

1 Patrick S. Davis
2 Redacted
3 Sparks, NV 89431
4 (775) Redacted
5 Plaintiff in Proper Person

6 **UNITED STATES DISTRICT COURT**
7 **DISTRICT OF NEVADA**

8 PATRICK S. DAVIS)
9)
10 Plaintiff)

11 vs.)

Case No. 3:13-CV-00559-MMD-WGC

12 STATE OF NEVADA,)
13 NEVADA BOARD OF PAROLE)
14 COMMISSIONERS, CONNIE BISBEE,)
15 individually and in her official capacity as)
16 the Chairman of the Nevada Board of Parole)
17 Commissioners; and)
18 NEVADA DEPARTMENT OF PUBLIC)
19 SAFETY, JAMES WRIGHT, individually)
20 and in his official capacity as Director of)
21 The Nevada Department of Public Safety,)
22 JAMES SACKETT, individually and as)
23 an Officer of the Nevada Department of)
24 Public Safety; and)
25 NEVADA DIVISION OF PAROLE AND)
26 PROBATION, BERNARD CURTIS,)
27 individually and in his official capacity as)
28 Chief of the Nevada Division of Parole and)
Probation, CLAUDIA STEIBER, RACHEL)
WOOD, CURTIS COLE, AARON EVANS,))
JAMES GOTHAN, all individually and as)
employees and Officers of the Nevada)
Department of Parole and Probation; and)
CATHERINE CORTEZ MAESTO, as the)
NEVADA ATTORNEY GENERAL,)
DOES 1-10 and DOES X-XX)
DOE CORPORATIONS X - XX,)
inclusive,)

COMPLAINT

JURY DEMAND

1 Defendants.)
2)

3 COMES NOW the Plaintiff, PATRICK STEPHEN DAVIS, in proper person and on his
4 own behalf, and seeks redress for his claims for relief against Defendants, and each of them,
5 individually and in their official capacities, jointly and severally, based upon knowledge,
6 information, and reasonable belief derived therefrom, allege, complain, and state as follows:

7 **JURISDICTION AND VENUE**

8 1. This Court has subject matter jurisdiction over the federal Constitutional violations
9 alleged in the Complaint pursuant to 28 U.S.C. § 1331 and 1343. This jurisdiction is pursuant to
10 Plaintiffs' causes of action arising under 42 U.S.C. § 1981; 42 U.S.C. § 1983; 42 U.S.C. § 1985;
11 42 U.S.C. § 1986; 42 U.S.C. § 1988; and due to the deprivation of rights, privileges and
12 immunities secured to PLAINTIFF under the First; Fourth; Fifth; Sixth; Eighth; and Fourteenth
13 Amendments to the United States Constitution.

14 2. This Court has supplemental jurisdiction over Plaintiffs' causes of action arising under
15 Nevada state law pursuant to 28 U.S.C. § 1367. This court has jurisdiction to issue injunctive
16 and declaratory relief pursuant to 28 U.S.C. § 2201 and 42 U.S.C. § 1983.

17 3. Venue lies in the Northern Division of the United States District Court for the District
18 of Nevada pursuant to 28 U.S.C. § 1391(a)(1) and 28 U.S.C. § 1391(b)(2). The causes of action
19 alleged herein arise from factual allegations occurring in this judicial district. One or more of the
20 Defendants is a political subdivision of the State of Nevada, and the underlying acts, omissions,
21 events, injuries and related facts upon which the present action is based occurred in Carson City,
22 Nevada and Washoe County, Nevada.

23 4. On information and belief, it is alleged that each of the named Defendants reside and
24 work in this judicial district, and Plaintiff resides in this judicial district.

25 **PARTIES**

26 5. Plaintiff PATRICK STEPHEN DAVIS, (hereinafter "DAVIS" or "PLAINTIFF"), is
27 and at all times herein mentioned a United States citizen and a resident of the District of Nevada.
28

1 6. On information and belief, Defendant NEVADA BOARD OF PAROLE
2 COMMISSIONERS, (hereinafter, “NBPC”), is a governmental entity organized and existing
3 under the laws of the State of Nevada, and is a political entity of the State of Nevada.

4 7. On information and belief, Defendant NEVADA DEPARTMENT OF PUBLIC
5 SAFETY, (hereinafter, “NDPS”), is a governmental entity organized and existing under the
6 laws of the State of Nevada, and is a political entity of the State of Nevada.

7 8. On information and belief, Defendant NEVADA DIVISION OF PAROLE AND
8 PROBATION, (hereinafter “NDPP”), is a governmental entity organized and existing under the
9 laws of the State of Nevada, and is a political entity of the State of Nevada.

10 9. On information and belief, at all times, Defendant NEVADA BOARD OF PAROLE
11 COMMISSIONERS possessed the power and authority to adopt policies and prescribe rules,
12 regulations, and practices affecting all facets of the training, supervision, control, employment,
13 assignment and removal of individual members of the Nevada Division of Parole and Probation. In this case, Defendant NEVADA BOARD OF PAROLE COMMISSIONERS acted through
14 agents, employees, and servants, including its policymakers, and through its Chairman, CONNIE
15 BISBEE

16 10. On information and belief, at all times, Defendant NEVADA DEPARTMENT OF
17 PUBLIC SAFETY possessed the power and authority to adopt policies and prescribe rules,
18 regulations, and practices affecting all facets of the training, supervision, control, employment,
19 assignment and removal of individual members of the Nevada Department of Public Safety. In
20 this case, Defendant NEVADA DEPARTMENT OF PUBLIC SAFETY acted through agents,
21 employees, and servants, including its policymakers, and through its Director JAMES WRIGHT.

22 11. On information and belief, at all times, Defendant NEVADA DIVISION OF
23 PAROLE AND PROBATION possessed the power and authority to adopt policies and prescribe
24 rules, regulations, and practices affecting all facets of the training, supervision, control,
25 employment, assignment and removal of individual members of the Nevada Division of Parole
26 and Probation. In this case, Defendant NEVADA DIVISION OF PAROLE AND PROBATION
27 acted through agents, employees, and servants, including its policymakers, and through its Chief
28 BERNARD CURTIS.

 12. On information and belief, Defendant CONNIE BISBEE, (hereinafter “BISBEE”),
was at all times relevant to this action as the Chairman of NBPC. She is sued in both her

1 individual and official capacity. She is a United States citizen and a resident of the District of
2 Nevada.

3 13. On information and belief, Defendant JAMES WRIGHT, (hereinafter “WRIGHT”),
4 was at all times relevant to this action as the Director of NDPS. He is sued in both his individual
5 and official capacities. He is a United States citizen and a resident of the District of Nevada.

6 14. On information and belief, Defendant JAMES SACKETT, (hereinafter
7 “SACKETT”), was at all times relevant to this action as an officer employed by NDPS. He is
8 sued in both his individual and official capacities. He is a United States citizen and a resident of
9 the District of Nevada.

10 15. On information and belief, Defendant BERNARD CURTIS, (hereinafter “CURTIS”),
11 was at all times relevant to this action as the Chief of NDPP. He is sued in both his individual
12 and official capacity. He is a United States citizen and a resident of the District of Nevada.

13 16. On information and belief, Defendant CLAUDIA STEIBER, (hereinafter
14 “STEIBER”), was at all times relevant to this action as a Captain of NDPP. She is sued in both
15 her individual and official capacity. She is a United States citizen and a resident of the District
16 of Nevada.

17 17. On information and belief, Defendant RACHEL WOOD, (hereinafter “WOOD”), was
18 at all times relevant to this action as a Lieutenant of NDPP. She is sued in both her individual
19 and official capacity. She is a United States citizen and a resident of the District of Nevada.

20 18. On information and belief, Defendant CURTIS COLE, (hereinafter “COLE”), was at
21 all times relevant to this action as a Sergeant of NDPP. He is sued in both his individual and
22 official capacity. He is a United States citizen and a resident of the District of Nevada.

23 19. On information and belief, Defendant AARON EVANS, (hereinafter “EVANS”), was
24 at all times relevant to this action as an Officer of NDPP. He is sued in both his individual and
25 official capacity. He is a United States citizen and a resident of the District of Nevada.

26 20. On information and belief, Defendant JAMES GOTHAN, (hereinafter “GOTHAN”),
27 was at all times relevant to this action as an Officer of NDPP. He is sued in both his individual
28 and official capacity. He is a United States citizen and a resident of the District of Nevada.

29 21. DOES 1–10 are fictitious names for employees, agents and/or servants of NEVADA
30 DEPARTMENT OF PUBLIC SAFETY, and DOES X - XX are fictitious names for employees,
31 agents, and/or servants of NEVADA DIVISION OF PAROLE AND PROBATION.

1 PLAINTIFF is ignorant of the true names and capacities of defendants sued herein as DOES, and
2 therefore sue these defendants by such fictitious names. PLAINTIFF is informed, believes, and
3 thereon alleges that each of the fictitiously named defendants is legally responsible, either
4 intentionally, negligently, or in some other actionable manner, for the events and happenings
5 hereinafter referred to, and thereby legally caused the injuries, damages, and violations and/or
6 deprivation of rights hereinafter alleged. PLAINTIFF request leave of the Court to amend this
7 Complaint and insert the true names and capacities of said fictitiously named Defendants when
8 the same have been ascertained.

9 22. The reason why PLAINTIFF is ignorant of the true names and capacities of
10 Defendants herein sued as DOES is that the same have been unascertainable as of the date of
11 filing of this Complaint, due to the fact that these DOES may be state parole and probation
12 officers, sergeants, lieutenants, captains, commanders, deputy chiefs and/or civilian employee
13 agents, policy makers and representatives of NDPS or NDPP, or employees, agents, and/or
14 representatives of Defendants NEVADA DEPARTMENT OF PUBLIC SAFETY OR NEVADA
15 DIVISION OF PAROLE AND PROBATION and/or other state political entities. As such, many
16 records of these individuals are protected by state statutes and can only be ascertained through
17 the discovery process.

18 23. PLAINTIFF is informed, believes, and thereon alleges that all Defendants were the
19 agents, employees, and/or co-conspirators of the other Defendants, and each of them were acting
20 within the course and scope of their agency, employment, and/or concert of action, and are
21 vicariously liable, jointly and severally, for the actions, inactions, and/or omissions of themselves
22 and of the other Defendants, which proximately resulted in the physical, emotional, and future
23 damages to the PLAINTIFF as herein alleged.

24 **NATURE OF THE ACTION**

25 24. As alleged with greater clarity below, this is an action for monetary damages;
26 declaratory and injunctive relief brought pursuant to 42 U.S.C. § 1981, 1983, 1985, 1986 and
27 1988; violations of the First, Fourth, Fifth, Sixth, Eighth and Fourteenth Amendments to the
28 United States Constitution; violations of the Constitution of the State of Nevada; and violations
of the laws of the State of Nevada, against the named Defendants. These Defendants include the
Chairman of the Board of Parole Commissioners; the Director and Officers of the Nevada

1 Department of Public Safety; the Chief and Officers of the Nevada Division of Parole and
2 Probation; in their individual and official capacities, and is also a complaint against the State of
3 Nevada; the Nevada Attorney General; the Nevada Department of Public Safety; and the Nevada
4 Division of Parole and Probation.

5 **STATEMENT OF THE FACTS**

6 25. On or about December 30, 2003, PLAINTIFF was arrested by the Washoe County
7 Sheriff's Office, and charged with the crimes of Use of Internet to Lure a Child in Washoe
8 County, Nevada.

9 26. In February of 2004, PLAINTIFF voluntarily started a program of therapy with
10 Agape Psychological Services, a state approved therapist, which he has since completed and
11 graduated from in July of 2011.

12 27. On or about June 10, 2004, PLAINTIFF pleaded guilty for the crime of Use of
13 Technology to Lure Children and was sentenced by Jerome M. Polaha, District Judge of the 2nd
14 Judicial District in and for the County of Washoe to imprisonment in the Nevada State Prison
15 System for a term of 16 to 72 months. The Court suspended the sentence and placed
16 PLAINTIFF on 5 years' probation; and upon completion, was ordered to further serve the
17 mandatory civil "special sentence" of Lifetime Supervision.

18 28. PLAINTIFF was deemed a Level 1 Offender, a low risk to re-offend by the Nevada
19 Tier Level Rating Panel, on or about July 2004, and has maintained that rating to this day.

20 29. On or about May 6, 2008, PLAINTIFF honorably discharged his sentence of
21 probation and commenced his civil sentence of Lifetime Supervision.

22 30. On or about May 6, 2008, Jerome M. Polaha, District Judge of the 2nd Judicial
23 District in and for the County of Washoe ordered by law the return of all constitutional rights due
24 the PLAINTIFF except for those specifically identified and withheld by statute.

25 31. The Conditions of Lifetime Supervision were imposed on PLAINTIFF by Officer
26 Lewis of the Division, on or about April 6, 2008, without due process, and in violation of the
27 timelines outlined in NAC 213.290 as a coerced conditional waiver of his constitutional rights
28 under duress and threat of arrest by Officer Lewis.

1 32. The Board of Parole Commissioners formally imposed the Conditions of Lifetime
2 Supervision upon PLAINTIFF on or about October 8, 2008, without notice to PLAINTIFF,
3 without his presence, without counsel, without due process, and without any findings of fact.

4 33. The Conditions of Lifetime Supervision have never been promulgated into law as
5 ordered by the Nevada Legislature in 1995.

6 34. This order of the Nevada Legislature in 1995 was enumerated in NRS 213.1243, and
7 stated that the Board of Parole Commissioners “*shall* establish a program of lifetime supervision
8 of sex offenders to commence after any period of probation or any term of imprisonment and any
9 period of release on parole. The program *must* provide for the lifetime supervision of sex
10 offenders by parole and probation officers.”

11 35. On or about December 4, 2008, PLAINTIFF signed the new Agreement of Lifetime
12 Supervision Conditions imposed by the Nevada Board of Parole Commissioners under duress,
13 and threat of arrest by Officer Lewis, as a coerced conditional waiver of his constitutional rights.

14 36. On or about September 21, 2010, the Nevada Board of Parole Commissioners further
15 modified the Conditions of Lifetime Supervision on PLAINTIFF, as requested by Officer
16 Howald of the Nevada Division of Parole and Probation, with notice and presence, but without
17 due process, counsel, findings of fact, and upon unsworn testimony.

18 **COMMON ALLEGATIONS**

19 **(Prior History exhibiting a Pattern of Behavior)**

20 37. PLAINTIFF asserts, alleges and states that the Defendants showed a pattern of
21 behavior relating to violations of his constitutional rights, privileges and immunities under the
22 United States Constitution, the Nevada Constitution, and the laws protecting citizens listed in the
23 Nevada Revised Statutes.

24 38. PLAINTIFF asserts, alleges and states that the following documented examples
25 leading up to the polygraph exam performed on September 7, 2011 and his false arrest and
26 malicious prosecution and other violations after the polygraph exam were effectively
27 harassment, coercion, and conspiracy, illegal search and seizure, and denial of due process.
28 These actions were instigated and taken by the Officers notated who were employed by the
Nevada Division of Parole and Probation, and were performed with oppression under color of
law, fraud and malice in the violations of his constitutional rights, privileges and immunities

1 under the United States Constitution, the Nevada Constitution, and the laws protecting citizens
2 listed in the Nevada Revised Statutes. These actions and violations of rights and laws were
3 outside the scope of Defendants employment, policy and procedure and the Constitution and
4 were conducted with deliberate indifference.

5 **FIRST EXAMPLE**

6 39. In 2009, at 9:00 am, PLAINTIFF appeared in Carson City, NV, at the Stewart Indian
7 School site where the Nevada Division of Parole and Probation, and the Nevada Department of
8 Public Safety and various other State entities housed various offices of an official capacity,
9 including the polygraph exam room and area.

10 40. PLAINTIFF was ordered to make the drive to and from Carson City, NV from his
11 residence in Reno, NV, in his own vehicle, and upon his own costs. He entered the premises of
12 the polygraph exam room and area of the State of Nevada at approximately 9:00 am, and signed
13 in at the reception desk on the sign in sheet provided.

14 41. PLAINTIFF took a chair in the waiting area in the sign in area and patiently waited
15 for the exam to take place. In a short period of time, Detective Von Rumpf entered the room and
16 introduced himself to PLAINTIFF. Detective Von Rumpf interacted with PLAINTIFF about
17 having an attorney present on his behalf for the polygraph exam and Detective Von Rumpf stated
18 that an attorney would not be allowed to be present or interact in any way. PLAINTIFF stated
19 that he has a right to an attorney during questioning. Detective Von Rumpf left the area under
20 the pretense of setting up the test area and discussing him with his supervising officer, Defendant
21 EVANS.

22 42. Detective Von Rumpf returned to the waiting area and supplied PLAINTIFF with a
23 questionnaire and informed him that he had to answer all the questions on the sheet, sign and
24 date it, and then they both would review them. Detective Von Rumpf did not inform
25 PLAINTIFF that he had any rights associated with this questionnaire, or if he had to consent to
26 the questions asked. PLAINTIFF answered all of the questions on the questionnaire, and signed
27 it.

28 43. Detective Von Rumpf returned to the area to pick up the questionnaire and escorted
PLAINTIFF into the office area for the polygraph exam. He asked PLAINTIFF to remove all of
the items from his pockets and place them into a tray.

1 44. At some point in this sequence of events, Detective Von Rumpf asked PLAINTIFF if
2 he needed to use the restroom facilities and escorted him to the facilities to make use of them and
3 wash his hands. Detective Von Rumpf made a point of the fact that he wanted him to wash his
4 hands, even if he did not use the facilities. PLAINTIFF believes that this happened 3 times
5 during the course of the 6 hours that he patiently and calmly submitted to the polygraph exam.

6 45. At other times during this sequence, Detective Von Rumpf asked PLAINTIFF if he
7 wished a break, and escorted him outside the office and building to take a few minutes.
8 PLAINTIFF believes this happened 3 times during the course of the 6 hours that he patiently and
9 calmly submitted to the polygraph exam. At no time did Detective Von Rumpf offer
10 PLAINTIFF lunch or the ability to eat, or partake of any other beverage than water for the six
11 hours that he was present. He was not allowed to leave the proximity of the building where the
12 polygraph exam was being held, or to retrieve any food or beverage from his vehicle located in
13 the parking area adjacent to the building.

14 46. After a break and answering the questions on the questionnaire, Detective Von
15 Rumpf reviewed the answers that PLAINTIFF supplied on a line by line basis. During the course
16 of this review, Detective Von Rumpf asked the PLAINTIFF if he knew why he was there and if
17 he believed that he would be non-biased toward PLAINTIFF.

18 47. PLAINTIFF asked Detective Von Rumpf if this test was performed in collaboration
19 with his therapist, and if they had discussed any questions that might be asked of PLAINTIFF.
20 Detective Von Rumpf informed PLAINTIFF that this polygraph exam was not related to any
21 therapeutic purpose and that the Defendants had not discussed any issues or questions related to
22 the polygraph exam with his therapist. PLAINTIFF's therapist at the time was Dr. Robert
23 Hemenway of Agape Psychological Services, a state approved offender therapist.

24 48. PLAINTIFF discussed this issue with Detective Von Rumpf and was told that this
25 polygraph exam was to be conducted on him for compliance with his conditions, and was a
26 general polygraph exam to check for truthfulness.

27 49. After these discussions, Detective Von Rumpf discussed how the polygraph worked,
28 and identified all the components and where he would place them upon PLAINTIFF's person.
He asked PLAINTIFF if he understood this, and PLAINTIFF replied that he did.

1 50. Detective Von Rumpf supplied PLAINTIFF with a consent form for him to sign and
2 informed him of his 5th Amendment right to not answer any questions, which was documented
3 on the consent form, and PLAINTIFF signed the form

4 51. Detective Von Rumpf asked PLAINTIFF if he was ready to be “hooked up” to the
5 machine to become acclimated to it while he discussed the issue of polygraph exam ethics and
6 how he would conduct the test. He agreed and was “hooked up” to the equipment by Detective
7 Von Rumpf.

8 52. Detective Von Rumpf informed PLAINTIFF that he was ethically bound to conduct
9 the test in a certain way, and he asked PLAINTIFF if he believed that. Detective Von Rumpf
10 informed PLAINTIFF that he would ask 10 questions relating to the PLAINTIFF and gave some
11 examples.

12 53. Detective Von Rumpf informed PLAINTIFF that he would review the 10 questions
13 with him, and go through them one by one, and that he could ask them a number of times during
14 the test, in any order that he might choose to do so, and if PLAINTIFF understood this. He
15 agreed that he understood the issues presented by Detective Von Rumpf and agreed to continue
16 with the 10 questions that would be reviewed with him and then asked of him.

17 54. PLAINTIFF and Detective Von Rumpf reviewed the 10 questions that would be
18 asked of him. Detective Von Rumpf asked him during this review how he would answer the
19 questions, and he responded to each review question as to how he would answer that question if
20 asked of him. At the end of the review period of the ten questions, Detective Von Rumpf asked
21 PLAINTIFF if he understood the questions and if he was ready to proceed to the actual test.

22 55. PLAINTIFF replied that he understood the 10 questions and that he was ready to
23 proceed and submit to the polygraph exam. He did so and answered all of the questions asked of
24 him.

25 56. Officer Lewis was present during the entire time that the PLAINTIFF was on the
26 premises of the Stewart Indian School, an official office of the Nevada Division of Parole and
27 Probation, and the Nevada Department of Public Safety. Officer Lewis watched the entire
28 interaction between Defendant Von Rumpf and PLAINTIFF on video, and listened to the entire
interaction on audio, which was also recorded. Officer Lewis witnessed any and all interactions
between Detective Von Rumpf and PLAINTIFF and was aware of all forms signed and their
content.

1 57. PALINTIFF was informed that he failed the polygraph exam and was not truthful on
2 one of the questions. During a discussion with Detective Von Rumpf and Officer Lewis, he was
3 told that he was being defensive in his assertion that he had not lied, and was not being
4 deceptive, and that he had committed no new crimes or violations of his conditions of Lifetime
5 Supervision. At that point, Officer Lewis made PLAINTIFF call his therapist, Dr. Robert
6 Hemenway of Agape Psychological Services and schedule an immediate appointment to discuss
7 this issue. PLAINTIFF did so, and was sent home.

8 58. Due to Detective Von Rumpf stating that PLAINTIFF had failed the polygraph exam
9 and was being deceptive, he started to research the polygraph exam by reading books at the
10 library and having his wife download articles from the internet. He also started researching case
11 law as it related to the polygraph at the Law Library. At that time, he was unaware of the
12 legality of the polygraph exam, and his constitutional rights, immunities and privileges. In order
13 to not be arrested and be compliant with this condition, he just did as he was told to do by
14 Detective Von Rumpf and Officer Lewis. His research and awareness of his rights concerning
15 the polygraph exam as performed by Defendants is notated further in the Complaint as a Cause
16 of Action upon the second polygraph exam that he was ordered to undergo.

17 **SECOND EXAMPLE**

18 59. PLAINTIFF's family provided a letter to the Nevada Division of Parole and
19 Probation documenting the first home visit of Officer Howald to his residence in April or May of
20 2010. This letter was sent on August 6, 2010, and also included some other statements,
21 documentation and concerns which are shown as further examples. This shows how Officer
22 Howald and Officer Avilla performed their visit with intimidation and harassment.

23 60. Officer Howald's first visit to our home was quite different than those of the previous
24 officers. At some point after she entered our home and introduced herself; Officer Howald came
25 up the stairs to order PLAINTIFF's wife and his daughter to follow her down to the living room
26 to join PLAINTIFF. While walking down the stairs Officer Howald began questioning his wife
27 in regards to his wife's feelings towards PLAINTIFF and his crime. Officer Howald stated
28 "'what's your take on this?" PLAINTIFF's wife believed that she responded appropriately to
her question in saying that she didn't understand what Officer Howald meant. Officer Howald
asked a very broad, generalized, open ended question left open to PLAINTIFF's wife's

1 interpretation. Did Officer Howald mean her take on parole and probation, her being a new
2 officer or what? Her initial response was that of confusion but soon became one of intimidation.

3 61. Officer Howald proceeded to ask PLAINTIFF's wife questions that she believed to be
4 of a personal nature and should be shared in confidence only with her therapist, family or even a
5 close friend but certainly not a probation officer. Officer Howald asked her why she was still
6 with her husband and did she understand his crime. PLAINTIFF's wife attempted to answer her
7 question but felt extremely uncomfortable discussing feelings that were of a personal and private
8 nature. PLAINTIFF's wife did not believe that her choice to forgive her husband and continue
9 to love and support him; are the concerns of the parole and probation department. They are
10 personal and private and between her, her husband and her God. PLAINTIFF's wife had
11 discussed this with her therapist, both with and without her husband's presence and strongly
12 believed that a unified family was his best chance of success. She had no idea what type of
13 psychological or therapeutic background Officer Howald has, however, based on PLAINTIFF's
14 wife's psychological education and her therapeutic counseling that she had personally received,
15 she felt that Officer Howald's questioning was inappropriate and unwarranted.

16 62. Officer Howald and Officer Avilla continued this awkward line of questioning and
17 PLAINTIFF's wife continued to feel uncomfortable and intimidated. She attempted to voice this
18 concern, but was abruptly told that she was being defensive and was allowed no opportunity to
19 explain her responses without continually being told that she was defensive.

20 63. PLAINTIFF's wife tried at one point during this first visit, in replying to a question
21 about being asked what concerned her the most and she attempted to share this with Officer
22 Avilla. She advised Officer Avilla that she understood that officers will continue to change
23 throughout her husband's probation and life time supervision period but that what she did not
24 understand was their lack of communication and record keeping. She told Officer Avilla that
25 this was what really frustrated her. At that point, Officer Avilla actually acknowledged that
26 frustration and they had a discussion about it that included an analogy that she made within her
27 own profession. She likened this situation to that of a patient that she was about to see for the
28 first time without first reviewing his chart and familiarizing herself with that patient's medical
background, medications, etc. She explained that to be a good medical practitioner it was her
responsibility to review any previous practitioners notes which might include their assessments,
medication changes, etc. Officer Avilla agreed with her but said that they have a large

1 probationary load of around 60 clients each, and that it was a burden. PLAINTIFF's wife
2 acknowledged that and informed her that she had 4000 combined patients in her office.

3 64. PLAINTIFF's wife believed that at some point during that first visit that she also
4 voiced her frustration regarding the impossibility of following rules that are only privy to the
5 probation officer or loosely interpreted by an individual officer. This can only set one up for
6 failure unless the interpretation of these rules by the Officer was disclosed. She recalled advising
7 the officers that she felt there was a great deal of missing documentation in her husband's file
8 such as his being able to consume a reasonable amount of alcohol, even though he rarely drinks.
9 Officer Howald told her that according to her paperwork PLAINTIFF was not allowed to drink
10 and refused to allow him to provide his signed copy of the rules previously provided by life time
11 supervision. Officer Howald seemed convinced that PLAINTIFF had been drinking and
12 demanded that he do a 'pee test' for her before she and Officer Avilla could leave the home.
13 This took over an hour and a half and the Officers continually commented that this was unusual
14 that he couldn't urinate. As a medical practitioner, PLAINTIFF's wife did not find this at all
15 unusual and she has waited hours for patients to urinate. In addition, she was not sure what the
16 'pee test' had to do with the concern over her husband's consumption of alcohol since to the best
17 of her knowledge as a medical practitioner; alcohol levels are checked with breathalyzers and
18 serum levels, serum levels being the most accurate.

19 65. At the end of Officer Howald's lengthy visit PLAINTIFF's wife specifically asked
20 Officer Howald what she needed from her and the PLAINTIFF regarding the business/leisure
21 trip to Maui that the family was planning. She explained to Officer Howald what the family had
22 done in the past and Officer Howald stated that she probably would give PLAINTIFF his travel
23 pass providing nothing occurred prior to that time. Officer Howald then told me to book the
24 family's tickets, reservations for her conference, hotel, etc. She added that his wife could contact
25 her if she needed to regarding this. Shortly after this; PLAINTIFF was able to urinate and both
26 Officers left. At that time she felt some resolution and a softening of her initial response of
27 intimidation by Officer Howald and believed Officer Avilla would actually revise the
28 documentation in her husband's file to include previous changes.

66. As is her practice, on June 1, 2010, PLAINTIFF's wife followed up on this by asking
for a written response to her request prior to booking any of the above tickets and reservations.
She never did receive a response, and at her husband's next life time supervision visit to Officer

1 Howald's office, she told him that she was not going to give PLAINTIFF's wife anything in
2 writing and that 'this' was his responsibility. PLAINTIFF's wife knew that her husband had
3 turned in the appropriate paperwork on his behalf as he is expected to do, however, this was a
4 confirmation and a request from her, as Officer Howald told her she could do.

5 67. PLAINTIFF's wife stated that at no time in the last 6 ½ years, did any other probation
6 officer do anything that she felt was an infringement upon her personal rights. Officers Ramos,
7 Lewis, and Flores were all very professional and cordial with any of their requests. She was
8 asked on various occasions to turn on her computer for them and once the Officer saw that it was
9 password protected they went on their way conducting the remainder of their visit. She had no
10 problems allowing the Officer to do their usual visual check of the residence, or any search of
11 her personal areas as the Officer was always courteous and respectful, and followed Policy and
12 Procedure. For the most part, she found all of the previous Officers to be pleasant, while being
13 appropriate and direct in their questioning as well as allowing her to respond freely to their
14 questions and requests. She had to admit that she did not feel this way about Officer Howald.
15 The style of communication that Officer Howald used had left her feeling intimidated and
16 degraded despite the fact that she had personally committed no crimes.
17 PLAINTIFF's wife stated that she would like to take the liberty to speak for the family in saying
18 that the family was very appreciative of the respect and professionalism that we had been shown
19 as a family prior to the last 4+ months. The family was always informed of changes and
20 concerns regarding PLAINTIFF's probation and life time supervision rules in a relatively timely
21 manner.

22 68. PLAINTIFF's wife did specifically state one outstanding concern that she had
23 regarding her husband's request to Officer Lewis for additional information about the Watch
24 Dog program. The family had decided together that this could possibly benefit us as well as his
25 probation officer as it was briefly explained to her as a way to allow her husband to use the
26 internet and track his use. It seemed like a reasonable request to her but the paperwork in
27 question was never provided to the family so that matter was apparently dropped until she
28 brought it to Officer Howald's attention at her first visit to our home. Officer Howald did
acknowledge her request for the Watch Dog program and there was a brief discussion about it,
however, the outcome of that discussion was never made clear to her and to this point in time,
she had received nothing. To the best of her knowledge the current situation with her computer

1 had remained status quo, which she understood to mean that her password protected computer
2 was permitted to remain right where it was, in her office.

3 **THIRD EXAMPLE**

4 69. On or about June 29, 2010 Officer Howald of the Nevada Division of Parole and
5 Probation had PLAINTIFF sign a form that was a change instituted by her and the Division to
6 one of his conditions of Lifetime Supervision. Officer Howald also had PLAINTIFF sign a form
7 that waived his right to appear at a hearing held by the Nevada Board of Parole Commissioners
8 regarding this requested change by her and the Nevada Division of Parole and Probation to one
9 of his conditions of Lifetime Supervision

10 70. PLAINTIFF signed both of these forms under duress due to the threat of a denial of a
11 travel pass, and threat of arrest by Officer Howald. She withheld the pass until he had signed
12 both of the forms in front of her. He was picking up his approved travel pass to take a vacation
13 to Hawaii with his family that had been approved by the Nevada Division of Parole and
14 Probation for a period of at least 4 months.

15 71. Upon returning from vacation with his family, PLAINTIFF appealed to the Board and
16 stated that Officer Howald and Sergeant Diek, and the Nevada Division of Parole and Probation
17 have usurped the authority of the Nevada Board of Parole Commissioners by not following
18 proper Policy and Procedure or the Nevada Revised Statutes. He rescinded his waiver of appeal
19 and documented that in a letter to the Board dated August 26, 2010.

20 72. PLAINTIFF asserted that this had been done by having him sign this requested
21 change to his conditions of Lifetime Supervision, and by having him waive his right to appear at
22 a hearing for this requested change to his conditions of Lifetime Supervision, and furthermore by
23 enforcing this requested change as of June 29, 2010, without the Board's knowledge or approval.

24 73. The request to the Board to change this condition of Lifetime Supervision upon
25 PLAINTIFF was dated June 9, 2010, was not presented to PLAINTIFF until June 29, 2010, and
26 was not presented to the Board until August 25, 2010, 77 days later, and a hearing was not held
27 by the Board until September 21, 2010.

28 74. PLAINTIFF filed a formal complaint with the Office of Professional Responsibility,
the Investigative Division of the Nevada Department of Public Safety and asserted and alleged
that Officer Howald, Sergeant Diek, and the Nevada Division of Parole and Probation violated
the Laws of the State of Nevada as **only** the Nevada Board of Parole Commissioners has the

1 authority to change and assign the rules. This is “*by virtue of the authority vested in it by the*
2 *laws of the State of Nevada, and hereby assigns..*,” and “*The Board of Parole Commissioners*
3 *has the power, at any time, to modify the conditions of supervision.*”

4 75. According to a representative of the Board, in 3 telephone conversations in regard to
5 this requested change, the proper procedure is for the Division to request a change to the rules
6 and forward a copy to the Board. At that time, the Board will notify the offender and request
7 their presence at a public hearing at a date determined by the Board to testify on their own
8 behalf. The offender has the option of appearing or waiving his right to appear at that time as
9 requested by the Board. After the hearing, where all appropriate documentation can be presented
10 by both sides, a determination is made by the Board and an Action is drafted and approved of the
11 outcome of this determination. At that time the Board will send a notice of Action to the
12 offender and the Division. This is done in accordance with the Laws of the State of Nevada and
13 in writing so that the Offender is notified of this proposed change of conditions.

14 76. PLAINTIFF was informed by the representative of the Board that as of that time, the
15 request for rule change was not binding nor had it been approved by the Board. PLAINTIFF
16 informed the Board that he had been told that he had to abide by this request for change as
17 interpreted and enforced by his supervising officer, Officer Howald, and Sergeant Diek. The
18 Board verified this information in a letter dated August 10, 2010 to PLAINTIFF.

19 77. PLAINTIFF stated that he was doing so under duress as he felt that he was coerced
20 into signing this agreement. In so doing, he hoped to avoid any situation that would entail his
21 being charged with a new crime as the rule is interpreted by these Officers.

22 78. PLAINTIFF stated that none of these Policy and Procedures had been followed or
23 performed by Officer Howald, Sergeant Diek, Defendant Lieutenant WOOD, and Defendant
24 Captain STEIBER in relation to him or had been done by the Division as of August 25, 2010.

25 79. PLAINTIFF stated in his formal complaint that since the Division works closely with
26 the Board in many instances; so it would stand to reason that the Division’s employees would be
27 aware of the Policy and Procedure and trained in the appropriate method as defined by the Board
28 in relation to items submitted for their decisions. According to the mission statement issued by
the Nevada Department of Public Safety-Division of Parole and Probation, “*we are dedicated to*
the highest standard of training for our employees.”

1 80. PLAINTIFF stated in his formal complaint that this was harassment, coercion, and
2 conspiracy to change the conditions of Lifetime Supervision without obtaining the Board's
3 authority, approval or knowledge. He also stated that Officer Howald, Sergeant Diek, and the
4 Nevada Division of Parole and Probation has shown a professional disregard and lack of
5 integrity for the authority vested in The Nevada Board of Parole Commissioners as evidenced by
6 their actions in this matter.

7 81. According to the Office of Professional Responsibility, the Investigative Division of
8 the Nevada Department of Public Safety, that they "*consider the professional conduct of its
9 officers to be paramount.*"

10 82. The Department of Public Safety's mission statement states that they will keep the
11 public trust by "*upholding the constitution and laws of the United States and the State of Nevada
12 with the utmost integrity, honesty, and fairness.*"

13 83. PLAINTIFF appeared with his family at a Nevada Board of Parole Commissioners
14 hearing held on or about September 21, 2010. This hearing was held in response to a request to
15 change of conditions by Officer Howald, Sergeant Diek, and the Nevada Division of Parole and
16 Probation where he presented the following information.

17 84. PLAINTIFF stated that that the normalcy of the family of an offender is paramount to
18 the support and rehabilitation of the offender. This has been verified and statistically reinforced
19 in various studies, and it is a belief held by our family therapist, Dr. Robert Hemenway of Agape
20 Psychological Services.

21 85. In the primary mission statement of the Department of Public Safety-Division of
22 Parole and Probation, it states that the Division accomplishes its mission by "*encouraging and
23 supporting the offender's positive efforts to become a productive, law-abiding citizen.*" It also
24 further states that "*We respond to the needs of the families of offenders during times of
25 adjustment in order to aid them in their supporting role for the offender.*"

26 86. PLAINTIFF stated that by enacting this rule change, it would appear to him and his
27 family to be doing just the opposite. He stated that a condition which has been in place for over
28 2 years, Rule #18 of the Rules of Lifetime Supervision had been faithfully followed by him and
his family. This same exact rule had also been followed for the 3½ years that he had been on
probation while being supervised by the Division. He stated that in any instance of occurrence,

1 he had either been in the presence of an adult while being in a *secluded environment*, or he had
2 removed himself from the location.

3 87. In order for the Court to understand this issue; PLAINTIFF documents this condition
4 of his Lifetime Supervision Agreement which states: Rule 18: No Contact with Persons under 18
5 years of Age: You shall not have contact with a person less than 18 years of age in a *secluded*
6 *environment* unless another adult who has never been convicted of an offense listed in NRS
7 179D.410 is present.

8 88. Officer Howald, Sergeant Diek and the NDPP wished to change this condition to also
9 include the approval of the supervising officer in each and every instance of contact.

10 89. PLAINTIFF asserted that by choosing to define a time of adjustment, in this case, a
11 new family member, that he hoped the Honorable Board concurred with his family to be a
12 reasonable definition or interpretation. The new family member was the arrival of his first
13 grandchild, a girl who was five months old at the time of the hearing.

14 90. PLAINTIFF stated that a change to rule #18 would negatively impact and affect his
15 family by extremely limiting the ability of his children and his wife to maintain the normalcy of
16 familial relationships in a home, in a *secluded environment* or a public environment.

17 91. PLAINTIFF stated that typically there were between 1 and 5 adults present in every
18 instance of his being in the presence of his granddaughter. Every adult present during these
19 instances was fully aware of the nature of his crime.

20 92. PLAINTIFF stated to the Board that if you looked at his previous probation
21 conditions, that they would note that he was allowed to be in the presence of his daughter, or his
22 own children, while they were under the age of 18, without having another adult present.

23 93. PLAINTIFF stated that even though he was not asking for this condition to be in
24 effect with his granddaughter, he asserted that he was certainly of the belief that by following
25 rule #18 as he and his family had for the first two months of her life, that it was definitely
26 appropriate to the situation and should not be changed as requested by Officer Howald and the
27 Nevada Division of Parole and Probation. He stated that this was overbroad, and not the least
28 restrictive means of accomplishing this task.

94. PLAINTIFF stated that since June 29, 2010, he had only seen his granddaughter
twice and was told by Officer Howald and Sergeant Diek that it was not appropriate in the
following two examples.

1 95. At an office visit with Officer Howald, PLAINTIFF discussed attending a dinner with
2 his family at a local restaurant. He was told by Officer Howald and Sergeant Diek that he should
3 have notified them he was going to dinner with his family, as there was a child present, and since
4 he did not, he was in non-compliance of the condition. This was a further unwritten and
5 unknown “interpretation” of the condition by Officer Howald, Sergeant Diek, and the Nevada
6 Division of Parole and Probation which had been placed on PLAINTIFF.

7 96. PLAINTIFF asked how that was possible, as he was in a public place, not a *secluded*
8 *environment*, and he was in the presence of an adult who was aware of his crime, as the condition
9 states. Since he was actually in a public place, he felt that it was permissible for him to be there
10 under any circumstances as it was not a *secluded environment*.

11 97. PLAINTIFF was told by Officer Howald and Sergeant Diek that even with 5 adults
12 present, who were all aware of his crime, that being in a public place, in a restaurant, surrounded
13 by other patrons and wait staff, that he would still have to notify his supervising officer in each
14 and every instance that he was in the presence of his granddaughter; as that is how his condition
15 was being interpreted by the Officers and the Nevada Division of Parole and Probation in regards
16 to a *secluded environment*.

17 98. PLAINTIFF asked of Officer Howald and Sergeant Diek, that if all adults present had
18 signed a duty to warn, which had been verified by the Division, would he still have to notify
19 them? The answer was **yes**, he would. He extrapolated on this interpretation, and further asked,
20 is there any place that he could be with his granddaughter, family, or anyone else under the age
21 of 18, with one or more adults present where he would not have to notify his supervising officer?

22 99. PLAINTIFF asserted that he realized that the Division and the Board have a
23 responsibility to protect the Public. However, he stated that as defined by Officer Howald,
24 Sergeant Diek, and the Nevada Division of Parole and Probation, that with this interpretation was
25 he even going to be allowed to leave his house while serving a civil sentence?

26 100. PLAINTIFF stated that he was allowed to see any other child in a *secluded*
27 *environment* with another adult present who was aware of his crime, and that it seemed to be
28 only his granddaughter that he was not allowed to see in any environment.

101. PLAINTIFF asserts that this denial of his rights to see his granddaughter harmed
him and lends credence to the Officers of the Nevada Division of Parole and Probation
performing harassment, coercion, and conspiracy, while violating his constitutional rights,

1 immunities, and privileges, and the fact that Officer Howald, Sergeant Diek, and the Division
2 had enforced the change of condition before the Board had granted approval for the Division to
3 do so.

4 102. PLAINTIFF stated that he respectfully asked the learned members of the Nevada
5 Board of Parole Commissioners to define a *secluded environment* for him and his family at this
6 hearing.

7 103. PLAINTIFF stated that in order for him to abide by this rule, whether changed or
8 not, he needed to have a definition in writing as determined by the Board. This would protect the
9 Board, his family, him, the Officers in the Division, and other people on Lifetime Supervision,
10 and their families, while also protecting the public.

11 104. PLAINTIFF stated that the Board asked a few questions of Sergeant Helgerman of
12 the Nevada Division of Parole and Probation concerning a definition about a *secluded*
13 *environment* and Sergeant Helgerman offered the Board the Webster's Dictionary definition. He
14 states that the Board seemed a little perplexed about providing a definition of a *secluded*
15 *environment* and stated that they were not sure that they had the authority to do that.

16 105. PLAINTIFF told the Board that they stated that they have the authority to impose
17 this condition, and he stated that should allow them the authority to define the condition. The
18 Nevada Board of Parole Commissioners declined to define a *secluded environment* at that time.

19 106. PLAINTIFF stated that he wrote a letter to the Nevada Board of Parole
20 Commissioners on January 20, 2011, concerning the definition of a *secluded environment*. He
21 stated that if conditions are imposed with no legal definition or written policy and procedure that
22 a person of reasonable intelligence may understand, then the Board is failing in their obligation
23 to adequately protect the public, and define the law. He further stated that an offender, the
24 families of an offender and the general public have a need to clearly understand what a *secluded*
25 *environment* is. Otherwise any area or circumstance, in which an offender is in, could be
26 construed through an interpretation by an Officer of the Nevada Division of Parole and Probation
27 to be a *secluded environment*. This could even be an aisle way at Wal-Mart, where the offender
28 might be in, when a child under 18 entered the same aisle way. This would not be an intentional
contact, however, the offender could be held liable to a penalty that would be a criminal felony
for an issue that is not a crime in and of itself. This will cause expensive lawsuits, court cases,

1 violation hearings, and not promote the rehabilitation of the offender, which was supposed to be
2 the main goal of the Division and the Board at all times.

3 107. PLAINTIFF stated that according to the Nevada Legislature, the Board of Parole
4 Commissioners has the power to enact regulations and provide definitions. As a first step in that
5 process, the subject matter has to be introduced during an open public meeting. He stated that he
6 was instigating that initial first step, so that this issue may be thoroughly reviewed and defined
7 by the Board.

8 108. PLAINTIFF stated that he and his family would be happy to supply the Board with
9 many instances of actual, documented situations in which the Division has defined a *secluded*
10 *environment* for their review. He further stated that his family and many other families of
11 offenders serving the civil sentence of Lifetime Supervision would be willing to appear at a
12 further meeting to discuss these issues. He hoped that the Board of Parole Commissioners would
13 see the importance of addressing this issue.

14 109. PLAINTIFF stated that the Board has an obligation to define or clarify any situation
15 which will further the rehabilitation of the offender and protect the safety of the public. This
16 information should be in a clear, written format so that a person of reasonable intelligence can
17 understand to help in the rehabilitation of anyone on parole, probation, or lifetime supervision.

18 110. PLAINTIFF states that of the date of this complaint the Nevada Board of Parole
19 Commissioners has never replied to the letter or offered as an agenda item at an open public
20 meeting of the Board to define a *secluded environment*.

21 111. PLAINTIFF filed a formal complaint concerning this issue with the Nevada
22 Department of Public Safety Office of Professional Responsibility concerning that assertions and
23 allegations previously stated in Example Number 1 on or about November 10, 2010.

24 112. PLAINTIFF asserted that these actions reflect a pattern of behavior and abuse of
25 process, that Officer Howald, Sergeant Diek and other Defendants were biased and prejudiced
26 against him, that they were retaliating for his advocacy; and that it was a violation of his
27 constitutional rights, immunities and privileges and was a violation of the Policy and Procedures
28 of the Nevada Division of Parole and Probation; and further that it was harassment, coercion, and
discovery and at trial.

FOURTH EXAMPLE

1 113. On or about August 1, 2010, the following events happened and were documented in
2 many letters to the Nevada Division of Parole and Probation, directed to the attention of Officer
3 Howald and Sergeant Diek, which was dated August 3, 2010.

4 114. PLAINTIFF stated that a search and seizure conducted at his residence was a
5 violation of his and his family's constitutional rights, immunities, and privileges and was a
6 violation of the Policy and Procedure of the Nevada Division of Parole and Probation; and
7 further that it was harassment, coercion, and conspiracy to harm him.

8 115. PLAINTIFF stated that there was a knock on the door, and he answered the door
9 immediately as he was only about 6 feet away, sitting on the couch in the living room. He
10 invited Officer Howald and Officer Avilla in, and they asked him to sit down on the couch.
11 Officer Howald then proceeded to go upstairs while Officer Avilla stayed with him and detained
12 him. Officer Avilla asked him how he was doing and they chit chatted for a moment until
13 Officer Howald came back down the stairs.

14 116. PLAINTIFF stated that Officer Howald told him to call his wife and obtain the
15 password for her personal password protected computer located in her office. No other Officer
16 at any time that he was under supervision had asked for this password from his wife to search her
17 computer. He informed Officer Howald that he did not think his wife would give this permission
18 to her and Officer Howald asked why not? He offered his opinion that his wife would not allow
19 that request mostly because she was not present and did not trust her. He offered to call his wife
20 and ask her to come home, or to have the Officers come back in a little while when his wife and
daughter would be home, as they were out shopping.

21 117. PLAINTIFF stated that at that time Officer Howald ordered him to call his wife and
22 ask for her permission and password to search her computer. He called his wife as ordered, the
23 first of 3 calls to his wife that afternoon.

24 118. PLAINTIFF stated that he explained the situation to his wife, and that his wife asked
25 him a couple of questions to which he responded. The first question was why Officer Howald
26 wanted the password and permission to search her personal password protected computer, and
27 the second was what her constitutional rights were as stated to us during a previous conversation
28 with one of our attorney's.

1 119. PLAINTIFF stated that his wife informed him that no, his wife would not give
2 permission for anyone to access the computer without her presence, and would not provide the
3 password, and he informed Officer Howald and Officer Avilla of that answer.

4 120. PLAINTIFF stated that at that point Officer Avilla spoke up and said that she heard
5 him tell his wife not to grant that permission and that she was going to document that in her
6 report that he was telling his wife how to answer the Officers. He attempted to reply at that time
7 what the reasons were for his wife's denial of her password and permission, but he was told that
8 he was being defensive and non-cooperative.

9 121. PLAINTIFF was then informed by Officer Howald that he needed to take his wife's
10 computer, along with his daughter's computer, and the internet routers out of the house. He was
11 also told that his wife would need to cancel her internet service, which was in her name. At that
12 time, Officer Howald and Officer Avilla left the residence.

13 122. PLAINTIFF called his wife and informed her of the Officers latest decision
14 regarding the computer situation. He and his wife talked briefly about what they would do
15 without a computer, how they would pay their bills, research their legal issues, conduct their
16 business, and how their daughter would do her college school work. After hanging up, he went
17 into the garage, grabbed two empty plastic containers, and took them upstairs to package the
18 computers up to get them out of the house as ordered to do so by Officer Howald.

19 123. PLAINTIFF stated that he had just started to take apart all of the wiring and
20 connections when there was another knock on the door. He went downstairs, answered the door
21 and saw that it was Officer Howald and she informed him that Sergeant Diek was trying to
22 contact him and to answer his phone. He responded that it was upstairs in the master bedroom
23 and that he must have missed the call when he was in the garage or answering the door.
24 PLAINTIFF stated that Officer Howald proceeded to follow him upstairs so that he could obtain
25 his phone when she received a call from Sergeant Diek. Officer Howald told Sergeant Diek that
26 he was there, that he was in the process of getting his phone, and Officer Howald asked Sergeant
27 Diek to call him back on his phone, and that he would answer.

28 124. PLAINTIFF stated that he and Officer Howald proceeded to obtain his phone from
the master bedroom and then went into the office where he sat down on the couch and answered
the call from Sergeant Diek. Upon answering the phone the Sergeant identified himself as
Sergeant Diek. Sergeant Diek explained their concern over his wife not supplying her password

1 and permission to search his wife's computer, and he responded about why she made that
2 decision. Sergeant Diek chatted with him and presented an analogy, and he responded that he
3 understood but did not think it was the same situation, and that he thought it was unconstitutional
4 for them to search his wife's password protected computer that was in her office. He stated that
5 she was a medical practitioner and that she used the computer for her work, and that it contained
6 patient files and information, along with school work for his daughter, who was in college.

7 125. PLAINTIFF was then informed by Sergeant Diek that his wife's computer was
8 going to be seized, and forensically examined by bypassing her password. He responded by
9 stating his awareness of that seizure and that he did not think that was appropriate or
10 constitutional. He did not consent to the seizure, and he only submitted to the seizure as ordered
11 to do so by Officer Howald, Officer Avilla and Sergeant Diek.

12 126. PLAINTIFF stated that at that time Officer Avilla took him downstairs where she
13 asked him to sit on the couch and again detained him while Officer Howald seized the computer
14 and generated a receipt. During this time, Officer Howald also went into his daughter's
15 bedroom, turned on her computer, saw that it was also password protected and verified that it
16 was connected to the routers. He witnessed this as a verbal exchange between Officer Howald
17 and Officer Avilla.

18 127. PLAINTIFF stated that he and Officer Avilla continued to chat while Officer
19 Howald finished upstairs. The conversation revolved around the issue of why the Officers
20 thought he had denied them access, which he did not do, his wife did. He informed Officer
21 Avilla that it was a decision from his wife on the advice of an attorney that he and his wife were
22 currently consulting. Officer Avilla asked him who the attorney was, and he informed Officer
23 Avilla that he had a number of them as they were currently involved in a number of cases. He
24 did offer the name of one attorney who they had consulted with. And he further informed
25 Officer Avilla that he was involved with the ACLU in the current case against the State
26 concerning the Adam Walsh Act, and was part of a class action lawsuit regarding lifetime
27 supervision, but that it was currently on hold due to the appeal of the Federal Decision against
28 the State in the Adam Walsh Act.

128. PLAINTIFF stated that during this time period, Officer Howald came downstairs
and set the computer down on the speaker that was next to Officer Avilla. They discussed the
receipt that they were supplying to him, and the fact that they needed 3 copies. While they were

1 generating these, he and Officer Avilla continued to chat about these subjects, including why
2 everyone needed to follow the law, even the Officers.

3 129. PLAINTIFF stated that after this conversation, he signed all of the 3 copies and was
4 given the receipt, and was then told that he and his wife could keep his daughter's computer in
5 the house, along with the routers, and that he did not have to have his wife cancel her internet
6 service. At that time, Officer Howald and Officer Avilla left the residence.

7 130. PLAINTIFF stated that during this entire episode, at no time in his presence was any
8 attempt made to contact his wife or daughter to discuss the search or the seizure of his wife's
9 property, or the search of his daughter's property. The Officers did not ask him to call his wife
10 or ask for any permission, consent, or for anything else, except for the first phone call demanding
11 access to PLAINTIFF's wife's password for her personal password protected computer.

12 131. PLAINTIFF stated that at this time he called his wife for the 3rd time and informed
13 her that they took possession of her computer, that they had given him a receipt for it, and that
14 the Officers had allowed them to keep the routers and their daughter's computer in the residence.
15 His wife asked him if they could do this, and he replied that he did not think it was legal or
16 constitutional for the Officers and the Division to do so. He told her that they could continue the
17 conversation when his wife and daughter returned home and could discuss her options then.

18 132. PLAINTIFF's wife contacted an attorney, Mr. Lew Carnahan and asked him to
19 represent her, and he filed a letter to Officer Howald and Sergeant Diek requesting the return of
20 the computer to her. No action or response was forthcoming from the Division regarding her
21 request for the return of her password protected computer.

22 133. On or about November 12, 2010, PLAINTIFF's wife and daughter filed formal
23 complaints with the Office of Professional Responsibility, the Investigative Division of the
24 Department of Public Safety concerning the issues described above in Situation Number 2.

25 134. PLAINTIFF states that his wife and daughter are not part of this Complaint with him
26 jointly as Plaintiff's, however, he believes that he is permitted to offer these letters, formal
27 complaints and testimony from his wife, his daughter, and his son. He states that since they
28 happened in his residence and were performed by Defendants that he is allowed to show them as
exhibits to show prior behavior. On information and belief which was obtained at a later time,
PLAINTIFF asserts that the Defendants were stating that they could legally seize the computer
of his wife based on constructive possession by PLAINTIFF.

1 135. PLAINTIFF asserted that these actions reflect a pattern of behavior and abuse of
2 process, that Officer Howald, Officer Avilla, Sergeant Diek and other Defendants were biased
3 and prejudiced against him, that they were retaliating for his advocacy; and that it was a violation
4 of his constitutional rights, immunities and privileges and was a violation of the Policy and
5 Procedures of the Nevada Division of Parole and Probation; and further that it was harassment,
6 coercion, and conspiracy to harm him. He further asserts that he would be allowed to present
7 them in discovery and at trial.

8 **FIFTH EXAMPLE**

9 136. On or about the first week of September, during an office visit with Officer Howald,
10 PLAINTIFF requested the ability to go to the Nugget Rib Cook-off with his family, and to
11 include his granddaughter; as Officer Howald and Sergeant Diek ordered him to do.

12 137. PLAINTIFF stated and explained to Officer Howald that this was a public event,
13 held outdoors, that is was not a *secluded environment*, and that he would be in the presence of 5
14 adult members of his family, who were never convicted of a crime, and who were all aware of
15 his crime.

16 138. Officer Howald denied the request by PLAINTIFF to attend this event with his
17 family members as described above which included his granddaughter.

18 139. PLAINTIFF asked if he could attend this event with his wife and daughter only, and
19 was granted permission to do so. He discussed this issue with Officer Howald concerning the
20 fact that she would let him attend this event without his granddaughter, with no concern for the
21 public safety of any other child present, but that Officer Howald would not let him attend this
22 event with his granddaughter, who would be present with her parents, his son and daughter-in-
23 law, and his wife and daughter.

24 140. Officer Howald declined to give a reason why she was denying him the ability to
25 attend this event with his granddaughter, and stated that if she caught him there with his
26 granddaughter, that she would arrest him for a violation of his conditions of Lifetime
27 Supervision.

28 141. PLAINTIFF asserted that these actions reflect a pattern of behavior and abuse of
process, that Officer Howald, Sergeant Diek and other Defendants were biased and prejudiced
against him, that they were retaliating for his advocacy; and that it was a violation of his
constitutional rights, immunities and privileges and was a violation of the Policy and Procedures

1 of the Nevada Division of Parole and Probation; and further that it was harassment, coercion, and
2 conspiracy to harm him. He further asserts that he would be allowed to present them in
3 discovery and at trial

4 **SIXTH EXAMPLE**

5 142. On or about October 10, 2010, PLAINTIFF filed a formal complaint regarding the
6 following situation as described below with the Office of Professional Responsibility, the
7 Investigative Division of the Department of Public Safety.

8 143. PLAINTIFF stated that on or about September 22, 2010, in the afternoon, a home
9 visit was conducted by Officer Howald and Officer Pierrott of the Nevada Division of Parole and
10 Probation.

11 144. PLAINTIFF stated that Officer Howald immediately went upstairs by herself to
12 search the residence without the consent or presence of any other person except her. Officer
13 Howald searched in areas of the residence that belonged to a third party, and opened closets and
14 dressers drawers, jewelry containers and medicine cabinets alone and without consent.

15 145. PLAINTIFF stated that during the course of this visit Officer Pierrott asked him to
16 sit down on the couch in the living room for her personal safety, and to detain him while Officer
17 Howald conducted a search of the residence alone.

18 146. At this time, PLAINTIFF stated that Officer Pierrott asked to search and look in a
19 briefcase that was on the coffee table in front of the couch that he was sitting on and that he
20 carries legal papers in. He advised Officer Pierrott that this case contained legal papers,
21 protected under the attorney-client privilege and therapeutic papers, covered under the doctor-
22 patient privilege.

23 147. Officer Pierrott continued the search anyway, even after verifying that there was no
24 weapon present in the bag that could impact her personal safety. She continued searching the
25 papers therein, even to the point of separating and reading papers that were inside the case.

26 148. PLAINTIFF asserted that these actions reflect a pattern of behavior and abuse of
27 process, that Officer Howald, Officer Pierrott and other Defendants were biased and prejudiced
28 against him, that they were retaliating for his advocacy; and that it was a violation of his
constitutional rights, immunities and privileges and was a violation of the Policy and Procedures
of the Nevada Division of Parole and Probation; and further that it was harassment, coercion, and

1 conspiracy to harm him. He further asserts that he would be allowed to present them in
2 discovery and at trial

3 **SEVENTH EXAMPLE**

4 149. On or about November 18, 2010, PLAINTIFF filed a formal complaint with the
5 Office of Professional Responsibility, the Investigative Division of the Department of Public
6 Safety. This formal complaint was regarding harassment by Officer Howald and the Nevada
7 Division of Parole and Probation in relation to the previous situations that are described above.

8 150. PLAINTIFF asserted that these actions reflect a pattern of behavior and abuse of
9 process, that Officer Howald and other Defendants were biased and prejudiced against him, that
10 they were retaliating for his advocacy; and that it was a violation of his constitutional rights,
11 immunities and privileges and was a violation of the Policy and Procedures of the Nevada
12 Division of Parole and Probation; and further that it was harassment, coercion, and conspiracy to
13 harm him. He further asserts that he would be allowed to present them in discovery and at trial

14 **EIGHTH EXAMPLE**

15 151. On or about November 19, 2010, PLAINTIFF filed a formal complaint with the
16 Office of Professional Responsibility, the Investigative Division of the Department of Public
17 Safety. This formal complaint was regarding due process by Officer Howald and the Nevada
18 Division of Parole and Probation in relation to the previous situations that are described above.

19 152. PLAINTIFF stated that his complaint concerns an effort by Officer Howald to
20 further harass him and keep him from seeing his granddaughter with no reasonable cause for her
21 actions.

22 153. PLAINTIFF stated that Officer Howald again tried to deny him his rights to due
23 process and the ability to introduce evidence on his behalf during a hearing held by the Nevada
24 Board of Parole Commissioners. On or about September 21, 2010, Officer Howald performed
25 these actions during a hearing held in front of the Board of Parole Commissioners and tried to
26 deny his rights to due process and a fair hearing, and that the evidence Officer Howald was
27 presenting was based on hearsay and her unsworn testimony.

28 154. PLAINTIFF stated that according to NRS 213.1243, the current applicable law from
the 2005 revision; that he was allowed to be at a hearing conducted for a request to change his
conditions of Lifetime Supervision.

1 155. PLAINTIFF stated that he had a court ordered and Board approved exception to
2 Rule 19 of his Lifetime Supervision Agreement.

3 156. PLAINTIFF stated that Officer Howald has shown a total and complete disregard
4 for following any rules or procedure, even in a Board hearing. He further stated that this
5 disregard for the rules by Officer Howald is recorded by the Board and will be introduced as
6 evidence in any further proceedings.

7 157. PLAINTIFF stated that in his short acquaintance with Officer Howald that she
8 continues to do as she pleases. She interprets conditions, statutes and the Constitution with a
9 total disregard for the legal consequences of her actions, and the liability that could impose, not
10 only upon herself but also upon the Division. He stated that if Officer Howald had ever
11 reviewed his record or talked with anyone in his family, or his current court approved therapist
12 about any of these issues, that he would not be filing the formal complaint against her. He
13 further stated that Officer Howald does not care what other people think, that she is the judge and
14 jury, and that in his opinion and belief, she believes she knows better than anyone else, including
15 the Board and the Court.

16 158. PLAINTIFF stated that he believed that the Division of Parole and Probation
17 encourages the Officers under their command to harass, intimidate, coerce, and do anything
18 possible to effectively disrupt the lives of the offender and their families. This is shown in their
19 total disregard to the rights and privileges which are accorded to them.

20 159. PLAINTIFF stated that this was in direct opposition to their mission statement. The
21 Division is supposed to encourage and support the offender in their re-entry into society by
22 helping them and supporting their family.

23 160. PLAINTIFF stated that according to Officer Howald, "the policies had changed and
24 there was a new sheriff in town". She continuously informed me that other Officers had not
25 performed their duties appropriately and in one instance, that was why the Officer was no longer
26 there. He stated that this showed bias and prejudice.

27 161. PLAINTIFF asserted that these actions reflect a pattern of behavior and abuse of
28 process, that Officer Howald and other Defendants were biased and prejudiced against him, that
they were retaliating for his advocacy; and that it was a violation of his constitutional rights,
immunities and privileges and was a violation of the Policy and Procedures of the Nevada

1 Division of Parole and Probation; and further that it was harassment, coercion, and conspiracy to
2 harm him. He further asserts that he would be allowed to present them in discovery and at trial

3 162. PLAINTIFF states that on or about this time, that Officer Howald was replaced as
4 his supervising officer by the Nevada Division of Parole and Probation.

5 **NINTH EXAMPLE**

6 163. On or about February 2, 2011, PLAINTIFF filed a formal complaint with the Office
7 of Professional Responsibility, the Investigative Division of the Department of Public Safety.
8 This formal complaint stated that the Office of Professional Responsibility, the Investigative
9 Division of the Department of Public Safety did not follow their own Policy and Procedure
10 regarding investigations.

11 164. PLAINTIFF had carefully reviewed the Policy and Procedure entitled The
12 Administrative Investigations Manual. He reviewed this Policy and Procedure in relation to a
13 number of complaints that he and his family had filed concerning Officers in the Nevada
14 Division of Parole and Probation and the Office of Professional Responsibility itself.

15 165. PLAINTIFF stated that it appeared that the Investigative Division does not follow
16 their own Policies and Procedures in relation to complaints. He stated that this seems to be a
17 significant, serious trend in not only the Nevada Department of Public Safety, but also the
18 Nevada Division of Parole and Probation.

19 166. PLAINTIFF stated that four members of his family have filed different
20 Formal complaints about serious issues in relation to each individual member and each separate
21 occurrence. He stated that the Investigative Division of the Nevada Department of Public Safety
22 had issued the same tracking number for the first 3 original complaints which they had
23 recognized at that time.

24 167. PLAINTIFF stated that a large number of revisions and new complaints were filed
25 by individual members of his family, which they had acknowledged receipt of by certified mail
26 on December 1, 2010, but that no new tracking numbers or correspondence in any form had been
27 initiated in relation to those serious issues and formal complaints.

28 168. PLAINTIFF stated that the Nevada Department of Public Safety and the Office of
Professional Responsibility had not seemed to follow any of the timelines delineated in the
Policy and Procedure or the issuance of new tracking numbers for the new formal complaints.

1 169. PLAINTIFF stated that according to this Policy and Procedure that the Investigative
2 Division would have to assign a tracking number to an informal complaint as well as to a formal
3 complaint. He stated that the Officer or Investigator in charge of the investigation(s) has not
4 contacted any complainant or witness in relation to any of these complaints. This is exactly
5 opposite of what the procedure says.

6 170. PLAINTIFF stated that no resolution letter had been offered in relation to any of
7 these formal complaints, even though the Office of Professional Responsibility was over the
8 specified timeline for completion of the investigation.

9 171. PLAINTIFF stated that in order to establish a disposition of a complaint, the Policy
10 and Procedure stated that all witnesses should be interviewed for the case to be completed. He
11 stated that this has not been done in any form or manner, written or verbal, and that no contact
12 has been made.

13 172. PLAINTIFF stated that in his understanding of the Policy and Procedure, all of the
14 complaints filed by him and his family should have been recognized as a Formal Complaint,
15 Category 2, Category 3, and Category 4 Complaint with some meriting all of the above. He
16 stated that various complaints seemed to be deserving of a Risk Management Inquiry, and some
17 with Performance Issues.

18 173. PLAINTIFF stated that he and his family had followed every rule for filing a formal
19 complaint against an Officer, according to the recommended guidelines. He stated that as with
20 all his and his family's issues with the Division of Parole and Probation, the Department of
21 Public Safety Office of Professional Responsibility seems to have chosen to follow the same
22 path, regardless of the seriousness of the formal complaints, and chooses to "hear no evil" about
23 any member of the Nevada Department of Public Safety or of the Nevada Division of Parole and
24 Probation.

25 174. PLAINTIFF stated that in a letter he had received from Sergeant Helgerman on
26 April 5, 2011 that Sergeant Helgerman had authored the majority of the language in the
27 Administrative Investigations Manual, and that he had worked in the Office of Professional
28 Responsibility. On information and belief Plaintiff asserts that almost all of the investigations
were performed by Sergeant Helgerman as the complaints are assigned to a supervising Sergeant
in the chain of command of the individual officer that a complaint has been filed against.
Sergeant Helgerman did not follow any of these Policy and Procedures which he authored, and

1 which he was fully aware of as he had previously worked in the Office of Professional
2 Responsibility.

3 175. PLAINTIFF stated that no formal contact has been made by Sergeant Helgerman or
4 the Officer of Professional Responsibility, the Investigative Division of the Nevada Department
5 of Public Safety, in any form or manner since November 8, 2010 except for this letter that he
6 replied to which was not a formal complaint.

7 176. PLAINTIFF stated that in the Mission Statement provided by the Department of
8 Public Safety, it states that “The Nevada Department of Public Safety considers the professional
9 conduct of its employees to be paramount”. And that it further states that “A thorough,
10 complete, objective investigation is conducted on all complaints.

11 177. PLAINTIFF stated that in your Policy and Procedure entitled Administrative
12 Investigations Manual, it states that “the public and employees must have confidence in the
13 Department and its process of resolving complaints”.

14 178. PLAINTIFF stated that this inaction by the Officer of Professional Responsibility
15 shows a pattern of behavior and abuse of process, that the Office of Professional Responsibility
16 was biased and prejudiced against him, was retaliating for his advocacy; and that it was a
17 violation of his constitutional rights, immunities and privileges and a violation of the Policy and
18 Procedures of the Nevada Division of Parole and Probation; and further that it was harassment,
19 coercion, and conspiracy to harm him. He further asserts that he would be allowed to present
20 them in discovery and at trial.

21 **TENTH EXAMPLE**

22 179. On or about February 12, 2011, Defendant Officer Evans, Officer Ashby, and
23 Sergeant Helgerman performed a home visit at PLAINTIFF’s residence, where he was home
24 with his wife and granddaughter. On or about February 15, 2011, PLAINTIFF documented this
25 visit in a letter to Sergeant Helgerman of the Nevada Division of Parole and Probation and states
26 as follows:

27 180. PLAINTIFF stated that he was respectfully bringing the following facts and rulings
28 to Sergeant Helgerman’s attention. These facts relate to searches and specifically the *Plain View
Doctrine* since Sergeant Helgerman had made an issue of it during his search. He stated that he
wanted to make Sergeant Helgerman aware of these issues as he seemed to show a serious lack
of training in these very important areas regarding search. He further stated that it is very

1 disturbing to him and his family that Sergeant Helgerman and his predecessor, Sergeant Diek, as
2 the Supervising Sergeants in the Nevada Division of Parole and Probation, with all of the
3 superior training that this position should entail, are sorely lacking in training and knowledge of
4 the actual court rulings and Policy and Procedure that govern these situations.

5 181. PLAINTIFF questioned whether this was a lack of training by the Division, or the
6 Division's blatant disregard of rulings of law in order to teach Officer's how to intimidate and
7 harass an offender or the family of one.

8 182. PLAINTIFF stated that this was another documented situation that relates to his
9 issues with the Division, that the Officers lack serious and formal training, guidelines and
10 definitions to help them in the performance of their duties. He stated that if they have formal
11 training, then it must be a case of how the Officers are taught and are encouraged to go around
12 the rules and violate anyone's constitutional rights, until their hands are caught in the proverbial
13 cookie jar. He further stated that he and his family believed that Officers blatantly disregard the
14 proper Policy and Procedure that has been put in place in relation to these instances and other
15 situations.

16 183. PLAINTIFF stated that he and his family further believed that the Officer's
17 Supervisory Personnel either condone these actions or instigate it. Somewhere, someone is
18 training the Division's Officers how to intimidate and harass the citizens they are sworn to serve,
19 which could and has caused violations of constitutional rights and the law in regards to offenders
20 and their families. He stated that he and his family believed that this was a serious issue and that
21 it needed to stop immediately. He further stated that he and his family were addressing this
22 concern with the Department of Public Safety, the Chief of the Division of Parole and Probation,
23 the Board of Parole Commissioners, and the Nevada Legislature.

24 184. PLAINTIFF stated that the Officers in the Nevada Division of Parole and Probation
25 did not follow proper *Policy and Procedure* during this home visit. He was aware of the Policy
26 and Procedure outlined for *Search and Seizure* in Directive Number 6.2.109, which he had
27 obtained from the Command Division in Carson City.

28 185. PLAINTIFF stated that he and his wife were both cordial, courteous and respectful
at all times while presenting their views and opinions, and that they were both willing to explain
every part of the residence, if they had been given the opportunity to do so, along with their
presence while the Officers searched.

1 186. PLAINTIFF stated that at no time was any type of consent or permission asked for
2 from either his wife or him, from any Officer present at the time, or documented in any form or
3 manner. He stated that there was no “suspicious behavior” on the part of his wife or him.

4 187. PLAINTIFF stated that his wife and daughter are private citizens of the State of
5 Nevada whom the Officers have sworn to serve without prejudice or bias. He stated that in his
6 opinion, and that of his family, that the Officers seemed to be doing a very poor job in the
7 performance and sworn oath to uphold their duties. He further stated that the very first thing that
8 the Officers should be concerned about in relation to his wife and daughter was the sanctity of
9 their constitutional rights. They should be of *paramount concern*, as the Division espouses.

10 188. PLAINTIFF stated that he would start his opinions and research with the following
11 because of the extended conversation between Sergeant Helgerman and him concerning this
12 specific search issue. He stated that this was in regards to the *Plain View Doctrine*. There are 3
13 criteria that all must be met by an Officer in regards to either a search of the item, or the seizure
14 of it. These 3 criteria are plainly spelled out in Luster v. State, 991 P.2d 466, and Ford v. State,
15 138 P.3d 500, which states as follows: “The initial intrusion of the police must be lawful. The
16 police must inadvertently discover the *incriminating evidence*. It must be *immediately apparent*
17 to the police that the items they observe may be evidence of a crime.”

18 189. PLAINTIFF stated that under the *immediately apparent* requirement of this doctrine,
19 the search or seizure of the property in plain view is presumptively reasonable, assuming that
20 there is *probable cause* to “associate the property with criminal activity”. In Johnson v. State,
21 637 P.2d 1209, the ruling states that “plain view by itself is never sufficient to justify warrantless
22 “search” or “seizure”; instead you have to consider the “totality of the circumstances”.

23 190. PLAINTIFF stated in relation to *probable cause*, he was providing the following
24 Nevada Supreme Court decision. In Doleman v. State, 812 P.2d 1287, which also follows a
25 United States Supreme Court ruling, the following definition applies: *Probable cause* to conduct
26 a warrantless “search” or arrest exists when police have reasonable trustworthy information of
27 facts and circumstances that are sufficient in themselves to warrant a person of reasonable
28 caution to believe that an offense has been or is being committed by a person to be “searched” or
29 arrested.

30 191. PLAINTIFF stated that in a ruling by the Nevada Supreme Court concerning
31 *reasonable cause* in Hollander v. State, 418 P.2d 802, it provides the following definition to

1 follow: *Reasonable cause* for arrest or “search” consists of such a state of facts as would lead a
2 man of ordinary care and prudence to believe or entertain an honest and strong suspicion that a
3 person to be arrested or “searched” is guilty and includes suspicious conduct of person in
4 presence of Officers.

5 192. PLAINTIFF stated that due to Sergeant Helgerman’s *interpretation of probable*
6 *cause or reasonable cause*; that he had evinced an awareness of reasonable trustworthy
7 information of facts and circumstances that led him to believe as an Officer that an offense had
8 been or was being committed. Sergeant Helgerman should have documented these *facts* to
9 support his allegation of reasonable cause in relation to his “search” on that day.

10 193. PLAINTIFF stated that some of the items that the Officers searched that were in
11 *plain view* in this situation were letters addressed to different Officers in the Division of Parole
12 and Probation, and other letters addressed to the Board of Parole Commissioners, the Nevada
13 Legislature and the Department of Public Safety. He stated that these items had not all been
14 written by him and further stated that some were written by members of his family.

15 194. PLAINTIFF stated that they were awaiting further review by his attorney, which
16 places them under the attorney-client privilege of the NRS Statutes in Chapter 49. He stated that
17 according to the law regarding personal property, which is NRS 193.021, until he and his family
18 actually mail these documents and they are received, they are subject to all requirements of
19 *probable cause*. He further stated that Sergeant Helgerman was adamant in the fact that he could
20 search these documents at any time, because they fell under the *Plain View Doctrine*.

21 195. PLAINTIFF stated that he was asking what was *immediately apparent* that
22 *associated this property with criminal activity*. Which part of these letters addressed to the
23 agencies or Officers listed above constitute *incriminating evidence*? He stated and asked that “is
24 the fact that he and members of his family writing letters to these agencies *incriminating*
25 enough? He further asked where Sergeant Helgermans’ documented evidence of a crime was.
26 What was the documented *probable cause* in relation to these letters?”

27 196. PLAINTIFF stated that Sergeant Helgerman made a point stating that some of these
28 letters, which he could clearly see, were addressed to Officers under his command in the
Division. Sergeant Helgerman made what he considered to be a strange request to him that he
wanted PLAINTIFF to give him these letters instead of mailing them. Sergeant Helgerman

1 specifically asked him if he trusted him and why would he want to mail them instead of letting
2 Sergeant Helgerman take them at that time.

3 197. PLAINTIFF responded that since they were not all addressed to Officers in
4 Division, he did not think that it was appropriate, besides the fact that he was awaiting a review
5 from his attorney. Defendant Officer EVANS did speak up at this time, and said he understood
6 the reasoning behind PLAINTIFF's objections; specifically that he wanted his attorney to look at
7 them first.

8 198. PLAINTIFF stated that he and his family did not trust some of the Officers in the
9 Division of Parole and Probation to follow proper Policy and Procedure or the law, and did not
10 want to let Sergeant Helgerman take the letters instead of having the post office deliver them.

11 199. PLAINTIFF stated that during the course of this home visit, he and his wife noticed
12 many violations of the Division's own *Policy and Procedure* regarding "searches" outlined in
13 Division Directive 6.2.109. He stated that there are many different forms of "search"
14 recognized by the directive, however, it definitely stated that a "search" of a third person's
15 personal property and areas, one who is not under the Division's supervision, and who has not
16 given *consent*, would not be allowed without a warrant.

17 200. PLAINTIFF stated that it would have to follow the 4th Amendment, or Section 18,
18 have documented *probable cause*, a warrant sworn to in front of a magistrate, or be subject to
19 exigent circumstances.

20 201. PLAINTIFF stated that his daughter was extremely upset that the Officers continued
21 to ransack her private areas of the residence and her personal property and she wonders what the
22 attraction of her panty drawer has for the Officers in the Division. Her panties are not in *plain*
23 *view* and there were no exigent circumstances present for Sergeant Helgerman and Officer
24 Ashby to conduct a "search" of her bedroom dresser and bathroom cabinets and drawers.

25 202. PLAINTIFF stated that he realized that the dresser that contains their panties, money
26 and jewelry is in *plain view* and due to the Division believing that if they *articulate a concern*,
27 they can search any third party area or personal property of a third party without consent, and
28 without their presence at any time in relation to *plain view* or my *conditional waiver*.

203. PLAINTIFF stated that according to Division Directive 6.2.109, any search
conducted under a *conditional waiver* would only apply to any area that the PLAINTIFF
frequents, and that does not *obviously* belong to a *third party*.

1 204. PLAINTIFF stated that his family had made it very apparent that this bedroom and
2 bathroom belong to his daughter from day one 7 years ago, as he did again on that day. It is very
3 *obvious* that it belongs to her and is not a *common area*. But, for some strange reason, during the
4 last 8 months, this seems to be an area that never escapes a “search” by a male Officer, especially
5 a search of her medicine cabinet and her panty drawers.

6 205. PLAINTIFF stated that no female Officer or male Officer except Officer Howald
7 has ever “searched” these personal areas in the past 7 years that he had been on supervision by
8 the Division. In the last 8 to 10 months, we had only had issues concerning these third party
9 areas and third party personal property in relation to Officer Howald. He stated that Officer
10 Ramos, Officer Lewis and other female Officers that were here with his Supervising Officer at
11 the time never violated any of his wife’s or daughter’s constitutional rights until Officer Howald
12 and her friends and cohorts arrived on the scene.

13 206. PLAINTIFF stated that in relation to searches, the Courts have recognized many
14 types relating to Parole and Probation Officers. A legally justified administrative walk-through
15 of the *common areas* of the residence and personal property areas of the offender is approved
16 without a warrant as it relates to supervision by an Officer. PLAINTIFF has to invite you into
17 his home and allow you to do this walk through the residence. He stated that the actual wording
18 is that he had to *submit* to this search, not that he had to *consent* to it. This is the wording in the
19 Lifetime Supervision agreement that he signed in a *conditional waiver* to a “search” of his
20 residence and his personal property and that it had to be based upon “reasonable cause”.

21 207. PLAINTIFF stated that at no time would a *conditional waiver* to “search” of
22 PLAINTIFF be considered consent to “search” another person’s property or person. He stated
23 that the Courts have defined that there is a difference between an *administrative search* and an
24 *investigatory search*. During the course of this walk-through of the residence, if there is a true
25 belief that an Officer may fear for their safety, a *protective sweep* of the area may be done.
26 There is also the possibility that an Officer might see *immediately apparent* evidence of a crime
27 according to the plain view doctrine, or be involved in a situation that might present itself
28 concerning exigent circumstances. These *might* give reason to conduct a “search” without a
warrant.

208. PLAINTIFF stated that in these types of situations, the Court upon challenge and
review, would consider the “totality of the circumstances” in order to decide if it was a legal

1 “search”. This has been determined in *State v. Ruscetta*, 163 P.3d 45. In almost every other
2 court rulings that concern a “search”; it would have to be legally justified by a warrant, upon
3 documented probable cause, especially when there was a “reasonable time frame” to obtain one.

4 209. PLAINTIFF stated that a *conditional waiver* may grant the legal limited ability to
5 “search” without a warrant, but only with *reasonable or probable cause*, which would fit the
6 narrow decision granted by the 9th Circuit of the United States in *US v. Consuelo-Gonzalez*, 521
7 F.2d 259. This is a decision that has stood the test of time and many attempts to overturn it. It
8 has been in effect since 1975 and it is strange that the Division and the Board have never heard
9 of it, or just choose to ignore it. It very narrowly defines the applicability of a *conditional waiver*
10 and how that *conditional waiver* applies to someone *on probation*, or as later defined, *on parole*.
11 Lifetime Supervision is defined differently than either probation or parole in *Palmer v. State*, 59
12 P.3d 1192, and it is a civil sentence, not a criminal sentence, where different rules would apply.

13 210. PLAINTIFF stated that the actual wording that the 9th Circuit defined in relation to
14 this *conditional waiver* to search in *US v. Consuelo-Gonzalez*, 521 F.2d 259 is as follows:
15 “That an offender submit to a search of their person or property conducted in a reasonable
16 manner at a reasonable time by a Probation Officer”. The court ruled that there must be
17 “reasonable cause” to instigate a search.

18 211. PLAINTIFF stated that the Courts would follow their own rulings in regards to
19 “subsequent events or circumstances to retroactively justify the seizure or an illegal search” in
20 *State v. Stinnett*, 760 P.2d 124 and *State v. Schmitt* 497 P.2d 891. This would entail any
21 *evidence of a crime* that might or might not be found. Anything to do with the “search” would
22 be tainted and never be able to be used again. This would be compelling reasoning for obtaining
23 a legal “search warrant” to begin with, if there is any questionable doubt.

24 212. PLAINTIFF stated that the 4th Circuit’s Decision in 1978 on a *conditional waiver* is
25 even stricter, the opinion ruling that there must be a warrant for any “search” of any area,
26 regardless of it being an offender or someone on parole or probation. This view would negate
27 the need for a *conditional waiver* in any situation. This is documented in *US v. Bradley*, 571
28 F.2d 787. This was further followed up in *US v. Workman*, 585 F.2d 1205, also in 1978 to
effectively apply it to probation. It is interesting to note here that no other decision since then
has applied these rulings to Lifetime Supervision.

1 213. PLAINTIFF stated that an interesting side note comes into play in these situations.
2 All of these rulings concern someone on parole or probation, while serving such under a criminal
3 sentence. As a person convicted and placed on Lifetime Supervision, he is not currently on
4 parole, probation, residential confinement, supervised release, or out on bail; he is serving a civil
5 sentence, not a *criminal sentence*. Even the Division Directive 6.2.109 does not actually cover
6 this correctly, as it applies to parolees, probationers, or other *criminal offenders*.

7 214. PLAINTIFF stated that he is currently a civil offender. He has completed all of his
8 *criminal* sentences and obligations.

9 215. PLAINTIFF stated that a *protective sweep* of the area would only entail searching
10 *reasonable* areas relating to where a person might hide from the Officers view and areas in the
11 “immediate vicinity” of the person being “detained” as the object of this “search” in regards to
12 your personal safety. This protective sweep would only be able to occur on the existence of
13 *reasonable grounds* that an Officer feared for their safety.

14 216. PLAINTIFF stated that the applicable wording is “specific and articulable grounds
15 sufficient to support reasonable belief posing danger is present”. This is a Nevada Supreme
16 Court ruling made in Hayes v. State, 797 P.2d 962. The court has considered the possible areas
17 that a person might *reasonably* try to hide from an Officer who feared for their safety.

18 217. PLAINTIFF stated that he believed that the Judges, as *reasonable and prudent*
19 people, would decide that a panty drawer or medicine cabinet, in an area that PLAINTIFF or his
20 wife was not present, would pose no personal danger or threat to an Officer.

21 218. PLAINTIFF stated that during the course of this visit, 3 Officers entered his home.
22 He stated that his supervising officer, Defendant Officer EVANS, must have been detailed to
23 take him outside onto the rear deck. He further stated that since he was then outside of the
24 residence at that time, should a “search” even have been conducted?

25 219. PLAINTIFF stated that Sergeant Helgerman went upstairs by himself after asking
26 his wife if anyone else was home and Officer Ashby immediately went to the garage area by
27 himself. Both of these Officers searched areas of the residence without consent, or documented
28 evidence that they “*feared for their own safety*”. They certainly searched these areas alone, and
without the presence of PLAINTIFF or his wife.

219. PLAINTIFF stated that if they “*feared for their own safety*”, why would they
separate, and why would they not protect a citizen of the State of Nevada, who was holding a 10

1 month old child? If there was indeed a threat, they should first protect the public they are sworn
2 to serve, and then control the area to be searched while calling for more Officers to conduct the
3 “search” or *protective sweep* and provide backup in relation to the threat.

4 221. PLAINTIFF stated in other rulings the holding of the Court that a “search” is taking
5 place was by the opening of cabinet doors, cabinet drawers, and medicine cabinets. The Court
6 has defined what constitutes a “search” and the “limits” and “scope” of one, in many variable
7 situations to further help guide an Officer with legal definitions. The Courts had also defined
8 that a person is allowed to be in the presence of the Officer while a search is being performed
9 pursuant to a warrant. Division Directive 6.2.109 states the same thing, that a “search” shall only
10 be conducted in the presence of the offender. Presence and consent was never asked for during
11 this *harassment* “search”.

12 222. PLAINTIFF stated that in most rulings concerning exigent circumstances, the
13 opinion rulings grant a “search” only as it relates to a medical emergency, an unattended child, or
14 “urgent need to pursue investigation which involves substantial and imminent threat of death or
15 bodily injury”. If there was an issue of “a consequence which would frustrate a legitimate law
16 enforcement effort”, the Officers could “detain” a suspect with “reasonable and articulable
17 grounds” while they obtained a warrant. The “totality of the circumstances” would be reviewed
18 to determine if there was an “objectively reasonable basis” to conduct an emergency situation
19 which could entail a “search”. One of the many rulings concerning exigent circumstances is
20 Howe v. State, 916 P.2d 153.

21 223. PLAINTIFF stated that in Johnson v. State, 637 P.2d 1209, one of the determining
22 definitions in relation to exigent circumstances is that the “*search must not be a planned*
23 *warrantless search with the accompanying intent to either arrest or obtain evidence*”.

24 224. PLAINTIFF stated that in this particular situation, since Defendant Officer EVANS
25 was detailed to take him out onto the back deck, or to get him out of the house, that he believed
26 that this “search” was planned.

27 225. PLAINTIFF stated that in relation to “articulating a concern”, or “articulable
28 grounds”, to conduct a “search”, the majority of the opinions concern cases involving a “pat
down” for weapons in a “Terry Stop”. It has been determined that there has to be “more than an
inchoate and unparticularized suspicion or hunch”; but rather that there must be some sort of
“objective justification” to conduct a limited search only. This opinion is provided in State v.

1 Lisenbee, 13 P.3d 947. If you apply this ruling to other cases, it documents the need for
2 *reasonable or probable cause*. An Officer may not just have a hunch, with no justifiable
3 suspicion, to violate a person's constitutional rights.

4 226. PLAINTIFF stated that under the rules of Parole, or the rules of Probation, a search
5 such as any of these might be legally justifiable if you were to examine the "totality of the
6 circumstances".

7 227. PLAINTIFF stated that under the civil sentence of Lifetime Supervision and the
8 decision by the 9th Circuit, the 4th Circuit, and several Nevada Supreme Court Cases and Federal
9 Cases, that this could be litigated to define many terms and obtain a broad opinion in relation to
10 this issue. Any "search" would first have to ask the questions of whether a "*conditional waiver*"
11 is applicable to a civil sentence, and whether consent was "freely and intelligently given" based
12 on the *coerciveness* of the signing of one.

13 228. PLAINTIFF stated that then the question would be whether or not an offender on a
14 civil sentence is under "Constructive Custody" in order to limit a person's constitutional
15 protection under the 4th Amendment and the Nevada Constitution? This concept has been
16 defined to someone on parole or probation, a person under the control of the prisons, on
17 residential confinement or out on bail.

18 229. PLAINTIFF stated that then the search itself could be called into question, by any or
19 all of the reasoning and decisions noted above. Any Parole or Probation Officer should be fully
20 versed in these rulings and issues. There should be serious training and testing to determine that
21 an Officer is fully informed of the myriad number of situations that might present themselves. If
22 you wish to hold an offender accountable for their actions, then you also need to be accountable
23 for yours in the same situation.

24 230. PLAINTIFF stated and asked whether this is this matter of improper training of the
25 Officers in the Division. Was it a matter of confusion by the Officers of the proper Policy and
26 Procedure concerning Lifetime Supervision, Parole, Probation or Residential Confinement? Or
27 was it another blatant disregard of the Policy and Procedure outlined in Division Directive
28 6.2.109?

29 231. PLAINTIFF stated that these are two of my family's biggest concerns, *improper*
30 *training* and the total disregard of the Division's own Policy and Procedure. Many other

1 concerns relate to definitions, Officer conduct, respect and courtesy, and *interpretations* by
2 Officers of laws and conditions.

3 232. PLAINTIFF stated that in section D. Procedure, of Division Directive 6.2.109, it
4 states that *the constitutional rights of citizens are of paramount concern*.

5 233. PLAINTIFF stated that this led him to ask many questions involving the conduct of
6 the Officers on that day. Questions such as:

7 a. If the Division and Sergeant Helgerman as a Supervising and Training Sergeant within
8 the Division seriously adhere to this *Policy and Procedure*, then how did this type of conduct
9 during a search happen?

10 b. Why would Sergeant Helgerman allow another Officer or himself conduct a search
11 alone in his daughter's bedroom and bathroom knowing full well that his daughter is obviously a
12 third party residing with PLAINTIFF?

13 c. Why would Sergeant Helgerman allow an Officer to ransack his daughter's medicine
14 cabinet located in her bathroom and open and search other drawers and cabinets in the same
15 bathroom? This area obviously belongs to her, as PLAINTIFF does not believe that he is
16 currently on birth control, or that he uses makeup, etc. PLAINTIFF does not frequent his
17 daughter's bathroom; he has 2 other bathrooms in the home, one which is clearly his wife's and
18 his, and another for guests.

19 d. Why would Sergeant Helgerman allow another male Officer or himself to search her
20 panty drawer in her bedroom?

21 e. Why would Sergeant Helgerman not request to have a female Officer present to protect
22 the privacy concerns of PLAINTIFF's daughter or wife, if there was any form of *reasonable or*
23 *probable cause*?

24 f. Why would Sergeant Helgerman search any dresser drawers in a room that is obviously
25 PLAINTIFF's daughters, and which Sergeant Helgerman had been made aware of? She keeps
26 money and jewelry in her room, and Sergeant Helgerman did not allow anyone to be in the
27 presence of the Officer or himself while conducting this search. PLAINTIFF's daughter has
28 never had cause to count the cash money she keeps in her room, but during these searches she
wondered if any of her money was missing. In order to account for this search by an Officer, he
has counted it since then, and knows exactly how much would be there at any time, in case
another Officer conducted a search alone in her room.

1 234. PLAINTIFF stated that this is a very serious concern for his daughter and for him
2 and his wife as her parents, and that she would bring this matter to the attention of the
3 appropriate agencies or Supervisors within these agencies. He stated that this is one reason that
4 his daughter refuses to answer the door when she is home alone, because she has reason not to
5 trust some of the Officers in the Division. His daughter fears for her safety while being alone
6 with an Officer of the Nevada Division of Parole and Probation.

7 235. PLAINTIFF stated that at no time was consent given to any Officer to “search” her
8 private areas of the home at any time. Before Sergeant Helgerman ventured upstairs on his own,
9 he could have asked PLAINTIFF’s wife if anyone else was home, but he did not ask for her
10 consent to “search” and he did not ask for her *presence* while he searched. Both of these are
11 clearly spelled out in Division Directive 6.2.109.

12 236. PLAINTIFF stated that this creates even more questions concerning his wife, who
13 was home and present at the time. Questions such as:

14 a. Why would Sergeant Helgerman “search” an area alone that contains both money and
15 jewelry that belongs to his wife?

16 b. Why would Sergeant Helgerman search an area alone where the issue of a panty
17 drawer obviously comes into play again, as his wife has dresser drawers that contain these items?

18 c. Why would Sergeant Helgerman not have asked for her presence while conducting this
19 “search” of her personal areas?

20 d. Why would Sergeant Helgerman not wish to know which personal areas were hers and
21 which personal areas were PLAINTIFF’s, or which were his daughter’s?

22 e. Why would Sergeant Helgerman not have asked for her consent to “search” these areas
23 alone? Something Sergeant Helgerman should have done.

24 f. Why would Sergeant Helgerman or other Officers “search” any area, especially over
25 the last 8 months without either consent or the presence of a family member?

26 237. PLAINTIFF stated that the issue of a “search” seemed to be a continuing trend in his
27 and his family’s lives with the appearance of Officer Howald as his Supervising Officer. Her
28 comment regarding this was that there was a “new sheriff in town; and that all the other Officers
in the Division previous to this time had not performed their duties in the correct manner.

238. PLAINTIFF stated that the one thing he and his family had noticed in the last 8 to
10 months is the lack of courtesy and respect and the use of “Gestapo Tactics” in relation to an

1 offender and to the family members of offenders. This is hardly a positive change to gain the
2 trust and respect of anyone, let alone the family members of offenders who are private citizens of
3 the State of Nevada, most of whom have never committed a crime. In many cases, the family
4 members of offenders are the first buffer zone between an offender and a new crime. They
5 usually are very diligent in their efforts to help an offender stay focused on the path of
6 rehabilitation. They are in fact, your allies in this regard. Why the Division treats them as
7 offenders themselves is beyond PLAINTIFF's scope of reasoning.

8 239. PLAINTIFF stated that he would suggest that the Division might wish to rethink
9 their current *interpretation* of their Policy and Procedure regarding search.

10 240. PLAINTIFF stated that during this home visit conducted on February 12, 2011, that
11 he believed an improper "search" was performed under his rules of Lifetime Supervision,
12 Section 18 of the Constitution of the State of Nevada, and the Fourth Amendment of the United
13 States Constitution. He stated that he believed that his and his family's constitutional rights were
14 violated in regards to this "search". He believed that The Division of Parole and Probation
15 Policy and Procedure outlined in Division Directive 6.2.109 was violated by all 3 Officers in this
16 situation. He further stated that he believed that this type of "search" and how it was conducted
17 was a violation of the Nevada Statutes.

18 241. PLAINTIFF stated that there was no documented *probable cause*; there was no
19 documented *consent* to "search" of any *third party* area. There was no documented *threat* to the
20 safety of the Officers, such as a *protective sweep* would require. There was no *immediately*
21 *apparent* evidence of a crime in relation to the *Plain View Doctrine*. In regards to exigent
22 circumstances, there was no "emergency" present to conduct a "search". There was no
23 contraband or evidence found during this illegal "search". There was no consent form signed by
24 any third party person on site. There was no consent asked for in any form or manner by any of
25 the 3 Officers present. There was no "hot pursuit", or any reason to justify why a warrant could
26 not have been obtained within a reasonable time frame to instigate this "search" upon
27 "reasonable and articulable suspicion" of facts.

28 242. PLAINTIFF stated that according to the law in NRS 197.200, Oppression under
color of Office, any violation of a constitutional right by an Officer can be charged as a crime.
This is even true if the infraction is obviously in opposition to their documented public Policy
and Procedure concerning a situation.

1 243. PLAINTIFF stated that he quoted NRS 197.200 for Sergeant Helgerman as follows:

2 1. An officer, or a person pretending to be an officer, who unlawfully and maliciously,
3 under pretense or color of official authority:

4 (b) Seizes or levies upon another's property;

5 (d) Does any act whereby the person, property or rights of another person are
6 injured,

7 commits oppression.

8 2. An officer or person committing oppression shall be punished:

9 (b) Where no physical force or immediate threat of physical force is used, for a
10 gross misdemeanor.

11 244. PLAINTIFF stated that according to Sergeant Helgerman's *interpretation* of the law
12 and court decisions, it would appear that Sergeant Helgerman, as an acting Sergeant of the
13 Division of Parole and Probation was blatantly disregarding the Nevada Supreme Court rulings
14 on these issues. As the Supervising Sergeant in charge of Officers who look to him for guidance,
15 his blatant disregard is obvious and sets a poor example for Officers in the Division under his
16 command. This blatant disregard for Policy and Procedure seems to be a common thread among
17 the Supervisors in the Division, which then condones the actions of the Officers under their
18 command. If a superior Officer is not aware of the legality of the actions due to a lack of
19 training or a total disregard of the law, and further rulings to define the intent of the law, it places
20 the Division responsible for the enforcement of these conditions in a perilous position.

21 245. PLAINTIFF stated that civil liability can arise from issues that are due to training or
22 improper response to Policy and Procedure. There was a ruling by the 8th Circuit Court of
23 Appeals in relation to this in Duncan v. Clements, 744 F.2d 48 in 1984 which holds that a parole
24 officer was accountable for civil liability for violations of civil rights in regards to a "search".

25 246. PLAINTIFF stated that he was respectfully offering Sergeant Helgerman or the
26 Division the opportunity to rebut his documentation and arguments in this matter. He offered the
27 advice that an opinion from the Attorney General should be considered in order to validate his
28 rebuttal.

29 247. PLAINTIFF stated that he was informed by Defendant Officer EVANS that
30 Sergeant Helgerman would like any issue brought to the Officer first, instead of documenting as
31 issue such is this and filing formal complaints and letters to the Division.

1 248. PLAINTIFF asserted that these actions reflect a pattern of behavior and abuse of
2 process, that Officer EVANS, Officer Ashby, Sergeant Helgerman and other Defendants were
3 biased and prejudiced against him, that they were retaliating for his advocacy; and that it was a
4 violation of his constitutional rights, immunities and privileges and was a violation of the Policy
5 and Procedures of the Nevada Division of Parole and Probation; and further that it was
6 harassment, coercion, and conspiracy to harm him. He further asserts that he would be allowed
7 to present them in discovery and at trial

8 **ELEVENTH EXAMPLE**

9 249. On or about January 19, 2011, Defendant Officer EVANS performed a home visit at
10 PLAINTIFF's residence. PLAINTIFF was not home at the time.

11 250. On or about January 25, 2011, PLAINTIFF documented this visit in a letter to
12 Defendant Officer EVANS of the Nevada Division of Parole and Probation and stated as
13 follows:

14 251. PLAINTIFF stated during his first office visit Defendant EVANS informed him that
15 he had read his complete file and was aware of all things related to him, which Defendant
16 EVANS further validated by numerous questions to confirm issues or concerns.

17 252. PLAINTIFF stated that he was not home at the time of Defendant EVANS visit as
18 he was at work. PLAINTIFF was working at a construction site in Zephyr Cove, NV and was
19 not reachable on his cell phone due to spotty service in that area, and the fact that he usually left
20 it in the car while he was working.

21 253. PLAINTIFF stated that he was driving his wife's Honda, due to his Honda being in
22 need of repairs. He stated that he knows that his work time is documented on the monthly form
23 as needed and he has made all previous Officers aware of when he was usually at work and at
24 home. He further stated that he understood that his daughter made Defendant EVANS aware of
25 the fact that he was not home, and that he was currently driving the Honda that his wife usually
26 drives.

27 254. PLAINTIFF stated that he assumed that Defendant EVANS tried to reach him at
28 that time, as he had a record of a missed call in that time frame from a restricted number. He
stated that he also had a record of the missed calls from his daughter, which were due to her
being home alone and not knowing who was at the door.

1 255. PLAINTIFF stated that he knew that all of these vehicles are correctly listed on his
2 monthly report. There is no area for him to explain on the monthly report that his vehicle needed
3 repairs. He stated that he was not aware that the Division needed to be told daily which vehicle
4 he was currently driving or the condition of each of these vehicles. He further stated that he
5 would continue to document this issue of which vehicle he was driving by voice message daily
6 until he was informed differently and monthly with a formal letter.

7 256. PLAINTIFF stated that he and Defendant EVANS spoke on the phone after he
8 received a voice message from Defendant EVANS on January 20, 2011 at 2:28 pm. The
9 conversation to the best of his recollection is as follows:

10 “I returned the call at 2:48 pm after exiting the meeting I was currently attending.
11 You asked me what my current location was and what I was driving. I confirmed that I
12 was currently crossing Washoe Valley in my wife’s Honda, coming from Carson City
13 and that I was with my daughter. You asked what meeting I was attending, and I
14 explained that I was at an open public meeting of the Board of Parole Commissioners.
15 We discussed the issue of a *secluded environment* and if that was my reason for being
16 there. I explained that I was there at the Board’s invitation and that was one of many
17 issues that we were discussing with them. We discussed where I was at the time of the
18 home visit and what I was driving at that time. I answered that I was at work and that I
19 was driving my wife’s Honda. We discussed why my daughter would not answer the
20 door during the home visit, an answer that I will let her explain to you. I did try to
21 explain that she will not answer the door when she is home alone for her personal safety.
22 During the course of the discussion about my daughter, you called her a liar, which she
23 finds to be offensive, as do I. We believe that there are Policies and Procedures for your
24 interactions with the public, and we think that this is not a part of them. You asked why I
25 did not make you aware that my vehicle needed repairs and I explained that there is no
26 place to put that information on the report and I was not aware that I needed to. I asked
27 you if I needed to stop in at the Office to confirm anything, and you advised me that I did
28 not. You asked me if there was any reason that I needed to and I said that I was not
aware of anything unless you wanted to see me in person. I explained that I was happy to
stop if needed. I hope that you find this to be an accurate version of what happened, but
if not, please feel free to correct any information which I might have misrepresented.”

1 257. PLAINTIFF states that he does his best to keep the Division informed per the
2 information requested on the monthly report and his current understanding of the conditions that
3 he has been placed under while on lifetime supervision. Other Officers have asked him for
4 certain reporting issues in relation to their concerns, which he has always satisfied. He stated
5 that if there is anything else that Defendant Officer EVANS needed to have confirmed, to please
6 let him know those issues so that he would continue to be in compliance under Defendant Officer
7 EVANS supervision. He stated that he was current on all monthly bills for supervision and
8 therapy, and owed no other types of fees.

9 258. On or about January 20, 2011, PLAINTIFF's daughter filed a formal complaint
10 against Defendant Officer EVANS for his conduct and behavior against her, including violations
11 of her 4th Amendment right.

12 259. PLAINTIFF's daughter is not a plaintiff in this action; however, the past history of
13 Defendants showing a pattern of behavior is relevant to the Complaint at hand.

14 260. PLAINTIFF asserted that these actions reflect a pattern of behavior and abuse of
15 process, that Officer EVANS and other Defendants were biased and prejudiced against him, that
16 they were retaliating for his advocacy; and that it was a violation of his constitutional rights,
17 immunities and privileges and was a violation of the Policy and Procedures of the Nevada
18 Division of Parole and Probation; and further that it was harassment, coercion, and conspiracy to
19 harm him. He further states that he would be allowed to present them in discovery and at trial

20 261. PLAINTIFF states that all relevant documentation to support this continuing pattern
21 of behavior, including all of the letters and formal complaints filed by him, his wife, his
22 daughter, and his son will be provided to the court during discovery and trial. This will include
23 the personal testimony of his wife and daughter, son, and son-in-law. This will also include
24 letters to the Nevada Legislature; letters to the Nevada Board of Parole Commissioners; letters to
25 the Nevada Department of Public Safety, letters to the Nevada Division of Parole and Probation,
26 Formal Complaints to the Office of Professional Responsibility, and Formal Complaints to the
27 Office of the Attorney General, Public Integrity Unit.

28 **TWELFTH EXAMPLE**

26 262. PLAINTIFF offered a letter dated May 14, 2011, to Defendant EVANS respectfully
27 documenting the conversation of a phone call on May 4, 2011 starting at 4:35 pm. This
28 conversation concerned the letter he had provided to Defendant EVANS on discussion of

1 PLAINRTIFF's mail and copies of his mail dated through May 30, 2011. PLAINTIFF informed
2 Defendant EVANS that he was present with my wife and that we were walking around the
3 Sparks Marina at that time. PLAINTIFF did allow his wife to overhear the conversation to
4 verify the content of it.

5 263. PLAINTIFF stated in the letter that during the conversation they discussed the fact
6 of Defendant EVANS receiving the second letter and copies of PLAINTIFF's family's mail that
7 he had supplied to him. Defendant EVANS stated that PLAINTIFF's reaction to his "bull*****"
8 comment on February 9, 2011 about whether or not I receive junk mail is absurd. Defendant
9 EVANS specifically stated that PLAINTIFF's 2 options for proving this mail situation to him
10 was far beyond the bounds of what he needed to do, and that this was now not an issue for
11 Defendant EVANS. While PLAINTIFF appreciated that fact, he stated that this did create some
12 issues for his family, and PLAINTIFF did try to provide you with options to satisfy your
13 concerns.

14 264. PLAINTIFF had stated before in a previous letter, that when Defendant EVANS
15 made a comment about a situation that is occurring, and then basically asserts that PLAINTIFF
16 was not being truthful with him, then this creates some concerns for PLAINITFF and his family
17 about how a negative is to be proven to Defendant EVANS. Even though Defendant EVANS
18 never specifically said that PLAINTIFF was lying to him, as the words that you are a liar never
19 left Defendant EVANS lips, the fact that he considered PLAINTIFF's explanation of receiving
20 junk mail to be bull***** was interpreted by PLAINTIFF in the same way. How would
21 Defendant EVANS define it if he was trying to explain something for the PLAINTIFF and he
22 kept saying "this is bull*****? The PLAINTIFF believes that if Defendant EVANS was stating
23 that someone was not being truthful about a statement; therefore it must be a lie. If PLAINTIFF
24 were to tell his kids that he considered their statements to be bull*****, it would have meant that
25 PLAINTIFF did not believe their story, and that they were not being truthful with him. This is a
26 very reasonable definition that he believes most parents would agree with. Then when the
27 conversation continues over a period of a couple months concerning this situation, and
28 Defendant EVANS made another comment in an earlier telephone conversation about
PLAINRTIFF being uncooperative, which is a condition of Lifetime Supervision, this gives
PLAINRTIFF further concern. He had addressed this issue with Defendant EVANS in previous
letters and tried to provide him with a few options to nullify this issue, and Defendant EVANS

1 now says that it is not a concern for him, but then Defendant EVANS states that PLAINTIFF
2 was being uncooperative. At no time did Defendant EVANS state or explain how PLAINTIFF
3 was being uncooperative, he just stated that PLAINTIFF was; which caused PLAINTIFF to be
4 concerned about being arrested for behavior that was not defined to him. During this later
5 conversation, Defendant EVANS stated that he did not mean it that way, that PLAINTIFF was
6 being uncooperative, and that is was a poor choice of words for him to have used.

7 265. PLAINTIFF stated that this situation becomes even more of an issue because of an
8 office visit on MAY 7, 2011, where Defendant EVANS advised him of the consequences of a
9 violation of a condition of Lifetime Supervision in relation to computers. Defendant EVANS
10 informed PLAINTIFF that he had violated a condition of Lifetime Supervision; however,
11 Defendant EVANS was not going to charge him with a violation at this time. And now
12 Defendant EVANS had told him that he did not believe PLAINTIFF's explanation about his
13 receiving junk mail at his residence, and now Defendant EVANS stated that he was being
14 uncooperative, what was PLAINTIFF supposed to think? PLAINTIFF stated that he knew he
15 had not violated any of his conditions of Lifetime Supervision or that he was being
16 uncooperative, but due to Defendant EVANS interpretations of these situations, that he was
17 being held accountable for them in one way or another, upon no reasonable belief of any actual
18 criminal acts being committed or having been committed by PLAINTIFF.

19 266. PLAINTIFF was informed by Defendant EVANS during this telephone
20 conversation that he would now accept any mail that was delivered to our residence as proof of
21 residence. Defendant EVANS stated that it could be a letter addressed to PLAINTIFF's wife, his
22 daughter, PLAINTIFF or even to the occupants of, just as long as it had a cancelation date to
23 prove receipt. PLAINTIFF stated that his family appreciated that, and as stated before, this issue
24 had only happened once in the 7 years that he had been on supervision, that he was not able to
25 provide the Division with a letter addressed to him with a recent cancelation date for that month.

26 267. During the office visit on May 10, 2011 at 9:00 am, PLAINTIFF discussed the issue
27 of Defendant EVANS opening and reading a letter that he had provided as proof of residence.
28 Defendant EVANS stated that he thought it was funny that PLAINTIFF told him in a different
letter that PLAINTIFF considered Defendant EVANS to have violated the law in relation to this
issue, because of the way it was worded in that letter. We discussed this wording and
PLAINTIFF replied that he did not consider it funny, and that he was using the standard legal

1 knowledge that it was considered a violation of Federal Law to read another person's mail
2 without permission. The content of that letter is provided here as follows.

3 "I would like to document a recent situation of you reading my mail that occurred
4 during the office visit conducted on March 3, 2011 at 475 Valley Road in Reno, NV. I
5 brought in and provided you with a letter addressed to me from the Washoe County
6 District Attorney concerning a case involving a burglary at our previous residence. Upon
7 handing you the envelope with the letter inside to document the stamped cancelation date,
8 you proceeded to take out the letter addressed to me from the District Attorney. At that
9 time you even read the letter concerning my case. *I did not express a concern for this
10 violation of the law at that time, as it seems that every time I do, I am labeled as
11 defensive or being uncooperative with an Officer. I have not had the opportunity to look
12 into the legality of this situation up to this time, but I will do so shortly, and I will be
13 interested to see what the Nevada and Federal laws says relating to this situation.*"

14 268. PLAINTIFF stated that he still believed that it was a violation of Federal Law for
15 Defendant EVANS to have taken out the letter inside this envelope and read it without his
16 permission. Even if we had taken this situation and used the search clause in the conditions of
17 Lifetime Supervision in relation to this, Defendant EVANS would still have needed reasonable
18 cause that a crime was about to be committed or had been committed by PLAINTIFF to open
19 and read that letter.

20 269. PLAINTIFF further stated in the previous letter as follows:

21 "Our family would also feel somewhat safe due to this being a violation of
22 Federal Law for you or the Division to open our family's mail. Violations of the law
23 have not stopped the Division before, and probably will not in the future, but we are
24 willing to try this out, as we would have the US Post Office, and many United States
25 Supreme Court legal decisions on our side in any legal matter relating to you or the
26 Division opening and searching our mail. If the Division truly believes and feels that
27 they have the legal right to open or read any of our mail, please provide us with the
28 applicable NRS statute that provides you with the legal authority to supersede the Federal
statutes in this situation."

29 270. PLAINTIFF stated that Defendant EVANS said that he was being absurd about this
situation as he defined it, however, PLAINTIFF believed that an Officer of the State of Nevada

1 should be held to a higher standard in relation to the law, that the Officer should have more
2 knowledge than PLAINTIFF of the law, and that the Officer should not continually violate the
3 law, just because they can, because we are offenders. Since Defendant EVANS told
4 PLAINTIFF that he was not telling him that he can provide any letter from any family member
5 to provide proof of residence, that all PLAINTIFF wished was to make sure that Defendant
6 EVANS or any other Officer of the Division does not open and read any mail that he brings in
7 that is addressed to him or any family member. PLAINTIFF stated that Defendant EVANS
8 believed that he has the legal authority to do that, and PLAINTIFF asserts and believed that
9 Defendant EVANS did not have the legal authority to do that.

10 271. PLAINTIFF asserted that this was a letter from the Washoe County District
11 Attorney that was specifically addressed to PLAINTIFF for a burglary at his residence where he
12 was the victim of a crime. PLAINTIFF asserted that this is actually a violation of the attorney-
13 client privilege also, as in this instance; the Washoe County District Attorney was actually the
14 attorney of record for PLAINTIFF.

15 **THIRTEENTH EXAMPLE**

16 272. PLAINTIFF respectfully submitted a letter dated May 14, 2011, as documentation
17 of his and his family's concerns regarding the personal, business and patient information that
18 was retained on a personal password protected computer that was seized by Defendants on
19 August 1, 2011. Defendants stated that they were legally allowed to seize this computer based
20 on constructive possession by PLAINTIFF.

21 273. PLAINTIFF stated that this password protected computer contained personal,
22 medical, therapeutic, bank, insurance and business information that was accessed and searched
23 on March 31, 2011 and April 1, 2011. Officer Evans informed PLAINTIFF that a copy was
24 made of the all information contained on the hard drive of this computer which PLAINTIFF
25 asserted was illegal to do by the Defendants.

26 274. On April 10th, 2011, PLAINTIFF and his wife requested the name of the Deputy
27 Attorney General who authorized this seizure and search of the password protected computer and
28 a copy of the search warrant that would provide the legal authority for this search. As of the date
of this Complaint, the Division of Parole and Probation has failed to provide this information as
required by law.

1 275. On information and belief, PLAINTIFF asserts that a Deputy Attorney General
2 specifically identified as Julie Towler approved the original seizure of the personal password
3 protected computer on August 1, 2010, and then approved the search of that same computer on
4 or about March 31, 2011. Eight months passed between the time the personal password
5 protected computer was seized and the time it was searched. The Supreme Court has declared
6 that a search has to take place within a reasonable time from the seizure of evidence.
7 PLAINTIFF asserts that this was not a reasonable amount of time, that no search warrant was
8 ever issued to search this personal password protected, and that no type of judicial warrant was
9 ever obtained relating to the seizure or search.

10 276. PLAINTIFF asserted that he and his family were concerned that the Nevada
11 Division of Parole and Probation would continue to access their accounts, business emails, and
12 personal checking and savings accounts at their banks, and that they made copies of my the
13 family's bank statements. PLAINTIFF's wife is a medical professional who has patient files
14 maintained on this password protected computer, and that the Defendants accessed these
15 personal medical files and other medical files which are a violation of HIPPA Laws, and have
16 made copies of them. The Defendants had accessed the confidential information that was stored
17 on this personal computer in relation to the family's attorney, a violation of NRS confidentiality
18 laws, and have made copies. The Defendants had accessed the confidential information that was
19 stored on this personal computer in relation to personal and family therapy with our family
20 therapist, another violation of NRS confidentiality laws, and had made copies.

21 277. PLAINTIFF stated that he and his family believed that the Defendants continued to
22 track the information that is coming into the email accounts by the use of a ghost password or
23 program, and were continuing to make copies. He stated that he and his family believed that the
24 Defendants had installed a ghost software program on this personal computer to track keystrokes
25 or other items

26 278. PLAINTIFF stated that since the Defendants had made copies of any and all
27 photographs, documents, and files on this personal computer; and through the blatant admission
28 of Defendants having copied the hard drive, that he and his family had no reason to believe that
the above mentioned activities were not acted upon, and now they had to take the necessary steps
to protect their constitutional right to privacy.

1 279. PLAINTIFF stated that they had an audit performed of his and his family's personal
2 and business finances to ensure that funds were not accessed and that they put a hold on any
3 funds that may be removed from their bank accounts without express permission. PLAINTIFF
4 and his family are faced with yet another inconvenience of having to change all of their accounts,
5 internet providers and his family's passwords in response to the illegal activities conducted by
6 Defendants under color of authority.

7 **FOURTEENTH EXAMPLE**

8 280. PLAINTIFF states that the Nevada Division of Parole and Probation continuously
9 attempted to or did violate the confidentiality statutes of the Nevada Revised Statutes as follows:
10 NRS 49.135 to NRS 49.195 inclusive; NRS 49.045 to NRS 49.105 inclusive; NRS 49.207;
11 49.209; 49.215; 49.225; 49.235; 49.246; 49.247 and 49.295.

12 281. This was first noticed by PLAINTIFF when the Officers in the Division made it
13 mandatory that he had to provide them with a copy of the his yearly tax return, which had been
14 compiled for him by his accountant, and which was further reviewed by his tax attorney. Since
15 this was mandatory, and the Officers would tell him that it was a violation of his conditions if he
16 did not provide it, he always did. This was against the Accountant privilege notated in NRS
17 49.135 to NRS 49.195 inclusive. This was also against the Attorney-Client privilege as notated
18 in 49.135 to NRS 49.195 inclusive.

19 282. PLAINTIFF states that starting with Officer Lewis in 2009, the Officers in the
20 Nevada Division of Parole and Probation continually attempted to question him about what was
21 said or discussed during his state mandated therapy. This state mandated therapy was ordered
22 placed on PLAINTIFF with no findings of fact that he needed therapy and without any
23 acknowledgement of the previous 4 years of therapy that he had just completed with his state
24 approved therapist while he was on probation, which he honorably discharged.

25 283. This attempted breach of confidentiality continued to be asked of PLAINTIFF
26 during his change to Officer Howald as his supervising Officer in 2010. She would question him
27 during every office visit about what was happening in therapy, in group therapy, what was
28 discussed, who discussed it, and what topics were discussed, and if his therapist was advocating
for him to "stand up" to the Division. She even appeared with Officer Pierrott at group meetings
without prior notice or approval of the group, as that is the rule of the therapy group. Anyone
can be present if they are invited in by the group upon majority vote.

1 290. Plaintiff hereby repeats, realleges, and incorporates by reference paragraphs 1–289
2 as though fully restated herein.

3 291. On or about March 3, 2011, PLAINTIFF appeared at a scheduled monthly office
4 visit with his supervising officer Defendant EVANS as required. During the course of this visit,
5 he and Defendant EVANS discussed many issues, including the issue that a second polygraph
6 exam was to be scheduled for him.

7 292. On or about March 6, 2011, PLAINTIFF provided a letter to Defendant EVANS
8 requesting that a polygraph exam be delayed a few weeks to a month due to a small medical
9 procedure that was forthcoming for him.

10 293. On or about March 26, 2011, PLAINTIFF provided a letter to Defendant EVANS
11 concerning his first request for information on the results of his first polygraph exam performed
12 in 2009 by Officer Von Rumpf, by request of Officer Lewis, and the results therefrom.

13 294. On or about April 19, 2011, Defendant EVANS apprised PLAINTIFF that a
14 polygraph had been scheduled for him on May 5, 2011.

15 295. On or about April 22, 2011, PLAINTIFF requested information concerning the
16 polygraph test tentatively scheduled for May 5, 2011. This request included the information as
17 follows:

- 18 a. The name and badge number of the Officer performing the test.
- 19 b. The professional license number of the Officer performing the test.
- 20 c. The manufacturer of the equipment used to conduct the test.
- 21 d. The model and serial numbers of the equipment used to conduct the test.
- 22 e. The results of the last testing done to determine the accuracy of the equipment.
- 23 f. The Division Directive concerning the use of the Polygraph by the Division.
- 24 g. The applicable Code of Ethics for the examiner conducting the test.

25 296. On or about April 22, 2011, PLAINTIFF requested for the second time information
26 concerning his first polygraph test conducted by the Division by Officer Von Rumpf, at the
27 request of Officer Lewis; and the results therefrom.

28 297. On or about April 22, 2011, PLAINTIFF requested that Defendant EVANS check
with the examiner due to a scheduled medical procedure being performed on him on April 26,
2011 due to a concern about medications and possible interactions with the polygraph exam.
During his research into the polygraph, it was shown that medical conditions, medical tests,

1 exams and procedures, medications, and recent stressful events can affect the outcome of a
2 polygraph exam.

3 298. PLAINTIFF was informed by another person who had to undergo this type of
4 polygraph exam that was performed in the same manner; that Defendant SACKETT had actually
5 stated to him during his exam that he should not have performed the polygraph exam upon his
6 due to the medications that he was on at that time.

7 299. On or about May 1, 2011, PLAINTIFF provided a letter to Defendant EVANS
8 requesting that the polygraph exam on May 5, 2011 be delayed due to the medical procedure that
9 was performed on PLAINTIFF on April 26, 2011. This request to Defendant EVANS was per
10 his request on April 19, 2011, for PLAINTIFF to keep Defendant EVANS informed how
11 PLAINTIFF was progressing after his medical procedure. Defendant EVANS rescheduled the
12 polygraph exam for another time to be determined at a later date.

13 300. On or about May 6, 2011, during an office visit with Defendant EVANS,
14 PLAINTIFF was asked what medical procedure was performed. He declined to answer, stating
15 that this was an intrusion into the medical privacy of the PLAINTIFF and it was against NRS
16 49.215 and NRS 49.225.

17 301. Defendant EVANS stated that he could ask any question that he wished, whether or
18 not it violated any confidentiality statute, and that according to his conditions of Lifetime
19 Supervision, PLAINTIFF had to co-operate with his probation officer and answer the questions.
20 He again refused to disclose the procedure performed citing that it invaded his privacy and
21 confidentiality according to the NRS statutes.

22 302. PLAINTIFF did make Defendant EVANS aware of the medications that were
23 provided to him during the medical procedure, and was informed by Defendant EVANS that
24 these medications would have had no impact on his system in relation to the polygraph exam and
25 that 8 days should have been sufficient time to recuperate from this procedure and that it should
26 not have had any impact on or affected the polygraph exam. PLAINTIFF declined to agree with
27 the reasoning of Defendant EVANS and stated that if he did not think it would have an impact,
28 then why did Defendant EVANS reschedule the polygraph exam?

303. PLAINTIFF also asked if he had discussed the issue with the polygraph examiner to
determine if there was in fact a conflict with the polygraph exam concerning these types of issues
that he was expressing to Defendant EVANS. He also asked Defendant EVANS if had discussed

1 the polygraph exam with his therapist to obtain any pertinent information that might be relevant
2 to the line of questioning performed by the polygraph examiner. Defendant EVANS had not
3 interacted with PLAINTIFF's therapist in any manner or form to the date of this conversation.

4 304. On or about August, 2011, PLAINTIFF was informed by Defendant EVANS that a
5 polygraph exam had been scheduled with examiner Defendant SACKETT on September 7, 2011.

6 305. On or about August 31, 2011, PLAINTIFF attended an open public meeting of the
7 Nevada Board of Parole Commissioners, where an assistant Attorney General, Julie Towler was
8 present along with Lieutenant Helgerman (formerly Sergeant Helgerman) of the Nevada
9 Division of Parole and Probation. During the course of this open public meeting, PLAINTIFF
10 was given the opportunity to speak during one of the public comment sessions where he asked
11 the Board about Condition #14 of the Agreement of Lifetime Supervision concerning the
12 polygraph, and his 5th Amendment rights in relation to that exam while serving this civil
13 sentence.

14 306. Condition #14 of the Agreement of Lifetime Supervision states: "*You shall submit*
15 *to periodic polygraph examinations, as requested by your supervising Officer.*"

16 307. The PLAINTIFF asked the Board to obtain an Attorney General's opinion relating
17 to legality of the condition, and addressed the issues of consent verses submit. He asked if the
18 condition stated that he submit, then why did he have to sign a consent form? He further stated
19 that he had to submit to a drug test or alcohol test, however, he did not have to consent to it. He
20 stated that he had to submit to other facets of his conditions and he did not have to consent to
21 them, which created an issue of understanding his conditions. He asked the Board what the
22 definition of "submit" was and how and where it was enumerated.

23 308. During a previous Nevada Board of Parole Commissioners open public meeting held
24 on April 22, 2011, PLAINTIFF requested a definition for a "secluded environment" from the
25 Board as it related to one of his conditions. The Nevada Board of Parole Commissioners stated
26 that they did not believe they had the authority to define the wording in a condition. The Nevada
27 Board of Parole Commissioners declined further comment on the definition as requested by
28 PLAINTIFF.

309. PLAINTIFF asked the Board if the 5th Amendment applied to him, and if he was
able to take the 5th Amendment in regards to questions posed by the examiner during the
polygraph exam. He asked the Board if any of the questions asked by the polygrapher are illegal

1 per statute, and if the NRS statutes concerning the polygraph were applicable to him. He further
2 asked the Board if the conditions of Lifetime Supervision superseded the NRS statutes and
3 constitutional rights that are afforded to him as a citizen of the United States and the State of
4 Nevada, while serving a civil sentence.

5 310. The Nevada Board of Parole Commissioners declined to comment on any issue
6 relating to the polygraph exam or PLAINTIFF's 5th Amendment rights. The Nevada Board of
7 Parole Commissioners did not express an interest in obtaining an opinion from the Nevada
8 Attorney General, nor did they express an interest in putting this issue on a future open public
9 meeting to discuss the concerns further as an agenda item.

10 311. On or about September 7, 2011, at 9:00 am, PLAINTIFF appeared in Carson City,
11 NV, at the Stewart Indian School site where the Nevada Division of Parole and Probation, and
12 the Nevada Department of Public Safety and various other State entities housed various offices
13 of an official capacity, including the polygraph exam room and area.

14 312. PLAINTIFF was ordered to make the drive to and from Carson City, NV from his
15 residence in Reno, NV, on or about September 7, 2011, in his own vehicle, and upon his own
16 costs. He entered the premises of the polygraph exam room and area of the State of Nevada at
17 approximately 9:00 am, and signed in at the reception desk on the sign in sheet provided. During
18 the course of his signing in, PLAINTIFF noticed that in the corner near the ceiling of the sign in
19 area, a video camera was present, where video and sound of that area was recorded.

20 313. PLAINTIFF took a chair in the waiting area in the sign in area and patiently waited
21 for the exam to take place. In a short period of time, Defendant SACKETT entered the room and
22 introduced himself to PLAINTIFF. Defendant SACKETT interacted with PLAINTIFF about
23 having an attorney present on his behalf for the polygraph exam and Defendant SACKETT
24 stated that an attorney would not be allowed to be present or interact in any way. PLAINTIFF
25 stated that he has a right to an attorney during questioning.

26 314. PLAINTIFF asserts and alleges that this was a violation of his right to have an
27 attorney present during an interrogation, as the polygraph exam as performed at this time is
28 nothing less than an informal interrogation. He further asserts and alleges that this violation of
his right to have an attorney present during a polygraph exam was also a violation of the Equal
Protection Clause of the United States Constitution. He further asserts and alleges that at no time
was he ever asked if he wished to have an attorney present during this questioning or informal

1 interrogation concerning compliance to his conditions of Lifetime Supervision. If he answered
2 that he was admitting to a violation of his conditions; it would result in an arrest.

3 315. Defendant SACKETT addressed PLAINTIFF in a hostile manner, and referred to
4 the PLAINTIFF as being the “smart ass” on Lifetime Supervision who wanted to question the
5 legality of the polygraph exam and that would not be tolerated. Defendant SACKETT left the
6 area under the pretense of setting up the test area and discussing him with his supervising officer,
7 Defendant EVANS.

8 316. Defendant EVANS and Defendant GOTHAN were present during the entire time
9 that the PLAINTIFF was on the premises of the Stewart Indian School, an official office of the
10 Nevada Division of Parole and Probation, and the Nevada Department of Public Safety.
11 Defendant EVANS and Defendant GOTHAN watched the entire interaction between Defendant
12 SACKETT and PLAINTIFF on video, which was recorded. Defendant EVANS and Defendant
13 GOTHAN listened to the entire interaction between Defendant SACKETT and PLAINTIFF on
14 audio, which was recorded.

15 317. PLAINTIFF asserts and alleges that all polygraph exams are video and audio
16 recorded for the duration of the interaction between the polygrapher and the offender. He asserts
17 and alleges that this was and is currently done for an evidence record in case an offender admits
18 to a previously undisclosed crime or a violation of his/her conditions.

19 318. Defendant SACKETT returned to the waiting area and supplied PLAINTIFF with a
20 questionnaire and informed him that he had to answer all the questions on the sheet, sign and
21 date it, and then they both would review them. Defendant SACKETT did not inform
22 PLAINTIFF that he had any rights associated with this questionnaire, or if he had to consent to
23 the questions asked.

24 319. PLAINTIFF answered many of the questions on the questionnaire, and also notated
25 on the questionnaire that almost all of these questions were illegal per NRS 648.187; NRS
26 648.193; NRS 49.207; NRS 49.209; NRS 49.215; NRS 49.225; NRS 49.235; NRS 49.246; NRS
27 49.247, NRS 49.095; NRS 49.105, and NRS 49.295.

28 320. PLAINTIFF signed the questionnaire under duress, and notated that fact and the fact
that many of these questions were illegal per NRS statutes or unconstitutional on the signature
sheet.

1 321. PLAINTIFF asserts and alleges that all polygraph exams have this questionnaire
2 supplied to an offender; and that all offenders are told that they have to answer all questions
3 asked.

4 322. Defendant SACKETT returned to the area to pick up the questionnaire and escorted
5 PLAINTIFF into the office area for the polygraph exam. He asked PLAINTIFF to remove all of
6 the items from his pockets and place them into a tray.

7 323. At some point in this sequence of events, Defendant SACKETT asked PLAINTIFF
8 if he needed to use the restroom facilities and escorted him to the facilities to make use of them
9 and wash his hands. Defendant SACKETT made a point of the fact that he wanted him to wash
10 his hands, even if he did not use the facilities. PLAINTIFF believes that this happened 3 times
11 during the course of the 6 hours that he patiently and calmly submitted to the polygraph exam.

12 324. At other times during this sequence, Defendant SACKETT asked PLAINTIFF if he
13 wished a break, and escorted him outside the office and building to take a few minutes.
14 PLAINTIFF believes this happened 3 times during the course of the 6 hours that he patiently and
15 calmly submitted to the polygraph exam. At no time did Defendant SACKETT offer
16 PLAINTIFF lunch or the ability to eat, or partake of any other beverage than water for the six
17 hours that he was present. He was not allowed to leave the proximity of the building where the
18 polygraph exam was being held, or to retrieve any food or beverage from his vehicle located in
19 the parking area adjacent to the building.

20 325. After a break and answering the questions on the questionnaire, Defendant
21 SACKETT reviewed the answers that PLAINTIFF supplied on a line by line basis. During the
22 course of this review, Defendant SACKETT asked the PLAINTIFF if he knew why he was there
23 and if he believed that he would be non-biased toward PLAINTIFF.

24 326. PLAINTIFF asked Defendant SACKETT if this test was performed in collaboration
25 with his therapist, and if they had discussed any questions that might be asked of PLAINTIFF.
26 Defendant SACKETT informed PLAINTIFF that this polygraph exam was not related to any
27 therapeutic purpose and that the Defendants had not discussed any issues or questions related to
28 the polygraph exam with his therapist. PLAINTIFF's therapist at the time was Dr. Robert
Hemenway of Agape Psychological Services, a state approved offender therapist.

327. PLAINTIFF discussed this issue with Defendant SACKETT and was told that this
polygraph exam was to be conducted on him for compliance with his conditions, and was a

1 general polygraph exam to check for truthfulness. PLAINTIFF asserts and alleges that a
2 polygraph exam that is conducted for compliance with his conditions, and is a general polygraph
3 exam to check for the truthfulness of his answers is nothing short of an informal interrogation, as
4 anything that is verbalized or admitted to can be grounds for violation or arrest.

5 328. PLAINTIFF asserts that the polygraph exam as performed on him serves no
6 therapeutic purpose, and that one polygraph examiner actually confirmed that it is nothing more
7 than a fishing expedition.

8 329. PLAINTIFF asserts that a general polygraph exams or utility polygraph exam is
9 used to encourage respondents to make disclosures. In an amicus brief submitted to the Arizona
10 Supreme Court, it defines a utility polygraph exams primary purpose to generate disclosures.
11 The brief states that the utility polygraph exam is the least accurate, and is without any scientific
12 foundation. The brief further states that utility polygraph exams have no known error rate and
13 that they are a multi-issue screening test that includes questions about all issues the supervising
14 officer wishes to visit.

15 330. PLAINTIFF asserts and alleges that a polygraph exam does not measure
16 truthfulness, and that it is not accepted by the scientific community at large, and that it is not
17 accepted into evidence in a court of law unless both parties agree to abide by the results.

18 331. PLAINTIFF and Defendant SACKETT had a prolonged discussion concerning this
19 issue, and the veracity of the polygraph exam, how it is performed, and how physical, mental,
20 and medical issues including prescription medications could affect the outcome of the test. He
21 asserts and alleges that the polygraph exam is routinely performed on offenders under
22 prescription medications, and who have medical issues.

23 332. PLAINTIFF and Defendant SACKETT also discussed the issue of recidivism and he
24 told PLAINTIFF that all offenders re-offend, which clearly shows bias and prejudice. He
25 informed Defendant SACKETT of many recent studies performed by states that track offenders
26 that have shown a documented recidivism rate of less than 3% for offenders sentenced to parole
27 and probation, and less than 1% for those offenders sentenced to Lifetime Supervision.
28 Defendant SACKETT continued to assert that these studies were flawed, even though they were
performed by state agencies like the one he is employed by, and that all offenders recidivated.
He asserted that there were many studies that showed this to be true; however, he declined to
specifically identify any studies that were done.

1 333. After these discussions, Defendant SACKETT discussed how the polygraph worked,
2 and identified all the components and where he would place them upon PLAINTIFF's person.
3 He asked PLAINTIFF if he understood this, and PLAINTIFF replied that he did.

4 334. Defendant SACKETT supplied PLAINTIFF with a consent form for him to sign and
5 informed him of his 5th Amendment right to not answer any questions, which was documented
6 on the consent form, and which Defendant SACKETT had to witness.

7 335. At this time, PLAINTIFF asserted that on this consent form, there was also an NRS
8 statute, which was specifically identified as NRS 648.193. He asserted that this statute was not
9 complete as defined by the Nevada Legislature, and that it was missing a very significant part,
10 which made it incomplete, and that he would not consent unless he could note that this was
11 illegal, and that he was signing this form under duress. He further asserted that the language was
12 missing the last part of the statute, which included the word "and", which made it mandatory that
13 it be present on the consent form.

14 336. PLAINTIFF asserts and alleges that the Nevada Supreme Court has held that all
15 statutes have to be read in their entirety, and that all words in a statute have meaning. He stated
16 that the words "and"; "or"; "shall"; "must", and other words like them are mandatory language in
17 a statute and have to be included to show awareness to give consent. PLAINTIFF asserts that the
18 language which was missing is as follows: "and the inquiries are made at the request of the
19 person examined."

20 337. In order to understand the context of this wording, a person would have to know the
21 complete text of NRS 648.193 in order to understand it and consent to it. PLAINTIFF states the
22 complete text as follows:

23 **NRS 648.193 Inquiries into examinee's religion, political affiliation, sexual activities,**
24 **or affiliation with labor organizations prohibited; exceptions.** During a polygraph
25 examination, the examiner or intern shall not make inquiries into the religion, political
26 affiliations, affiliations with labor organizations or sexual activities of the person examined
27 unless the person's religion or those affiliations or activities are germane to the issue under
28 investigation *and the inquiries are made at the request of the person examined.*

338. PLAINTIFF asserted that this was a violation of NRS 648.189, section (5) which
states that the polygraph exam must not be conducted "to circumvent or in defiance of the law".

1 339. PLAINTIFF asserted that for a consent form to be signed voluntarily, the rule of law
2 which applied is that the consent has to knowingly, intelligently and voluntarily be signed for it
3 to be legal. By having the statute not enumerated as described, this violates the knowingly part
4 of the consent, as you can not knowingly sign something which you are not made aware of.
5 Only through the legal research performed by PLAINTIFF after his first polygraph exam was he
6 knowledgeable about the illegality of the Defendants consent form, and how the Defendants use
7 it to violate the law in a coerced manner, which is the Defendants conspired to do.

8 340. Defendant SACKETT informed PLAINTIFF that the Nevada Revised Statutes
9 relating to the polygraph did not apply to him, and this type of polygraph exam, that they only
10 applied to commercial polygraphers.

11 341. PLAINTIFF asserted that this was strange, as he was signing a consent form which
12 related to NRS 648.187 which states: “a person being examined must be advised of his right to
13 refuse to answer incriminating or degrading questions.” He also asserted that this related to NRS
14 648.189 with states: “a polygraphic examination must not be conducted (2) unless the person
15 examined consents to in in writing.” He further stated that if these two applied then NRS
16 648.193 should apply to him also.

17 342. PLAINTIFF asserts that Defendant SACKETT also had to sign this form as a
18 witness that PLAINTIFF understood his constitutional rights and the laws that applied to him,
19 evidencing awareness of these constitutional rights and laws.

20 343. Defendant EVANS and Defendant GOTHAN witnessed this exchange between
21 PLAINTIFF and Defendant SACKETT and also were aware of the constitutional rights and NRS
22 statutes that applied to PLAINTIFF.

23 344. PLAINTIFF asserts and alleges that this consent form as described is the consent
24 form used to obtain coerced and illegal consent from all offenders subject to the polygraph exam.

25 345. Defendant SACKETT asked PLAINTIFF if he was ready to be “hooked up” to the
26 machine to become acclimated to it while he discussed the issue of polygraph exam ethics and
27 how he would conduct the test. He agreed and patiently and calmly submitted to being “hooked
28 up” to the equipment by Defendant SACKETT.

346. Defendant SACKETT informed PLAINTIFF that he was ethically bound to conduct
the test in a certain way, and he asked PLAINTIFF if he believed that. Defendant SACKETT
would not provide the specifics of the ethical obligation he was bound to follow. Defendant

1 SACKETT informed PLAINTIFF that he would ask 10 questions relating to the PLAINTIFF and
2 gave some examples.

3 347. Defendant SACKETT informed PLAINTIFF that he would review the 10 questions
4 with him, and go through them one by one, and that he could ask them a number of times during
5 the test, in any order that he might choose to do so, and if PLAINTIFF understood this. He
6 agreed that he understood the issues presented by Defendant SACKETT and agreed to continue
7 with the 10 questions that would be reviewed with him and then asked of him.

8 348. PLAINTIFF and Defendant SACKETT reviewed the 10 questions that would be
9 asked of him. Defendant SACKETT asked him during this review how he would answer the
10 questions, and he responded to each review question as to how he would answer that question if
11 asked of him. At the end of the review period of the ten questions, Defendant SACKETT asked
12 PLAINTIFF if he understood the questions and if he was ready to proceed to the actual test.

13 349. PLAINTIFF replied that he understood the 10 questions and that he was ready to
14 proceed and submit to the polygraph exam. He notated an exception to the last two questions
15 that Defendant SACKETT wished to ask and stated that he believed the questions were illegal to
16 ask. PLAINTIFF stated that he would decline to answer them and invoked his 5th Amendment
17 privilege to do so.

18 350. Defendant EVANS and Defendant GOTHAN witnessed this exchange between
19 PLAINTIFF and Defendant SACKETT and also were aware that PLAINTIFF was asserting his
20 5th Amendment rights to not answer the questions.

21 351. Defendant SACKETT became very hostile and stated that he had to answer the
22 questions asked and reviewed the statement made by PLAINTIFF that he was going to invoke
23 his 5th Amendment rights in relation to the last two questions. PLAINTIFF reaffirmed his right
24 to take the 5th Amendment and stated that he would answer the last two questions with that
25 answer while submitting to the polygraph exam, and that he believed the last two questions to be
26 illegal and in violation of NRS statutes.

27 352. At that time, Defendant SACKETT stood up and approached PLAINTIFF, and told
28 him that he was done with the polygraph exam. Defendant SACKETT ripped the connections
off of the person of PLAINTIFF and told him to wait outside in the waiting area. Defendant
SACKETT never gave PLAINTIFF the polygraph exam even though he was willing to patiently
and calmly submit to the test and voiced that fact to him.

1 353. PLAINTIFF at no time declined or refused to submit to the polygraph exam.

2 354. PLAINTIFF asserts that Defendant EVANS and Defendant GOTHAN witnessed
3 any and all interactions between Defendant SACKETT and PLAINTIFF and were aware of all
4 constitutional rights afforded the PLAINTIFF including all issues relating to the Nevada Revised
5 Statutes.

6 **SECOND CAUSE OF ACTION**

7 (Violation of the 4th Amendment)

8 355. Plaintiff hereby repeats, realleges, and incorporates by reference paragraphs 1–354
9 as though fully restated herein.

10 356. PLAINTIFF waited in the area designated and was approached by Defendant
11 EVANS and Defendant GOTHAN. Defendant EVANS ordered PLAINTIFF to drive back to the
12 Nevada Parole and Probation Office in Reno, NV, which was located at 475 Valley Way.

13 357. PLAINTIFF submitted and cooperated with this order and drove back to Reno, NV
14 while being followed by Defendant EVANS and Defendant GOTHAN. He parked on the street
15 outside the office on Valley Way in Reno, NV, and entered the facility where he was met by
16 Defendant EVANS and Defendant GOTHAN. He was ordered to sit in a chair in the interior
17 area of the facility where office visits are performed and wait while Defendant EVANS notated
18 information in OTIS. PLAINTIFF was told within a couple of minutes that he was under arrest
19 for two violations of his conditions of Lifetime Supervision and that he was being detained.

20 358. PLAINTIFF asserts and alleges that a violation of a condition of Lifetime
21 Supervision is a new criminal offense and has to follow all of the constitutional rights afforded to
22 PLAINTIFF as a new and separate charge.

23 359. PLAINTIFF asserts and alleges that Defendant EVANS had no probable cause to
24 arrest, or detain him. He stated that Defendant EVANS did not follow Policy and Procedure
25 relating to the polygraph exam in order to institute an arrest.

26 360. PLAINTIFF and his wife received a letter from the Nevada Department of Public
27 Safety dated March 24, 2011 outlining the procedure used to arrest an offender for a violation of
28 the conditions of Lifetime Supervision. This letter states:

“I wish to assist you though in understanding how these words or phrases relate to
this division. The information requested to common conditions placed on people who are
under the division’s supervision. These conditions are set by a judge or Nevada’s Parole

1 Board. If an officer believes a subject under supervision has violated one of these
2 conditions, they may write a violation report for a parolee or probationer, or crime report
3 if the subject is on Lifetime Supervision. A supervisor would then review the report to
4 determine, in part, if the subject may have violated those conditions. If the supervisor
5 agrees, the report is forwarded to the board or court. The board or court has final
6 determination in whether the subject has violated a condition of supervision. In other
7 words, there are multiple steps in the violation process in which more than one party
8 would review the violations before making a determination as to whether the subject had,
9 for example, violated their condition regarding contact with a minor or whether they
10 cooperated with their parole officers.

11 The letter further states: "As the circumstances of a subject supervised by this
12 division can be extremely varied and unique, I have always suggested that a subject under
13 supervision communicate with their supervising officer to determine whether or not a
14 specific act, that they either have encountered or would reasonably encounter, would
15 violate their terms of supervision.

16 The letter finishes with this statement: "Finally, polygraph examinations are
17 conducted on subjects when they have a condition of supervision that allows them or if
18 the subject volunteers. The exams are most often conducted by a polygraphic examiner
19 with the Department of Public Safety Investigations Division. The exams are used as a
20 tool to provide appropriate supervision and therefore questions are related to compliance
21 with the terms of supervision."

22 This letter was signed by David Helgerman, Sergeant of the Nevada Division of
23 Parole and Probation.

24 361. PLAINTIFF asserts and alleges that these steps were not followed as policy and
25 common procedure dictated. If they were, then the supervisors who approved the arrest are also
26 principals to it. He asserts and alleges that Defendant COLE, Defendant WOOD, and Defendant
27 STEIBER approved the false arrest and detention of PLAINTIFF.

28 362. PLAINTIFF was told to put his hands behind his back and to stand up. At this time
Defendant EVANS placed handcuffs on PLAINTIFF, and again he was ordered to sit down and
wait.

1 363. The Defendant NEVADA DEPARTMENT OF PUBLIC SAFETY maintains a
2 Policy and Procedure relating to the offender polygraph process defined as Directive 6.3.115.
3 Directive 6.3.115 originated on February 19 and the purpose of Directive 6.3.115 is “to set forth
4 conditions governing the utilization of polygraph examinations on offenders under the
5 supervision of the Division of Parole and Probation.

6 364. Directive 6.3.115 states: “B. (2) Testing shall be conducted at the request of the
7 supervising officer and upon approval by the Captain.” “C. (e) The Captain shall provide the
8 authorization for the supervising officer to contact the polygraph examiner and establish a date
9 and time for the administration of the exam.” “C (e) (1) After contacting the examiner, the
10 officer shall complete and forward the Nevada Division of Investigation form ‘Polygraph
11 Request’ to the examiner...”

12 365. Directive 6.3.115 states: “C (i) If the polygraph result shows the offender was
13 ‘deceptive’ the officer should consult with their immediate supervisor and determine an
14 appropriate course of action to be pursued. Consideration should be given to:

- 15 (1) Increasing the level of supervision;
- 16 (2) Utilizing the offender search clause when appropriate;
- 17 (3) Modification of special conditions to enhance the Division’s ability to monitor and
18 supervise the offender;
- 19 (4) Other means of monitoring the offender’s behavior.

20 Deceptive results in and of themselves are not sufficient to generate a Violation Report.”

21 366. Directive 6.3.115 states: “C (k) Refusals by offenders to comply with special
22 conditions to submit to polygraph testing shall be handled in the same manner as a deceptive
23 result. Refusal to comply with a special condition, however, may be sufficient to generate a
24 Violation Report.” Condition #14 of the Agreement of Lifetime Supervision that has been
25 placed on PLAINTIFF is not a special condition.

26 367. PLAINTIFF did not decline or refuse to submit to the polygraph exam at any time
27 during the six hours he was present and patiently and calmly submitting to the polygraph exam.
28 He did not admit to any new or previously undisclosed criminal conduct or actions during the
course of the polygraph exam. There were no exigent circumstances to perform an arrest during
the course of the polygraph exam. HE did not in any manner or form terminate the polygraph
exam. No judicial warrant was obtained for the arrest of PLAINTIFF.

1 368. PLAINTIFF was escorted to a vehicle by two Officers for transport to the jail
2 facility at Parr Blvd. in Reno, NV. He was booked at the jail on two misdemeanor violations of
3 his conditions of Lifetime Supervision, which is a civil penalty. He was notified of his right to
4 bail, and received the paperwork that determined the amount of bail for each charge.

5 369. PLAINTIFF subsequently contacted his wife, and she brought cash bail in the
6 amount of \$610.00 that he needed to obtain his release from the holding facility.

7 370. PLAINTIFF was informed that he was to be arraigned on these charges on October
8 5, 2011 @ 09:30 am. He appeared at the arraignment scheduled on October 5, 2011 @ 09:30
9 and was informed of the charges against him. At that time, one charge was dismissed, the charge
10 of "Failure to co-operate with a parole and probation officer.

11 371. PLAINTIFF has a constitutional right to not co-operate with an illegal or
12 unconstitutional order of a Parole and Probation Officer. He asserts and alleges that any Officer
13 who is present and hears and allows an illegal or unconstitutional order is a principal to
14 oppression under color of law. At no point in time had PLAINTIFF stated that he would not co-
15 operate with his supervising officer or any other officer present.

16 372. PLAINTIFF asserts that the video and audio monitoring of the polygraph exam will
17 prove his rendition of the proceedings of the polygraph exam and clearly show his invocation of
18 his 5th Amendment right, and all of the statements made by him and Defendant SACKETT. The
19 video will clearly show that the Defendants violated that right and the laws of the United States
20 and the State of Nevada.

21 373. PLAINTIFF asserts and alleges that all Defendant officers and Defendant State
22 Agencies must be aware of the laws of Nevada, the Constitution of Nevada and the Constitution
23 of the United States, and know the rights and laws that apply to those offenders that they
24 supervise. He states that "ignorance of the law" is not a defense for Defendant officers.

25 374. In Directive 6.2.109 relating to search and seizure, it states: "D. Procedure, (2) The
26 United States Supreme Court continues to clarify the application of the Fourth Amendment and
27 the court's decisions addressing legal searches have limited the scope of some search exceptions
28 more narrowly than others. It is imperative that officers be familiar with past and recent case law
as it pertains to those exceptions." PLAINTIFF asserts and alleges that this statement
concerning legal issues and court decisions applies to every level of any constitutional right that

1 is afforded to an offender serving a criminal or civil sentence under supervision by any officer of
2 the Defendant state agencies and the State of Nevada.

3 375. PLAINTIFF asserts and alleges that Defendant officers violated the oath that they
4 swear to uphold the Constitution of the United States and the Constitution of the State of Nevada
5 by violating these constitutional rights and liberties of PLAINTIFF. He further states that the
6 Defendant officers violated the oath that they swear to uphold the laws of the State of Nevada
7 and that they will bare true faith, allegiance, and loyalty to the same.

8 376. PLAINTIFF asserts that Defendant officers violated Directive 4.2.009C. Directive
9 4.2.009C states: "I shall be honest in thought and deed in both my personal and official life. I
10 will be exemplary in obeying the laws of the State of Nevada and the regulations of my
11 Division." Directive 4.2.009C further states: "I will never act officiously or permit personal
12 feelings, prejudices, animosities or friendships influence my decisions."

13 377. PLAINTIFF was represented by the Public Defender's Office, by Ms. Priscilla
14 Nielson, and requested of her that he go to trial and that he would not plead guilty or take any
15 deals offered, and that he wanted to argue his 5th Amendment right and violation of NRS statutes
16 case in court.

17 378. During the course of the series of pretrial-conference hearings relating to the
18 remaining charge, PLAINTIFF was offered many deals to plead guilty to the remaining charge.

19 379. The first deal offered by the District Attorney was for the PLAINTIFF to plead
20 guilty to the charge of a willful minor violation of Lifetime Supervision, to wit, failure to answer
21 two questions on a proposed polygraph, and serve six months in jail, a year of probation, pay a
22 fine of \$610.00, and submit to the polygraph exam and answer all of the questions asked.
23 PLAINTIFF declined this offer and restated his determination to go to trial, as he believed that
24 he had a 5th Amendment right, and that the two questions being asked of him were illegal per
25 NRS 648.193.

26 380. After another pretrial-conference hearing, and discussions between the Public
27 Defender and District Attorney, the second deal offered relating to the charged offense was to
28 serve six months in jail, pay a fine of \$610.00, and submit to the polygraph exam and answer all
the questions asked. Again, PLAINTIFF declined this offer and restated his determination to go
to trial based on his beliefs stated above.

1 381. Close to the trial date set on or about July 12, 2012, PLAINTIFF felt that the
2 attorney representing him from the Public Defender's Office was not conducting the defense
3 according to PLAINTIFF's desires concerning the 5th Amendment, violations of NRS, and
4 violations of Policy and Procedure by the State, and obtained his own counsel, and requested the
5 Court a change of Attorney representation.

6 382. During the course of the next pre-trial conference hearings with PLAINTIFF's new
7 attorney, Mr. Augustus Claus, and the new District Attorney assigned to the case, a third offer
8 was presented to the PLAINTIFF. The third offer made by the District Attorney relating to the
9 charged offense was to plead guilty, pay a fine of \$610.00, and submit to the polygraph exam
10 and answer all the questions asked. PLAINTIFF declined this offer and restated his
11 determination to go to trial.

12 383. On or about December of 2012, PLAINTIFF filed a motion to preserve and produce
13 evidence through his attorney of record, Mr. Augustus Claus, upon the District Attorney. The
14 District Attorney opposed the motion, and stated that he would continue to trial, as PLAINTIFF
15 wished to do so all along, waiting to do so for a period of over 14 months. A court date of
16 January 17, 2013 was set to orally argue the motion to preserve and produce evidence in front of
17 the judge.

18 384. On or about January 16, 2013, the District Attorney made a final offer to
19 PLAINTIFF's attorney consisting of not pleading guilty to the charge, to serve no jail time or
20 court ordered probation, to not pay a fine in any amount, to not have to submit to the polygraph
21 exam and answer all of the questions asked, and to voluntarily submit to a six month no
22 condition "probation period" where if PLAINTIFF "kept his nose clean" and committed no new
23 violations of his Lifetime Supervision that all charges would be dismissed in PLAINTIFF's
24 favor.

25 385. PLAINTIFF's attorney Mr. Augustus Claus discussed this issue with PLAINTIFF
26 and PLAINTIFF accepted this offer to lighten the load and time of the Court as he felt that he
27 had not previously violated any condition of his Lifetime Supervision, and would not violate any
28 in the months to come, and that he had other avenues for redress of the constitutional issues
alleged by him.

386. PLAINTIFF and his attorney asked for the District Attorney to officially file a
motion to dismiss all charges on or about July 16, 2013, which was granted by the Court.

1 387. PLAINTIFF asserts and alleges that Defendant COLE, Defendant WOOD, and
2 Defendant STEIBER; along with Defendant SACKETT, Defendant EVANS, and Defendant
3 GOTHAN maliciously conspired to arrest, detain, prosecute and harass PLAINTIFF for taking
4 his 5th Amendment right that they had knowledge of and that all Defendant officers knowingly
5 violated

6 388. Upon dismissal of charges in PLAINTIFF's favor, all rights reserved under Title 42
7 U.S.C. § 1981; 1983; 1985; 1986; 1988 and state law became applicable to PLAINTIFF if he
8 chose to avail himself of them. PLAINTIFF now files this complaint upon claim for relief
9 according to the laws, decisions of the Courts, timelines, and scope of claims for relief, and
10 requests the Court to grant all of the following claims for relief.

11 **THIRD CAUSE OF ACTION**

12 (Violation of 8th Amendment and Violation of Section 18)

13 389. Plaintiff hereby repeats, realleges, and incorporates by reference paragraphs 1–388
14 as though fully restated herein.

15 390. PLAINTIFF asserts and alleges that a polygraph exam that lasts approximately 6 or
16 more hours is unethical according to the polygrapher's code of conduct and ethics. He states that
17 this was a violation of the 8th Amendment regarding cruel and unusual punishment according to
18 the United States Constitution.

19 391. PLAINTIFF asserts and alleges that a polygraph exam that lasts approximately 6 or
20 more hours and is performed in this manner and under duress was a violation of the Nevada
21 Constitution regarding cruel or unusual punishment.

22 **FOURTH CAUSE OF ACTION**

23 (Violation of the 1st & 14th Amendment)

24 392. Plaintiff hereby repeats, realleges, and incorporates by reference paragraphs 1–391
25 as though fully restated herein

26 393. On or about June 2, 2011, at or about 9:00 am, PLAINTIFF was informed during a
27 meeting with Defendant EVANS, Sergeant Summers, and Defendant WOOD that he was not
28 allowed to write any more letters to the Division of Parole and Probation concerning any issues
that PLAINTIFF had with his conditions, the polygraph, Policy and Procedure, or answers to any
questions that he might pose.

1 394. PLAINTIFF was told that if he were to do so, then that would be considered a
2 violation of an order by a Parole and Probation Officer, and that he would be subject to arrest for
3 non-cooperation and for failure to follow an order of an officer. He had obeyed this order under
4 duress and threat of arrest and retaliation until the filing of this complaint.

5 395. On or about November 16, 2011, PLAINTIFF supplied a request to the Nevada
6 Board of Parole Commissioners regarding a modification to his conditions of Lifetime
7 Supervision. On November 23, 2011, the Board denied this request for a hearing to modify his
8 conditions of Lifetime Supervision based on the following:

9 “It appears that you are asking for a modification to your conditions of lifetime
10 parole. Any modification of conditions must be supported through and by the Division of
11 Parole and Probation (P&P). You need to contact your Parole Officer and request a letter
12 from P&P supporting your request. Once the Board receives the letters from P & P
13 supporting your request, you will be scheduled for a consideration hearing.”

14 396. PLAINTIFF asserts and alleges that this is a violation of his First Amendment right
15 to petition the government for redress. Officers of the Nevada Division of Parole and Probation
16 are not authorized to determine whether or not the PLAINTIFF has a right to modify a condition
17 based on their personal approval. Only a court has the ability to decide cases and controversies.

18 397. PLAINTIFF asserts and alleges that this is a violation of his Fourteenth Amendment
19 right to petition the government for redress. Officers of the Nevada Division of Parole and
20 Probation are not authorized to determine whether or not the PLAINTIFF has a right to modify a
21 condition based on their personal approval. Only a court has the ability to decide cases and
22 controversies and the right to due process.

23 398. On or about August 2004, during the time that PLAINTIFF was serving his
24 suspended sentence and was on probation, he was allowed to petition the court for a modification
25 of his conditions without the approval of his Parole Officer. The court properly and
26 constitutionally recognizes that PLAINTIFF has the right to file a motion to request a change of
27 conditions based upon facts, statements and pleadings.

28 399. The Nevada Board of Parole Commissioners, acted as a quasi-judiciary body when
they imposed the conditions of Lifetime Supervision upon PLAINTIFF and were acting in place
of the court as directed by statute. All rights to due process are granted to PLAINTIFF who is
serving this civil sentence. The Board does not have the right to delegate the decision for an

1 appeal or a modification of a condition to the Parole Officer based upon their personal approval.
2 If the Parole Officer does not agree with PLAINTIFF's request, understand it, or has bias or
3 prejudice, they can just deny it without the authority to do so. If a Parole Officer were to impose
4 a decision upon PLAINTIFF that he does not agree with or believe is legal or constitutional, then
5 the Parole Officer can deny the appeal of the PLAINTIFF based on his personal prejudice. This
6 would be similar to the Bailiff deciding what appeals should make it to the judge, based on his
7 personal prejudice and decisions. I realize that this would make the Judge's life easier, however,
8 it would not be constitutional to perform.

9 **FIFTH CAUSE OF ACTION**

10 (Violation of the 1st, 5th, and 14th Amendment)

11 (Violation of the Equal Protection Clause)

12 400. Plaintiff hereby repeats, realleges, and incorporates by reference paragraphs 1–399
13 as though fully restated herein

14 401. On or about October 11, 2011, PLAINTIFF appeared at an office visit with
15 Defendant EVANS. During the course of this office visit, Defendant EVANS supplied him with
16 a letter from the Nevada Department of Public Safety, referencing the Division of Parole and
17 Probation, Northern Command. Defendant EVANS asked PLAINTIFF if he was going to be
18 home on the evening of October 31, 2011. He replied that he was going to be and Defendant
19 EVANS verbally placed him on a mandatory curfew starting at 6:00 pm on the evening of
20 October 31, 2011; and further ordered that he not answer his door to anyone for the evening.
21 This curfew and condition would stay in place until 6:00 am the next morning.

22 402. Defendant EVANS stated verbally that: "This is mandatory, and failure to abide by
23 this order is a violation of your supervision and you will be subject to arrest and/or violation
24 proceedings." Defendant EVANS also stated in the Letter that PLAINTIFF would have to
25 "avoid contact with children, and not pass out candy or other Halloween treats." He must
26 "darken his house, and otherwise discourage trick-or-treaters." He was told to "mark his
27 residence with a sign indicating 'NO CANDY.'" Defendant EVANS further stated in the letter
28 that if other members of the house intend to pass out candy, then he was to vacate his residence
during this time and advise Defendant EVANS of his expected location. Defendant EVANS
verbally overrode this part of the Letter by verbally placing him on curfew and condition as
notated above.

1 403. Defendants NEVADA DEPARTMENT OF PUBLIC SAFETY, NEVADA
2 DIVISION OF PAROLE AND PROBATION, and Defendant EVANS based this letter on
3 PLAINTIFF's condition of Lifetime Supervision which states as follows:

4 No contact with Persons under 18 years of Age: You shall not have contact with a
5 person under 18 years of age in a *secluded environment* unless another adult who has
6 never been convicted of an offense listed in NRS 179D.410 is present.

7 404. PLAINTIFF asserts that his front porch was not a *secluded environment*, it was a
8 public environment, and therefore the condition imposed upon him by the Defendants did not
9 apply. The Letter and verbal order was silent as to whether he could answer the door with
10 another adult present who was not convicted of a crime. PLAINTIFF asserts that the Defendants
11 are stating that every place outside of his home was a *secluded environment*. The Defendants
12 further stated that even though he would be in the presence of an adult who was never convicted
13 of a crime, that it did not matter, the Defendants were superseding the condition as imposed by
14 the Nevada Board of Parole Commissioners.

15 405. PLAINTIFF asserts that this Letter and verbal orders placing him upon a mandatory
16 curfew and rules placed upon him and his family by Defendants imposed a restraint on speech,
17 association and liberty by requiring him to refrain from answering the door to children who are
18 trick or treating, or anyone else, and by having to stay in his home for the time period required.
19 It imposed this burden upon him during the hours of 6:00 on October 31, 2012 to 6:00 am
20 November 1, 2011.

21 406. PLAINTIFF asserts that among other things, that the verbal order was silent as to
22 whether other people were permitted to answer the door to children who are trick or treating, or
23 to answer the door in the presence of another adult. It was silent as to his grandchildren who
24 may be trick or treating at his residence and who he is approved to have contact with by the
25 Board. It was also silent as to the fact of whether another person in the residence may open the
26 door to exit or enter without a criminal penalty being applied to him, as he was told not to answer
27 his door to anyone.

28 407. PLAINTIFF asserts that the mere fact of answering his door imposed the penalty of
a criminal felony for up to a six year sentence on him for behavior that was not a crime in and of
itself.

1 408. PLAINTIFF asserts that the Letter stated that he must darken his house, however it
2 was silent as to whether he was allowed to leave on any interior lighting visible from the exterior
3 of the residence, or whether the restraint includes lighting in the rear or side yard of the residence
4 where he also had porch lights. It was also silent as to whether another person in the residence
5 may turn on these porch lights and conduct themselves in a manner where lighting might provide
6 for their personal safety while exiting or entering the residence. It was further silent as to
7 whether he must turn off all decorative lighting, to include any path lighting or accent lighting, or
8 ornamental or decorative lighting. It was silent as to the fact of whether or not the porch light
might be a motion light that comes on automatically.

9 409. PLAINTIFF asserts that the mere fact of turning on a porch light imposed the
10 penalty of a criminal felony for up to a six year sentence on him for behavior that was not a
11 crime in and of itself.

12 410. PLAINTIFF asserts that he was ordered to “otherwise discourage trick-or-treaters.”
13 The Letter was silent on how he was supposed to accomplish this, as he was not allowed to open
14 his door, turn on a light, or leave his residence. How could he “otherwise discourage” anyone
from approaching his front door and obey the order given.

15 411. PLAINTIFF asserts that the Letter stated that he “mark his residence with a sign
16 indicating ‘NO CANDY.’” The Letter was silent as to how to do accomplish this order. The
17 Letter was silent as to where to place this sign, at the front door, rear door, inside the residence;
18 or to what size the sign had to be. It did not describe color, or font size, or any other helpful hint.

19 412. PLAINTIFF asserts that this Letter amounts to government mandated speech and
20 was a violation of his 1st Amendment right.

21 413. PLAINTIFF asserts that refusal to the government mandated order to place a sign
22 upon his property imposed a penalty upon him of a criminal felony for up to a six year sentence
23 on him for behavior that was not a crime in and of itself.

24 414. As stated, the Letter imposes the penalty of a criminal felony upon any him if he
25 does not comply with any of the foregoing mandates. In addition, it imposes these burdens on
26 any other person in the residence who will not be held liable for their behavior but imposes a
27 burden upon the Defendants to scrutinize and discern between persons who engage in the
28 prohibited and mandated speech and association, herein PLAINTIFF’s family.

1 415. As stated, the Letter prohibits, regulates and mandates speech and association and
2 other expressive activity on private property.

3 416. As stated, the Letter applies only to offenders and their families in the context of a
4 Halloween celebration, which PLAINTIFF asserts is a violation of the Equal Protection Clause.

5 417. As stated, the Letter prohibits PLAINTIFF from allowing his Board approved
6 grandchild to trick or treat at his residence on Halloween, or to celebrate Halloween at her
7 residence, which violates the Fourteenth Amendment right to family autonomy.

8 418. PLAINTIFF asserts the Letter lacks either a compelling or substantial legitimate
9 governmental interest in regulating free speech and association. It is not the least restrictive
10 means to further any compelling or substantial governmental interest. Even if it were content-
11 neutral, the Letter fails to pass constitutional muster because its restrictions are not sufficiently
12 narrowly tailored to serve any significant governmental interest. It is overbroad and burdens
13 substantially more speech than is necessary to further any governmental interest, and to this end,
14 imposes burdens on the family of the PLAINTIFF.

15 419. PLAINTIFF asserts the Letter is vague and fails to provide sufficient notice of what
16 was prohibited as to allow him to conform his conduct to the requirements of Letter, which was
17 not a statute or regulation, and promotes arbitrary and discriminatory enforcement.

18 420. PLAINTIFF asserts the Letter is arbitrary, motivated by political incentive in
19 response to popular sentiment against him and other offenders and lends itself to discriminatory
20 enforcement and suppression of the constitutional rights of the PLAINTIFF and his family; and
21 that is cannot meet the stringent standards required by the First Amendment on restrictions of
22 free speech and association rights.

23 421. PLAINTIFF asserts that the Letter deprives him and his family and other offenders
24 of rights guaranteed by the First Amendment and Fourteenth Amendment, including the
25 Substantive Due Process and Equal Protection Clauses and the rights to family autonomy therein,
26 of the United States Constitution. Defendants commit these unconstitutional acts under color of
27 law.

28 422. PLAINTIFF asserts that the Defendants interpret and override the conditions as set
by the Board of Parole Commissioners; and enforce conditions and policy and procedure without
the Board's approval or knowledge in order to violate his constitutional rights, immunities, and
privileges, with oppression and malice.

1 **SIXTH CAUSE OF ACTION**

2 (Violation of the 1st, 5th, and 14th Amendment)

3 (Violation of the Equal Protection Clause)

4 423. Plaintiff hereby repeats, realleges, and incorporates by reference paragraphs 1–422
5 as though fully restated herein

6 424. On or about October 3, 2012, PLAINTIFF appeared at an office visit with
7 Defendant EVANS. During the course of this office visit, Defendant EVANS supplied him with
8 a letter from the Nevada Department of Public Safety, referencing the Division of Parole and
9 Probation, Northern Command. This Memorandum placed him on a mandatory curfew starting
10 at 6:00 pm on the evening of October 31, 2012. This curfew would stay in place until 6:00 am
11 the next morning.

12 425. Defendant EVANS stated in the letter that: “This is MANDATORY, and failure to
13 abide by this order is a violation of your supervision and you will be subject to arrest and/or
14 violation proceedings.”

15 426. Defendant EVANS also stated in the letter that he and his family would not be
16 allowed to hand out candy, or to trick or treat with his grandchildren, that he must have his porch
17 light turned off and he must not answer the door for trick-or-treaters if they should knock.

18 427. Defendants NEVADA DEPARTMENT OF PUBLIC SAFETY, NEVADA
19 DIVISION OF PAROLE AND PROBATION, and Defendant EVANS based this memorandum
20 on two conditions of Lifetime Supervision which they state as follows:

21 1. That you are not to be in or near playgrounds, schools or school grounds,
22 motion picture theaters, or businesses that primarily have children as customers or
23 conduct events that primarily children attend or where children congregate.

24 2. No contact with Persons under 18 years of Age: You shall not have contact
25 with a person under 18 years of age in a secluded environment unless another adult who has
26 never been convicted of an offense listed in NRS 179D.410 is present.

27 428. PLAINTIFF states that his condition #1 above has an exception to his conditions
28 that read as: “be present in these locations only while accompanied by his wife or another adult.”

429. PLAINTIFF asserts that this Memorandum stating this mandatory curfew and rules
placed upon him and his family by Defendants imposed a restraint on speech and association by
requiring him to refrain from answering the door to children who are trick or treating.

1 PLAINTIFF is not a business that primarily has children as customers, nor is he conducting an
2 event that primarily children attend. In many circumstances, he would argue there are as many
3 adults present as there are children. It imposed this burden upon him during the hours of 6:00 on
4 October 31, 2012 to 6:00 am November 1, 2011.

5 430. PLAINTIFF asserts that among other things, the Memorandum is silent as to
6 whether other people were permitted to answer the door to children who are trick or treating, or
7 to answer the door in the presence of another adult. It was silent as to whether he was permitted
8 to answer the door to children or adults who were at his residence for other purposes. It was
9 silent as to his grandchildren who may be trick or treating at his residence and who he was
10 approved to have contact with by the Board. It was also silent as to the fact of whether another
11 person in the residence may open the door to exit or enter without a criminal penalty being
12 applied to him.

13 431. The Memorandum states that “you will not answer the door for trick-or-treaters if
14 they should knock.” If PLAINTIFF is not allowed to answer the door or to open it to see who
15 was there, how does he determine who was at the door. It could be his daughter or his wife, or
16 adult friends of his or his family.

17 432. PLAINTIFF asserts that his front porch is not a *secluded environment*, it was a
18 public environment, and therefore the condition imposed upon him by the Defendants did not
19 apply. The Memorandum was silent as to whether he could answer the door with another adult
20 present who was not convicted of a crime. PLAINTIFF asserts that the Defendants are stating
21 that every place outside of his home was a *secluded environment*. The Defendants further stated
22 that even though he would be in the presence of an adult who was never convicted of a crime,
23 that it did not matter, the Defendants were superseding the condition as imposed by the Nevada
24 Board of Parole Commissioners.

25 433. PLAINTIFF asserts that the mere fact of answering his door imposed the penalty of
26 a criminal felony for up to a six year sentence on him for behavior that was not a crime in and of
27 itself.

28 434. PLAINTIFF asserts that the Memorandum states that he must turn off his porch
light, however it was silent as to whether he was allowed to leave on any interior lighting visible
from the exterior of the residence, or whether the restraint includes lighting in the rear or side
yard of the residence where he also had porch lights. It was also silent as to whether another

1 person in the residence may turn on these porch lights and conduct themselves in a manner
2 where lighting might provide for their personal safety while exiting or entering the residence. It
3 was further silent as to whether he must turn off all decorative lighting, to include any path
4 lighting or accent lighting, or ornamental or decorative lighting. It was silent as to the fact of
5 whether or not the porch light might be a motion light that comes on automatically.

6 435. PLAINTIFF asserts that the mere fact of turning on a porch light imposed the
7 penalty of a criminal felony for up to a six year sentence on him for behavior that was not a
8 crime in and of itself.

9 436. As stated, the Memorandum imposed the penalty of a criminal felony upon him if he
10 did not comply with any of the foregoing mandates. In addition, it imposed these burdens on any
11 other person in the residence who would not be held liable for their behavior but imposed a
12 burden upon the Defendants to scrutinize and discern between persons who engaged in the
13 prohibited and mandated speech and association, herein PLAINTIFF's family.

14 437. As stated, the Memorandum prohibited, regulated and mandated speech and
15 association and other expressive activity on private property.

16 438. As stated, the Memorandum applied only to offenders and their families in the
17 context of a Halloween celebration, which PLAINTIFF asserts was a violation of the Equal
18 Protection Clause.

19 439. As stated, the Memorandum prohibited PLAINTIFF from allowing his Board
20 approved grandchild to trick or treat at his residence on Halloween, or to celebrate Halloween at
21 her residence, which violates the Fourteenth Amendment right to family autonomy.

22 440. PLAINTIFF asserts the Memorandum lacked either a compelling or substantial
23 legitimate governmental interest in regulating free speech and association. It was not the least
24 restrictive means to further any compelling or substantial governmental interest. Even if it were
25 content-neutral, the Memorandum fails to pass constitutional muster because its restrictions were
26 not sufficiently narrowly tailored to serve any significant governmental interest. It was
27 overbroad and burdens substantially more speech than was necessary to further any
28 governmental interest, and to this end, imposes burdens on the family of the PLAINTIFF.

441. PLAINTIFF asserts the Memorandum is vague and fails to provide sufficient notice
of what was prohibited as to allow him to conform his conduct to the requirements of

1 Memorandum, which was not a statute or regulation, and promotes arbitrary and discriminatory
2 enforcement.

3 442. PLAINTIFF asserts the Memorandum was arbitrary, motivated by political incentive
4 in response to popular sentiment against him and other offenders and lends itself to
5 discriminatory enforcement and suppression of the constitutional rights of the PLAINTIFF and
6 his family; and that it cannot meet the stringent standards required by the First Amendment on
7 restrictions of free speech and association rights.

8 443. PLAINTIFF asserts that the Memorandum deprives him and his family and other
9 offenders of rights guaranteed by the First Amendment and Fourteenth Amendment, including
10 the Substantive Due Process and Equal Protection Clauses and the rights to family autonomy
11 therein, of the United States Constitution. Defendants commit these unconstitutional acts under
12 color of law.

13 444. PLAINTIFF asserts that the Defendants interpret and override the conditions as set
14 by the Board of Parole Commissioners; and enforce conditions and policy and procedure without
15 the Board's approval or knowledge in order to violate his constitutional rights, immunities, and
16 privileges, with oppression and malice.

17 **SEVENTH CAUSE OF ACTION**

18 (Violation of the 4th and 14th Amendment)

19 445. Plaintiff hereby repeats, realleges, and incorporates by reference paragraphs 1–444
20 as though fully restated herein

21 446. On or about August 14, 2013, Defendant EVANS performed a home visit at
22 PLAINTIFF's place of residence. PLAINTIFF was home at the time, along with his wife. An
23 administrative walk-through was being performed during this home visit when Defendant
24 Officer Evans decided to search a cell phone that was present in a common area of the residence.
25 PLAINTIFF documented this visit in a letter to Defendant EVANS dated August 16, 2013,
26 where he states the following allegations and facts.

27 447. On August 14, 2013, PLAINTIFF did not hear a knock at the door, as he only heard
28 his daughter's dog barking so he assumed that someone was there. He quickly went to the door
to check, saw that Defendant EVANS was there and invited him in. As with all home visits,
PLAINTIFF offered to provide a tour of the rest of the residence and he chose to start in the
exercise room/office as it was the closest room to where we were at the time. PLAINTIFF

1 directed him to our master bedroom which is located off of the exercise room to begin the walk
2 through.

3 448. Defendant EVANS stopped at my wife's work desk which is located in the exercise
4 room. He noticed a phone lying on the desk top plugged in and charging and which was in plain
5 view. Defendant EVANS asked PLAINTIFF who this phone belonged to and he responded by
6 informing him that it was his wife's work phone and that it had been provided to her by the
7 company she is employed with. PLAINTIFF's wife was present in the home and overheard this
8 part of the conversation.

9 449. At this time Defendant EVANS chose to search PLAINTIFF's wife's work phone
10 by turning it on and swiping the screen to check for a password. He specifically chose at that
11 time to violate constitutional rights and perform an illegal search. This definition of an illegal
12 search had been held by the US Supreme Court in relation to moving a mouse to turn on a
13 computer, a similar situation.

14 450. Defendant EVANS performed this illegal search without asking PLAINTIFF's wife
15 for her permission, without asking for her presence, or even asking him if he would consent to
16 Defendant EVANS conducting a search of her phone for the express purpose of checking to see
17 if a password was present on the phone. Defendant EVANS did not ask PLAINTIFF or his wife
18 if a password was present on this phone before conducting this illegal search, which would have
19 been an extremely easy and legal question for Defendant EVANS to pose to PLAINTIFF or his
20 wife.

21 451. PLAINTIFF objected to Defendant EVANS illegal search of his wife's phone, and
22 informed him that this type of action actually constituted a search, and objected to the manner in
23 which he performed this search. PLAINTIFF continued to question his interpretation of his legal
24 authority to violate PLAINTIFF's wife's personal property without permission or presence and
25 in violation of her constitutional rights and of your Policy and Procedure regarding searches.

26 452. Defendant EVANS informed PLAINTIFF that he was legally allowed to perform a
27 search in this manner as the phone was located in a common area of the residence. He stated that
28 due to the fact that PLAINTIFF had access to the phone, that made it his phone, and that was all
he needed to search any item in the home regardless of who it belonged to as long as he decided
that PLAINTIFF had access. He specifically told PLAINTIFF that his legal authority derives
from PLAINTIFF's condition against possessing and/or accessing a device that is able to access

1 the internet. Defendant EVANS further stated that this condition provides him with the legal
2 authority to search any electronic device that is located in a common area of the residence even if
3 it is not owned; possessed or under the control of the offender; and without the permission of the
4 person who owns it. In PLAINTIFF's circumstances, this could be the personal possessions of
5 his wife, his daughter, his son-in-law, his son, his daughter-in-law, his sister-in-laws, other
6 guests at his residence and his attorneys. PLAINTIFF asserts that

7 453. Defendant EVANS then informed PLAINTIFF that the Division now has a new
8 Policy and Procedure regarding searches. He stated that the Policy allows for warrantless and
9 suspicionless searches of anyone in the residence, including their personal property, persons or
10 belongings.

11 454. PLAINTIFF asserted that Defendant EVANS and the Nevada Division of Parole and
12 Probation interprets this search condition that is placed upon him to legally supersede the
13 constitutional rights of any person who he resides with, as any person he resides with then
14 forfeits any constitutional rights that they have due to his conviction. He believes this to be an
15 erroneous interpretation of the law and the Division's previous attempts to define constructive
16 possession were misrepresented to me and I believe that any charge involving constructive
17 possession would fail the standard of proof that is required by the State for probable cause.

18 455. PLAINTIFF informed Defendant EVANS that this is not the current wording of the
19 condition that is placed upon him by the Board, and that Defendant EVANS interpretation which
20 follows the Division's interpretation is in violation of the condition as set by the Board and of
21 Policy and Procedure.

22 456. During this discussion we were walking back through the entry and living area of
23 the residence and we were currently moving into the kitchen. Defendant EVANS stopped and
24 opened the refrigerator door and visually inspected the interior of the refrigerator. At this time,
25 PLAINTIFF voiced another concern relating to searches and asked him what his *reasonable*
26 *suspicion of criminal activity* was present that allowed him to perform a search of the
27 refrigerator. A supervisory walk through of the residence is legally allowed and which is quite
28 different than opening cabinets and drawers; an action by an Officer which directly relates to a
search. This opinion has been held by the Nevada Supreme Court.

457. Defendant EVANS again stated that he was allowed to do this type of search
without PLAINTIFF's permission and without any reasonable suspicion of criminal activity. He

1 informed PLAINTIFF that during the last 6 months, the Division has instituted a new Policy and
2 Procedure that is based off of a recent court decision interpreted by the Division that allows
3 suspicionless searches. This led to a further discussion of PLAINTIFF's conditions which have
4 been set by the Nevada Board of Parole Commissioners.

5 458. PLAINTIFF informed Defendant EVANS at this time that this was not how the
6 condition was imposed on him by the Nevada Board of Parole Commissioners. The condition
7 that has been set by the Nevada Board of Parole Commissioners and which has authorized the
8 Division of Parole and Probation to act with legal authority is currently stated as follows:

9 20. **Search:** You shall submit to a search of your person, property under
10 your control, or place of residence, by a Parole Officer, at any time, of the day or
11 night without a warrant, upon reasonable cause as ascertained by the Parole
12 Officer.

13 459. PLAINTIFF stated that according to the Board they have the authority to place this
14 condition upon him as a semi-judiciary arm of the court relating to his special sentence of
15 Lifetime Supervision. They state quite clearly that they have the right to change this condition at
16 any time. However, the Board does not state that a Parole Officer of the Division of Parole and
17 Probation, or that the Division of Parole and Probation can institute a Policy and Procedure based
18 upon their interpretation of the constitution, the law and this condition that supersedes this
19 condition as set by the Board. The Board has clearly stated that reasonable cause needs to be
20 established to search his personal property or property under his control. The Board of Parole
21 Commissioners does not legally authorize the Parole Officer to conduct a warrantless and
22 suspicionless search of the property of any person who is not under the supervision of the
23 Division and the Board.

24 460. PLAINTIFF asserts that he has a legal right to verify the condition as Defendant
25 EVANS has interpreted it and stated it to him. This encompasses many different variables. My
26 attorneys are often at my home working with me on various issues. The company I work for
27 does legal research for them. They bring their cell phones, and their laptops. Do you and the
28 Division have the legal authority to search their phones and laptops, their personal property and
their persons? The attorneys tell me that you do not.

461. PLAINTIFF asserts that his wife and daughter are afraid of how this type of search
action will continue to affect them. Defendant EVANS and other Officers have repeatedly

1 searched their personal property and belongings, including his daughter's prescriptions, medicine
2 cabinet and panty drawers without consent or presence as described previously. PLAINTIFF and
3 his family has addressed this issue with the Board and the Division and it was well documented.
4 Defendant EVANS has stated that they have to co-operate with him.

5 462. Defendant EVANS has informed PLAINTIFF and his family that the conditions of
6 Lifetime Supervision give him the legal authority to perform these actions. PLAINTIFF has also
7 been informed by Officers that his wife's and daughter's vehicles may be searched at any time,
8 even though he was not presently in them, or was in control of them. Defendant EVANS states
9 that any item in the common area of the residence can be searched without consent, even if it
10 does not belong to PLAINTIFF and is not in his possession, under his control, and even if he
11 does not have access to it. This would include cell phones, papers, belongings, prescriptions, etc.
12 Anything and everything that is in the common area; or what the Officer interprets as the
13 common area.

14 463. PLAINTIFF's wife and daughter fear that Defendant EVANS will continue to take
15 this further and search more of their personal property, legal documents, and their persons. They
16 believe that Defendant EVANS has the capability to plant incriminating evidence in their
17 personal property, since he and the other Officers are the only persons that are there when they
18 perform a search of their personal property as they will not allow presence or consent.

19 464. PLAINTIFF asserts again, that this is against Policy and Procedure, which
20 Defendant EVANS completely disregards, and his wife and daughter do not believe that he is
21 honest or ethical. Defendant EVANS has never interacted with PLAINTIFF's family in a
22 responsible, courteous or respectful manner. In fact, Defendant EVANS had actually implied
23 that PLAINTIFF's daughter was a liar, and Defendant EVANS has forcefully told his wife to
24 "shut up and be quiet" when she questioned Defendant EVANS concerning the search of her
25 phone, showing disrespect and lack of courtesy to a citizen of the State of Nevada.

26 465. During this lengthy conversation with Defendant EVANS concerning PLAINTIFF's
27 rights, his conditions, policy and procedure, and his wife's constitutional rights, Defendant
28 EVANS continued to state that the Division's Policy and Procedure legally allows him and the
29 Division to change the conditions the Board has placed upon PLAINTIFF without their
30 knowledge or approval.

1 466. PLAINTIFF asserts that the Division or Defendant EVANS does not set the
2 conditions of Lifetime Supervision and that they do not have the authority to illegally enforce a
3 change in conditions that have not been approved and authorized by the Board.

4 **EIGHTH CAUSE OF ACTION**

5 (Violation of the 4th and 14th Amendment)

6 (Illegal Policy and Procedure)

7 467. Plaintiff hereby repeats, realleges, and incorporates by reference paragraphs 1–466
8 as though fully restated herein

9 468. On or about September 5, 2013, PLAINTIFF was provided the current Division
10 Directive 6.2.109 regarding search and seizure. This Directive has been updated since Plaintiff
11 had received a copy in 2011. PLAINTIFF asserts that the new Policy and Procedure of the
12 Nevada Department of Public Safety and the Nevada Division of Parole and Probation identified
13 as Directive 6.2.109 that is currently in force and use is unconstitutional.

14 469. Directive 6.2.109 states that the effective date was March 15, 2013. Its origination
15 date was October 8, 1998, and the last revision to the Directive occurred on March 15, 2013.

16 470. Directive 6.2.109 states:

17 **“A. Purpose:** To set forth standards governing the lawful search and seizure of evidence
18 and contraband from parolees, probationers, or other criminal offenders.”

19 **“C. Definitions: (3) Reasonable Suspicion:** A suspicion founded upon circumstances
20 sufficiently strong enough to warrant a reasonable person to believe something may be true.
21 This standard is less than that of probable cause.”

22 **“C. Definitions: Suspicionless Search:** A search of person, residence or property
23 conducted without probable cause or reasonable suspicion.”

24 **“D. Procedure: (3)** A search pursuant to a parole, probation or lifetime supervision
25 search condition need not be based on reasonable suspicion or probable cause.”

26 **“D. Procedure: (5) General Search Guidelines:** The protection of the constitutional
27 rights of citizens and the safety of officers are of paramount concern.”

28 **“D. Procedure: (7) Third Party Searches: (a)** The Officers scope of search pursuant to
a search clause will be limited to the offenders living area and any common living areas, such as
the living room, bathroom, patio or garage, or any area to which the offender has access. **(b)**
Any areas to which the offender does not have access will not be searched. **(c)** If an offender is

1 sharing an area with a third party, the officer will not search any property in that area which
2 obviously belongs to the third party.”

3 “**D. Procedure: (8) Consensual Searches: (a)** No employee will obtain consent to
4 search through deception or coercion; it must be voluntarily given in order for the resulting
5 search to be valid. **(b)** Since the burden is on the State to show that consent is voluntary, the
6 officer should attempt to obtain a voluntary consent to search in writing, utilizing the Divisions
7 Consent to Search form, and have a third party witness the document. **(c)** The person giving
8 consent must have the legal capacity to do so. **(d)** If the person elects to limit or withdraw
9 consent, the search must be limited or terminated immediately.

10 471. PLAINTIFF asserts that this Directive is being applied to him, who is a civil
11 offender, and who is currently serving the “special sentence” of Lifetime Supervision, which is a
12 civil sentence. This is also enforced against his family and anyone else who might be present.

13 472. PLAINTIFF asserts that the NEVADA DEPARTMENT OF PUBLIC SAFETY,
14 including its Director, Defendant WRIGHT; the NEVADA DIVISION OF PAROLE AND
15 PROBATION, including its Chief, Defendant CURTIS, and Defendant EVANS violated the
16 Nevada Board of Parole Commissioners condition of Lifetime Supervision that had been placed
17 on PLAINTIFF to wit:

18 “**D. Procedure: (3)** A search pursuant to a parole, probation or lifetime supervision
19 search condition need not be based on reasonable suspicion or probable cause.”

20 “**C. Definitions: Suspicionless Search:** A search of person, residence or property
21 conducted without probable cause or reasonable suspicion.”

22 This Directive would also violate any Court order of a Judge who specifically states in a
23 parole or probation condition as ordered by the Court that reasonable cause is required.

24 473. PLAINTIFF’s condition of search placed upon him on October 8, 2011 by the
25 Nevada Board of Parole Commissioners states:

26 **20. Search:** You shall submit to a search of your person, property under your
27 control, or place of residence, by a Parole Officer, at any time, of the day or night without
28 a warrant, upon reasonable cause as ascertained by the Parole Officer.

474. PLAINTIFF asserts that this condition has not been changed by the Board, and if the
Board did so without providing notice, as documented in a previous example, then they have
enforced this condition upon PLAINTIFF without providing for proper notice, or due process.

1 475. PLAINTIFF asserts that the NEVADA DEPARTMENT OF PUBLIC SAFETY,
2 including its Director, Defendant WRIGHT; the NEVADA DIVISION OF PAROLE AND
3 PROBATION, including its Chief, Defendant CURTIS, and Defendant EVANS conspired to
4 illegally enforce a condition without the Board's knowledge or approval, by enforcing a Policy
5 and Procedure that they assert supersedes the condition placed upon PLAINTIFF by the Board.

6 476. PLAINTIFF asserts that the NEVADA DEPARTMENT OF PUBLIC SAFETY,
7 including its Director, Defendant WRIGHT; the NEVADA DIVISION OF PAROLE AND
8 PROBATION, including its Chief, Defendant CURTIS, and Defendant EVANS conspired to
9 violate the Laws of the State of Nevada as **only** the Nevada Board of Parole Commissioners has
10 the authority to change and assign the rules. This is "*by virtue of the authority vested in it by the*
11 *laws of the State of Nevada, and hereby assigns..,*" and "*The Board of Parole Commissioners*
has the power, at any time, to modify the conditions of supervision."

12 477. PLAINTIFF asserts that the Nevada Board of Parole Commissioners has not
13 changed his condition to allow suspicionless searches, or any search without reasonable
14 suspicion, and has not changed the condition to allow suspicionless searches on any third party
15 or third party personal property or belongings.

16 **NINTH CAUSE OF ACTION**

17 (Violation of the Constitutional Right to Travel and 14th Amendment)

18 478. Plaintiff hereby repeats, realleges, and incorporates by reference paragraphs 1–477
19 as though fully restated herein.

20 479. PLAINTIFF respectfully requested in a letter to the Nevada Board of Parole
21 Commissioners, a hearing to appeal Condition #9; Travel Permits of his Lifetime Supervision
22 Standard Conditions. He stated that these conditions have been placed upon him under the
23 Board's authority.

24 480. PLAINTIFF stated that he had recently made a request to the Nevada Division of
25 Parole and Probation to travel for business reasons. This was due to a large contract that his
26 company was currently bidding on for a project which would have kept him employed for over a
27 year or more. PLAINTIFF stated that due to the Division's response and denial in relation to this
28 business travel; that even though his company would have been awarded the project; that his
company had to decline the bid.

1 481. The Division has informed PLAINTIFF that he will no longer be able to travel at all
2 outside the State of Nevada for any reason whatsoever due to an inconclusive polygraph test
3 performed in 2009. The Division has informed me that this is due to a *special* Policy and
4 Procedure contained in a “Black Book” that the Division uses besides the normal public Policy
5 and Procedure. This *special* Policy and Procedure is not open to public review.

6 482. PLAINTIFF is in possession of the normal *public* Division Directive 6.3.116 for
7 which he was in full compliance. He stated that he was current on his monthly supervision fees
8 and that he was current on his monthly therapy fees. He has no outstanding restitution or court
9 ordered fees. He stated that he was in full compliance with all the conditions of Lifetime
10 Supervision as he was aware of them.

11 483. PLAINTIFF’s state approved therapist, Dr. Robert Hemenway of Agape
12 Psychological Services had offered a letter stating his position that he sees no problem and has
13 no issue with PLAINTIFF traveling for any business or personal reason. Especially if
14 PLAINTIFF does so with his family, which would further the effectiveness of the goal of his
15 rehabilitation. PLAINTIFF and his therapist both stated that this should be the goal of the Board
16 and the Division, to support him in his efforts to be a responsible citizen, to maintain steady
17 employment, and to help encourage him in his efforts to rehabilitate.

18 484. Due to this decision, the company that PLAINTIFF is employed by might not be
19 able to bid projects outside the State any more or even projects within the State that might entail
20 some travel by him. This particular project would have netted a million dollars of sales taxable
21 goods for the State of Nevada. It would have provided a number of local part time or casual
22 workers jobs, who then would have used the income they received within the State. In these
23 times of a troubled economy, PLAINTIFF is at a loss to understand the reasoning of the
24 Division. PLAINTIFF is a specialized consultant for the company that he is employed by, with a
25 unique knowledge of the products that his company distributes and sells.

26 485. PLAINTIFF stated that he was certain that he would not be able to satisfy the
27 Lifetime Supervision condition of steady employment due to this, as the company he I works for
28 will have to reduce his salary and benefits. PLAINTIFF asserts that the Division will use that
excuse during an office visit to further harass and intimidate him about full time employment
after denying his company the ability to effectively bid on projects. PLAINTIFF’s family will
struggle a little more in response to this denial, instead of making a small profit this year; we will

1 struggle to just get by. This is another effective way for the Division to punish and harass
2 PLAINTIFF and his family, instead of supporting and encouraging them as they claim to do.

3 486. PLAINTIFF asserts that he believes the Division is doing this in relation to formal
4 complaints he and his family dad filed with the Department of Public Safety regarding Officers
5 conduct and *interpretations* of conditions. He further believes it is in response to one of our
6 concerns for a definition of a “secluded environment” and other definitions his family is
7 currently seeking. And lastly, he believes they are using this as punishment for attending
8 hearings at the Board and for voicing concerns over issues that affect his family and him.
9 PLAINTIFF hoped that the Division would be above this type of punishment, but it does not
10 seem to be this way. He believes that one of their next steps will be to deny him the privilege to
11 live with my family, as they have done to other offenders serving the civil sentence of Lifetime
Supervision, which they state they have the legal authority to do.

12 487. PLAINTIFF states that he was allowed to travel to Hawaii at the end of last June and
13 the beginning of July in regards to business, a conference his wife attended, and a graduation
14 present for his daughter and her boyfriend, now his son-in-law. This was travel allowed for
15 PLAINTIFF after his inconclusive polygraph test from a couple of years ago. Exactly the same
16 test that they are now saying is denying him the ability to travel. PLAINTIFF stated that he
17 found it very strange that he and his family were allowed to do this before they filed any
18 complaints against the Division or its Officer’s or questioned any Policy and Procedure or
attended any hearings.

19 488. PLAINTIFF supplied the Board with a copy of the Division Directive 6.3.116. As
20 he stated to the Board that they would be able to determine that he was in full compliance with
21 this Directive. PLAINTIFF had no way or means to determine if he was in compliance with the
22 *special* “black book” Policy and Procedure, so he assumes that he will never be able to travel as
23 the Division will pull out excuse after excuse to deny him that constitutional right.

24 489. PLAINTIFF states that the Nevada Board of Parole Commissioners again denied his
25 1st Amendment right to petition for redress. Again, in a letter to PLAINTIFF the Board states
26 that he has to have the approval of his Parole and Probation Officer to initiate an appeal.

27 **TENTH CAUSE OF ACTION**

(Policy and Procedure regarding Right to Travel)

28 (Illegal Policy and Procedure not available for Public Review)

(Violation of the 1st and 14th Amendment)

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2 490. Plaintiff hereby repeats, realleges, and incorporates by reference paragraphs 1–489
3 as though fully restated herein.

4 491. PLAINTIFF submitted a letter to the Nevada Board of Parole Commissioners on
5 March 22, 2011, concerning a hearing to appeal Condition #9; Travel Permits of his Lifetime
6 Supervision Standard Conditions. He stated that these conditions have been placed upon him
7 under the Board’s authority. The Board denied this request and stated that the request had to
8 have the approval of the supervising officer or would not be heard. PLAINTIFF again appealed
9 his conditions on or about February 9, 2012 and was again denied for this appeal on or about
10 February 22, 2012, which is a denial of the First Amendment right to redress and petition the
11 government for appeal. A Parole and Probation officer does not have the authority to approve or
12 deny an appeal based upon personal prejudice and bias, without knowledge of the law, and does
13 not have authority over cases and controversies.

14 492. PLAINTIFF asserts that in documenting this letter to the Board he was making the
15 Board knowledgeable concerning a “special” Policy and Procedure of the Nevada Division of
16 Parole and Probation that supersedes the conditions as set by the Board regarding Lifetime
17 Supervision.

18 493. PLAINTIFF states that Sergeant Helgerman of the Division had informed him in a
19 letter that a denial to travel is enumerated in a “*special*” Policy and Procedure that is secretly
20 contained in a “Black Book” that the Division uses besides the normal public Policy and
21 Procedure. This *special* Policy and Procedure is not open to public review.

22 494. PLAINTIFF asserts that every Policy and Procedure of a State Agency must be open
23 for public scrutiny and review, and that the Policy and Procedure must be constitutional to
24 perform and enforce.

25 495. PLAINTIFF asserts that in these days of transparent government, this “black book”
26 that the Division applies to offenders concerns him. He asserts that how does a person under the
27 supervision of the Nevada Division of Parole and Probation conform their behavior to a Policy
28 and Procedure which they are not allowed access to, and was outside the scope of the conditions
as set by the Nevada Board of Parole Commissioners.

496. PLAINTIFF asserts that this “Black Book” lacks either a compelling or substantial
legitimate governmental interest in regulating free speech and association. It was not the least

1 restrictive means to further any compelling or substantial governmental interest. Even if it were
2 content-neutral, the “Black Book” fails to pass constitutional muster because its restrictions were
3 not sufficiently narrowly tailored to serve any significant governmental interest. It was
4 overbroad and burdens substantially more speech than was necessary to further any
5 governmental interest, and to this end, imposes burdens on PLAINTIFF and his family.

6 497. PLAINTIFF asserts that this “Black Book” is vague and fails to provide sufficient
7 notice of what was prohibited as to allow him to conform his conduct to the requirements of the
8 “Black Book”, which was not a statute or regulation, and promotes arbitrary and discriminatory
9 enforcement.

10 498. PLAINTIFF asserts that this “Black Book” of Policy and Procedure is arbitrary,
11 motivated by political incentive in response to popular sentiment against him and other offenders
12 and lends itself to discriminatory enforcement and suppression of the constitutional rights of the
13 PLAINTIFF and his family; and that it cannot meet the stringent standards required by the First
14 Amendment on restrictions of free speech and association rights.

15 499. PLAINTIFF asserts that this “Black Book” deprives him and his family and other
16 offenders of rights guaranteed by the First Amendment and Fourteenth Amendment, including
17 the Substantive Due Process and Equal Protection Clauses and the rights to family autonomy
18 therein, of the United States Constitution. Defendants commit these unconstitutional acts under
19 color of law.

20 500. PLAINTIFF asserts that the Defendants interpret and override the conditions as set
21 by the Board of Parole Commissioners; and enforce conditions and policy and procedure without
22 the Board’s approval or knowledge in order to violate his constitutional rights, immunities, and
23 privileges, with oppression and malice.

24 **FIRST CLAIM FOR RELIEF**

25 (Violation of Civil Rights Pursuant to Title 42 U.S.C. § 1983)

26 (Oppression under Color of Law)

27 501. PLAINTIFF hereby repeats, realleges, and incorporates by reference paragraphs 1–
28 500 as though fully restated herein.

502. At all times relevant herein, the conduct of Defendants were subject to Title 42
U.S.C. § 1981; 1983; 1985; 1986; and 1988.

1 503. Acting under color of law, and in committing the acts herein, Defendants worked a
2 denial of PLAINTIFF's rights, privileges or immunities secured by the United States
3 Constitution of certain constitutionally protected rights under the First, Fourth, Fifth, Sixth,
4 Eighth and Fourteenth Amendments, Federal law or State law.

5 504. During the events before, during, and after September 7, 2011, the Nevada
6 Department of Public Safety and its Director; and the Nevada Division of Parole and Probation
7 and its Chief maintained policies and/or customs exhibiting deliberate indifference to the
8 Constitutional rights of United States citizens, which caused the violations of PLAINTIFF's
9 rights.

10 505. It was the policy and/or custom of the Nevada Department of Public Safety and its
11 Director; and the Nevada Division of Parole and Probation and it's Chief to inadequately
12 supervise and train its officers, including the Defendant officers, thereby failing to properly
13 discourage Constitutional violations on the part of their officers.

14 506. As a result of the above-described policies and customs, officers of the Nevada
15 Department of Public Safety and its Director; and the Nevada Division of Parole and Probation
16 and its Chief, including the Defendant officers, believed that their actions would not be properly
17 monitored by supervisory officers and that misconduct would not be investigated or sanctioned,
18 but would be tolerated.

19 507. The above-described polices and/or customs demonstrate a deliberate indifference
20 on the part of Defendants NEVADA DEPARTMENT OF PUBLIC SAFETY and its Director,
21 JAMES WRIGHT; and/or the NEVADA DIVISION OF PAROLE AND PROBATION and its
22 Chief, BERNARD CURTIS, and the Defendant Officers to the Constitutional rights of United
23 States citizens, and were the cause of the violations of PLAINTIFFS' rights alleged herein.

24 508. Defendants acted with oppression, fraud, and malice, with the intent to violate
25 PLAINTIFF's constitutional rights and protections under the United States Constitution, the
26 Nevada Constitution, and Nevada Statute, thereby harming and injuring PLAINTIFF using
27 harassment, coercion and conspiracy.

28 509. As a direct and proximate result of the violations of constitutional rights, privileges
and immunities, PLAINTIFF suffered general and specific damages as alleged in this complaint
and he is entitled to relief under Title 42 U.S.C. § 1981; 1983; 1985; 1986; and 1988.

510. PLAINTIFF is entitled to compensatory damages in an amount to be proven at trial.

1 511. PLAINTIFF is entitled to exemplary and/or punitive damages in an amount to be
2 proven at trial.

3 **SECOND CLAIM FOR RELIEF**

4 (Violation of Civil Rights Pursuant to Title 42 U.S.C. § 1983)

5 (Failure to Implement Appropriate Policies, Customs and Practices)

6 512. PLAINTIFF hereby repeats, realleges, and incorporates by reference paragraphs 1–
7 511 as though fully restated herein.

8 513. At all times relevant herein, the conduct of Defendants were subject to Title 42
9 U.S.C. § 1981; 1983; 1985; 1986; and 1988.

10 514. Prior to the events of September 7, 2011, the Nevada Department of Public Safety
11 and the Nevada Division of Parole and Probation developed and maintained policies and/or
12 customs exhibiting deliberate indifference to the Constitutional rights of United States citizens,
13 which caused the violations of PLAINTIFF’s rights.

14 515. It was the policy and/or custom of the Nevada Department of Public Safety and the
15 Nevada Division of Parole and Probation to inadequately supervise and train its officers,
16 including the Defendant officers, thereby failing to properly discourage Constitutional violations
17 on the part of their officers.

18 516. As a result of the above-described policies and customs, officers of the Nevada
19 Department of Public Safety and the Nevada Division of Parole and Probation , including the
20 Defendant officers, believed that their actions would not be properly monitored by supervisory
21 officers and that misconduct would not be investigated or sanctioned, but would be tolerated.

22 517. The above-described polices and/or customs demonstrate a deliberate indifference
23 on the part of Defendants NEVADA DEPARTMENT OF PUBLIC SAFETY OR NEVADA
24 DIVISION OF PAROLE AND PROBATION to the Constitutional rights of United States
25 citizens, and were the cause of the violations of PLAINTIFFS’ rights alleged herein.

26 518.As a direct and proximate result of the violations of constitutional rights, privileges
27 and immunities, PLAINTIFF suffered general and specific damages as alleged in this complaint
28 and he is entitled to relief under Title 42 U.S.C. § 1981; 1983; 1985; 1986; and 1988.

519. PLAINTIFF is entitled to compensatory damages in an amount to be proven at trial.

520. PLAINTIFF is entitled to exemplary and/or punitive damages in an amount to be
proven at trial.

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THIRD CLAIM FOR RELIEF

(Violation of Civil Rights Pursuant to Title 42 U.S.C. § 1983)

(False Arrest and Imprisonment)

521. PLAINTIFF hereby repeats, realleges, and incorporates by reference paragraphs 1–520 as though fully restated herein.

522. At all times relevant herein, the conduct of Defendants were subject to Title 42 U.S.C. § 1981; 1983; 1985; 1986; and 1988.

523. Acting under color of law, and in committing the acts herein, Defendants worked a denial of PLAINTIFF’s rights, privileges or immunities secured by the United States Constitution of certain constitutionally protected rights under the Fourth, Fifth, and Fourteenth Amendments or Federal law

524. Defendant EVANS and GOTHAN’S arrest and detention of PLAINTIFF was without legal authority, and unsupported by reasonable suspicion of wrongdoing, probable cause to believe that a crime had been committed or was about to be committed, exigent circumstances, or a judicial warrant.

525. Defendants deprived PLAINTIFF of his liberty without due process of law, by taking him into custody and holding him against his will.

526. PLAINTIFF asserts and alleges that there was no warrant for the arrest. The arrest was without reasonable grounds for said Defendants to believe the PLAINTIFF had committed an offense, and Defendants knew they were without probable cause to arrest.

527. PLAINTIFF asserts and alleges that no complaint, information, or indictment was ever sworn against him alleging offenses occurring prior to the moment the Defendant EVANS handcuffed PLAINTIFF and told him he was under arrest.

528. Defendants conspired for the purpose of impeding and hindering the due course of justice, with intent to deny PLAINTIFF equal protection of laws.

529. Defendants acted with oppression, fraud, and malice in detaining PLAINTIFF, with the intent to violate PLAINTIFF’s constitutional rights and protections under the United States Constitution, the Nevada Constitution, and Nevada Statute, thereby harming and injuring PLAINTIFF using harassment, coercion and conspiracy.

530. As a direct and proximate result of being so detained, PLAINTIFF suffered emotional distress, humiliation, and physical discomfort.

1 531. As a direct and proximate result of the violations of constitutional rights, privileges
2 and immunities, PLAINTIFF suffered general and specific damages as alleged in this complaint
3 and he is entitled to relief under Title 42 U.S.C. § 1981; 1983; 1985; 1986; and 1988.

4 532. PLAINTIFF is entitled to compensatory damages in an amount to be proven at trial.

5 533. PLAINTIFF is entitled to exemplary and/or punitive damages in an amount to be
6 proven at trial.

7 **FOURTH CLAIM FOR RELIEF**

8 (Violation of 1st Amendment Rights)

9 534. PLAINTIFF hereby repeats, realleges, and incorporates by reference paragraphs 1–
10 533 as though fully restated herein.

11 535. At all times relevant herein, the conduct of Defendants were subject to Title 42
12 U.S.C. § 1981; 1983; 1985; 1986; and 1988.

13 536. On or about September 7, 2011 and as a continuing Policy and Procedure that
14 affects PLAINTIFF's 1st Amendment constitutional right to petition for redress of grievance
15 and the right of free speech.

16 537. The NEVADA BOARD OF PAROLE COMMISSIONERS acted with oppression,
17 fraud, and malice with the intent to violate PLAINTIFF's constitutional rights and protections
18 under the United States Constitution, the Nevada Constitution, and Nevada Statute, thereby
19 harming and injuring PLAINTIFF using harassment, coercion and conspiracy.

20 538. PLAINTIFF asserts that the Nevada Board of Parole Commissioners and the Nevada
21 Division of Parole and Probation conspired to effectively block all appeals by PLAINTIFF or
22 anyone serving the civil sentence of Lifetime Supervision to effectively petition for redress of
23 grievance on the basis of legal or constitutional challenges.

24 539. PLAINTIFF suffered injury to his constitutional rights after being made aware of
25 them, and being asked if he understood them and that he could exercise them by law. By
26 previously being made aware of a hearing to change the conditions of Lifetime Supervision that
27 are placed upon him, and asserting a constitutional or legal appeal to his conditions, that the
28 custom or policy of the Board to deny this hearing without the approval of his parole and
probation officer violated his 1st Amendment right to redress and petition the government.

540. By depriving PLAINTIFF of his 1st Amendment right concerning free speech and
association in the Fifth and Sixth Causes of Action as previously described.

1 541. The above-described policies and/or customs demonstrate a deliberate indifference
2 on the part of NEVADA BOARD OF PAROLE COMMISSIONERS to the Constitutional rights
3 of United States citizens, and were the cause of the violations of PLAINTIFFS' rights alleged
4 herein.

5 542. As a direct and proximate result of the violations of constitutional rights, privileges
6 and immunities, PLAINTIFF suffered general and specific damages as alleged in this complaint
7 and he is entitled to relief under Title 42 U.S.C. § 1981; 1983; 1985; 1986; and 1988.

8 543. PLAINTIFF is entitled to compensatory damages in an amount to be proven at trial.

9 544. PLAINTIFF is entitled to exemplary and/or punitive damages in an amount to be
10 proven at trial.

11 **FIFTH CLAIM FOR RELIEF**

12 (Violation of 5th Amendment Rights)

13 545. PLAINTIFF hereby repeats, realleges, and incorporates by reference paragraphs 1–
14 544 as though fully restated herein.

15 546. At all times relevant herein, the conduct of Defendants were subject to Title 42
16 U.S.C. § 1981; 1983; 1985; 1986; and 1988.

17 547. On or about September 7, 2011, Defendant SACKETT, EVANS, and GOTHAN
18 evinced awareness of PLAINTIFF's 5th Amendment constitutional right.

19 548. PLAINTIFF was asked to sign a consent form agreeing to the fact that he possessed
20 a 5th Amendment right.

21 549. Defendants violated PLAINTIFF's 5th Amendment constitutional right by
22 detaining, arresting and prosecuting PLAINTIFF for exercising that constitutional right.

23 550. Defendants acted with oppression, fraud, and malice with the intent to violate
24 PLAINTIFF's constitutional rights and protections under the United States Constitution, the
25 Nevada Constitution, and Nevada Statute, thereby harming and injuring PLAINTIFF using
26 harassment, coercion and conspiracy.

27 551. PLAINTIFF suffered injury to his constitutional rights after being made aware of
28 them, and being asked if he understood them and that he could exercise them by law.

552. By signing the consent form and agreement between Defendants and PLAINTIFF,
all parties agreed that the PLAINTIFF retained his 5th Amendment right and could exercise it by
law.

1 553. The above-described polices and/or customs demonstrate a deliberate indifference
2 on the part of Defendant Officers and Defendants NEVADA DEPARTMENT OF PUBLIC
3 SAFETY OR NEVADA DIVISION OF PAROLE AND PROBATION to the Constitutional
4 rights of United States citizens, and were the cause of the violations of PLAINTIFFS' rights
5 alleged herein.

6 554. As a direct and proximate result of the violations of constitutional rights, privileges
7 and immunities, PLAINTIFF suffered general and specific damages as alleged in this complaint
8 and he is entitled to relief under Title 42 U.S.C. § 1981; 1983; 1985; 1986; and 1988.

9 555. PLAINTIFF is entitled to compensatory damages in an amount to be proven at trial.

10 556. PLAINTIFF is entitled to exemplary and/or punitive damages in an amount to be
11 proven at trial.

12 **SIXTH CLAIM FOR RELIEF**

13 (Violation of 6th Amendment Rights)

14 557. PLAINTIFF hereby repeats, realleges, and incorporates by reference paragraphs 1–
15 556 as though fully restated herein.

16 558. At all times relevant herein, the conduct of Defendants were subject to Title 42
17 U.S.C. § 1981; 1983; 1985; 1986; and 1988.

18 559. On or about September 7, 2011, Defendant SACKETT, EVANS, and GOTHAN
19 evinced awareness of PLAINTIFF's 6th Amendment constitutional right to have an attorney
20 present during questioning by an Officer.

21 560. PLAINTIFF asserts and alleges that he was denied counsel during the polygraph
22 exam, during an informal interrogation relating to compliance of his conditions.

23 561. Defendants violated PLAINTIFF's 6th Amendment constitutional right by detaining
24 and arresting PLAINTIFF for exercising that constitutional right.

25 562. Defendants acted with oppression, fraud, and malice with the intent to violate
26 PLAINTIFF's constitutional rights and protections under the United States Constitution, the
27 Nevada Constitution, and Nevada Statute, thereby harming and injuring PLAINTIFF using
28 harassment, coercion and conspiracy.

563. The above-described polices and/or customs demonstrate a deliberate indifference
on the part of Defendant Officers and Defendants NEVADA DEPARTMENT OF PUBLIC
SAFETY OR NEVADA DIVISION OF PAROLE AND PROBATION to the Constitutional

1 rights of United States citizens, and were the cause of the violations of PLAINTIFFS' rights
2 alleged herein.

3 564. As a direct and proximate result of the violations of constitutional rights, privileges
4 and immunities, PLAINTIFF suffered general and specific damages as alleged in this complaint
5 and he is entitled to relief under Title 42 U.S.C. § 1981; 1983; 1985; 1986; and 1988.

6 565. PLAINTIFF is entitled to compensatory damages in an amount to be proven at trial.

7 566. PLAINTIFF is entitled to exemplary and/or punitive damages in an amount to be
8 proven at trial.

9 **SEVENTH CLAIM FOR RELIEF**

10 (Violation of 8th Amendment Rights)

11 567. PLAINTIFF hereby repeats, realleges, and incorporates by reference paragraphs 1–
12 566 as though fully restated herein.

13 568. At all times relevant herein, the conduct of Defendants were subject to Title 42
14 U.S.C. § 1981; 1983; 1985; 1986; and 1988.

15 569. On or about September 7, 2011, Defendant SACKETT, EVANS, and GOTHAN
16 evinced awareness of PLAINTIFF's 8th Amendment constitutional right.

17 570. PLAINTIFF asserts and alleges that an approximately 6 hour polygraph exam where
18 he is denied counsel, denied the ability to partake of food and beverages of his choice, denied the
19 ability to exercise his constitutional rights, being coerced into signing consent forms under
20 duress, and being harassed about his advocacy for his legal and constitutional rights is nothing
21 short of cruel and unusual punishment according to the United States Constitution.

22 571. PLAINTIFF asserts and alleges that an approximately 6 hour polygraph exam where
23 he is denied counsel, denied the ability to partake of food and beverages of his choice, denied the
24 ability to exercise his constitutional rights, coerced into signing consent forms, and being
25 harassed about his advocacy for his legal and constitutional rights is nothing short of cruel or
26 unusual punishment according to the Nevada Constitution.

27 572. Defendants acted with oppression, fraud, and malice with the intent to violate
28 PLAINTIFF's constitutional rights and protections under the United States Constitution, the
Nevada Constitution, and Nevada Revised Statute, thereby harming and injuring PLAINTIFF
using harassment, coercion and conspiracy.

1 573. PLAINTIFF suffered injury to his constitutional rights after being made aware of
2 them, and for being made to understand that he could exercise them by law, and then being
3 oppressed by the Defendants in the use of them.

4 574. By signing the consent form and agreement between Defendants and PLAINTIFF,
5 all parties agreed that the PLAINTIFF retained his 5th Amendment right and could exercise it by
6 law.

7 575. The above-described polices and/or customs demonstrate a deliberate indifference
8 on the part of Defendant Officers and Defendants NEVADA DEPARTMENT OF PUBLIC
9 SAFETY OR NEVADA DIVISION OF PAROLE AND PROBATION to the Constitutional
10 rights of United States citizens, and were the cause of the violations of PLAINTIFFS' rights
11 alleged herein.

12 576. As a direct and proximate result of the violations of constitutional rights, privileges
13 and immunities, PLAINTIFF suffered general and specific damages as alleged in this complaint
14 and he is entitled to relief under Title 42 U.S.C. § 1981; 1983; 1985; 1986; and 1988.

15 577. PLAINTIFF is entitled to compensatory damages in an amount to be proven at trial.

16 578. PLAINTIFF is entitled to exemplary and/or punitive damages in an amount to be
17 proven at trial.

18 **EIGHTH CLAIM FOR RELIEF**

19 (Violation of 14th Amendment Rights)

20 579. PLAINTIFF hereby repeats, realleges, and incorporates by reference paragraphs 1–
21 578 as though fully restated herein.

22 580. At all times relevant herein, the conduct of Defendants were subject to Title 42
23 U.S.C. § 1981; 1983; 1985; 1986; and 1988.

24 581. On or about September 7, 2011, Defendant SACKETT, EVANS, and GOTHAN
25 evinced awareness of PLAINTIFF's Fourth, Fifth, Sixth, Eighth, and Fourteenth Amendment
26 constitutional rights and by arresting PLAINTIFF for those rights violated his constitutional
27 rights.

28 582. Defendants acted with oppression, fraud, and malice with the intent to violate
PLAINTIFF's constitutional rights and protections under the United States Constitution, the
Nevada Constitution, and Nevada Statute, thereby harming and injuring PLAINTIFF using
harassment, coercion and conspiracy.

1 583. PLAINTIFF suffered injury to his constitutional rights after being made aware of
2 them, being made to understand that he could exercise them by law, and then being oppressed by
3 the Defendants in the use of them.

4 584. The above-described polices and/or customs demonstrate a deliberate indifference
5 on the part of Defendant Officers and Defendants NEVADA DEPARTMENT OF PUBLIC
6 SAFETY OR NEVADA DIVISION OF PAROLE AND PROBATION to the Constitutional
7 rights of United States citizens, and were the cause of the violations of PLAINTIFFS' rights
8 alleged herein.

9 585. As a direct and proximate result of the violations of constitutional rights, privileges
10 and immunities, PLAINTIFF suffered general and specific damages as alleged in this complaint
11 and he is entitled to relief under Title 42 U.S.C. § 1981; 1983; 1985; 1986; and 1988.

12 586. PLAINTIFF is entitled to compensatory damages in an amount to be proven at trial.

13 587. PLAINTIFF is entitled to exemplary and/or punitive damages in an amount to be
14 proven at trial.

15 **NINTH CLAIM FOR RELIEF**

16 (Violation of Equal Protection)

17 588. PLAINTIFF hereby repeats, realleges, and incorporates by reference paragraphs 1–
18 587 as though fully restated herein.

19 589. Defendants, acting in concert, violated PLAINTIFF's right to Equal Protection
20 under the Federal and State Constitution.

21 590. Defendants acted with oppression, fraud, and malice with the intent to violate
22 PLAINTIFF's constitutional rights and protections under the United States Constitution, the
23 Nevada Constitution, and Nevada Statute, thereby harming and injuring PLAINTIFF using
24 harassment, coercion and conspiracy.

25 591. As a direct and proximate result of Defendants' actions, PLAINTIFF suffered
26 emotional distress, humiliation, physical discomfort, and injury.

27 592. As a direct and proximate result of the violations of constitutional rights, privileges
28 and immunities, PLAINTIFF suffered general and specific damages as alleged in this complaint
and he is entitled to relief under Title 42 U.S.C. § 1981; 1983; 1985; 1986; and 1988.

593. PLAINTIFF is entitled to compensatory damages in an amount to be proven at trial.

1 594. PLAINTIFF is entitled to exemplary and/or punitive damages in an amount to be
2 proven at trial.

3 **TENTH CLAIM FOR RELIEF**

4 (Intentional Infliction of Emotional Distress)

5 595. PLAINTIFF hereby repeats, realleges, and incorporates by reference paragraphs 1–
6 594 as though fully restated herein.

7 596. As set forth hereinabove, Defendants’ conduct was intentional, malicious, and
8 oppressive, and calculated to cause PLAINTIFF fear and emotional distress.

9 597. As the actual and proximate result of Defendants’ outrageous conduct, and the
10 unjustified handcuffing and detention of PLAINTIFF, PLAINTIFF suffered humiliation, mental
11 anguish, physical discomfort, and severe emotional distress.

12 598. Defendants acted with oppression, fraud, and malice with the intent to violate
13 PLAINTIFF’s constitutional rights and protections under the United States Constitution, the
14 Nevada Constitution, and Nevada Statute, thereby harming and injuring PLAINTIFF using
15 harassment, coercion and conspiracy.

16 599. PLAINTIFF suffered injury to his constitutional rights after being made aware of
17 them, being made to understand that he could exercise them by law, and then being oppressed by
18 the Defendants in the use of them

19 600. As a direct and proximate result of the violations of constitutional rights, privileges
20 and immunities, PLAINTIFF suffered general and specific damages as alleged in this complaint
21 and he is entitled to relief under Title 42 U.S.C. § 1981; 1983; 1985; 1986; and 1988.

22 601. PLAINTIFF is entitled to compensatory damages in an amount to be proven at trial.

23 602. PLAINTIFF is entitled to exemplary and/or punitive damages in an amount to be
24 proven at trial.

25 **ELEVENTH CLAIM FOR RELIEF**

26 (State Civil Conspiracy)

27 603. PLAINTIFF hereby repeats, realleges, and incorporates by reference paragraphs 1–
28 602 as though fully restated herein.

604. Defendants, acting in concert, agreed amongst themselves to violate PLAINTIFF’s
Nevada Constitution Section 18 right and right to no cruel or unusual punishment.

1 605. Defendants, acting in concert, agreed amongst themselves to violate NRS 648.187 in
2 relation to PLAINTIFF.

3 606. Defendants, acting in concert, agreed amongst themselves to violate NRS 648.189 in
4 relation to PLAINTIFF.

5 607. Defendants, acting in concert, agreed amongst themselves to violate NRS 648.193 in
6 relation to PLAINTIFF.

7 608. Defendants, acting in concert, agreed amongst themselves to violate NRS 49.207 in
8 relation to PLAINTIFF.

9 609. Defendants, acting in concert, agreed amongst themselves to violate NRS 49.209 in
10 relation to PLAINTIFF.

11 610. Defendants, acting in concert, agreed amongst themselves to violate NRS 49.215 in
12 relation to PLAINTIFF.

13 611. Defendants, acting in concert, agreed amongst themselves to violate NRS 49.225 in
14 relation to PLAINTIFF.

15 612. Defendants, acting in concert, agreed amongst themselves to violate NRS 49.235 in
16 relation to PLAINTIFF.

17 613. Defendants, acting in concert, agreed amongst themselves to violate NRS 49.246 in
18 relation to PLAINTIFF.

19 614. Defendants, acting in concert, agreed amongst themselves to violate NRS 49.247 in
20 relation to PLAINTIFF.

21 615. Defendants, acting in concert, agreed amongst themselves to violate NRS 49.095 in
22 relation to PLAINTIFF.

23 616. Defendants, acting in concert, agreed amongst themselves to violate NRS 49.105 in
24 relation to PLAINTIFF.

25 617. Defendants, acting in concert, agreed amongst themselves to violate NRS 49.295 in
26 relation to PLAINTIFF.

27 618 Defendants, acting in concert, agreed amongst themselves to detain and arrest
28 PLAINTIFF, in the manners and ways previously alleged, all the while knowing that they had no
legal right to do so.

1 619. Defendants acting in concert, agreed among themselves to provide a false
2 accounting of the incident for the purpose of concealing their own wrongdoing and causing
3 PLAINTIFF to be arrested and jailed.

4 620. Defendants acting in concert, agreed among themselves to provide a false
5 accounting of the incident for the purpose of concealing their own wrongdoing, and stated
6 fraudulently under sworn oath that there was probable cause to prosecute PLAINTIFF, creating
7 malicious prosecution and abuse of process.

8 621. Defendants acted with oppression, fraud, and malice with the intent to violate
9 PLAINTIFF's constitutional rights and protections under the United States Constitution, the
10 Nevada Constitution, and Nevada Statute, thereby harming and injuring PLAINTIFF using
11 harassment, coercion and conspiracy.

12 622. PLAINTIFF suffered injury to his constitutional rights after being made aware of
13 them, being made to understand that he could exercise them by law, and then being oppressed by
14 the Defendants in the use of them

15 623. As a direct and proximate result of Defendants' actions, PLAINTIFF suffered
16 emotional distress, humiliation, physical discomfort, and injury.

17 624. As a direct and proximate result of the violations of constitutional rights, privileges
18 and immunities, PLAINTIFF suffered general and specific damages as alleged in this complaint
19 and he is entitled to relief under Title 42 U.S.C. § 1981; 1983; 1985; 1986; and 1988.

20 625. PLAINTIFF is entitled to compensatory damages in an amount to be proven at trial.

21 626. PLAINTIFF is entitled to exemplary and/or punitive damages in an amount to be
22 proven at trial.

23 **TWELFTH CLAIM FOR RELIEF**

24 (Coercion)

25 627. PLAINTIFF hereby repeats, realleges, and incorporates by reference paragraphs 1–
26 626 as though fully restated herein.

27 628. Defendants, acting in concert, agreed amongst themselves to coerce PLAINTIFF's
28 into signing any and all forms and documents that he alleges violated his constitutional rights,
immunities, and privileges, and the NRS statutes.

629. Defendants, acting in concert, agreed amongst themselves to violate PLAINTIFF's
Federal Constitution 5th Amendment right.

1 630. Defendants, acting in concert, agreed amongst themselves to violate PLAINTIFF's
2 Nevada Constitution Section 18 right and right to no cruel or unusual punishment.

3 631. Defendants, acting in concert, agreed amongst themselves to violate NRS 648.187 in
4 relation to PLAINTIFF and all others similarly situated who have submitted and consented to the
5 polygraph exam as performed by the Defendants.

6 632. Defendants, acting in concert, agreed amongst themselves to violate NRS 648.189 in
7 relation to PLAINTIFF and all others similarly situated who have submitted and consented to the
8 polygraph exam as performed by the Defendants.

9 633. Defendants, acting in concert, agreed amongst themselves to violate NRS 648.193 in
10 relation to PLAINTIFF and all others similarly situated who have submitted and consented to the
11 polygraph exam as performed by the Defendants.

12 634. Defendants, acting in concert, agreed amongst themselves to violate NRS 49.207 in
13 relation to PLAINTIFF.

14 635. Defendants, acting in concert, agreed amongst themselves to violate NRS 49.209 in
15 relation to PLAINTIFF.

16 636. Defendants, acting in concert, agreed amongst themselves to violate NRS 49.215 in
17 relation to PLAINTIFF.

18 637. Defendants, acting in concert, agreed amongst themselves to violate NRS 49.225 in
19 relation to PLAINTIFF.

20 638. Defendants, acting in concert, agreed amongst themselves to violate NRS 49.235 in
21 relation to PLAINTIFF.

22 639. Defendants, acting in concert, agreed amongst themselves to violate NRS 49.246 in
23 relation to PLAINTIFF.

24 640. Defendants, acting in concert, agreed amongst themselves to violate NRS 49.247 in
25 relation to PLAINTIFF.

26 641. Defendants, acting in concert, agreed amongst themselves to violate NRS 49.095 in
27 relation to PLAINTIFF.

28 642. Defendants, acting in concert, agreed amongst themselves to violate NRS 49.105 in
relation to PLAINTIFF.

 643. Defendants, acting in concert, agreed amongst themselves to violate NRS 49.295 in
relation to PLAINTIFF

1 644. Defendants acted with oppression, fraud, and malice with the intent to violate
2 PLAINTIFF's constitutional rights and protections under the United States Constitution, the
3 Nevada Constitution, and Nevada Statute, thereby harming and injuring PLAINTIFF using
4 harassment, coercion and conspiracy.

5 645. PLAINTIFF suffered injury to his constitutional rights after being made aware of
6 them, being made to understand that he could exercise them by law, and then being oppressed by
7 the Defendants in the use of them

8 646. As a direct and proximate result of Defendants' actions, PLAINTIFF suffered
9 emotional distress, humiliation, physical discomfort, and injury.

10 647. As a direct and proximate result of the violations of constitutional rights, privileges
11 and immunities, PLAINTIFF suffered general and specific damages as alleged in this complaint
12 and he is entitled to relief under Title 42 U.S.C. § 1981; 1983; 1985; 1986; and 1988.

13 648. PLAINTIFF is entitled to compensatory damages in an amount to be proven at trial.

14 649. PLAINTIFF is entitled to exemplary and/or punitive damages in an amount to be
15 proven at trial.

16 **THIRTEENTH CLAIM FOR RELIEF**

17 (Harassment)

18 650. PLAINTIFF hereby repeats, realleges, and incorporates by reference paragraphs 1–
19 649 as though fully restated herein.

20 651. Defendants, acting in concert, agreed amongst themselves to harass PLAINTIFF and
21 is documented in all the prior history and causes of action shown above.

22 652. Defendants acted with oppression, fraud, and malice with the intent to violate
23 PLAINTIFF's constitutional rights and protections under the United States Constitution, the
24 Nevada Constitution, and Nevada Statute, thereby harming and injuring PLAINTIFF using
25 harassment, coercion and conspiracy.

26 653. PLAINTIFF suffered injury to his constitutional rights after being made aware of
27 them, being made to understand that he could exercise them by law, and then being oppressed by
28 the Defendants in the use of them

654. As a direct and proximate result of Defendants' actions, PLAINTIFF suffered
emotional distress, humiliation, physical discomfort, and injury.

1 655. As a direct and proximate result of the violations of constitutional rights, privileges
2 and immunities, PLAINTIFF suffered general and specific damages as alleged in this complaint
3 and he is entitled to relief under Title 42 U.S.C. § 1981; 1983; 1985; 1986; and 1988.

4 666. PLAINTIFF is entitled to compensatory damages in an amount to be proven at trial.

5 667. PLAINTIFF is entitled to exemplary and/or punitive damages in an amount to be
6 proven at trial.

7
8 **FOURTEENTH CLAIM FOR RELIEF**

9 (Conspiracy; 42 U.S.C.A. § 1985(1))

10 668. PLAINTIFF hereby repeats, realleges, and incorporates by reference paragraphs 1–
11 667 as though fully restated herein.

12 669. Defendants, acting in concert, agreed amongst themselves to violate PLAINTIFF’s
13 First Amendment right to free speech, association, and redress for grievance; Fourth Amendment
14 right to search and seizure, and loss of liberty; Fifth Amendment right to refuse to answer; Sixth
15 Amendment right to an attorney; Eighth Amendment right to no cruel or unusual punishment,
16 and Fourteenth Amendment right to due process.

17 670. Defendants, acting in concert, agreed amongst themselves to violate these
18 constitutional rights, privileges and immunities; and to detain and arrest PLAINTIFF, in the
19 manners and ways previously alleged, all the while knowing that they had no legal right to do so.

20 671. Defendants further agreed among themselves to provide a false accounting of the
21 incident for the purpose of concealing their own wrongdoing and causing PLAINTIFF to be
22 arrested and jailed.

23 672. Defendants acted with oppression, fraud, and malice with the intent to violate
24 PLAINTIFF’s constitutional rights and protections under the United States Constitution, the
25 Nevada Constitution, and Nevada Statute, thereby harming and injuring PLAINTIFF using
26 harassment, coercion and conspiracy.

27 673. PLAINTIFF suffered injury to his constitutional rights after being made aware of
28 them, being made to understand that he could exercise them by law, and then being oppressed by
the Defendants in the use of them.

1 674. As a direct and proximate result of Defendants' actions, PLAINTIFF suffered
2 emotional distress, humiliation, physical discomfort, and injury.

3 675. As a direct and proximate result of the violations of constitutional rights, privileges
4 and immunities, PLAINTIFF suffered general and specific damages as alleged in this complaint
5 and he is entitled to relief under Title 42 U.S.C. § 1981; 1983; 1985; 1986; and 1988.

6 676. PLAINTIFF is entitled to compensatory damages in an amount to be proven at trial.

7 677. PLAINTIFF is entitled to exemplary and/or punitive damages in an amount to be
8 proven at trial.

9 **FIFTHTEENTH CLAIM FOR RELIEF**

10 (Abuse of Process)

11 678. PLAINTIFF hereby repeats, realleges, and incorporates by reference paragraphs 1–
12 678 as though fully restated herein.

13 679. Defendants filed criminal complaints against PLAINTIFF not for the purpose of
14 resolving a legitimate dispute relating to his Fourth, Fifth, Sixth, Eighth and Fourteenth
15 Amendment constitutional rights, but for the ulterior purpose of legitimizing and/or concealing
16 their wrongful detention and arrest of PLAINTIFF.

17 670. The actions of Defendants constitute an abuse of process.

18 671. Defendants acted with oppression, fraud, and malice in initiating the criminal
19 process against the PLAINTIFF.

20 672. Defendants acted with oppression, fraud, and malice with the intent to violate
21 PLAINTIFF's constitutional rights and protections under the United States Constitution, the
22 Nevada Constitution, and Nevada Statute, thereby harming and injuring PLAINTIFF using
23 harassment, coercion and conspiracy.

24 673. PLAINTIFF suffered injury to his constitutional rights after being made aware of
25 them, being made to understand that he could exercise them by law, and then being oppressed by
26 the Defendants in the use of them.

27 674. As a direct and proximate result of the violations of constitutional rights, privileges
28 and immunities, PLAINTIFF suffered general and specific damages as alleged in this complaint
and he is entitled to relief under Title 42 U.S.C. § 1981; 1983; 1985; 1986; and 1988.

675. PLAINTIFF is entitled to compensatory damages in an amount to be proven at trial.

1 676. PLAINTIFF is entitled to exemplary and/or punitive damages in an amount to be
2 proven at trial.

3 **SIXTEENTH CLAIM FOR RELIEF**

4 (Malicious Prosecution)

5 677. PLAINTIFF hereby repeats, realleges, and incorporates by reference paragraphs 1–
6 676 though fully restated herein.

7 678. Defendants initiated criminal proceedings against PLAINTIFF by filing a complaint
8 in the Municipal Court of the County of Washoe charging PLAINTIFF with a violation of
9 Lifetime Supervision: Failure to submit to the Polygraph; and Failure to Co-operate.

10 679. Defendants had no probable cause to believe that PLAINTIFF violated his
11 conditions of Lifetime Supervision and committed a new crime.

12 680. Defendants had no exigent circumstances present to believe that PLAINTIFF
13 violated his conditions of Lifetime Supervision and committed a new crime.

14 681. Defendants had no reasonable belief that a crime had been committed or was about
15 to be committed and that PLAINTIFF violated his conditions of Lifetime Supervision and
16 committed a new crime.

17 682. Defendants had no reasonable belief that PLAINTIFF did not co-operate with them
18 in the 6 or more hours he was present, submitting and co-operating with the Officers during the
19 course of the polygraph exam, and this will be proven with the audio and video of the exam.

20 683. The charges against PLAINTIFF were dismissed, thereby terminating the
21 proceedings against PLAINTIFF.

22 684. The dismissal of said charges was in the favor of PLAINTIFF.

23 685. As a result of the criminal proceedings initiated by Defendants, PLAINTIFF was
24 wrongfully imprisoned, forced to post bond, and suffered humiliation, emotional distress, and
25 outrage.

26 686. Defendants acted with oppression, fraud, and malice with the intent to violate
27 PLAINTIFF's constitutional rights and protections under the United States Constitution, the
28 Nevada Constitution, and Nevada Statute, thereby harming and injuring PLAINTIFF using
harassment, coercion and conspiracy.

1 687. PLAINTIFF suffered injury to his constitutional rights after being made aware of
2 them, being made to understand that he could exercise them by law, and then being oppressed by
3 the Defendants in the use of them.

4 686. As a direct and proximate result of the violations of constitutional rights, privileges
5 and immunities, PLAINTIFF suffered general and specific damages as alleged in this complaint
6 and he is entitled to relief under Title 42 U.S.C. § 1981; 1983; 1985; 1986; and 1988.

7 687. PLAINTIFF is entitled to compensatory damages in an amount to be proven at trial.

8 688. PLAINTIFF is entitled to exemplary and/or punitive damages in an amount to be
9 proven at trial.

10 **SEVENTEENTH CLAIM FOR RELIEF**

11 (Negligent Hiring; Retention; Supervision; Assignment; Training;)

12 (Failure to Direct; and Negligent Entrustment)

13 689. PLAINTIFF hereby repeats, realleges, and incorporates by reference paragraphs 1–
14 688 as though fully restated herein.

15 690. Defendants NEVADA DEPARTMENT OF PUBLIC SAFETY and NEVADA
16 DIVISION OF PAROLE AND PROBATION owed a duty to citizens, such as the PLAINTIFF,
17 to exercise care in the hiring, training, and supervision of its Officers, so as to protect citizens
18 from false arrest, false imprisonment, violations of constitutional rights and the like, at the hands
19 of poorly trained, poorly supervised, unwisely hired, or unwisely retained officers.

20 691. Defendants NEVADA DEPARTMENT OF PUBLIC SAFETY and NEVADA
21 DIVISION OF PAROLE AND PROBATION breached this duty by

22 a) negligently tolerating and/or ratifying the practice or policy of their officers in
23 detaining, seizing, and arresting citizens without probable cause or reasonable grounds, and
24 violating citizens' Constitutional rights to due process and to freedom from unreasonable seizure,
25 as manifested by Defendants' failure to discipline the officers who committed such acts as
26 alleged above; and

27 b) failing to properly screen individuals who apply to become officers, and failing to
28 remove dangerous officers, as manifested by Defendants' failure to conduct an internal
investigation and inquiry under the circumstances described herein.

1 c) negligently showing a pattern of behavior exhibiting a deliberate indifference by the
2 Officers themselves, to the actions of the Officers being supervised, the Officers doing the
3 supervising, and continuing to the very top, whether it be the Chairman, Director, or Chief.

4 692. As a direct and proximate result of Defendants' negligence, PLAINTIFF suffered
5 injuries at the hands of Defendants' employees in the manners and ways previously alleged.

6 693. Defendants acted with oppression, fraud, and malice with the intent to violate
7 PLAINTIFF's constitutional rights and protections under the United States Constitution, the
8 Nevada Constitution, and Nevada Statute, thereby harming and injuring PLAINTIFF using
9 harassment, coercion and conspiracy.

10 694. PLAINTIFF suffered injury to his constitutional rights after being made aware of
11 them, being made to understand that he could exercise them by law, and then being oppressed by
12 the Defendants in the use of them.

13 695. As a direct and proximate result of the violations of constitutional rights, privileges
14 and immunities, PLAINTIFF suffered general and specific damages as alleged in this complaint
15 and he is entitled to relief under Title 42 U.S.C. § 1981; 1983; 1985; 1986; and 1988.

16 696. PLAINTIFF is entitled to compensatory damages in an amount to be proven at trial.

17 697. PLAINTIFF is entitled to exemplary and/or punitive damages in an amount to be
18 proven at trial.

19 **EIGHTEENTH CLAIM FOR RELIEF**

20 (Respondeat Superior)

21 698. PLAINTIFF hereby repeats, realleges, and incorporates by reference paragraphs 1–
22 697 as though fully restated herein.

23 699. Defendants NEVADA DEPARTMENT OF PUBLIC SAFETY and NEVADA
24 DIVISION OF PAROLE AND PROBATION are liable for the tortious acts of their agents and
25 employees, as hereinabove alleged, under the theory of Respondeat Superior.

26 700. As a direct and proximate cause of those tortious acts, PLAINTIFFs suffered
27 injuries in the manners and ways previously alleged.

28 701. Defendants acted outside the scope of their employment with oppression, fraud, and
malice with the intent to violate PLAINTIFF's constitutional rights and protections under the
United States Constitution, the Nevada Constitution, and Nevada Statute, thereby harming and
injuring PLAINTIFF using harassment, coercion and conspiracy.

1 702. PLAINTIFF suffered injury to his constitutional rights after being made aware of
2 them, being made to understand that he could exercise them by law, and then being oppressed by
3 the Defendants in the use of them.

4 703. As a direct and proximate result of the violations of constitutional rights, privileges
5 and immunities, PLAINTIFF suffered general and specific damages as alleged in this complaint
6 and he is entitled to relief under Title 42 U.S.C. § 1981; 1983; 1985; 1986; and 1988.

7 704. PLAINTIFF is entitled to compensatory damages in an amount to be proven at trial.

8 705. PLAINTIFF is entitled to exemplary and/or punitive damages in an amount to be
9 proven at trial.

10 **NINETEENTH CLAIM FOR RELIEF**

11 (Direct Liability)

12 706. PLAINTIFF hereby repeats, realleges, and incorporates by reference paragraphs 1–
13 705 as though fully restated herein.

14 707. Defendants NEVADA DEPARTMENT OF PUBLIC SAFETY and NEVADA
15 DIVISION OF PAROLE AND PROBATION are liable for the tortious acts of their agents and
16 employees, as hereinabove alleged, under the theory of Direct Liability.

17 708. As a direct and proximate cause of those tortious acts, PLAINTIFFs suffered
18 injuries in the manners and ways previously alleged.

19 709. Defendants acted outside the scope of their employment with oppression, fraud, and
20 malice with the intent to violate PLAINTIFF's constitutional rights and protections under the
21 United States Constitution, the Nevada Constitution, and Nevada Statute, thereby harming and
22 injuring PLAINTIFF using harassment, coercion and conspiracy.

23 710. PLAINTIFF suffered injury to his constitutional rights after being made aware of
24 them, being made to understand that he could exercise them by law, and then being oppressed by
25 the Defendants in the use of them.

26 711. As a direct and proximate result of the violations of constitutional rights, privileges
27 and immunities, PLAINTIFF suffered general and specific damages as alleged in this complaint
28 and he is entitled to relief under Title 42 U.S.C. § 1981; 1983; 1985; 1986; and 1988.

712. PLAINTIFF is entitled to compensatory damages in an amount to be proven at trial.

713. PLAINTIFF is entitled to exemplary and/or punitive damages in an amount to be
proven at trial.

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TWENTIETH CLAIM FOR RELIEF

(Vicarious Liability)

714. PLAINTIFF hereby repeats, realleges, and incorporates by reference paragraphs 1–713 as though fully restated herein.

715. Defendants NEVADA DEPARTMENT OF PUBLIC SAFETY and NEVADA DIVISION OF PAROLE AND PROBATION are liable for the tortious acts of their agents and employees, as hereinabove alleged, under the theory of Vicarious Liability.

716. As a direct and proximate cause of those tortious acts, PLAINTIFFs suffered injuries in the manners and ways previously alleged.

717. Defendants acted outside the scope of their employment with oppression, fraud, and malice with the intent to violate PLAINTIFF’s constitutional rights and protections under the United States Constitution, the Nevada Constitution, and Nevada Statute, thereby harming and injuring PLAINTIFF using harassment, coercion and conspiracy.

718. PLAINTIFF suffered injury to his constitutional rights after being made aware of them, being made to understand that he could exercise them by law, and then being oppressed by the Defendants in the use of them.

719. As a direct and proximate result of the violations of constitutional rights, privileges and immunities, PLAINTIFF suffered general and specific damages as alleged in this complaint and he is entitled to relief under Title 42 U.S.C. § 1981; 1983; 1985; 1986; and 1988.

720. PLAINTIFF is entitled to compensatory damages in an amount to be proven at trial.

721. PLAINTIFF is entitled to exemplary and/or punitive damages in an amount to be proven at trial.

PRAYER FOR RELIEF

WHEREFORE, the PLAINTIFF prays that this Court enter a judgment in his favor and against Defendants, jointly and severally, and award:

1. General and specific damages in an amount of \$100,000.00 or an amount to be proven at trial as to each and every claim herein;

2. Exemplary and/or punitive damages of \$100,000.00 or an amount to be proven at trial as to each and every claim herein,

3. Prejudgment interest pursuant to law;

1 4. Declaratory relief declaring the scope of PLAINTIFF'S constitutional rights in all
2 causes of actions and claims for relied as stated above; and declaratory relief declaring
3 Defendant Officers' and State Agencies conduct to be unconstitutional; per

- 4 a. the First Amendment of the United States Constitution,
- 5 b. the Fourth Amendment of the United States Constitution,
- 6 c. the Fifth Amendment of the United States Constitution,
- 7 d. the Sixth Amendment of the United States Constitution,
- 8 e. the Eighth Amendment of the United Sates Constitution,
- 9 f. the Fourteenth Amendment of the United States Constitution;

9 5. Declaratory relief declaring all Defendants conduct to be illegal; per

- 10 a. NRS 684.187,
- 11 b. NRS 684.189, (5),
- 12 c. NRS 684.193,
- 13 d. NRS 49.207 and NRS 49.209,
- 14 e. NRS 49.215 and NRS 49.225,
- 15 f. NRS 49.246 and NRS 49.247,
- 16 g. NRS 49.035 to NRS 49.095 inclusive,
- 17 h. NRS 49.295,
- 18 i. NRS 197.130,
- 19 j. NRS 197.140,
- 20 k. NRS 197.200,
- 21 l. NRS 199.130,
- 22 m. NRS 199.480 and NRS 199.490
- 23 n. NRS 200.571,
- 24 o. NRS 207.190,
- 25 p. NRS 207.280,
- 26 q. NRS 195.020,

26 6. Immediate Temporary Injunctive relief declaring a cease and desist to all polygraph
27 examinations until such a time as the court determines the constitutional validity of the
28 polygraph exam as conducted by Defendants;

1 7. Immediate Temporary Injunctive relief declaring a cease and desist to all search policy
2 and procedures until such a time as the court determines the constitutional validity of the
3 Directive 6.2.109 as conducted by Defendants;

4 8. Immediate Temporary Injunctive relief declaring a cease and desist to all “Halloween”
5 policy and procedures until such a time as the court determines the constitutional validity of the
6 actions as conducted by Defendants;

7 9. Permanent Injunctive relief declaring all Defendants to cease and desist any action the
8 Court finds for the PLAINTIFF and that the Court determines to be unconstitutional and/or
9 illegal;

10 10. Preservation of all evidence relating to PLAINTIFF in relation to the polygraph
11 exam, all records, documents, forms, questionnaires, notes, video, and audio until such a time as
12 the court determines the constitutionality of the polygraph exam;

13 11. Preservation of all evidence relating to any polygraph exam performed in the last 3
14 years; all records, documents, forms, questionnaires, notes, video, and audio until such a time as
15 the court determines the constitutionality of the polygraph exam;

16 12. Following a proper motion, a permanent injunction requiring Defendants NEVADA
17 DEPARTMENT OF PUBLIC SAFETY and NEVADA DIVISION OF PAROLE AND
18 PROBATION to adopt appropriate policies regarding the hiring, training, and supervision of
19 their Officers;

20 13. Reasonable attorneys’ fees for any co-counsel of PLAINTIFF that is needed at
21 motion hearings and during trial and costs pursuant to all applicable statutes, codes, and rules,
22 including 42 U.S.C. § 1988;

23 14. Reasonable re-imbusement for loss of interest and availability of funds, re-
24 imbusement for attorney fees and costs associated with the original arrest and defense; and

25 15. Such other and further relief as the Court deems just and proper.

26 **DEMAND FOR JURY TRIAL**

27 PLAINTIFF hereby demands a trial by jury on all issues in this action to the extent
28 authorized by law.

Respectfully dated this 1st day of October, 2013.

VERIFICATION

STATE OF NEVADA)
WASHOE COUNTY) ss.

COMES NOW, the Plaintiff, Patrick Stephen Davis, being duly sworn under oath, and according to law, deposes and says: “That I am the Plaintiff in the foregoing-entitled action, and that I have read the Complaint, and know the contents thereof; that the same is true of my knowledge, except for those matters therein contained stated upon information and belief, and, as to those matters, I believe them to be true”.

“I certify that I have written the Complaint and that it is not frivolous or interposed for any improper purpose”.

“I further certify that to the best of my knowledge, this Complaint complies with all applicable Federal Court Rules for the District of Nevada, and that every assertion in the Complaint regarding matters of record is supported by appropriate references to the page and volume number”.

Patrick Stephen Davis
Plaintiff in Proper Person
Redacted
Sparks, NV 89431
(775) Redacted

SUBSCRIBED and SWORN to before me

This ____ day of October, 2013.

NOTARY PUBLIC in and for said
County and State