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**IN THE UNITED STATES DISTRICT COURT FOR THE  
DISTRICT OF HAWAII**

ALBERT IAN SCHWEITZER and  
SHAWN SCHWEITZER,

Plaintiffs,

v.

COUNTY OF HAWAII; DET.  
STEVEN GUILLERMO, DET. PA,  
UL FERREIRA, LT. FRANCIS  
RODILLAS, CAPT. RAYMOND  
SIMAO, INV. WILLIAM  
PERREIRA, POLICE CHIEF  
BENJAMIN T. MOSZKOWICZ,  
DEPUTY POLICE CHIEF REED  
K. MAHUNA,

Defendants.

Case No.

**JURY TRIAL DEMANDED**

## **COMPLAINT**

Plaintiffs, ALBERT IAN SCHWEITZER AND SHAWN SCHWEITZER, by their undersigned attorneys, hereby complain against DEFENDANTS COUNTY OF HAWAII, DET. STEVEN GUILLERMO, DET. PAUL FERREIRA, LT. FRANCIS RODILLAS, CAPTAIN RAYMOND SIMAO, AND INVESTIGATOR WILLIAM PERREIRA, POLICE CHIEF BENJAMIN T. MOSZKOWICZ, DEPUTY POLICE CHIEF REED K. MAHUNA, and allege as follows:

## **INTRODUCTION**

1. Plaintiffs Shawn and Ian Schweitzer were just 16 and 20 years old when their lives were upended as the result of the misconduct of Defendants in this case.

2. Unbeknownst to them, a horrible crime had occurred in their small and tight-knit community on the Big Island of Hawai'i. Dana Ireland, a young white woman who recently moved to the Big Island, was kidnapped, raped, and left to die on a remote fishing trail.

3. After several years of the case remaining unsolved, and under immense pressure to solve the high-profile murder, the Hawai`i County Police Department targeted Ian and Shawn.

4. Plaintiffs had nothing to do with the crime. In fact, not a single piece of physical evidence has ever tied them to the Ireland murder—not in 1991, and not today.

5. The real perpetrator of the crime was a man named Albert Lauro, Jr.

6. But Lauro was never brought to justice for the rape and murder of Dana Ireland.

7. Instead, the Defendants—law enforcement officials from Hawai`i County—framed Ian and Shawn for the crime.

8. These Defendants knew they had manufactured false evidence and that the brothers had nothing to do with the crime.

9. Rather than attempt to bring Ms. Ireland's real killer to justice, Defendants conspired to fabricate evidence implicating the brothers in the crime and to suppress evidence that would have proved their innocence. Among other things, Defendants fabricated statements for jailhouse informants to provide, implicating Ian and Shawn.

10. Because of Defendants' misconduct, Ian and Shawn were convicted of a crime they had nothing to do with. Ian and Shawn were branded as rapists and murders, and Ian was sentenced to life in prison, never knowing if he would walk free.

11. Eventually, after working for decades to clear their names, Ian and Shawn uncovered previously suppressed evidence that conclusively proved their innocence and identified the real perpetrator.

12. In 2023, the Circuit Court of the Third Circuit of the State of Hawai'i vacated Plaintiffs' wrongful convictions. More than 25 years after their wrongful convictions, the charges were dismissed and Plaintiffs were finally exonerated.

13. Defendants continued their investigation of the case following Plaintiffs' exonerations. Additional DNA testing of evidence in Defendants' possession during that investigation revealed that Lauro was the killer. However, instead of publicly acknowledging Plaintiffs' innocence and instead of following accepted policing standards and apprehending Lauro, Defendants continued their efforts to wrongly implicate Plaintiffs in the murder and allowed Lauro the opportunity to flee, destroy evidence, or end his life. Because of their egregious failures, Lauro predictably ended his life by suicide, escaping justice once again.

14. Defendants' misconduct has cost Ian and Shawn profound harm for decades of their lives and other continuing injuries. Plaintiffs now seek justice for the harm that Defendants have caused and redress for the violation of their constitutional rights and the terrible hardship that they have endured and continue to suffer.

### **JURISDICTION AND VENUE**

15. Plaintiffs bring this action pursuant to 42 U.S.C. § 1983 and Hawai'i law to redress the Defendants' tortious conduct and their violation of Plaintiffs' rights secured by the U.S. Constitution.

16. This Court has jurisdiction over Plaintiffs' federal claims pursuant to 28 U.S.C. § 1331, and supplemental jurisdiction over their state law claims pursuant to 28 U.S.C. § 1367.

17. Venue is proper under 28 U.S.C. § 1391(b). The events and omissions giving rise to this action occurred within this judicial district.

### **PARTIES**

18. Plaintiff Albert Ian Schweitzer ("Ian") is a 53-year-old man and native Hawaiian who was wrongly convicted of Dana Ireland's killing.

19. Plaintiff Shawn Schweitzer is a 49-year-old man and native Hawaiian who was wrongly convicted of Dana Ireland's killing.

20. The investigation of Dana Ireland's murder was conducted by the County of the Hawai'i, via the Hawai'i County Police Department.

21. Defendant Steven Guillermo is a current or former detective of the Hawai'i County Police Department. At the time of the incident, he worked as a detective at the Hawai'i County Police Department and was the lead investigator of the Ireland murder.

22. Defendant Paul Ferreira is a current or former detective of the Hawai'i County Police Department. At the time of the incident, he worked as a detective at the Hawai'i County Police Department and investigated the Ireland murder.

23. Defendant Francis Rodillas is a current or former lieutenant at the Hawai'i County Police Department. At the time of the incident, he worked as a lieutenant at the Hawai'i County Police Department and oversaw the Ireland murder investigation.

24. Captain Raymond Simao is a current or former captain at the Hawai'i County Police Department. At the time of the incident, he worked as a captain at the Hawai'i County Police Department and oversaw the Ireland murder investigation.

25. Defendant William Perreira is a current or former investigator at the Hawai'i County Office of the Prosecuting Attorney. At all times relevant

to the allegations in this complaint, Perreira was engaged in investigative work on the Ireland murder.

26. Defendants Guillermo, Ferreira, Rodillas, Perreira and Simao were at all times relevant employed as police officers or investigators by the County of Hawai`i; and are sued in their individual capacities for actions taken under color of law pursuant to policies and practices of the County of Hawai`i and within the scope of employment for the County of Hawai`i.

27. Defendants Benjamin T. Moszkowicz and Deputy police Chief Reed K. Mahuna, are current employees and policymakers for the Hawai`i County Police Department, and sued in their individual capacities. Defendants Moszkowicz and Mahuna have directed and been extensively involved in any ongoing investigation of the Ireland rape and murder shortly before and after the charges against Plaintiffs were dismissed.

28. Defendant County of Hawai`i is and was, at all times relevant hereto, a duly organized municipal corporation in the State of Hawai`i. The County of Hawai`i (“County” or “Hawai`i”) is or was the employer of the Individual Defendants named above. Hawai`i is responsible for indemnifying judgments against the Individual Defendants. In addition, it is liable for all torts the Defendants committed pursuant to the doctrine of *respondeat superior*. Finally, it is liable for violations of Plaintiffs’ rights caused by the

unconstitutional policies and customs of the County of Hawai'i, including actions of Individual Defendants undertaken pursuant to those policies and customs during the prosecution of Plaintiffs.

## **FACTS**

### **The Rape and Murder of Dana Ireland**

29. On December 24, 1991, Dana Ireland was struck by a vehicle while cycling home. Police found her damaged bicycle at the intersection of Kapoho Kai Drive and Illilani Road in Pahoa, Hawai'i.

30. Shortly thereafter, Ms. Ireland was found badly injured on a deserted fishing trail in the Wa'a Wa'a subdivision, nude from the waist down. Ms. Ireland had been sexually assaulted. Ms. Ireland died the following day from severe blood loss.

31. Physical evidence was recovered from the collision scene, the fishing trail, and from Ms. Ireland's body. Investigators collected the remnants of Ms. Ireland's bicycle, a clump of Ms. Ireland's hair, and a men's Jimmy's brand t-shirt, among other things.

32. Investigators also collected other substantial forensic evidence. This included vaginal swabs, pubic hair combings, swabbings of Ms. Ireland's clothing, and swabs of grease found on Ms. Ireland's thigh. Investigators also



identified and measured tire track evidence at the scene of the bicycle collision and at the Wa'a Wa'a scene.

33. Ms. Ireland's case remained unsolved for years. The homicide received significant media attention and was closely followed by the Hawai'i Island community. The community even helped the Ireland family raise a \$22,000 reward fund to encourage anyone with information to come forward.

34. The fact that Ms. Ireland's murder remained unsolved heightened fears within the Hawai'i Island community and led to mounting public pressure on Defendants to solve the crime.

### **The True Killer**

35. Albert Lauro, Jr., hit Ms. Ireland with his pick-up truck. He kidnapped her, raped her, and left her to die on a fishing trail.

36. The police knew that the DNA recovered from Ms. Ireland's body did not match Ian or Shawn.

37. In addition, tire-track evidence found at scene was significantly wider than a standard car tire. The tracks matched the type of wheels used on trucks larger than standard cars, like the kind Mr. Lauro drove.

38. Mr. Lauro lived less than two miles from where Ms. Ireland's body was found. As an avid shore fisherman, he was familiar with the remote Wa'a Wa'a fishing trail where her body was left.

39. During the police investigation, the evidence pointed away from the Schweitzer brothers and towards someone else (*i.e.*, the alternative suspect, Mr. Lauro).

40. Today, DNA testing of crime scene evidence, including semen recovered from Ms. Ireland and the Jimmy'z t-shirt found at the scene, conclusively establishes that Mr. Lauro raped and killed Ms. Ireland.

41. But the Defendants refused to follow the honest and objective evidence; they failed to apprehend Mr. Lauro, and they suppressed evidence of his involvement.

42. Instead, Defendants pinned the crime on the Schweitzer brothers, who they knew were innocent, and they fabricated and suppressed evidence to cause the Schweitzer brothers' wrongful convictions.

### **The Botched Police Investigation**

43. The Hawai'i County Police Department (HCPD) investigated Ms. Ireland's case from the beginning. For years, HCPD failed to make an arrest.

44. Nearly three and a half years after the murder, Defendants claimed to have made a breakthrough.

45. According to Defendants, a man named John Gonsalves contacted Defendant Guillermo in May 1994. According to Defendants,

Gonsalves told Guillermo that his half-brother, Frank Pauline, Jr. (“Pauline”), was present during the attack on Ms. Ireland and that he could provide information about the case.

46. Pauline was known to Defendants, having already come up in the investigation and having been cleared as a suspect.

47. In fact, just a year prior, when Pauline had first been questioned in connection with the Ireland murder, he told police officers at HCPD that he did not know anything about the murder and offered to help them and to “keep his ears open.”

48. At the time that Gonsalves called Defendant Guillermo, Gonsalves was facing decades in prison for his role in the largest case of drug-dealing in Big Island history. Meanwhile, Pauline was also in prison, serving his third month of a ten-year prison sentence for an unrelated offense.

49. Following Gonsalves’s call, Defendants interviewed Pauline, over a long period of time. Pauline sat for numerous statements. Each time, Pauline provided Defendants inconsistent accounts about what had happened to Dana Ireland.

50. Nonetheless, Defendants viewed this unreliable, and obviously suspect “tip” implicating Pauline, as an opportunity to finally close the case.

Defendants manipulated Pauline over the course of two years to fabricate statements that falsely incriminated Ian and Shawn.

51. Defendants knew that statements they would attribute to Pauline were false because Defendants manufactured their content. Where Pauline did make claims himself, they frequently contained obvious inconsistencies about basic facts and contradicted existing evidence, and so Defendants prompted Pauline to change the account to implicate the Schweitzer brothers.

52. For instance, at some point Pauline purportedly told Defendant Guillermo that he and the Schweitzers hit Ms. Ireland with a borrowed truck. Over time, though the theory did not match the crime scene evidence, Defendants manipulated Pauline to change this story and to instead to say that the vehicle was Ian's Volkswagen bug.

53. Defendants conferred a number of undisclosed benefits on Frank Pauline in exchange for his cooperation and as part of their efforts to prompt him to make false statements. Defendants had substantial leverage and means to do so, given that Pauline was imprisoned. Defendants arranged that Pauline would receive additional phone calls in the facility, they made promises of special visitations, and they secured him preferred housing in the prison. Pauline's brother, John Gonsalves, similarly received numerous benefits, including a generous plea deal in his drug case.

54. Defendants worked to hide from the Schweitzer brothers, their attorneys, and state prosecutors that these witnesses were being provided benefits in exchange for implicating the Schweitzer brothers.

55. Using the fabricated statements that Defendants manufactured and attributed to Pauline, Defendants secured and executed a search warrant on the Schweitzer residence.

56. During the search, Defendants Guillermo and Ferreira obtained a wide array of forensic evidence from the property and Ian's Volkswagen bug. They collected paint samples from the car, swabbed it for blood, and gathered loose hair, clothing, and more. Not one piece of the forensic evidence they collected ever tied Ian or Shawn to the crime.

57. Defendant Guillermo also collected dental impressions and DNA samples from Ian and Shawn. Ian's and Shawn's bite marks did not match what they believed at the time was a "bite mark" on Ms. Ireland's breast.

58. Moreover, Ian's and Shawn's DNA did not match the DNA recovered from the crime scene, including the rape kit. Instead, the DNA pointed to a single, purportedly unknown male profile.

59. The single unknown male profile from the DNA collected by Defendants belonged to Albert Lauro, Jr.

60. In an effort to defend himself from the false accusations, shortly after the search of his home, Shawn Schweitzer voluntarily went to the police station to answer questions. Shawn truthfully told Defendant Rodillas that he had nothing to do with the crime. Shawn explained to Defendant Rodillas that his family and the Pauline-Gonsalves's had a long-standing feud.

61. Shawn's explanation was true: there was something of a family feud between the Schweitzers and Pauline and Gonsalves. They did not hang out with one another; they did not get along; and they did not associate as friends.

62. Ian likewise provided a voluntarily statement to Defendants Rodillas and Guillermo in which he truthfully stated that he had nothing to do with the crime.

63. Defendants never disclosed the full truth of their interactions with Pauline, their fabrication of his statements implicating the Schweitzer brothers, or the benefits they conferred on Pauline and on Gonsalves as part of their efforts to fabricate false statements.

64. Instead of disclosing their conduct, Defendants wrote false police reports making it appear as if their investigation and the statements they had manufactured were legitimate.

65. But Defendants' scheme hit a roadblock when Pauline could no longer cooperate with the false claims and began to truthfully affirm that the manufactured statements falsely implicating the Schweitzer brothers in the rape and murder of Ms. Ireland were lies.

66. Defendants knew their case against Ian and Shawn depended on Pauline's fabricated statements. Without these statements falsely implicating the Schweitzer brothers, Defendants knew they had no case.

67. Defendants doubled down. They were determined to secure Ian and Shawn's convictions and to publicly "close" a high-profile cold-case once and for all.

68. Defendants sought out additional informants. Together, they worked to fabricate false statements from several jailhouse informants, falsely incriminating Ian, Shawn, and even Pauline in the crime.

69. Defendants, including Defendant Perreira, generated false statements from Micheal Ortiz by, among other things, communicating to Ortiz he should claim falsely that Ian had confessed to him when they both were detained at the Hawai'i Community Correctional Center. Defendants knew this claim was false but, in fabricating evidence, prompted Ortiz to make these statements. According to the statement that Perreira attributed to Ortiz, Ian "confessed" that he was driving around with Shawn and Pauline in his

Volkswagen bug when they accidentally hit Dana. The fabricated “confession” further supposedly indicated that Pauline proceeded to drag Dana by her hair into Ian’s car, beat her several times, then removed her from the car and raped her in some nearby bushes. The bogus statement claimed that Ian and Shawn covered up the crime by washing the car and adding a lift kit to change the height after the incident.

70. Defendants, including Defendant Guillermo, manufactured false statements from Shayne Kobayashi. Defendants communicated to Kobayashi he should falsely claim that Shawn confessed to him that he was involved in the Ireland murder. According to the statement Guillermo attributed to Kobayashi, Shawn “confessed” that Ian forced Shawn to have sex with Dana Ireland. Defendants knew this claim was false but, in fabricating evidence, compelled Kobayashi to make this statement.

71. Defendants, including Defendant Guillermo, also manufactured false statements from Brien Sullivan. Defendants communicated to Sullivan he should falsely claim that Shawn confessed to him while they were in the Hawai’i Community Correctional Center together. According to the statement Guillermo attributed to Sullivan, Shawn told Sullivan that he, Ian, and Pauline hit Dana on the head with a tire iron. Defendants knew this claim was false but, in fabricating evidence, prompted Sullivan to make these statements.



72. Defendants, including Defendant Ferreira, generated false statements from Philip Nash. Defendants communicated to Nash he should falsely claim that Ian confessed to him he murdered Dana Ireland. According to the statement that Ferreira attributed to Nash, Ian “confessed” and even boasted about being able to evade being found out despite all the DNA tests. Defendants knew this claim was false but, in fabricating evidence, prompted Nash to make these statements.

73. Defendants, including Defendant Perreira, manufactured and fabricated statements attributed to Kenneth Gann. Defendants communicated to Gann he should falsely claim that Ian confessed to him while they were in the Maui Community Correctional Center. Defendants first indicated to Gann he should claim that none of the boys raped Dana (because Defendants knew the DNA from the crime scene evidence (like the bloody t-shirt) and from the rape kit excluded them). Months later, Perreira, and possibly other Defendants, had Gann revise this story and claim that Pauline, Ian, and Shawn all raped Dana but they used condoms.

74. Defendant Perreira, and possibly other Defendants, also directed Gann to add that Wayne Gonsalves was involved, and that he raped Dana without a condom because he did not have a fourth condom to use. Part of the goal of this fabrication was to make Wayne Gonsalves’s false statement

somehow match the DNA evidence, which pointed to a single rapist who could not have been Ian, Shawn, or Pauline.

75. Defendants knowingly manufactured these fabricated statements, and they incentivized these witnesses to adopt the statements by promising to provide the informants with benefits—including reduced jail time—in exchange for implicating Ian and Shawn.

76. Defendants never disclosed the full truth about their interactions with any of these witnesses, they never disclosed that they had fabricated these witness statements, and they never disclosed the benefits they provided to them in exchange for their statements and testimony.

77. In addition, Defendants fabricated additional statements that Pauline was the owner of the Jimmy's t-shirt recovered from the scene that was soaked in Ms. Ireland's blood. By fabricating statements that Pauline owned the t-shirt, Defendants falsely conjured the notion that there was physical evidence linking Pauline to the crime scene and that thereby linked Plaintiffs to the crime in support of Defendants' false story that Plaintiffs were involved with and guilty of the Ireland homicide.

### **Plaintiffs' Wrongful Convictions**

78. Over a years-long investigation, Defendants never procured a single shred of real evidence tying Ian or Shawn to the crime. Nevertheless,

as a result of Defendants' misconduct and based on the fabricated and suppressed evidence, Ian and Shawn were each prosecuted and ultimately convicted of the Ireland killing.

79. Without Defendants' fabrication, manufacturing, and suppression of evidence, Ian and Shawn never would have been arrested, prosecuted, or convicted.

80. At no point between 1991 and today has there ever been any evidence giving rise to probable cause to suspect Ian and Shawn of being involved with the rape and murder of Dana Ireland.

81. Ian and Shawn were both wrongfully incarcerated because of Defendants' willful misconduct.

82. The evidence fabricated by Defendants was used to prosecute Plaintiffs and directly caused them to be deprived of liberty and suffer other trauma.

83. Shawn spent more than a year imprisoned and then decades falsely branded a murder and subject to the limitations that come from having been (wrongfully) convicted of a heinous crime.

84. Ian was sentenced to life in prison. During the 25 years he spent in prison, he never knew whether he would be free again.

85. Ian was taken away from his family and friends and missed out on their lives. He lost a quarter century to prison—nearly half of his entire life and all of his early adulthood. He returned home to relationships changed or lost by decades away, and to a changed world.

86. Ian and Shawn's lives were turned upside down without any warning. For decades, they lived with the stigma and injustice of being branded as rapists and killers—perpetrators of one of the most notorious crimes in modern Hawai'i history.

### **The Schweitzer Brothers Prove Their Innocence**

87. Ian and Shawn Schweitzer never gave up hope and worked for decades to clear their names.

88. In 2019, the Hawai'i County Prosecuting Attorney's Office entered into a Conviction Integrity Agreement with the Hawai'i Innocence Project to re-investigate the Ireland murder.

89. Finally, in 2023, Ian was exonerated based on evidence that proved he had nothing to do with the Ireland killing. Shawn's exoneration followed around nine months later. Ian and Shawn's wrongful convictions were vacated, the charges against them were dropped, and Ian walked out of prison for the first time in 25 years.

### **Defendants Continue Their Corrupt Investigation**

90. Before and after Plaintiffs were exonerated, Defendants continued their corrupt effort to implicate them in the Ireland murder, taking steps to investigate the crime and to test physical evidence.

91. In July 2024, Plaintiffs learned that new DNA testing had identified Albert Lauro, Jr. as the match to forensic evidence recovered from Dana Ireland's rape kit.

92. Defendants and their agents interviewed Lauro, told him the DNA was related to the Ireland rape-homicide, and obtained buccal swabs from him to perform additional confirmatory testing. Defendants' entire course of action was an egregious departure from accepted policing standards for handling situations involving a suspect whose DNA linked to an unsolved crime.

93. Defendants, for example, took no steps to arrest Mr. Lauro. Defendants could have—but refused to—obtain an arrest warrant after they knew the DNA connected him to the crime scene evidence.

94. Instead, Defendants released Mr. Lauro, allowing a man who had been hiding a secret for more than two decades to return home free to do whatever he wanted to do.

95. Any reasonable officer would have known that Lauro would likely flee, evade apprehension, or destroy evidence but Defendants refused to take Lauro into custody or otherwise mitigate the obvious risks inherent in the situation.

96. Defendants knew, or should have known, that permitting Lauro to walk free—after they specifically told him they were investigating the Ireland murder—would cause the destruction of evidence that could be used to solve the case.

97. In fact, Defendants were specifically warned about these issues and asked by Plaintiffs to take reasonable precaution. They refused.

98. Shortly after leaving the police station, Albert Lauro, Jr. took his own life.

99. Defendants, once again, failed to serve justice in the murder of Dana Ireland.

100. Despite the absence of any real evidence linking the Schweitzer brothers to the crime, and despite having identified the real perpetrator, throughout their investigation, Defendants, including Defendants Moszkowicz and Mahuna, took steps to conceal the evidence implicating Lauro, to falsely implicate the Schweitzer brothers, and to prevent them from

being exonerated during post-conviction proceedings and from proving their innocence in other litigation.

101. Indeed, even to this day, Defendants have maintained efforts to falsely implicate Plaintiffs in the Ireland murder. Rather than conducting an honest investigation—and closing the case—Defendants continue to spin outrageous theories premised on the false notion that Plaintiffs were somehow involved when no reasonable person would believe they are.

102. In addition to ratifying the misconduct from the original investigation, and in further imposing harm on Plaintiffs, Defendant Moszkowicz—the Chief of Police and official policymaker for the Department—has suggested that Plaintiffs murdered Ireland and left her body, after which Lauro raped her—something akin to necrophilia.

103. Conduct like this, and other acts described herein and still unknown to Plaintiffs because Defendants have and continue to refuse to disclose their acts, has caused Plaintiffs ongoing harm, trauma, stress, and anxiety.

## **COUNT I**

### **42 U.S.C. § 1983 –Fourteenth Amendment Due Process**

104. Plaintiffs incorporate each paragraph of this complaint as if restated fully herein.

105. In the manner described more fully above, Defendants withheld exculpatory and impeachment evidence from Plaintiffs, their attorneys, and prosecutors, among others, thereby misleading and misdirecting Plaintiffs' criminal prosecution.

106. In the manner described more fully above, Defendants fabricated false statements, including inculpatory statements of witnesses, and fabricated reports and other evidence to falsely implicate Ian Schweitzer and Shawn Schweitzer in Dana Ireland's murder, which ultimately resulted in their wrongful conviction pursuant to the use of false evidence.

107. These statements, which were used to show Ian and Shawn's purported connection to the murder, contained statements and events that were fabricated and that Defendants knew to be false. Defendants signed these reports, both as investigators and as supervisors, despite their knowledge that the information contained in those reports was false.

108. Throughout the prosecution and convictions of Plaintiffs, and continuing until the present day, Defendants suppressed and withheld evidence of their wrongdoing, evidence showing that the Schweitzer brothers were innocent, and evidence that could have been used to impeach key State's witnesses during the criminal proceedings, including evidence that could have been used to impeach Defendants themselves.



109. In addition, based upon information and belief, Defendants concealed, destroyed, and fabricated additional evidence that is not yet known to Ian Schweitzer and Shawn Schweitzer.

110. The misconduct of Defendants directly resulted in the unjust and wrongful criminal prosecutions and convictions of Ian and Shawn Schweitzer and the deprivation of their liberty, thereby denying them their constitutional right to due process and a fair trial guaranteed by the Fourteenth Amendment. Absent this misconduct, the prosecution of Ian and Shawn Schweitzer would not and could not have been pursued, and there is a reasonable probability that they would not have been convicted.

111. The misconduct of Defendants also directly resulted in Plaintiffs' unjust criminal convictions, thereby denying them their constitutional right to due process, a fair trial, and a fair appeal thereof, in violation of the Due Process Clause of the Fourteenth Amendment to the United States Constitution.

112. As a result of Defendants' misconduct described in this Count, Plaintiffs suffered loss of liberty and sustained and continue to sustain injuries, including physical injury and sickness, and resultant emotional pain and suffering, great mental anguish, humiliation, degradation, and other grievous and continuing injuries and damages as set forth above.

113. The misconduct described in this Count was objectively unreasonable and was undertaken intentionally with willful indifference to Plaintiffs' constitutional rights.

114. The misconduct by Defendants described in this Count was undertaken pursuant to the policy and practice of the Hawai'i County Police Department and the County of Hawai'i, which Plaintiffs were the victim of, and their injuries were caused by the policies and practices of those Defendants, as described more fully above.

## **COUNT II**

### **42 U.S.C. § 1983 – Illegal Detention and Prosecution / Federal Malicious Prosecution in Violation of the Fourth Amendment**

115. Plaintiffs incorporate each paragraph of this complaint as if restated fully herein.

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

117. In so doing, Defendants caused Plaintiffs to be deprived of their liberty and detained without probable cause and subjected improperly to judicial proceedings for which there was no probable cause. Plaintiffs were deprived of their liberty, after the issuance of process based upon Defendants' false and/or misleading statements both while awaiting trial and, later, when Plaintiff Ian Schweitzer was jailed for more than two decades and when Plaintiff Shawn Schweitzer was imprisoned for over a year.

118. The misconduct described in this count was objectively unreasonable and was undertaken intentionally. The misconduct described in this count was also undertaken with malice.

119. As a result of Defendants' misconduct described in this Count, Plaintiffs suffered loss of liberty, great mental anguish, humiliation, degradation, physical and emotional pain and suffering, and other grievous and continuing injuries and damages.

120. Defendants' misconduct described in this count was undertaken pursuant to Hawai'i's policies and practices, which are more fully described below.

**COUNT III**  
**42 U.S.C. § 1983 – Failure to Intervene**

121. Plaintiffs incorporate each paragraph of this complaint as if restated fully herein.

122. In the manner described above, during the constitutional violations described above, Defendants stood by without intervening to prevent the violation of Plaintiffs' constitutional rights, even though they had the duty and the opportunity to do so.

123. Defendants had a duty and reasonable opportunity to prevent this harm to Plaintiffs, but they failed to do so.

124. The misconduct described in this count was objectively unreasonable and was undertaken intentionally with willful indifference to Plaintiffs' constitutional rights.

125. As a result of Defendants' failure to intervene to prevent the violation of Plaintiffs' constitutional rights, Plaintiffs suffered loss of liberty, great mental anguish, humiliation, degradation, physical and emotional pain and suffering, and other grievous and continuing injuries and damages as set forth above.

126. Defendants' misconduct described in this count was undertaken pursuant to Hawai'i County's policies and practices, which are more fully described below.

**COUNT IV**  
**42 U.S.C. § 1983 – Conspiracy**

127. Plaintiffs incorporate each paragraph of this complaint as if restated fully herein.

128. Defendants reached an agreement among themselves to frame Plaintiffs for a murder they did not commit, and thereby to deprive Plaintiffs of their constitutional rights, as described above. This agreement was first reached before arresting Plaintiffs, and it remained in place throughout all periods of their wrongful detention, prosecution, and incarceration.

129. In addition, Defendants conspired before Plaintiffs' arrests, and continued to conspire after they were charged and through various phases of their criminal prosecution, to fabricate false inculpatory material and deprive Plaintiffs of exculpatory material to which they are entitled and that would have led to their earlier exonerations.

130. In this manner, Defendants, acting in concert with each other and with other co-conspirators, known and unknown, conspired by concerted action to accomplish an unlawful purpose and/or a lawful purpose by unlawful means.

131. In furtherance of the conspiracy, each co-conspirator committed overt acts and was an otherwise willful participant in joint activity.

132. As a result of this agreement, Plaintiffs suffered loss of liberty, great mental anguish, humiliation, degradation, physical and emotional pain and suffering, and other grievous and continuing injuries and damages as set forth above.

133. The misconduct described in this count was objectively unreasonable and was undertaken intentionally and with willful indifference to Plaintiffs' constitutional rights.

134. Defendants' misconduct described in this count was undertaken pursuant to Hawai'i County's policies and practices, which are more fully described below.

**COUNT V**  
**42 U.S.C. § 1983 – Policy & Custom Claims**  
**Against Hawai'i County**

135. Plaintiffs incorporate each paragraph of this complaint as if fully restated herein.

136. Plaintiffs' injuries described in this complaint and the violations of their constitutional rights discussed above were caused by the policies and customs of Hawai'i County, as well as by the actions of policy-making officials for Hawai'i County.

137. At all times relevant to the events described in this complaint and for a period of time before and after, Hawai'i County failed to promulgate proper or adequate rules, regulations, policies, and procedures governing: the conduct of officers in using informants; the collection, documentation, preservation, testing, and disclosure of evidence, including physical evidence, material exculpatory evidence and impeachment evidence, and information

bearing upon the credibility of both lay and law-enforcement witnesses; writing of police reports and taking of investigative notes; obtaining statements and testimony from witnesses; and the maintenance of investigative files and disclosure of those files in criminal proceedings.

138. In addition or alternatively, Hawai`i County failed to promulgate proper and adequate rules, regulations, policies, procedural safeguards, and procedures for the training and supervision of officers and agents of the Hawai`i County Police Department, with respect to using informants, techniques to be used when questioning criminal suspects and witnesses; the production and disclosure of evidence, including physical evidence, material exculpatory evidence and impeachment evidence, and information bearing upon the credibility of both lay and law-enforcement witnesses; the writing of police reports and taking of investigative notes; obtaining statements and testimony from witnesses; and the maintenance of investigative files and disclosure of the files in criminal proceedings.

139. Hawai`i County has also adopted unwritten practices, despite its written policies, that allow officers to use informants, produce false and misleading documents, and otherwise target investigations at innocent people, as described above, making its written guidance entirely ineffective.

140. Officers and agents of Hawai`i County committed these failures

to promulgate proper or adequate rules, regulations, policies, and procedures and the adoption of unwritten practices “off the books.” Had Hawai`i County promulgated and enforced appropriate policies and practices, then the violation of Plaintiffs’ constitutional rights would have been prevented.

141. In addition, at all times relevant to the events described in this complaint and for a period of time before, Hawai`i County had notice of a practice and custom by officers and agents of the Hawai`i County Police Department and Hawai`i County pursuant to which individuals suspected of criminal activity, like Plaintiffs, were falsely implicated in crimes they did not commit through the use of unreliable informants and other people actually involved in drug trafficking.

142. In addition, at all times relevant to the events described in this complaint and for a period of time before, Hawai`i County had notice of practices and customs of officers and agents of the Hawai`i County Police Department and Hawai`i County, that included one or more of the following: (1) officers did not record investigative information in police reports, did not maintain proper investigative files, and/or did not disclose investigative or other materials to prosecutors and criminal defendants; (2) officers falsified statements and testimony of witnesses; (3) officers fabricated false evidence implicating criminal defendants in criminal conduct; (4) officers failed to



maintain and/or preserve evidence and/or destroyed evidence, including physical evidence; and/or (5) officers pursued wrongful prosecution through profoundly flawed investigations.

143. These practices and customs, individually and/or together, were allowed to flourish because the leaders, supervisors, and policymakers of Hawai`i County directly encouraged—and were thereby the moving force behind—the very type of misconduct at issue by failing to adequately train, supervise, and control their officers, agents, and employees on proper interrogation techniques and by failing to adequately punish and discipline prior instances of similar misconduct, thus directly encouraging future abuses like those affecting Plaintiffs.

144. The above practices and customs, so well-settled as to constitute *de facto* policies of Hawai`i County, were able to exist and thrive, individually and/or together, because policymakers with authority over the same exhibited deliberate indifference to the problem, thereby effectively ratifying it.

145. In addition, the misconduct described in this count was undertaken pursuant to Hawai`i County's policies and practices in that the constitutional violations committed against Plaintiffs were committed with the knowledge, approval, or endorsement of persons with final policymaking authority for the Hawai`i County or were actually committed by persons with

such final policymaking authority.

146. As a consequence, the final policy makers for Hawai`i County approved of, adopted, and therefore ratified the actions of the Individual Defendants, including their violations of Plaintiffs' constitutional rights, making Hawai`i County liable for this misconduct. In fact, on information and belief, rather than taking steps to correct the obvious faults and failures with the investigation, including through training or discipline, the final policy makers for Hawai`i County further ratified the actions of the Individual Defendants by continuing to employ them, promote them, and approve of their work on the prosecution of Plaintiffs that resulted in Plaintiffs' wrongful arrests, prosecution, incarceration, and harm.

147. Plaintiffs' injuries and the constitutional violations they suffered were caused by officers, agents, and employees of Hawai`i County, including but not limited to the Individual Defendants, who acted pursuant to one or more of the policies, practices, and customs set forth above while engaging in the misconduct described in this count.

**COUNT VI**  
**State Law Claim — Malicious Prosecution**

148. Plaintiffs incorporate each paragraph of this complaint as if restated fully herein.

149. Defendants' actions and conduct as set forth above were

malicious, as they maliciously initiated proceedings against the Plaintiffs without probable cause, resulting in Plaintiffs' wrongful detention and prosecution until the charges were ultimately dismissed and the criminal prosecution terminated in Plaintiffs' favor, as more fully alleged above.

150. As a result of the Defendants' misconduct described in this count, Plaintiffs suffered loss of liberty, great mental anguish, humiliation, degradation, physical and emotional pain and suffering, and other grievous and continuing injuries and damages.

#### **COUNT VII**

##### **State Law Claim – Intentional Infliction of Emotional Distress**

151. Plaintiffs incorporate each paragraph of this complaint as if restated fully herein.

152. Defendants' actions and conduct as set forth above were intentional, reckless, extreme, and outrageous. Defendants' actions were rooted in an abuse of power or authority, and were undertaken with intent to cause, or were in reckless disregard for the probability that they would cause, Plaintiffs severe emotional distress, as more fully alleged above.

153. As an actual and proximate result of Defendants' actions, Plaintiffs suffered, and continue to suffer, severe emotional distress.

**COUNT VIII**

**State Law Claim – Negligent Infliction of Emotional Distress**

154. Plaintiffs incorporate each paragraph of this complaint as if restated fully herein.

155. Alternatively, Defendants' actions and conduct as set forth above were negligent, but still extreme and outrageous. Defendants' actions were rooted in an abuse of power or authority, and were undertaken negligently and with disregard for the probability that they would cause Plaintiffs severe emotional distress, as more fully alleged above.

156. As an actual and proximate result of the Defendants' actions, Plaintiffs suffered, and continue to suffer, severe emotional distress.

**COUNT IX**

**State Law Claim – Civil Conspiracy**

157. Plaintiffs incorporate each paragraph of this complaint as if restated fully herein.

158. As described more fully above Defendants, acting in concert with other co-conspirators, known and unknown, reached an agreement among themselves to frame Plaintiffs for a crime they did not commit and conspired by concerted action to accomplish an unlawful purpose by unlawful means. In addition, these co-conspirators agreed among themselves to protect one another from liability for depriving Plaintiffs of their rights.

159. In furtherance of the conspiracy, each of the co-conspirators committed overt acts and was otherwise a willful participant in joint activity.

160. The violations of Hawaii law described in this complaint, including but not limited to the Defendants' malicious prosecution of Plaintiffs and their infliction of emotional distress, were accomplished by Defendants' conspiracy.

161. The misconduct described in this count was objectively unreasonable and was undertaken intentionally and with willful indifference to Plaintiffs' constitutional rights.

162. As a result of Defendants' misconduct described in this count, Plaintiffs suffered loss of liberty, great mental anguish, humiliation, degradation, physical and emotional pain and suffering, and other grievous and continuing injuries and damages.

**COUNT X**  
**State Law Claim —Abuse of Process**

163. Plaintiffs incorporate each paragraph of this complaint as if restated fully herein.

164. Defendants continue to commit multiple willful actions for the improper purpose of prosecuting Plaintiffs for a crime they did not commit, as more fully alleged above. Defendants used the courts and their authority as law enforcement officers for Hawai'i County to cause pain and harm to

Plaintiffs despite their innocence and for an improper purpose, from the day of Plaintiffs' arrests, continuing to the present day.

165. As a result of Defendants' misconduct described in this count, Plaintiffs suffered loss of liberty, great mental anguish, humiliation, degradation, physical and emotional pain and suffering, and other grievous and continuing injuries and damages.

**COUNT XI**  
**State Law Claim –*Respondeat Superior***  
**Against Hawai'i County**

166. Plaintiffs incorporate each paragraph of this complaint as if restated fully herein.

167. Plaintiffs suffered the aforementioned injuries as a proximate result of the misconduct of Defendants.

168. During all relevant times, Defendants were employees and agents of the Hawai'i County Police Department and Hawai'i County, acting within the scope of their employment or agency.

169. Defendant Hawai'i County is liable as principal for all torts committed by its agents.

**COUNT XII**  
**State Law Claim – Indemnification**

170. Plaintiffs incorporate each paragraph of this complaint as if restated fully herein.

171. Hawaii law provides that public entities are permitted to pay any tort judgment for compensatory damages for which employees are liable within the scope of their employment. Haw. Rev. Stat. Sec. 46-71.5.

172. Defendants were or are currently employees, members, and agents of Defendant County of Hawai'i, acting at all relevant times within the scope of their employment in committing the misconduct described herein.

173. On information and belief, Defendant County of Hawai'i is responsible to pay any judgment entered against the Defendants.

WHEREFORE, Plaintiffs ALBERT IAN SCHWEITZER AND SHAWN SCHWEITZER, respectfully request this Court enter a judgment in their favor and against DEFENDANTS COUNTY OF HAWAI'I, DET. STEVEN GUILLERMO, DET. PAUL FERREIRA, LT. FRANCIS RODILLAS, CAPTAIN RAYMOND SIMAO, AND INVESTIGATOR WILLIAM PERREIRA, awarding compensatory damages, attorneys' fees and costs against each defendant, prejudgment and post-judgment interest, and punitive damages against each of the individual defendants, as well as any other relief this Court deems appropriate, including but not limited to injunctive and other non-monetary equitable relief.

### **Jury Demand**

Plaintiffs Albert Ian Schweitzer and Shawn Schweitzer hereby demand a trial by jury pursuant to Federal Rule of Civil Procedure 38(b) on all issues so triable.

DATED: January 21, 2024.

ALBERT IAN SCHWEITZER  
SHAWN SCHWEITZER

By: /s/ William Harrison

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\*motions for admission *pro hac vice forthcoming*