

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF COLORADO

Civil Action No. 18 CV 1359

KRYSTAL O'CONNELL,

Plaintiff,

v.

HARRY ALEJO, former Alamosa County Sheriff's Office Sergeant,  
MARCIA TUGGLE, former caseworker of the Alamosa Department of Human  
Services,  
BOARD of COUNTY COMMISSIONERS of the COUNTY of ALAMOSA,  
COLORADO, and  
ROBERT JACKSON, SHERIFF of ALAMOSA COUNTY, COLORADO,

Defendants.

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**COMPLAINT AND JURY DEMAND**

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Now comes Plaintiff, KRYSTAL O'CONNELL, through her attorneys, Loevy & Loevy, and hereby complains of Defendants HARRY ALEJO, former Alamosa County Sheriff's Office Sergeant, MARCIA TUGGLE, former caseworker of Alamosa County Department of Human Services, BOARD of COUNTY COMMISSIONERS of the COUNTY of ALAMOSA, COLORADO, and ROBERT JACKSON, SHERIFF of ALAMOSA COUNTY, COLORADO, and states as follows:

## Introduction

1. Plaintiff Krystal O’Connell spent 10 years in prison for an offense that she did not commit. Indeed, the offense of which she was convicted was not a crime at all—it was a tragic accident.

2. Ms. O’Connell was convicted in 2004 of abusing and causing the death of her 17-month-old son, K. G. She was convicted after Defendants Harry Alejo and Marcia Tuggle fabricated evidence and withheld exculpatory evidence.

3. Among that fabricated evidence was an involuntary, false confession attributed to Ms. O’Connell, which was concocted and coerced by Defendants during illegal interrogations.

4. To corroborate Ms. O’Connell’s false, involuntary confession, Defendants fabricated additional evidence by manipulating a key witness—the babysitter—into making false, inculpatory statements against Ms. O’Connell.

5. As a result of the Defendants’ misconduct, Ms. O’Connell was convicted of murder and child abuse and sentenced to twenty years in prison.

6. In reality, K.G. died as a result of an accidental short fall while in the care of the babysitter.

7. In 2017, Ms. O’Connell’s conviction was vacated and the charges against her were dismissed, and she was finally exonerated.

8. Ms. O'Connell now seeks some measure of justice for the harm Defendants caused, and redress for the loss of liberty and terrible hardship she endured and continues to suffer as a result of Defendants' misconduct.

### **Jurisdiction and Venue**

9. This action is brought pursuant to 42 U.S.C. § 1983 and Colorado law to redress the Defendants' tortious conduct and their deprivation of Plaintiff's rights as secured by the U.S. Constitution.

10. This Court has jurisdiction over Plaintiff's federal claims pursuant to 28 U.S.C. § 1331 and supplemental jurisdiction of her state-law claims pursuant to 28 U.S.C. § 1367.

11. Venue is proper under 28 U.S.C. § 1391(b). Plaintiff resides in this judicial district. The events giving rise to this complaint occurred in this judicial district.

### **Parties**

12. Plaintiff Krystal O'Connell is a 44 year-old resident of Colorado. At the time of her arrest in February 2003, she lived with her then-husband and child, K. G., in Alamosa, Colorado. Plaintiff's surname at the time was Voss, and she was prosecuted under the name Krystal Voss.

13. At all relevant times, Defendant Harry Alejo was a sergeant with the Alamosa County Sheriff's Office. He acted under color of law and within the scope of

his employment for the Alamosa County Sheriff's Department. Defendant Alejo is sued in his individual capacity.

14. At all relevant times, Defendant Marcia Tuggle was a caseworker with the Alamosa County Department of Human Services. She acted under color of law and within the scope of her employment for the Alamosa County Department of Human Services. Defendant Tuggle is sued in her individual capacity.

15. At all relevant times, Defendant Board of Commissioners of the County of Alamosa, Colorado, was a governmental entity within the State of Colorado, and is the proper party for a suit against Alamosa County, Colorado. Alamosa County is responsible for paying any judgment entered against Defendants Alejo or Tuggle. The Board is sued in its official capacity.<sup>1</sup>

16. Defendant Robert Jackson is the Sheriff of Alamosa County, Colorado. He is sued in his official capacity.

### **Factual Background**

17. In 2001, Ms. O'Connell and her husband at the time had a son named K. G.

18. In 2002, Ms. O'Connell and her husband moved to Alamosa, Colorado.

19. Upon arriving in Alamosa, Ms. O'Connell and her husband found gainful employment. Ms. O'Connell worked part-time at a food co-operative.

20. Ms. O'Connell loved her son and took care of him.

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<sup>1</sup> For ease of reference, this Defendant will be referred to henceforth as "Defendant County" or "Defendant Alamosa County."

21. Shortly after moving to Alamosa, Ms. O'Connell met a man named Patrick Ramirez through mutual friends. This was in the fall of 2002.

22. Ms. O'Connell and Mr. Ramirez became friends.

23. Mr. Ramirez lived in Denver, but he would visit Alamosa often.

24. Mr. Ramirez occasionally babysat K. G.

### **The Accident**

25. On the morning of January 31, 2003, Mr. Ramirez drove from Denver to Alamosa. Mr. Ramirez's plan for the day was to babysit K. G. in the afternoon while Ms. O'Connell and her husband worked.

26. On the way to Alamosa, Mr. Ramirez smoked some marijuana.

27. Mr. Ramirez arrived at Ms. O'Connell's house in Alamosa in the afternoon on January 31, 2003.

28. When Mr. Ramirez arrived, K. G. was awake. But shortly thereafter, Ms. O'Connell put K. G. down for a nap.

29. Ms. O'Connell left for work in the early afternoon.

30. After K. G. went to sleep, Mr. Ramirez drank beer.

31. At some point after K. G. woke up from his nap, Mr. Ramirez took him outside to play. Mr. Ramirez was carrying K. G. around on his shoulders. While playing, Mr. Ramirez lost his balance and fell. K. G. tumbled off Mr. Ramirez's shoulders and hit his head on the ground.

32. To make matters worse, Mr. Ramirez accidentally landed on top of K. G., and his elbow hit K. G. in the abdominal area.

33. K. G.'s injuries were accidental.

34. A relatively short, accidental fall can cause the brain injuries that K. G. suffered, and it did in this case.

35. Mr. Ramirez tried to get K. G. to walk on his own, which he could not do. K. G. fell down a number of additional times as Mr. Ramirez tried to get K. G. to walk on his own. Mr. Ramirez also tried putting K. G. in the bathtub to revive him by splashing water on him. While doing so, K. G. slipped and hit his head again.

36. Mr. Ramirez called Ms. O'Connell, who immediately rushed home from work.

37. Ms. O'Connell arrived home minutes later, and she drove K. G. to the hospital with Mr. Ramirez.

### **The Hospitals**

38. Mr. Ramirez and Ms. O'Connell took K. G. to the emergency room of the San Luis Valley Medical Center.

39. When he arrived at the emergency room, Mr. Ramirez immediately told the doctors and nurses what had happened.

40. K. G. was in critical condition. He was limp and not breathing. He had no pulse. And one of his pupils was blown, a sign of massive brain swelling.

41. The doctors were able to stabilize K. G., but he remained in critical condition. That evening, K. G. was flown to The Children's Hospital in Denver, where he would remain for the next six weeks.

42. Mr. Ramirez got in his car and drove towards Denver.

**Defendant Alejo's First Interview of Patrick Ramirez**

43. Because of the severity of K. G.'s injuries, hospital staff notified the Alamosa County Sheriff's Office. Soon thereafter, Defendant Harry Alejo arrived at the San Luis Valley Medical Center.

44. After receiving information about how K. G. had been injured, Defendant Alejo tried to locate Mr. Ramirez. Defendant Alejo contacted Mr. Ramirez with Ms. O'Connell's help. Ms. O'Connell called Mr. Ramirez on his cell phone, and she pled with him to return to Alamosa to talk to Defendant Alejo.

45. Defendant Alejo then got on the phone with Mr. Ramirez and told him he needed to return to Alamosa.

46. Mr. Ramirez agreed to return to Alamosa and meet Defendant Alejo at a Loaf 'N Jug.

47. Defendant Alejo and a victim advocate met Mr. Ramirez there and drove Mr. Ramirez to the Sheriff's Office.

48. On the drive to the Sheriff's Office, Mr. Ramirez said that he had been carrying K. G. on his shoulders when he lost his balance, which caused K. G. to fall

and hit his head on the ground. Mr. Ramirez repeated this when they arrived at the Sheriff's Office.

49. At the Sheriff's Office, Defendant Alejo interviewed Mr. Ramirez, who told him again what happened and told him about his attempts to revive K. G. after the accident.

50. After this first interview, Defendant Alejo released Mr. Ramirez to return to his family in Denver.

#### **Patrick Ramirez Learns K. G.'s Situation Is Dire**

51. The next day, Mr. Ramirez and his wife visited K. G. and his family at The Children's Hospital in Denver.

52. K. G. was in the Intensive Care Unit on life support. He was unconscious and in a medically induced coma. Tubes were coming out of his body everywhere.

53. Defendant Alejo later set up a second interview with Mr. Ramirez.

#### **The Manipulation of Patrick Ramirez and Fabrication of Evidence**

54. Defendant Alejo decided—without any evidence—that Ms. O'Connell abused K. G. by shaking and/or slamming him before Mr. Ramirez arrived to babysit and that she had convinced Mr. Ramirez to make up a story about the fall to cover for her.

55. Over the course of the next few days, Defendant Alejo interviewed Mr. Ramirez additional times. Defendant Tuggle was present for at least one of these additional interviews.

56. During these interviews, Defendant Alejo was confrontational, accusatory, and aggressive. He accused Mr. Ramirez of lying and told him he was making up the story of the fall. He threatened to have Mr. Ramirez charged as an accessory.

57. Defendant Alejo asked Mr. Ramirez if he thought Ms. O'Connell had shaken K. G. before he arrived to babysit, and Mr. Ramirez said no.

58. Mr. Ramirez told Defendant Alejo that Ms. O'Connell was too gentle and loving with K. G. to abuse him.

59. Defendant Alejo would not accept Mr. Ramirez's denials.

60. Defendant Alejo then fabricated a story for Mr. Ramirez to tell: that Ms. O'Connell had shaken K. G. before Mr. Ramirez arrived to babysit and then left K. G. with Mr. Ramirez so that Mr. Ramirez would be stuck with being responsible for K. G.'s injuries.

61. Mr. Ramirez continued to tell Defendants the truth: that K. G.'s injuries were the result of having accidentally fallen off Mr. Ramirez's shoulders while playing outside.

62. However, Mr. Ramirez did admit to having smoked marijuana and consumed beer.

63. Defendant Alejo arrested Mr. Ramirez and told him he was being charged with felony child abuse. Defendant Alejo also told Mr. Ramirez that if K. G. died, which it looked like he might, the charges would be “upped.” Defendant Alejo had Mr. Ramirez taken to jail.

64. Due to Defendant Alejo’s threats and manipulation, and after having spent a night in jail, Mr. Ramirez did not believe that he had any choice but to go along with the story fabricated for him.

65. Mr. Ramirez started telling the story that Defendant Alejo had concocted for him: that Ms. O’Connell had hurt the child but was making him take the blame for it. Mr. Ramirez also claimed that Ms. O’Connell had confessed to shaking K. G. before he fell off Mr. Ramirez’s shoulders.

66. This story was false and had been fabricated for Mr. Ramirez by Defendant Alejo.

#### **Plaintiff’s Interrogation and Fabricated, Involuntary Confession**

67. On February 4, 2003, Defendant Alejo drove Denver to interrogate Ms. O’Connell at the Children’s Hospital, where she was staying day and night with K. G.

68. Defendant Alejo took Ms. O’Connell away from her son’s bedside to a private room and interrogated her.

69. Defendant Alejo deliberately did not record his interrogation of Ms. O’Connell, despite bringing his tape recorder with him to Denver. This was contrary to his standard practice.

70. Ms. O’Connell was not free to leave during this interrogation.

71. When she was being interrogated by Defendant Alejo, Ms. O’Connell was sleep-deprived, weak, and sick with worry about whether K. G. was going to die. Ms. O’Connell had not slept in four days, having maintained a grief-stricken vigil ever since he’d arrived at the hospital. Ms. O’Connell was delirious with exhaustion, disoriented, and incapable of logical thought.

72. Defendant Alejo’s goal was to get Ms. O’Connell to falsely confess to abusing her son. In order to accomplish his goal, he used different methods to overbear Plaintiff’s will, from minimizing Plaintiff’s culpability to aggressive confrontation.

73. Defendant Alejo refused to accept the fact that the entire tragedy was an accident when Ms. O’Connell truthfully told him she was not there and words to the effect of, “Patrick told me it was an accident.”

74. Time after time, Defendant Alejo insisted that she was not telling him the truth.

75. Defendant Alejo repeatedly accused Ms. O’Connell of getting frustrated with K. G. for waking up in the middle of the night and then slamming K. G. onto

the floor or into the wall. He was very aggressive and insistent that she must have injured or abused K. G.

76. Ms. O'Connell denied doing any of these things because they were not true.

77. Defendant Alejo refused to hear Ms. O'Connell's denials and repeated his accusations.

78. Under the circumstances, Ms. O'Connell was obviously vulnerable to coercion and suggestion and Defendants preyed on Plaintiff's obvious vulnerabilities during the interrogation.

79. Defendant Alejo coerced Ms. O'Connell into writing a false statement claiming that she hurt K. G. the night before Mr. Ramirez came to babysit and that she had violently shaken K. G., even though Defendant Alejo knew this was not true.

80. Ms. O'Connell never said that she had shaken or hurt K. G.

81. Defendant Alejo insisted that Ms. O'Connell write what he wanted her to write in her statement, and he told her what to write.

82. Ms. O'Connell, her will overborne, felt that she had no choice but to write the confession that Defendant Alejo fabricated.

83. Defendant Alejo also created false reports and made false statements claiming that Ms. O'Connell had confessed to shaking, slamming, and hurting K. G.

84. Defendants Alejo and Tuggle conferred with each other about interviewing Ms. O'Connell. Upon information and belief, they agreed that they would create false reports and make false statements claiming the Ms. O'Connell had shaken, slammed, and injured her child.

85. Defendant Tuggle interviewed Ms. O'Connell. During that interview, Ms. O'Connell told Defendant Tuggle the same thing that she had told Defendant Alejo: that she did not slam, shake, or otherwise injure K. G.

86. Despite what Ms. O'Connell told her, Defendant Tuggle created false reports and made false statements claiming that Ms. O'Connell had shaken K. G. violently, slammed him, and made bruises on his chest from holding him too hard, among other things.

87. Ms. O'Connell never said these things to Defendant Tuggle.

88. Defendants Alejo and Tuggle knew that Plaintiff's statement was coerced and false and a recitation of their fabrications. They also knew that their reports were wholly fabricated and false. They withheld this from prosecutors. These things were done individually as well as in concert with each other based upon their agreement to violate Ms. O'Connell's constitutional rights.

89. The Defendants used Plaintiff's coerced, fabricated confession to obtain her arrest, detention, prosecution, and conviction, all without probable cause.

### **Defendant Alejo Continues Fabricating Evidence**

90. The day after Ms. O’Connell’s false and fabricated confession, Defendant Alejo interviewed Mr. Ramirez again.

91. Defendant Alejo further fabricated evidence by manipulating Mr. Ramirez into changing his story dramatically so that it fit perfectly with Defendant Alejo’s theory of the case. Mr. Ramirez now claimed that he had been lying about everything, including the fall, to cover for Ms. O’Connell.

92. In essence, Mr. Ramirez claimed that when he arrived at Ms. O’Connell’s house to babysit, Ms. O’Connell was upset at K. G., confessed to shaking K. G. too hard, and asked Mr. Ramirez to make up a story about a fall so that she wouldn’t be accused of child abuse.

93. These statements of Mr. Ramirez were false, and they were fabricated by Defendant Alejo.

94. Defendant Alejo knew that Mr. Ramirez’s incriminating statements about Ms. O’Connell were false, fabricated, and a result of his manipulation of Mr. Ramirez. Defendant Alejo withheld this from Plaintiff, her attorneys, and prosecutors. He used Mr. Ramirez’s fabricated statements to obtain Plaintiff’s arrest, detention, prosecution, and conviction, all without probable cause.

95. Now that Mr. Ramirez was telling the story that Defendant Alejo wanted him to tell, Defendant Alejo arranged to have the felony child abuse charges against Mr. Ramirez dropped.

96. At the same time, Defendant Alejo caused Ms. O'Connell to be charged with felony child abuse, and then, after K. G. died, murder.

### **Plaintiff's Prosecution, Trial, and Conviction**

97. Defendants Alejo and Tuggle concealed from Plaintiff, her attorneys, and prosecutors that they had coerced a false confession, fabricated evidence, and withheld exculpatory evidence. In addition, Defendant Alejo concealed from Plaintiff, her attorneys, and prosecutors that he had manufactured Mr. Ramirez's false testimony against Plaintiff.

98. As a result of the misconduct of Defendants Alejo and Tuggle, Plaintiff was arrested, detained, prosecuted and convicted for a purported crime that they knew she did not commit.

99. Defendant Alejo knowingly or recklessly included false information and omitted material exculpatory information in his arrest warrant affidavit for Plaintiff. For instance, he included the statements that he had fabricated for Plaintiff and Mr. Ramirez. He omitted their exculpatory statements and omitted information about his own misconduct.

100. In November 2004, Ms. O'Connell was tried for the death of her son K. G.

101. Ms. O'Connell's fabricated, coerced confession was introduced against her at trial, and it was the State's primary evidence of her alleged guilt.

102. Patrick Ramirez's fabricated testimony was used to bolster Ms. O'Connell false confession.

103. Neither Defendant Alejo nor Defendant Tuggle, both of whom testified against Ms. O'Connell at her trial, disclosed how they had obtained the false, involuntary, and fabricated inculpatory confession from Ms. O'Connell.

104. Nor did Defendant Alejo ever disclose how he had fabricated the testimony of Patrick Ramirez or manipulated him into testifying falsely against Ms. O'Connell.

105. As a result of the above-described misconduct on the part of the Defendants, Ms. O'Connell was wrongfully convicted of child abuse resulting in death in November 2004. In February 2005, she was sentenced to twenty years' imprisonment in the Colorado Department of Corrections.

#### **Plaintiff's Exoneration**

106. Throughout her prosecution and before and after her incarceration, Ms. O'Connell maintained her innocence and pursued all legal avenues to prove it.

107. In 2015, with the aid of appointed counsel, Ms. O'Connell filed a motion for a new trial in state court. That motion was granted and Ms. O'Connell's conviction and sentence were vacated in 2017.

108. Thereafter, the State moved to dismiss the charges against Ms. O'Connell; the State could not prove its case beyond a reasonable doubt. The court soon after dismissed the charges against Ms. O'Connell.

### **Plaintiff's Damages**

109. Krystal O'Connell spent over 10 years in prison and approximately four years on electronic monitoring for an offense that she did not commit and which was not a crime at all but a tragic accident.

110. Ms. O'Connell was accused of one of the worst things a mother could imagine: killing her own child. In addition to the harm of this tragic allegation, she was deprived of the ability to properly grieve for the loss of her only child.

111. The emotional pain and suffering caused by losing over 10 years in the prime of life has been enormous. During her incarceration, Ms. O'Connell was stripped of the various pleasures of basic human experience, from the simplest to the most important, which free people enjoy as a matter of right. She missed out on the ability to share holidays, births, funerals, and other life events with loved ones, the opportunity to pursue a career, and the fundamental freedom to live one's life as an autonomous human being.

112. As a result of the foregoing, Ms. O'Connell suffered tremendous damage, including but not limited to physical harm, mental suffering, and loss of normal life, all caused by Defendants' misconduct.

### **COUNT I—42 U.S.C. § 1983 False Confession (Fifth and Fourteenth Amendments)**

113. Plaintiff incorporates each preceding paragraph of this Complaint as if fully restated here.

114. In the manner described more fully above, Defendants, acting as investigators and without probable cause to suspect Plaintiff of any crime, individually, jointly, and in conspiracy with one another and others, as well as under color of law and within the scope of their employment, forced Plaintiff to make false statements involuntarily and against her will, which incriminated her and which were used against her in criminal proceedings, in violation of her rights secured by the Fifth and Fourteenth Amendments.

115. In addition, Defendants, acting as investigators and without probable cause to suspect Plaintiff of any crime, individually, jointly, and in conspiracy with one another and others, as well as under color of law and within the scope of their employment, used extreme psychological coercion in order to force Plaintiff to incriminate herself falsely and against her will in a crime she had not committed, in violation of her right to due process secured by the Fourteenth Amendment. This misconduct was so severe as to shock the conscience, as it was designed to injure Plaintiff.

116. In addition, Defendants, acting as investigators and without probable cause to suspect Plaintiff of any crime, individually, jointly, and in conspiracy with one another and others, as well as under color of law and within the scope of their employment, fabricated a false confession, which was attributed to Plaintiff and used against Plaintiff in her criminal proceedings, in violation of Plaintiff's right to a fair trial protected by the Fourteenth Amendment.

117. Specifically, Defendants conducted and participated in an unconstitutional interrogation of Plaintiff, a traumatized mother with a son in critical condition at the time, using psychological coercion, which overbore Plaintiff's will and resulted in her making involuntary, false statements implicating herself in the abuse of her son.

118. Those false incriminating statements were fabricated by Defendants and attributed to Plaintiff.

119. Those false incriminating statements were used against Plaintiff to her detriment throughout her criminal case. They were the reason that Plaintiff was prosecuted and convicted of child abuse resulting in death.

120. The misconduct described in this Count was objectively unreasonable and was undertaken intentionally, and in total disregard of the truth and Plaintiff's clear innocence.

121. The misconduct described in this Count was undertaken pursuant to the policy and practice of the Defendant County and Sheriff's Office in that the Defendant County and Sheriff's Office made a policy choice not to implement any or adequate policies or training on officers' obligation to preserve and disclose exculpatory and impeachment evidence, including notes, the fabrication of evidence or reports, interviews of witnesses, or engaging in leading, coercive, and/or unduly suggestive interrogations of suspects and witnesses, among other things, even

though the need for policies and training on such topics was obvious, and the failure to do so would lead to violations of constitutional rights.

122. The Defendant County and the Sheriff's Office also declined to implement any legitimate or adequate mechanism for oversight or punishment of officers who violated their obligations, thereby leading officers to believe that they could violate citizens' constitutional rights with impunity.

123. At all times relevant herein, final policymakers for the Defendant County and Sheriff's Office knew of these problems, allowed them to continue, and made decisions not to implement adequate policies, training, supervision, or discipline.

124. The constitutional violations complained by of Plaintiff were a highly predictable consequence of a failure to equip Alamosa County Sheriff's deputies or officers with the specific tools—including policies, training, and supervision—to handle the recurring situations of how to handle, preserve, and disclose exculpatory and impeachment evidence, how to conduct witness and suspect interviews and interrogations, how to write reports or notes of witness and suspect statements, and how not to fabricate evidence or reports, among other things.

125. In addition, the misconduct described herein was undertaken pursuant to the policy and practice of the Defendant County and Sheriff's Office in that the violation of Plaintiff's rights was committed by the relevant final policymaker for

the Defendant County or Sheriff's Office, or the persons to whom final policymaking authority had been delegated.

126. Defendant County is liable because the violation of Plaintiff's rights as described in this Count was caused by the policies, practices, customs, and/or actions of final policymakers for this Defendant.

127. As a result of Defendants' misconduct described in this Count, Plaintiff's constitutional rights were violated and she suffered injuries, including but not limited to loss of liberty, great mental anguish, humiliation, degradation, economic damages, physical and emotional pain and suffering, and other grievous and continuing injuries and damages as set forth above.

**COUNT II—42 U.S.C. § 1983**  
**Deprivation of Liberty without Probable Cause**  
**(Fourth and Fourteenth Amendments)**

128. Plaintiff incorporates each preceding paragraph of this Complaint as if fully restated here.

129. In the manner described more fully above, Defendants, individually, jointly, and in conspiracy with one another and others, as well as under color of law and within the scope of their employment, used false evidence that they had manufactured in order to accuse Plaintiff of criminal activity and cause the institution and continuation of criminal proceedings against Plaintiff, without probable cause.

130. In so doing, Defendants caused Plaintiff to be deprived of her liberty without probable cause, in violation of her rights secured by the Fourth and Fourteenth Amendments.

131. The Defendants caused the initiation and/or continuation of Plaintiff's confinement or prosecution, with malice, resulting in damages.

132. In the manner described more fully above, Defendant Alejo intentionally and knowingly, or with reckless disregard for the truth, submitted an affidavit containing false statements, material misrepresentations, and material omissions in order to obtain an arrest warrant for Plaintiff. This resulted in a warrant being issued without probable cause.

133. There was no probable cause to arrest, confine, or prosecute Plaintiff.

134. The judicial proceedings against Plaintiff were terminated in her favor in a manner indicative of innocence when the state court dismissed all charges against her upon motion by the prosecution, as described more fully above.

135. Through their misconduct, Defendants also deprived Plaintiff of protected interests under the due process clause of the Fourteenth Amendment.

136. The misconduct described in this Count was objectively unreasonable and was undertaken intentionally, deliberately, or recklessly, and in total disregard of the truth and Plaintiff's clear innocence.

137. Defendants' misconduct described in this Count was undertaken pursuant to the policies, practices, and customs of Defendant County and Sheriff's Office, in the manner described more fully above.

138. As a result of Defendants' misconduct described in this Count, Plaintiff's constitutional rights were violated and she suffered injuries, including but not limited to loss of liberty, great mental anguish, humiliation, degradation, economic damages, physical and emotional pain and suffering, and other grievous and continuing injuries and damages as set forth above.

**COUNT III—42 U.S.C. § 1983**  
**Due Process**  
**(Fourteenth Amendment)**

139. Plaintiff incorporates each preceding paragraph of this Complaint as if fully restated here.

140. As described in detail above, Defendants, while acting individually, jointly, and in conspiracy with one another, as well as under color of law and within the scope of their employment, deprived Plaintiff of her constitutional right to a fair trial.

141. In the manner described more fully above, Defendants deliberately withheld exculpatory evidence from Plaintiff, her attorneys, and from prosecutors, among others, thereby misleading and misdirecting the criminal prosecution of Plaintiff.

142. Defendants also fabricated evidence, solicited false evidence, fabricated reports falsely implicating Plaintiff in the crime, obtained Plaintiff's arrest, prosecution, and conviction using that false evidence, and failed to correct fabricated evidence that they knew to be false when it was used against Plaintiff during her criminal case. Defendants produced a series of false and fraudulent reports and related documents, which they inserted into their file and presented to state prosecutors and judges. These documents, which were used to show Plaintiff's purported involvement in alleged child abuse, contained statements and described events that were fabricated and that Defendants knew to be false. These Defendants signed these reports, despite their knowledge that the information contained in those reports was false.

143. In addition, based upon information and belief, Defendants concealed and fabricated additional evidence that is not yet known to Plaintiff.

144. In the manner described more fully above, Defendant Alejo procured supposed inculpatory witness statements from Patrick Ramirez against Plaintiff, falsely implicating her in child abuse. Defendant Alejo used the resulting false statements to obtain Plaintiff's arrest, prosecution, and conviction, and to taint Plaintiff's criminal trial.

145. The misconduct of Defendants directly resulted in the unjust and wrongful criminal prosecution and conviction of Plaintiff and the deprivation of Plaintiff's liberty, thereby denying her constitutional right to a fair trial and due

process guaranteed by the Fourteenth Amendment. Absent this misconduct, the prosecution of Plaintiff could not and would not have been pursued, and there is a reasonable probability that she would not have been convicted.

146. The misconduct described in this Count was objectively unreasonable and was undertaken intentionally, deliberately, or recklessly, and in total disregard of the truth and Plaintiff's clear innocence.

147. Defendants' misconduct described in this Count was undertaken pursuant to the policies, practices, and customs of Defendant County and Sheriff's Office, in the manner described more fully above.

148. As a result of Defendants' misconduct described in this Count, Plaintiff's constitutional rights were violated and she suffered injuries, including but not limited to loss of liberty, great mental anguish, humiliation, degradation, economic damages, physical and emotional pain and suffering, and other grievous and continuing injuries and damages as set forth above.

**COUNT IV—42 U.S.C. § 1983**  
**Failure to Intervene**

149. Plaintiff incorporates each preceding paragraph of this Complaint as if fully restated here.

150. In the manner described above, during the constitutional violations described herein, Defendants stood by without intervening to prevent the violation of Plaintiff's constitutional rights, even though they had the opportunity to do so.

151. As a result of the Defendants' failure to intervene to prevent the violation of Plaintiff's constitutional rights, Plaintiff suffered pain and injury, as well as emotional distress. These Defendants had ample, reasonable opportunities to prevent this harm but failed to do so.

152. The misconduct described in this Count was objectively unreasonable and was undertaken intentionally, and in total disregard of the truth and Plaintiff's clear innocence.

153. Defendants' misconduct described in this Count was undertaken pursuant to the policies, practices, and customs of Defendant County and Sheriff's Office, in the manner described more fully above.

154. As a result of Defendants' misconduct described in this Count, Plaintiff's constitutional rights were violated and she suffered injuries, including but not limited to loss of liberty, great mental anguish, humiliation, degradation, economic damages, physical and emotional pain and suffering, and other grievous and continuing injuries and damages as set forth above.

**COUNT V—42 U.S.C. § 1983**  
**Conspiracy to Deprive Constitutional Rights**

155. Plaintiff incorporates each preceding paragraph of this Complaint as if fully restated here.

156. Defendants, acting in concert with other co-conspirators, known and unknown, reached an agreement among themselves to frame Plaintiff for a crime

she did not commit and thereby to deprive her of her constitutional rights, all as described in the various paragraphs of this Complaint.

157. In so doing, these co-conspirators conspired to accomplish an unlawful purpose by an unlawful means. In addition, these co-conspirators agreed among themselves to protect one another from liability for depriving Plaintiff of these rights.

158. In furtherance of their conspiracy, each of these co-conspirators committed overt acts and were otherwise willful participants in joint activity.

159. The misconduct described in this Count was objectively unreasonable and was undertaken intentionally, and in total disregard of the truth and Plaintiff's clear innocence.

160. Defendants' misconduct described in this Count was undertaken pursuant to the policies, practices, and customs of Defendant County and Sheriff's Office, in the manner described more fully above.

161. As a result of Defendants' misconduct described in this Count, Plaintiff's constitutional rights were violated and she suffered injuries, including but not limited to loss of liberty, great mental anguish, humiliation, degradation, economic damages, physical and emotional pain and suffering, and other grievous and continuing injuries and damages as set forth above.

**COUNT VI—State Law**  
**Intentional Infliction of Emotional Distress**

162. Plaintiff incorporates each paragraph of this Complaint as if fully restated here.

163. In the manner described more fully above, Defendants engaged in extreme and outrageous conduct.

164. Defendants engaged in such conduct recklessly or with the intent of causing Plaintiff severe emotional distress.

165. The conduct of Defendants caused Plaintiff to suffer severe emotional distress.

166. Defendants were acting within the scope of their employment when they intentionally committed such willful and wanton acts and omissions that created an unreasonable risk of proximately causing Plaintiff damage.

167. As a result of Defendants' misconduct described in this Count, Plaintiff's rights under state law were violated and she suffered injuries, including but not limited to loss of liberty, great mental anguish, humiliation, degradation, economic damages, physical and emotional pain and suffering, and other grievous and continuing injuries and damages as set forth above.

168. Timely notice of claims under the Colorado Governmental Immunity Act (C.G.I.A.) was given by Plaintiff with respect to the willful and wanton conduct alleged in this Count, which violates state law under C.R.S. § 24-10-118 and Colorado common law.

**COUNT VII—State Law  
Malicious Prosecution**

169. Plaintiff incorporates each paragraph of this Complaint as if fully restated here.

170. In the manner described above, Defendants, individually, jointly, or in conspiracy with each other, as well as within the scope of their employment, accused Plaintiff of criminal activity and contributed to or caused the initiation and/or continuation of Plaintiff's prosecution, with malice, resulting in damages.

171. There was no probable cause to prosecute Plaintiff.

172. The judicial proceedings against Plaintiff were terminated in her favor when the state court dismissed all charges against her upon motion by the prosecution, as described more fully above.

173. Defendants were acting within the scope of their employment when they intentionally committed such willful and wanton acts and omissions that created an unreasonable risk of proximately causing Plaintiff damage.

174. As a result of Defendants' misconduct described in this Count, Plaintiff's rights under state law were violated and she suffered injuries, including but not limited to loss of liberty, great mental anguish, humiliation, degradation, economic damages, physical and emotional pain and suffering, and other grievous and continuing injuries and damages as set forth above.

175. Timely notice of claims under the Colorado Governmental Immunity Act (C.G.I.A.) was given by Plaintiff with respect to the willful and wanton conduct

alleged in this Count, which violates state law under C.R.S. § 24-10-118 and Colorado common law.

**COUNT VIII—State Law  
Abuse of Process**

176. Plaintiff incorporates each paragraph of this Complaint as if restated fully herein.

177. In the manner described more fully above, the Defendants had an ulterior purpose for the use of a judicial proceeding (i.e., Plaintiff's criminal proceeding); they willfully acted in the use of that process which was not proper in the regular course of the proceedings; and Plaintiff suffered damages as a result.

178. Defendants were acting within the scope of their employment when they intentionally committed such willful and wanton acts and omissions that created an unreasonable risk of proximately causing Plaintiff damage.

179. As a result of Defendants' misconduct described in this Count, Plaintiff's rights under state law were violated and she suffered injuries, including but not limited to loss of liberty, great mental anguish, humiliation, degradation, economic damages, physical and emotional pain and suffering, and other grievous and continuing injuries and damages as set forth above.

180. Timely notice of claims under the Colorado Governmental Immunity Act (C.G.I.A.) was given by Plaintiff with respect to the willful and wanton conduct alleged in this Count, which violates state law under C.R.S. § 24-10-118 and Colorado common law.

**COUNT IX—State Law  
Civil Conspiracy**

181. Plaintiff incorporates each paragraph of this Complaint as if restated fully herein.

182. Defendants, acting in concert with other co-conspirators, known and unknown, reached an agreement among themselves to frame Plaintiff for an offense she did not commit and thereby to deprive her of her liberty and her rights, all as described in the various paragraphs of this Complaint.

183. In so doing, these co-conspirators had a meeting of the minds on their goal of framing Plaintiff for an offense she did not commit and they conspired to accomplish an unlawful purpose by an unlawful means. In addition, these co-conspirators agreed among themselves to protect one another from liability for depriving Plaintiff of her rights.

184. In furtherance of their conspiracy, each of these co-conspirators committed overt acts and were otherwise willful participants in joint activity, as described more fully above.

185. Defendants were acting within the scope of their employment when they intentionally committed such willful and wanton acts and omissions that created an unreasonable risk of proximately causing Plaintiff damage.

186. As a result of Defendants' misconduct described in this Count, Plaintiff's rights under state law were violated and she suffered injuries, including but not limited to loss of liberty, great mental anguish, humiliation, degradation,

economic damages, physical and emotional pain and suffering, and other grievous and continuing injuries and damages as set forth above.

187. Timely notice of claims under the Colorado Governmental Immunity Act (C.G.I.A.) was given by Plaintiff with respect to the willful and wanton conduct alleged in this Count, which violates state law under C.R.S. § 24-10-118 and Colorado common law.

**COUNT X—State Law**  
***Respondeat Superior***

188. Plaintiff incorporates each paragraph of this Complaint as if restated fully herein.

189. While committing the acts alleged in the preceding paragraphs, Defendants were employees and agents of Defendant Alamosa County, acting at all relevant times within the scope of their employment.

190. While committing the acts alleged in the preceding paragraphs, the behavior of Defendants Alejo and Tuggle was calculated to facilitate and/or promote the business for which they were employed by their employer, Defendant Alamosa County.

191. Defendant Alamosa County is liable as principal for all state law torts committed by its agents.

**COUNT XI—State Law  
Indemnification**

192. Plaintiff incorporates each paragraph of this Complaint as if restated fully herein.

193. Colorado law provides that the Defendant Alamosa County is directed to pay any judgment for compensatory damages for which its employees are liable within the scope of their employment activities.

194. Defendants Alejo and Tuggle were employees of the Defendant Alamosa County and acted within the scope of their employment at all times relevant in committing the actions and omissions described herein.

WHEREFORE, Plaintiff, KRYSTAL O'CONNELL, respectfully requests that this court enter judgment in her favor and against Defendants HARRY ALEJO, former Alamosa County Sheriff's Office Sergeant, MARCIA TUGGLE, former caseworker of Alamosa County Department of Human Services, BOARD of COUNTY COMMISSIONERS of the COUNTY of ALAMOSA, COLORADO, and ROBERT JACKSON, SHERIFF of ALAMOSA COUNTY, COLORADO, awarding: compensatory damages on all federal and state law claims against all Defendants; punitive damages on her federal claims against Defendants ALEJO and TUGGLE; attorneys' fees and costs on all federal and state law claims as allowed by law; pre- and post-judgment interest at the lawful rate; and any further relief as this court deems just and appropriate.

**JURY DEMAND**

Plaintiff, KRYSTAL O'CONNELL, hereby demands a trial by jury pursuant to Federal Rule of Civil Procedure 38(c) on all issues so triable.

Respectfully submitted,

KRYSTAL O'CONNELL

By: s/ Elizabeth Wang  
One of Plaintiff's Attorneys

Elizabeth Wang  
Daniel M. Twetten  
Loevy & Loevy  
2060 Broadway, Ste. 460  
Boulder, CO 80302  
O: 720.328.5642  
[elizabethw@loevy.com](mailto:elizabethw@loevy.com)  
[dan@loevy.com](mailto:dan@loevy.com)  
*Counsel for Plaintiff*