieve Trooper Longo of duties as a WHP trooper until February 5, 2009, even though Trooper Longo had confessed that he, Defendant Henderson, and Defendant Ryle had illegally smuggled anabolic steroids into the U.S., had used steroids, and had violated federal and Wyoming controlled substance statutes.

#### **WHP DISPATCH RECORDS**

79. WHP dispatch records for January 8, 2009, reveal the following significant entries:

- At 2:05 p.m., Trooper Ryle went on duty at the Douglas WHP office and was available for calls.

- At 5:18 p.m., Trooper Ryle “checked out” at the Douglas WHP office. Trooper Ryle was occupied with something and was not available for calls.
- At 5:41 p.m., Trooper Ryle radioed that he was again available for calls.
- At 6:26 p.m., Trooper Ryle checked out at the Douglas WHP office. (Based on his investigation, DCI Agent Carlson explained that at that time of day, there is usually no one at the Douglas WHP office. The dispatcher Trooper Ryle was communicating with was in Cheyenne, so the dispatcher would not know whether Trooper Ryle had been in the Douglas WHP office.)
- At 6:48 p.m., Trooper Ryle was dispatched to assist a motorist near Glenrock. Trooper Ryle asked the dispatcher to see if a Glenrock Police Officer could handle the call.
- At 6:53 p.m., Trooper Ryle radioed to the dispatcher that he had been flagged down by a motorist and informed that another motorist needed assistance near milepost 125 on I-25.
- At 6:59 p.m., Trooper Ryle told the dispatcher he was unable to find the motorist who needed assistance.
- At 7:01 p.m., Trooper Ryle told the dispatcher he was making a traffic stop on a Wal-Mart truck at milepost 129.
- At 7:03 p.m., Trooper Ryle requested a driver’s license check on Richard John Smidt. The results were negative for any warrants and the license was valid.
- At 7:12 p.m., Trooper Ryle told the dispatcher he had cleared from the traffic stop. Trooper Ryle added that he did not inspect the truck because of computer problems, and he did not get the traffic stop recorded on video.

80. The records of the WHP dispatch and the Rick Smidt's computer log between 6:00 p.m. and 7:12 p.m. are in stark contrast to one another. Rick Smidt's computerized driver log show the following entries during that period of time:

- 18:01 On duty – 9 mi ESE of Douglas (“On duty” signifies the truck was stopped.)
- 19:11 Driving – 9 mi ESE of Douglas, WY

81. The 18:01 (6:01 p.m.) log entry is the time he was stopped by Defendant Ryle. The log entry at 19:11 (7:11 p.m.) indicates the time the Wal-Mart truck achieved a speed of 15 mph after the “traffic stop.”

82. The Wal-Mart electronic log, status report, and location report for Rick Smidt's truck, which has GPS technology to track its location shows the truck left Evansville (WNW of Douglas) at 5:20 p.m. The truck stopped from approximately 6:00 p.m. until approximately 7:10 p.m. on I-25 approximately eight or nine miles east of Douglas. That location is close in proximity to milepost 129, where Rick Smidt said he pulled the truck over pursuant to Defendant Ryle's stop.

83. The DCI/FBI investigation revealed that WHP dispatch records and radio transmissions show no indication that Defendant Ryle was occupied with any identifiable activity such as traffic stops or accident investigations during

the time period from 6:00 p.m. (when the truck log indicates the truck stopped) until Defendant Ryle called in the stop of the Wal-Mart truck at 7:01 p.m.

84. When Defendant Ryle was dispatched to assist a motorist at Glenrock at 6:48 p.m., he had the dispatcher get another law enforcement officer to respond. There is no evidence that Defendant Ryle was flagged down by a motorist at 6:53 p.m., as he claimed to investigators. At 6:59 p.m., Defendant Ryle called the dispatcher and stated he could not find the motorist who needed assistance. Defendant Ryle called in the stop of the Wal-Mart truck only two minutes later at 7:01 p.m.

85. On January 22, 2009, investigators reviewed all recorded radio conversations from the WHP radio tower near Douglas that occurred the evening of January 8, 2009. Investigators heard the dispatcher's conversations with Defendant Ryle regarding the motorist assists and heard Defendant Ryle's radio calls beginning at 7:01 p.m. concerning the stop of the Wal-Mart truck. Investigators found no radio conversation concerning a suspended driver's license or an arrest warrant from Colorado.

86. Further evidence of Defendant Ryle's deceptive acts on January 8, 2009, included results of an NCIC search for all warrant inquiries conducted in the entire state of Wyoming between 5:30 p.m. and 7:30 p.m. on January 8. The NCIC search revealed that during the 5:30 p.m. to 7:30 p.m. time period,

except for the warrant search for Richard Smidt that occurred at 7:03 p.m., there were no other warrant queries for the name "Smidt" or any similarly spelled names. Investigators determined that since there were no responses from NCIC about the existence of a warrant, Defendant Ryle could not have heard any radio response about a failure to appear warrant.

87. Based on WHP's request for a copy of Rick Smidt's electronic log book entries, on January 26, 2009, Plaintiff Rick Smidt provided a handwritten statement to the WHP, as follows:

. . .18:01 is when I stopped my truck, shut it off & set the brakes.

The 19:01 is when I started to drive over 15 mph from that same location.

I really feel that there should be a monetary settlement for me for my emotionally [sic] distress not just for the false arrest, but most of all for not being able to secure the vehicle [sic] which I was responsible for. Also an appology [sic].

**THE COVER UP - RICK SMIDT'S MEETING WITH  
WHP TOP OFFICIALS ON FEBRUARY 23, 2009**

88. Based on his belief that WYDOT and the State wanted to settle Rick Smidt's claim for the apparent case of mistaken identity, Plaintiff met at the WHP office in Cheyenne with Colonel Powell, Major Butler, and Major Groeneweg on February 23, 2009.



89. Based on information and belief, during the meeting on February 23, 2009, in Powell's office, Powell stated, "We want to tell you we are so glad that you are here with us today."

90. During the meeting, Rick Smidt asked why Defendant Ryle would do it, Defendant Powell answered only that "so Defendant Ryle could get your truck."

91. Defendants Powell, Butler, Oyler, and Groeneweg never explained to Rick Smidt that Defendant Ryle planned to murder Plaintiff and stage a crash in a "get rich quick scheme."

92. Powell said that the WHP could only offer \$10,000 to Rick Smidt and that if he wanted more to settle the matter, they would have to contact the State and its insurance company and that "it wouldn't get done today."

93. Rick Smidt was specifically told that he could not tell anyone about the settlement, but could confer with his wife, Arlene, by telephone. Rick Smidt, believing he was just a victim of mistaken identity and without full and complete disclosure of the real facts, signed a settlement agreement.

94. Prior to February 23, 2009, meeting with Defendants Powell, Butler, Oyler, and Groeneweg, Rick Smidt had contacted several Cheyenne law firms and sought their advice based on his belief that he was just a victim of

mistaken identity. The law firms had informed Plaintiff that such events happened frequently and were not worth pursuing.

95. Had Rick Smidt been informed on February 23, 2009, or anytime before that meeting, about what the investigation into his stop by Defendant Ryle on January 8, 2009, which revealed Ryle's murderous scheme, Rick Smidt would not have signed the Settlement Agreement. Ultimately, Rick Smidt signed the Release and Settlement Agreement under false pretenses and without full disclosure and without the true facts which were intentionally withheld by Cox, Powell, Oyler, Butler, and Groeneweg.

96. The release signed by Rick Smidt on February 23, 2009, provides that:

Releasor does, on behalf of himself and anyone who can claim through him, hereby release, acquit and forever discharge Releasees from any and all actions, causes of actions, claims and demands, costs, expenses, and compensation on account of or in any way growing out of his potential claim and does hereby agree to indemnify and save harmless the Releasees from any further claims or demands, costs or expenses arising out of the injuries or demands sustained by Releasor.

97. Rick Smidt, a lay person with a high school education, had no ability or knowledge that he was forever waiving all claims against the State of Wyoming or that he was allegedly agreeing to indemnify the State of Wyoming should anyone else sue the State, or any of its agents, directors,

superintendents, officers, employees, agents, successors, heirs, devisees, administrators, executors, attorneys and assigns for his illegal kidnapping and near murder.

98. In exchange for a paltry \$10,000 check presented while intentionally withholding all the facts surrounding his kidnapping on January 8, 2009, Rick Smidt allegedly signed away any chance of recovery for any of the significant damages he has suffered because of the criminal actions of Franklin Ryle and the failure of other WHP officers, including Defendant Devan Henderson, to arrest Defendant Ryle or report criminal violations which occurred in their presence.

99. In exchange for \$10,000, Rick Smidt allegedly waived his right to bring an action for the total and complete failure of the WHP command staff to properly train, supervise, discipline and control the sworn "peace officers" they vest with authority and discretion over citizens' lives by providing them with a gun, a badge, a WHP patrol vehicle, and complete and total authority to either protect – or, as in this case, horribly harm – innocent citizens.

100. As of February 23, 2009, the WHP leadership, including Defendants Cox, Powell, Butler, Oyler, and Groeneweg convinced Plaintiff Rick Smidt to waive any and all claims against the State of Wyoming and all of its "respective agents, directors, superintendents, officers, employees, agents,

successors, heirs, devisees, administrators, executors, attorneys and assigns” knowing full well that Rick Smidt was being “kept in the dark” about the true nature of the stop on January 8, 2009.

101. It is uncontroverted that the three WHP officers who met with Plaintiff on February 23, 2009, Defendants Powell, Butler, and Groeneweg, fraudulently induced Plaintiff Smidt into signing the Release and Settlement Agreement by failing to truthfully, fully, and completely, answer Rick Smidt’s direct question. Rick Smidt clearly recalls asking the three WHP officers the question: “Why would he [Ryle] do it?” Defendant Powell’s response was only that Defendant Ryle wanted his truck.

**RELEASE AND SETTLEMENT AGREEMENT IS UNENFORCEABLE**

102. Defendants Powell, Butler, Oyler, and Groeneweg purposely, deliberately, and willfully withheld information that was critical and material to Plaintiff Smidt in making a fully informed decision to enter into the Release and Settlement Agreement, thereby denying Rick Smidt of his ability to even begin to assess the contract being offered by WHP officials. There was no “meeting of the minds” necessary for a valid contract. The Release and Settlement Agreement is unenforceable.

103. The failure to disclose any of the material information to Rick Smidt known to Defendants Powell, Butler, Oyler, and Groeneweg, before

obtaining a Settlement and Release for any cause of action he may have against the State of Wyoming and its employees, including Defendant Ryle and other WHP troopers who had been recruited by Defendant Ryle to murder an innocent truck driver, is unconscionable, unfair, an injustice and was done in intentional or deliberate indifference to Rick Smidt's constitutional rights.

104. Wyoming governmental agencies possess only such authority as has been conferred upon the governmental agency by the Wyoming Constitution or statutes passed by the Wyoming legislature.

105. The Wyoming Department of Transportation and the Wyoming Highway Patrol have no statutory or constitutional authority to settle civil claims against the State of Wyoming, the Wyoming Department of Transportation, the Wyoming Highway Patrol, or any agent, director, superintendent, officer, employee, successor, heir, devisee, administrator, executor, attorney, or assign, of the State of Wyoming, the Wyoming Department of Transportation, the Wyoming Highway Patrol, or any other state agency.

106. Because the Wyoming Department of Transportation and Wyoming Highway Patrol had no statutory or constitutional authority to settle any claims on behalf of the State of Wyoming, the Release and Settlement Agreement allegedly entered into between the State of Wyoming, Wyoming Department of

Transportation, and the Wyoming Highway Patrol and Rick Smidt, is void and of no force and effect whatsoever.

107. The Settlement and Release is contrary to W.S. § 9-1-603(a)(iii) and must be declared void as contrary to state law. Based on information and belief, the Settlement and Release was not submitted to the Wyoming Attorney General for approval or disapproval within thirty (30) days of its submission.

108. The Settlement and Release is contrary to W.S. § 1-41-106(b)(ii) and must be declared void as contrary to state law. Based on information and belief, the Wyoming State Risk Manager did not authorize the settlement of Rick Smidt's claim as provided by W.S. § 1-41-106(b)(ii).

109. The Settlement and Release, as it concerns Plaintiff's federal claims arising under 42 U.S.C. § 1983, is contrary to W.S. § 1-41-106(b)(iii) and must be declared void as contrary to state law. Based on information and belief, the Governor of Wyoming did not authorize the settlement of Rick Smidt's federal claim as required by W.S. § 1-41-106(b)(iii).

110. The Settlement and Release entered into between the WHP and Plaintiff Rick Smidt contravenes public policy and must be declared void. Defendants Powell, Butler, Oyler, and Groeneweg breached the duty they owed to Plaintiff to fully and fairly disclose all information concerning the arrest on January 8, 2009, and the Settlement and Release was not fairly entered into.

**THE CRIMINAL INVESTIGATION AND PROSECUTION  
FIRST NOTICE OF RYLE'S MURDEROUS PLAN TO RICK SMIDT**

111. Based on the DCI/FBI investigation, a Criminal Complaint was filed against Defendant Ryle and he was arrested on March 26, 2009. However, after a motion by the government, the Affidavit of FBI Special Agent Fanelli that was the basis for the Criminal Complaint was sealed by Magistrate Judge Michael Shickich for "law enforcement reasons."

112. As of March 26, 2009, over 30 days after Plaintiff Smidt allegedly knowingly, voluntarily, and intelligently executed a Settlement and Release agreement on February 23, 2009, waiving all rights to pursue any claim against anyone in any way involved with being falsely imprisoned, kidnapped, and nearly murdered, the chief federal investigator, FBI Agent Fanelli, swore under oath before a Federal Judge that Plaintiff Smidt had no knowledge of the grievous harm that nearly befell him on January 8, 2009.

113. Although Rick Smidt was totally candid with investigators, they did not provide him the same courtesy. DCI Agent Carlson told FBI Special Agent Fanelli that during his interview of Rick Smidt, no mention was made of any plan to stage an accident, and "it is believed that Rick Smidt has no knowledge of that plan." The "plan" referred to by DCI Agent Carlson and FBI Agent Fanelli was Defendant Ryle's plan to kidnap and murder Plaintiff Smidt.

114. DCI Agent Carlson, who is an agent for the State of Wyoming, had specifically informed the FBI that DCI had withheld the information from Plaintiff Smidt that he had almost been murdered by a sworn Wyoming “peace officer.”

115. The then-sealed sworn Affidavit of FBI Agent Richard J. Fanelli filed in Federal District Court on March 26, 2009, stated “[I]t is believed that Smidt has no knowledge of ‘that plan.’”

116. It was not until after the Affidavit attached to the Criminal Complaint was unsealed on May 19, 2009, during Defendant Ryle’s appearance in U.S. District Court in Cheyenne, that the facts contained in the Affidavit were disclosed. At that time, the staged accident/murder scheme and plot was revealed.

117. Rick Smidt attended the hearing on May 19, 2009 and learned, **for the first time**, that Defendant Ryle had stopped him and arrested him in a plot to stage a truck crash and murder Rick Smidt and then collect a large settlement from Wal-Mart. Witnesses to Rick Smidt’s reaction upon first learning this information have described “all of the air rushing from his body” and expressed their belief that they thought he was going to pass out.

118. On or about November 20, 2009, Rick Smidt, via his attorneys, Speight, McCue & Crank, returned the \$10,000 which had been paid to Rick



Smidt on or about February 23, 2009. Smidt returned the \$10,000 so that he could have access to the courts to petition the courts to address the grievous harm caused by the wholesale violation of his constitutional rights by the Defendants Cox, Powell, Butler, Oyler, Groeneweg, Ryle, Henderson, Price, Hughes, and the Wyoming Highway Patrol. The State of Wyoming, knowing that it had gotten a "great deal" from the uninformed, uncounseled Rick Smidt and that the \$10,000 did not even begin to compensate Rick Smidt for his substantial damages, rejected Rick Smidt's offer to have access to the courts. The State of Wyoming refused to accept the \$10,000 returned by Rick Smidt.

119. The Affidavit provided by FBI Special Agent Richard Fanelli, Defendant Butler's interview of Pete Abrams on January 14, 2009, Defendant Butler's interview of Andrea Ryle, and the interviews of Defendant Ryle and Defendant Henderson on January 16, 2009, show that as early as January 14, 2009, Defendants Cox, Powell, Butler, Oyler, and Groeneweg were all aware of the details of the investigation and the reason for the kidnapping of Plaintiff, including a staged crash/murder plot.

120. Based upon information and belief, Defendants Cox, Powell, Butler, Oyler, and Groeneweg were all informed by DCI officials with regard to the interviews of Defendant Ryle and Defendant Henderson on January 16, 2009, when Defendant Ryle and Defendant Henderson were ordered by WHP

administrators to report to WHP headquarters to be interviewed by DCI investigators.

121. In June of 2009, Defendant Ryle pled not guilty to the charges of violating Rick Smidt's constitutional rights by the unlawful arrest and kidnapping of Rick Smidt and using a firearm during a crime of violence.

122. On July 21, 2009, Defendant Ryle changed his plea in his criminal case from "not guilty" to "guilty". As of that day, Defendant Ryle, who had been on paid administrative leave from the WHP since January 2009, was fired by the WHP.

123. On July 21, 2009, Defendant Ryle admitted under oath that he had illegally violated Rick Smidt's constitutional rights, while acting under color of state law, by his actions on January 8, 2009.

#### **RYLE'S ADDITIONAL UNCONSTITUTIONAL AND ILLEGAL ACTS**

124. Prior to the kidnapping of Rick Smidt, Defendant Ryle was experiencing various problems as a WHP trooper, including sharp criticism by court officials of his job performance/reduced output, and general ongoing mental instability.

125. Between January 1, 1999, and March 21, 2000, Eighth Judicial District Court Judge Voigt ruled that three different automobile searches

conducted by Defendant Ryle had violated the constitutional rights of motorists in Wyoming.

126. In response to these decisions, Defendant Cox, who was then Colonel of the WHP, traveled to Judge Voigt's chambers in Douglas, Wyoming, and informed Judge Voigt that Judge Voigt was hindering what Colonel Cox was trying to accomplish with the Highway Patrol.

127. Defendant Ryle stole \$1,000 from the WHP Association.

128. Defendant Ryle physically and mentally abused his wife, Andrea Ryle, during the course of their marriage, including threatened use of his WHP service weapon.

#### **OTHER UNCONSTITUTIONAL ACTS WITHIN THE WHP**

129. Defendants Cox, Powell, Oyler, Butler, and Groeneweg have on several occasions failed to properly train, supervise, discipline, control, and or terminate WHP troopers in their charge.

130. Based on information and belief, Defendants Cox, Powell, Oyler, Butler, and Groeneweg failed to properly train, supervise, discipline, control, and or terminate Joe Arzy, a trooper out of the Sheridan, Wyoming, area who assaulted an arrestee in the Sheridan County Jail.

131. Based on information and belief, Defendants Cox, Powell, Oyler, Butler, and Groeneweg failed to properly train, supervise, discipline, control, and or terminate Jay Gruwell who sexually assaulted his young niece.

### **FIRST CAUSE OF ACTION**

#### **TITLE 42 U.S.C. § 1983: VIOLATION OF PLAINTIFF'S CONSTITUTIONAL RIGHTS GUARANTEED BY THE FOURTH, FIFTH, SIXTH AND FOURTEENTH AMENDMENTS BY DEFENDANTS' ACTIONS OR INACTIONS WHICH LED TO PLAINTIFF'S FALSE ARREST, KIDNAPPING, AND ATTEMPTED MURDER ON JANUARY 8, 2009, AGAINST DEFENDANTS COX, POWELL, BUTLER, GROENEWEG, OYLER, PRICES, HUGHES, RYLE AND HENDERSON, IN THEIR INDIVIDUAL CAPACITIES**

132. Plaintiff incorporates and realleges the paragraphs 1 to 131 as if fully set forth herein.

#### **Ryle**

133. Defendant Ryle, while acting under color and pretense of the laws, statutes, ordinances, regulations, customs and usage of the State of Wyoming, and within the scope and course of his employment with the WHP, stopped Plaintiff Rick Smidt's Wal-Mart truck on January 8, 2009. During this traffic stop, Defendant Ryle violated Plaintiff's constitutional rights guaranteed by the Fourth, Fifth, Sixth, and Fourteenth Amendment to the United States Constitution by falsely arresting, unreasonably seizing, kidnapping, and attempting to murder Rick Smidt.

134. Defendant Ryle owed duties as a Wyoming Peace Officer and/or employee of the WHP to protect and serve the public, including Rick Smidt and other similarly situated persons. Defendant Ryle's actions directed toward Rick Smidt on January 8, 2009 violated those duties.

135. As a direct and proximate cause and result of the acts and omissions described herein, Defendant Ryle is liable for damages to Plaintiff for deprivation of his constitutional rights under 42 U.S.C. § 1983, as more fully described in the section of this Complaint entitled "Damages."

### **Supervisors**

136. Any and all actions and omissions of Defendants Cox, Powell, Butler, Groeneweg, Oyler, Price, and Hughes alleged herein constitute actions or omissions under the color and pretense of laws, statutes, ordinances, regulations, customs and usage of the State of Wyoming.

137. Defendants Powell, Butler, Groeneweg, Oyler, Price, and Hughes were, during the time frame alleged herein, Wyoming Peace Officers and were charged with the responsibility and duty to protect and serve the public by properly supervising, disciplining, and controlling WHP troopers under their command, including Defendants Ryle and Henderson, so that the U.S. and Wyoming Constitutions, the laws of Wyoming, and the rules and regulations of the WHP were not violated.

138. Defendant Cox, as Director of the Wyoming Department of Transportation and who directly supervised Powell and thereby all members of the WHP, was charged with the responsibility and duty to protect and serve the public by insuring that all WHP supervisors and troopers were properly supervised, disciplined, and controlled so that the United States and Wyoming Constitutions, Wyoming laws, and the rules and regulations of the WHP were not violated.

139. Defendants Cox, Powell, Butler, Oyler, Groeneweg, Price, and Hughes failed to properly supervise, train, discipline and control WHP troopers under their command, including Defendants Ryle and Henderson.

140. The actions or inactions of Defendants Cox, Powell, Butler, Oyler, Groeneweg, Price, and Hughes in failing to properly supervise, train, discipline and control WHP troopers under their command, including Defendants Ryle and Henderson, resulted in violation of the Constitutional rights of Plaintiff. The constitutional violations suffered by Plaintiff and other similarly situated individuals, were a direct, obvious and foreseeable result of the above Defendants' actions or inactions.

141. The constitutional violations suffered by Plaintiff, and similarly situated persons, were such an obvious and foreseeable result of the actions and inactions of Defendant Cox, Powell, Butler, Groeneweg, Price, and Hughes

failure to properly train, supervise, discipline, and control WHP troopers, including Defendants Ryle and Henderson, as to constitute reckless disregard, deliberate indifference to, or tacit authorization of the constitution and state law violations suffered by Plaintiff and other similarly situated persons.

142. Defendants Cox, Powell, Butler, Oyler, Groeneweg, Price and Hughes failure to properly supervise, discipline, and control WHP troopers, including Defendants Ryle and Henderson, is a direct and proximate cause of, and is affirmatively linked to the constitutional injury, suffered by Plaintiff Rick Smidt.

143. Defendants Cox, Powell, Butler, Oyler, Price, and Hughes owe a continuing duty to monitor and evaluate the performance of law enforcement officers under their command and control and to take all action necessary to ensure that members of the public, including Rick Smidt, are not harmed by the unlawful acts and omissions of law enforcement officers under their control.

144. Defendants Cox, Powell, Butler, Oyler, Groeneweg, Price and Hughes had notice, as of January 8, 2009 that their failure to properly train, supervise, discipline, and control WHP troopers, including Defendants Ryle and Henderson, would result in constitutional and state law violations such as those suffered by Plaintiff.

145. As a direct and proximate cause and result of the acts and omissions described herein, Defendants Cox, Powell, Butler, Oyler, Groeneweg, Price, and Hughes are liable for damages to Plaintiff for deprivation of his constitutional rights under 42 U.S.C. §1983, as more fully described in the section of this Complaint entitled “Damages.”

**Henderson**

146. Defendant Henderson, acting within the course and scope of his employment as a WHP trooper, and acting under color of law, learned on or before January 8, 2009 that Defendant Ryle planned on stopping a commercial truck, kidnapping and murdering the driver, and staging an accident with the truck.

147. Despite a realistic opportunity to intervene and prevent the constitutional harm suffered by Plaintiff Rick Smidt, Henderson failed to arrest Defendant Ryle or to notify anyone in the WHP command structure that Defendant Ryle planned to stop a commercial truck, kidnap and murder the driver, and then stage an accident with the truck, or otherwise to take reasonable steps to prevent the unconstitutional deprivation of constitutional rights.

148. As a Wyoming peace officer, Henderson had an affirmative duty to intercede, intervene, or otherwise take reasonable steps to prevent the violation



of the Constitutional rights of citizens, including Plaintiff Rick Smidt, whose constitutional rights he knew would be violated.

149. The actions and inactions of Defendant Henderson were a direct and proximate cause of the constitutional violations suffered by Plaintiff Rick Smidt.

150. As a direct and proximate result of Defendant Henderson's intentional, criminal, and negligent acts and omissions, Rick Smidt has suffered damages as more specifically set forth in the section of this Complaint entitled "Damages."

151. As a direct and proximate cause and result of the acts and omissions described herein, Defendant Henderson is liable for damages to Plaintiff for deprivation of his constitutional rights under 42 U.S.C. §1983, as more fully described in the section of this Complaint entitled "Damages."

### **SECOND CAUSE OF ACTION**

#### **WYO. STAT. §§ 1-39-101 through 1-39-120, et seq: TORTIOUS CONDUCT OF PEACE OFFICER AGAINST DEFENDANTS RYLE, COX, POWELL, OYLER, BUTLER, GROENEWEG, PRICE, HENDERSON, AND HUGHES**

152. Plaintiff incorporates and realleges the paragraphs 1 to 151 as if fully set forth herein.

## **Ryle**

153. Defendant Ryle owed duties of care to protect Rick Smidt and to not negligently or intentionally inflict harm on him, either of a physical or emotional nature.

154. The actions of Defendant Ryle in falsely arresting, kidnapping, and attempting to murder Rick Smidt as described above constitute negligence, assault, battery, false imprisonment, kidnapping and intentional and negligent infliction of emotional distress.

155. All acts of Defendant Ryle alleged herein were done in the course and scope of his duties with the WHP.

156. These actions of Defendant Ryle caused Rick Smidt great physical and emotional distress. Rick Smidt feared for his life, safety, and individual well being as a result of Defendant Ryle's actions.

157. The injuries and resulting damages to Rick Smidt were the direct and proximate result of the intentional and negligent acts and omissions of Defendant Ryle. Such negligent acts and omissions include, but are not limited to, the following:

- a. Stopping Rick Smidt's Wal-Mart truck under color of state law and without probable cause that any crime or traffic infraction had occurred;
- b. Kidnapping Plaintiff Rick Smidt;

- c. Falsely imprisoning Rick Smidt;
- d. Threatening Rick Smidt with bodily harm;
- e. Causing Rick Smidt to justifiably fear for his life and personal safety;
- f. Attempting to murder Rick Smidt;
- g. Denying Rick Smidt his Constitutional and civil rights under color of state law; and
- h. Intentionally and negligently inflicting great emotional distress on Plaintiff.

158. As a direct and proximate result of Defendant Ryle's intentional and negligent acts and omissions, Rick Smidt has suffered damages as more specifically set forth below in the section of this Complaint entitled "Damages".

**Henderson**

159. Defendant Henderson owed duties of care to protect Plaintiff Rick Smidt and to not negligently and intentionally inflict harm on him, either of a physical or emotional nature.

160. The actions of Defendant Henderson in failing to arrest Defendant Ryle or report Defendant Ryle's scheme to kidnap and murder a truck driver as described above constitute negligence, and intentional and negligent infliction of emotional distress.

161. The injuries and resulting damages to Plaintiff were the direct and proximate result of the intentional and negligent acts and omissions of Defendant Henderson. Such negligent acts and omissions include, but are not limited to, failing to arrest Ryle or report and prevent Defendant Ryle's plans to hijack a truck driver and kidnap and murder the driver.

162. As a direct and proximate result of Defendant Henderson's intentional and negligent acts and omissions, Rick Smidt has suffered damages as more specifically set forth below in the section of this Complaint entitled "Damages."

163. All acts of Defendant Henderson alleged herein were done in the scope of his duties with the WHP.

### **Supervisors**

164. Defendants Cox, Powell, Butler, Groeneweg, Oyler, Price, and Hughes owed a duty of reasonable care to Plaintiff including, but not limited to, the duty to properly train, supervise, control, and discipline WHP troopers under their command, including Defendants Ryle and Henderson.

165. Defendants Cox, Powell, Butler, Oyler, Groeneweg, Price, and Hughes owed a continuing duty to monitor and evaluate the performance of WHP troopers under their control and to take all actions necessary to ensure that members of the public, including Plaintiff Rick Smidt, are not harmed by

the criminal, unlawful and/or negligent acts and omissions of WHP troopers under their control.

166. The injuries and resulting damages to Plaintiff were the direct and proximate result of the negligent and intentional acts and omissions of Defendants Cox, Powell, Butler, Groeneweg, Oyler, Price, and Hughes. Such negligent acts and omissions include, but are not limited to, the following:

- a. Negligent training of Defendants Ryle and Henderson;
- b. Negligent supervision of Defendants Ryle and Henderson;
- c. Negligent discipline of Defendants Ryle and Henderson;
- d. Negligent retention of Defendants Ryle and Henderson;
- e. Failure to institute policies, procedures, and customs that would prevent or drastically reduce incidents of unconstitutional actions by WHP troopers, including Defendants Ryle and Henderson; and
- f. Failure to terminate Ryle as a WHP trooper based on numerous illegal, improper actions that violated both federal and state statutes and policies and procedures of the WHP by Defendant Ryle during his tenure as a WHP trooper;
- g. Failure to institute or enforce policies, procedures, and customs for the reporting of unconstitutional and illegal actions by a fellow WHP trooper.

167. In addition to the independent allegations of negligence described above, Defendants Cox, Powell, Groeneweg, Butler, Oyler, Price, and Hughes

are vicariously liable for the tortious acts and omissions of Defendants Ryle and Henderson committed during the scope and course of their employment.

168. As a direct and proximate result of the intentional and negligent acts and omissions of Defendants Cox, Powell, Butler, Groeneweg, Price, and Hughes, Rick Smidt has suffered damages as more specifically set forth below in the section of this Complaint entitled "Damages".

### **THIRD CAUSE OF ACTION**

#### **TITLE 42 U.S.C. § 1983: DENIAL OF ACCESS TO THE COURTS. VIOLATION OF PLAINTIFF'S CONSTITUTIONAL RIGHTS BY THE ACTIONS OF DEFENDANTS COX, POWELL, BUTLER, OYLER, AND GROENEWEG ON FEBRUARY 23, 2009**

169. Plaintiff incorporates and realleges the paragraphs 1 to 168 as if fully set forth herein.

170. Any and all actions and omissions of Defendants Cox, Powell, Butler, Oyler, and Groeneweg alleged herein constitute actions or omissions under the color and pretense of laws, statutes, ordinances, regulations, customs, and usage of the State of Wyoming.

171. Defendants Cox, Powell, Butler, Oyler, and Groeneweg, while acting within the scope and course of their duties and under color of state law, deprived Rick Smidt of his substantive right of adequate, effective, and meaningful access to the courts in violation of the First Amendment, the Fifth

Amendment, the Sixth Amendment, and the Fourteenth Amendment of the U.S. Constitution.

172. The Settlement and Release entered into between the WHP and Plaintiff Rick Smidt denied Rick Smidt of his substantive constitutional right of adequate, effective, and meaningful access to the courts in violation of the First Amendment, Fifth Amendment, Sixth Amendment, and Fourteenth Amendment of the United States Constitution.

173. Plaintiff Rick Smidt had a constitutionally protected property interest in any and all legal causes of action arising from his unlawful traffic stop and seizure on January 8, 2009.

174. Defendants Cox, Powell, Butler, Oyler, and Groeneweg unconstitutionally denied Rick Smidt of his substantive constitutional right of access to the courts by entering into a Settlement and Release Agreement with Rick Smidt on February 23, 2009 for any claims he may have arising from his kidnapping and near murder by Defendant Ryle on January 8, 2009, by withholding facts and information they possessed concerning the events of January 8, 2009.

175. Defendants Cox, Powell, Butler, Oyler, and Groeneweg owed Plaintiff Rick Smidt a duty to fully and fairly disclose all information they knew concerning his arrest on January 8, 2009 before entering into the Settlement

and Release. Defendants Powell, Butler, Oyler, and Groeneweg breached this duty.

176. Defendants Cox, Powell, Butler, Oyler, and Groeneweg were in a unique position of power and control concerning the knowledge and disclosure of the true nature of Defendant Ryle's plans concerning Rick Smidt on January 8, 2009 because of the sealed Complaint and affidavit in Defendant Ryle's criminal case, the decision made by state and federal law enforcement officials to keep Rick Smidt "in the dark," and therefore occupied a position of confidence and trust to Rick Smidt in regard to the Settlement and Release. Defendants Cox, Powell, Butler, Oyler, and Groeneweg, rather than provide Rick Smidt with the true facts of the events of January 8, 2009, perpetuated the lie first told to Rick Smidt by Defendant Ryle on January 8, 2009, that Rick Smidt was just a victim of mistaken identity.

177. Defendants Cox, Powell, Butler, Oyler, and Groeneweg knew, or were deliberately indifferent, to the fact that as of February 23, 2009, the day the Settlement and Release was entered into, Rick Smidt was under the false impression that the January 8, 2009 arrest was a case of mistaken identity.

178. Despite this knowledge, Defendants Cox, Powell, Butler, Oyler, and Groeneweg purposely, deliberately, and willfully withheld information that was critical and material to Rick Smidt in making his decision to enter into the



Release and Settlement Agreement, thereby denying Plaintiff of his ability to even begin to assess the contract being offered by WHP officials.

179. Defendants Cox, Powell, Butler, Oyler, and Groeneweg's actions in purposely, deliberately and willfully withholding information that was critical to Plaintiff constitute an egregious abuse of government power, are incompatible with the rudimentary demands of justice or with any concept of ordered liberty, and their actions shock the conscience.

180. As a direct and proximate result of the deliberate, intentional and willful acts and omissions of Defendants Cox, Powell, Butler, Oyler, and Groeneweg in withholding essential information from Rick Smidt, which they were under a duty to disclose, Rick Smidt entered into an unenforceable settlement agreement which purports to settle all of his claims arising from the constitutional violations he suffered during his traffic stop and arrest on January 8, 2009 for inadequate consideration that did not sufficiently compensate him for the violation of his constitutional rights.

181. As a direct and proximate result of the acts and omissions described herein, Defendants Cox, Powell, Butler, Oyler, and Groeneweg are liable in damages to Plaintiff for deprivation of his constitutional rights under 42 U.S.C. § 1983. Said damages as more specifically set forth below in the section of this Complaint entitled "Damages".

**FOURTH CAUSE OF ACTION:**

**42 U.S.C. § 1983: CONSPIRACY TO DEPRIVE RICK SMIDT OF HIS  
CONSTITUTIONAL RIGHT OF ACCESS TO THE COURTS WHILE ACTING  
UNDER THE COLOR OF STATE LAW AGAINST DEFENDANTS COX,  
POWELL, BUTLER, GROENEWEG, AND OYLER**

182. Based on information and belief, Defendants Cox, Powell, Butler, Oyler, and Groeneweg conspired to deprive Plaintiff of his constitutional and statutory rights through the concerted action of unconstitutionally inducing Plaintiff to settle all of his claims arising from Plaintiff's arrest by Defendant Ryle. Plaintiff Rick Smidt suffered an actual deprivation of rights as a result of this conspiracy.

183. As a direct and proximate result of the concerted acts and omissions in conspiring to deprive Plaintiff Rick Smidt of his constitutional right of adequate, effective, and meaningful access to the courts, Defendants Cox, Powell, Butler, Oyler, and Groeneweg are liable in damages to Plaintiff for deprivation of his constitutional rights under 42 U.S.C. § 1983. Said damages are more specifically set forth below in the section of this Complaint entitled "Damages".

**FIFTH CAUSE OF ACTION:**

**WYO. STAT. §§ 1-39-101 through 1-39-120, et seq: TORTIOUS CONDUCT OF PEACE OFFICER DEFENDANTS COX, POWELL, BUTLER, OYLER, AND GROENEWEG IN FRAUDULENTLY INDUCING PLAINTIFF RICK SMIDT TO ENTER INTO THE SETTLEMENT AND RELEASE AGREEMENT AND FAILURE TO DISCLOSE MATERIAL NECESSARY AND PERTINENT TO RICK SMIDT ON FEBRUARY 23, 2009, AGAINST DEFENDANTS COX, POWELL, BUTLER, GROENEWEG, AND OYLER**

184. Plaintiff incorporates and realleges the paragraphs 1 to 183 as if fully set forth herein.

185. Citizens of Wyoming and the United States, including Rick Smidt as of February 23, 2009, generally trust and respect law enforcement officers.

186. Citizens of Wyoming and the United States generally believe that law enforcement officers are charged with protecting them and acting in the citizen's best interest.

187. On February 23, 2009, Rick Smidt fully believed that the WHP, including Defendants Cox, Powell, Butler, Oyler, and Groeneweg, would protect him, treat him fairly, and not take advantage of him.

188. On February 23, 2009, Plaintiff Rick Smidt was trying to help WYDOT and the WHP investigate how he was, in his mind, mistakenly arrested because of some mistake concerning his identity.

## **Fraud**

189. Defendants Cox, Powell, Butler, Oyler, and Groeneweg owed legal duties to Plaintiff including, but not limited to, the duty to fully and fairly disclose the true nature of Rick Smidt's arrest on January 8, 2008 and to disclose the full extent of Defendant Ryle's plans.

190. Defendants Cox, Powell, Butler, Oyler, and Groeneweg were in a unique position of power and control concerning the knowledge and disclosure of the true nature of Defendant Ryle's plans concerning the Rick Smidt on January 8, 2009, because of the sealed Complaint and affidavit in Defendant Ryle's criminal case, and therefore occupied a position of confidence and trust to Rick Smidt in regard to the Settlement and Release.

191. Defendants Cox, Powell, Butler, Oyler, and Groeneweg knew as of February 23, 2009, the day the Settlement and Release was entered into, that Rick Smidt was under the false impression that the January 8, 2009 arrest was a case of mistaken identity.

192. Defendants Cox, Powell, Butler, Oyler, and Groeneweg knew that information concerning the true nature of Rick Smidt's arrest on January 8, 2009 and Defendant Ryle's full plans were critical and essential to Plaintiff's knowing and intelligent settlement and waiver of his rights contained within the Settlement and Release.

193. Defendants Cox, Powell, Butler, Oyler, and Groeneweg's nondisclosure and fraudulent concealment of information that was essential and material to Plaintiff fraudulently induced Plaintiff to enter the Settlement and Release on February 23, 2009.

194. Defendants Cox, Powell, Butler, Oyler, and Groeneweg committed fraud upon Plaintiff Rick Smidt in Cheyenne, Laramie County, Wyoming on and before February 23, 2009 by failing to fully and fairly disclose all information they possessed concerning Rick Smidt's kidnapping and near murder on January 8, 2009.

195. Once Defendants Powell, Butler, and Groeneweg began to disclose Defendant Ryle's intent in stopping Rick Smidt's truck on January 8, 2009, they were under a duty to fully and accurately disclose all information they possessed about the incident so that Rick Smidt could make an informed decision whether to accept the WHP's offer of settlement and release.

196. The injuries and resulting damages to Rick Smidt were the direct and proximate result of the fraudulent acts and concealment of Defendants Powell, Butler, and Groeneweg. Said fraudulent acts and concealment included, but are not limited to, Defendants fraudulent concealment, nondisclosure, and fraudulent failure to fully and completely disclose the true

nature of Rick Smidt's arrest on January 8, 2008 and to disclose the full extent of Defendant Ryle's plans to kidnap and murder Rick Smidt.

197. Plaintiff Rick Smidt justifiably relied on the fraudulent statements, concealments, and nondisclosures of Defendants Powell, Butler, Oyler, and Groeneweg.

198. The Settlement and Release entered into between the WHP and Plaintiff Rick Smidt contravenes public policy and must be declared void. Defendants Powell, Butler, Oyler, and Groeneweg breached the duty they owed to Plaintiff to fully and fairly disclose all information concerning the arrest on January 8, 2009, and the Settlement and Release was not fairly entered into.

199. As a direct and proximate result of the intentional and fraudulent acts and omissions of Defendants Cox, Powell, Butler, Oyler, and Groeneweg, Rick Smidt has suffered damages as more specifically set forth below in the section of this Complaint entitled "Damages".

### **DAMAGES**

200. Plaintiff incorporates and realleges the preceding paragraphs as if fully set forth herein.

201. As a proximate and direct result of deprivation of his constitutional and civil rights, and the tortious acts and omissions of the Defendants set forth

above, Rick Smidt has been injured and has suffered damages, as will be proven at trial, in the following, but not exclusive respects:

- a. Past, present, and future medical, psychological, and emotional care;
- b. Damages for bodily injury, pain and suffering, battery, emotional and mental distress, humiliation, and loss of enjoyment of life;
- c. Damages for deprivation of constitutional rights as authorized by 42 U.S.C. § 1983;
- d. Damages for the negligent and intentional infliction of emotional distress;
- e. Damages for the fraud perpetrated on Rick Smidt;
- f. Reasonable attorney's fees and costs as recoverable by law and as authorized by 42 U.S.C. §§ 1983 and 1988.

202. In addition to compensatory damages, Plaintiff claims reasonable punitive damages against the Defendants in an amount to be proven at trial for constitutional and civil rights violations and the willful and wanton acts and omissions of the Defendants as alleged herein. The acts and omissions of Defendants were reckless acts which were committed with deliberate indifference to Rick Smidt's health and safety. Moreover, Defendants' acts and omissions were such a departure from the ordinary standard of care that they constituted willful and wanton misconduct. These instances of reckless and callous indifference to Rick Smidt's constitutional rights and safety should be

punished through the imposition of punitive damages so as to make an example of conduct that will not be tolerated in our society.


WHEREFORE, Plaintiff respectfully prays that the Court:

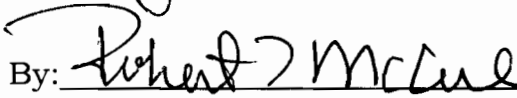
1. Empanel a jury to try this matter.
2. Award Plaintiff judgment on their claim for relief of actual damages in an amount to be proven at trial against the Defendants and each of them jointly and severally;
3. Award Plaintiff exemplary and punitive damages as is allowed by law against each Defendant;
4. Award Plaintiff costs of suit herein, including Plaintiff's reasonable attorney fees;
5. Award Plaintiff injunctive relief in the form of requiring Defendants to initiate and implement hiring, training, supervising, and disciplining programs and appropriate policies, procedures and rules within the WHP which will prevent or drastically reduce the incidents of unconstitutional conduct committed by WHP patrolmen against the public; and
6. Award Plaintiff such other and further relief the Court deems appropriate under the circumstances.

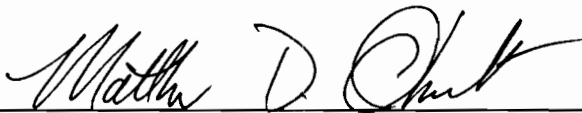


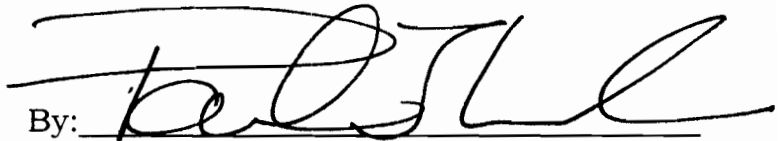
DATED this 13<sup>th</sup> day of April, 2010.

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