

JENNIFER BROWN, #10885
HAWAI'I CIVIL RIGHTS PROJECT
2485 Dole Street Honolulu, HI 96822
(808) 554-5576
hawaiiicivilrightsproject@gmail.com

Attorney for Plaintiff
SEFO FATAI

IN THE UNITED STATES DISTRICT COURT
FOR THE
DISTRICT OF HAWAI'I

SEFO FATAI,)	CIVIL ACTION NO. 1:19-cv-603
)	
Plaintiff,)	PLAINTIFF SEFO FATAI'S
)	COMPLAINT AND DEMAND FOR
VS.)	JURY TRIAL
)	
)	
CITY AND COUNTY OF)	
HONOLULU; LOUIS KEALOHA;)	
MARK RAMOS; FUMIKAZU)	
MURAOKA; KRISTINE)	
MEDFORD; JOHN AND/OR JANE)	
DOES 1-10.)	
)	
Defendants.)	
)	
)	

SEFO FATAI'S COMPLAINT FOR DAMAGES AND DEMAND FOR
JURY TRIAL

Plaintiff, SEFO FATAI, by and through his attorney, JENNIFER BROWN,
submits this cause of action and demands a jury trial against Defendants, CITY
AND COUNTY OF HONOLULU; LOUIS KEALOHA; MARK RAMOS;

FUMIKAZU MARAOKA; KRISTINE MEDFORD; JOHN and/or JANE DOES

1-10 (collectively “Defendants”), and alleges as follows:

I. FACTUAL SUMMARY

1. All of the facts and allegations as outlined below are made upon Plaintiff’s information and belief. On August 24, 2011, and continuing thereafter, the above-named Defendants entered and executed a conspiracy to cause Plaintiff’s unlawful arrest and wrongful prosecution for Methamphetamine Trafficking in the 1st Degree, Hawai‘i Revised Statute § 712-1240.7. In furtherance of their scheme, Defendants fabricated evidence to justify the arrest of Plaintiff and the illegal forfeiture of Plaintiff’s automobile, a 1999 Lexus. Defendants knowingly used an unreliable informant to aid in the Plaintiff’s false arrest, malicious prosecution, and forfeiture of his vehicle. As a direct and proximate result of Defendants’ egregious misconduct, Plaintiff was arrested and charged with Methamphetamine Trafficking in the 1st Degree Hawai‘i Revised Statute § 712-1240.7; falsely imprisoned while Plaintiff’s case was pending and until his case was finally dismissed; and had Plaintiff’s 1999 Lexus seized and forfeited without notice, without a hearing, without a conviction and due process of law. On January 11, 2018, after one dismissal without prejudice and two trials, the defense motioned for charges against Plaintiff to be dismissed with prejudice, which was granted by the court. Defendants have caused Plaintiff irreparable harm and have yet to return his

automobile. This lawsuit seeks redress for the extreme hardship and incalculable damages Defendants have inflicted upon Plaintiff.

II. PARTIES

2. Plaintiff SEFO FATAI (“Plaintiff”) is and was at all times relevant hereto, a citizen and resident of the City and County of Honolulu, State of Hawai‘i.

3. Defendant CITY AND COUNTY OF HONOLULU is and was at all times relevant hereto, a duly organized municipal corporation in the City and County of Honolulu, State of Hawai‘i.

4. Defendant LOUIS KEALOHA (“Defendant KEALOHA”) is and was at all times relevant hereto, a citizen and resident of the City and County of Honolulu, State of Hawai‘i. Defendant KEALOHA was the Chief of the Honolulu Police Department at all times relevant hereto and is sued in both his individual and official capacities.

5. Defendant MARK RAMOS (“Defendant RAMOS”) is and was at all times relevant hereto, a citizen and resident of the City and County of Honolulu, State of Hawai‘i. Defendant RAMOS was employed as a police officer by the Honolulu Police Department at all times relevant hereto and is sued in both his individual and official capacities.

6. Defendant FUMIKAZU MURAOKA (“Defendant MURAOKA”) is and was at all times relevant hereto, a citizen and resident of the City and County

of Honolulu, State of Hawai‘i. Defendant MURAOKA was employed as a police officer by the Honolulu Police Department at all times relevant hereto and is sued in both his individual and official capacities.

7. Defendant KRISTINE MEDFORD (“Defendant MEDFORD”) is and was at all times relevant hereto, a citizen and resident of the City and County of Honolulu, State of Hawai‘i. Defendant MEDFORD was employed as and/or was authorized as a confidential informant and an agent of the Honolulu Police Department at all times relevant hereto and is sued in both her individual and official capacities.

8. Defendants JOHN and/or JANE DOES 1-10 (hereinafter jointly referred to as “DOE DEFENDANTS”) are individuals whose true identities and capacities are unknown to Plaintiff and his counsel, despite diligent inquiry and investigations, and who acted as described more particularly below in connection with their breaches of duties and/or violations of law, and who in some manner or form not currently discovered or known to Plaintiff may have contributed to or been responsible for the civil rights violations, civil wrongs, and injuries alleged herein. The true names and capacities of DOE DEFENDANTS will be substituted as they become known to the Plaintiff. DOE DEFENDANTS are sued both in their individual and official capacities.

III. JURISDICTION AND VENUE

9. This court has jurisdiction over this action pursuant to the Constitution and statutes of the United States of America and the State of Hawai‘i, inter alia.

10. The claims asserted present a question of federal law thereby conferring jurisdiction upon this court pursuant to 28 U.S.C. §§ 1331, 1334(3), 2201 and 2202, and 42 U.S.C. § 1983, inter alia. Any and all state law claims contained herein form part of the same case or controversy and give rise to Plaintiff’s federal law claims and therefore fall within the court’s supplemental jurisdiction pursuant to 28 U.S.C. § 1367.

11. This venue is proper under 28 U.S.C. § 1391(b) as, on information and belief, Defendants reside in this judicial district, and the events and omissions giving rise to Plaintiff’s claims occurred within this judicial district in the State of Hawai‘i.

IV. FACTUAL ALLEGATIONS

All of the facts and allegations as outlined above and below are made upon Plaintiff’s information and belief:

12. A few days before August 24, 2011, Defendant MEDFORD’s vehicle was stopped by Defendant RAMOS. Defendant RAMOS searched Defendant MEDFORD and her vehicle and found methamphetamines, which belonged to Defendant MEDFORD.

13. Defendant MEDFORD, in an attempt to avoid arrest and criminal

methamphetamine charges, worked out a deal with Defendant RAMOS. Defendant MEDFORD would work as a confidential informant for Defendant RAMOS and in exchange, Defendant RAMOS would agree not to arrest and charge Defendant MEDFORD with a felony methamphetamine offense.

14. Defendant MEDFORD agreed to help Defendants by setting up a controlled drug buy that would lead to the arrest of her methamphetamine supplier.

15. All named Defendant officers knew or should have known that Defendant MEDFORD was not a trustworthy or reliable informant as she was actively addicted to methamphetamines at the time she agreed to cooperate with Defendants.

16. Defendant MEDFORD had no intention to give Defendant RAMOS the true identity of her drug supplier, nor was she willing to set up the person who actually supplied her with methamphetamines.

17. Defendant MEDFORD contacted Tanya Waller (hereinafter “Waller”) because Defendant MEDFORD owed Waller money.

18. Waller ran her own business planting seeds and cleaning homes and residential buildings.

19. Waller was introduced to Defendant MEDFORD through one of Waller’s employees and had known Defendant MEDFORD for approximately four or five years prior to August 2011. On or about the beginning of 2011, Defendant

MEDFORD sought employment with Waller, but Waller declined to hire Defendant MEDFORD.

20. Although Waller would not hire Defendant MEDFORD, on or about April 2011, Defendant MEDFORD called Waller and asked Waller to loan her money so Waller could feed her four children. Defendant MEDFORD promised Waller should would pay back the borrowed money at the beginning of May 2011.

21. Defendant MEDFORD asked Waller to meet her at the Foodland in Ewa Beach where Defendant MEDFORD did her grocery shopping.

22. In mid-April 2011, Waller agreed to meet Defendant MEDFORD at the Foodland in Ewa Beach and loaned Defendant MEDFORD \$100.00, which Defendant MEDFORD agreed to pay back.

23. On August 24, 2011, shortly after Defendant MEDFORD was stopped by Defendant RAMOS and agreed to set up a controlled buy, Defendant MEDFORD contacted Waller. Defendant MEDFORD was unwilling to set up her own supplier but still wanted to avoid jail time for herself, so Defendant MEDFORD decided to set up Waller for the controlled buy because Defendant MEDFORD still owed Waller money.

24. On August 24, 2011, Defendant MEDFORD called Waller and told Waller that she had the \$100.00 that she owed Waller.

25. When Defendant MEDFORD arranged to meet with Waller she used

her own personal cell phone, which was not being monitored or recorded by Defendant officers or at the request of the Defendant officers.

26. Waller was working at the time but needed the \$100.00 Defendant MEDFORD owed her, so Waller asked Plaintiff to meet Defendant MEDFORD at the Chuck E. Cheese in Pearl City, Hawai'i and pick up the \$100.00 that Defendant MEDFORD owed Waller.

27. Prior to August 24, 2011, Defendant MEDFORD had never met Plaintiff, spoken to Plaintiff, or interacted with Plaintiff in any way.

28. Plaintiff has no history, criminal or otherwise, of being a drug user or seller.

29. Since Defendant MEDFORD had never met Plaintiff and did not know what he looked like, Waller told Defendant MEDFORD that Plaintiff would be driving a 1999 silver Lexus to meet Defendant MEDFORD.

30. Defendant MEDFORD's communications with Waller were not being monitored by Defendant officers, so Defendant MEDFORD was able to tell Defendant officers that the purpose of meeting with the Plaintiff, whom she referred to as "Junior", was to purchase one ounce of methamphetamines for \$1,900.00.

31. On August 24, 2011 at approximately 4:00 PM, Defendant MEDFORD met with Defendant officers, who gave Defendant MEDFORD

\$1,900.00 to purchase one ounce of methamphetamines from the Plaintiff.

32. Defendants officers did not conduct a thorough search of Defendant MEDFORD prior to Defendant MEDFORD meeting Plaintiff.

33. At approximately 5:00 PM on August 24, 2011, Defendant MEDFORD drove her personal vehicle to Chuck E. Cheese to meet Plaintiff.

34. At approximately 5:25 PM, Plaintiff arrived at the Chuck E. Cheese parking lot and parked in a parking stall.

35. Defendant officers as well as other officers, all in plain clothes, were positioned in strategic locations at the Chuck E. Cheese to observe the transaction between Plaintiff and Defendant MEDFORD.

36. Defendant MEDFORD approached Plaintiff's automobile from the passenger side, and without asking permission, entered Plaintiff's automobile from the front passenger side.

37. Once inside the vehicle, Plaintiff asked for the \$100.00 that he was supposed to be picking up from Defendant MEDFORD for Waller. Instead of handing Plaintiff the \$100.00, Defendant MEDFORD tried to give Plaintiff a small plastic baggie with a white substance in it.

38. Defendant MEDFORD told Plaintiff that she wanted to repay Waller with \$100.00 worth of the substance instead of money.

39. Plaintiff told Defendant MEDFORD that he was told to pick up

\$100.00 and Plaintiff refused to take the baggie. Defendant MEDFORD then got out of Plaintiff's automobile and Plaintiff drove out of the Chuck E. Cheese parking lot.

40. Although Defendant officers and numerous plain clothes officers were in place to observe Defendant MEDFORD as she entered and exited Plaintiff's vehicle, none of the officers saw anything in Defendant MEDFORD'S hands when she entered or exited Plaintiff's vehicle.

41. Defendant MEDFORD was not carrying a purse, bag, or any other container in her hands when she entered Plaintiff's vehicle and her hands remained empty when she exited Plaintiff's vehicle.

42. As Plaintiff left Chuck E. Cheese, he was immediately followed by two motorcycle officers, DOE DEFENDANTS, who continued to follow behind the Plaintiff.

43. As DOE DEFENDANTS were following Plaintiff, Defendant MURAOKA requested that they pull over Plaintiff.

44. Plaintiff was pulled over by the two motorcycle officers, DOE DEFENDANTS, who did not indicate why they stopped Plaintiff. DOE DEFENDANTS then ordered Plaintiff to get out of his vehicle.

45. DOE DEFENDANTS, in view of Defendant MURAOKA who was parked behind DOE DEFENDANTS, thoroughly searched Plaintiff's person,

including his pockets, socks, and shoes.

46. DOE DEFENDANTS then thoroughly searched Plaintiff's automobile including the interior passenger compartment as well as the trunk.

47. No drugs or money, including the \$1,900.00 buy money, were recovered from Plaintiff's car. No drugs or money were found on Plaintiff's person. DOE DEFENDANTS then released the Plaintiff, told Plaintiff they had stopped him for a traffic violation, but did not give Plaintiff a ticket.

48. While Plaintiff was being followed by DOE DEFENDANTS, Defendant MEDFORD got into her automobile and drove over five miles from the Chuck E. Cheese to a pre-arranged meeting place, the parking area near Walmart in Kunia.

49. As Defendant MEDFORD was leaving the Chuck E. Cheese parking lot, Defendant MEDFORD used her personal cell phone to call Defendant RAMOS and let him know she was on her way to the Kunia location.

50. Defendant MEDFORD was not visually observed or visually monitored by Defendant officers as she drove her personal vehicle from Chuck E. Cheese to Kunia.

51. From the time Defendant MEDFORD left the Chuck E. Cheese parking lot, until the time she finally met with Defendant officers in Kunia, Defendant MEDFORD had plenty of opportunity to hide the \$1,900.00 in buy

money provided to her by Defendant officers and then claim she gave it to Plaintiff.

52. From the time Defendant MEDFORD left the Chuck E. Cheese parking lot to the time she finally met with Defendant officers, Defendant MEDFORD had the opportunity to retrieve the methamphetamines that she had either hidden on her person or in her vehicle, hand it over to Defendant officers, and falsely claim she purchased the drugs from Plaintiff.

53. Even though no officer saw Defendant MEDFORD exit Plaintiff's vehicle with any package, container, or items in her hand or on her person, Defendant MEDFORD gave Defendant officers a Crystal Light box which contained a clear Ziploc baggie with approximately two ounces of methamphetamines inside, which Defendant MEDFORD claimed to have purchased from Plaintiff.

54. After not finding the buy money or any drugs on Plaintiff, Defendant officers did not call a female officer to the parking lot in Kunia to personally search Defendant MEDFORD for the \$1,900.00 buy money, nor did Defendant officers search Defendant MEDFORD's vehicle for the \$1,900.00 buy money.

55. Contrary to standard undercover narcotic police practice contained in the Honolulu Police Department's Narcotics/Vice Narcotics Operational Plan, Defendant officers had a pattern and practice of ignoring basic routine practices

required for officers dealing with informants in undercover drug investigations.

56. Defendant officers did not position themselves in places where they could observe the actual drug transaction.

57. Defendant officers did not record the serial numbers on the \$1,900.00 in bills given to Defendant MEDFORD.

58. Defendant officers did not photocopy the \$1,900.00 in bills prior to giving them to Defendant MEDFORD.

59. Defendant officers did not have a female officer thoroughly search Defendant MEDFORD before the alleged drug transaction with Plaintiff.

60. Defendant officers did not have a female officer thoroughly search Defendant MEDFORD after the alleged transaction with Plaintiff.

61. Defendant officers did not give Defendant MEDFORD a recording device to use throughout the transaction. Additionally, Defendant officers allowed Defendant MEDFORD to use her personal cell phone and did not monitor or otherwise verify her communications with Waller and/or her supposed communications with Plaintiff.

62. Defendant officers did not verify that Defendant MEDFORD was trustworthy.

63. Rather than admit that they had targeted an innocent person, lost \$1,900.00 in Honolulu Police Department money, Defendant officers doubled-

down in their pursuit of Plaintiff. On August 24, 2011, Defendant officers knowingly presented a false declaration under oath of probable cause to a judge to get a warrant to search Plaintiff's automobile.

64. Defendant officers falsely claimed to the judge who issued the search warrant that Defendant MEDFORD was reliable and trustworthy, they had utilized Defendant MEDFORD for six months prior to August 24, 2011, and Defendant MEDFORD had assisted in at least four other drug related cases.

65. On August 26, 2011 after they had secured a search warrant, Defendant officers had Defendant MEDFORD try to contact Plaintiff again.

66. On August 26, 2011, Defendant MEDFORD called Waller and apologized for not having the money when Plaintiff met her at Chuck E. Cheese on August 24, 2011. Defendant officers once again did not monitor Defendant MEDFORD's phone calls so they did not know Defendant MEDFORD called Waller, not Plaintiff.

67. In that telephone conversation, Defendant MEDFORD promised Waller that she now had the money she owed Waller. Defendant MEDFORD told Waller that if she came to the Foodland in Ewa Beach on Fort Weaver Road, the same location that Defendant MEDFORD asked to meet Waller when she borrowed the \$100.00 in April 2011, she would give Waller the money.

68. Waller again was working and unable to meet Defendant MEDFORD,

so Waller asked Plaintiff to go to the Foodland in Ewa Beach and pick up the \$100.00 from Defendant MEDFORD.

69. Plaintiff had believed the two DOE DEFENDANT motorcycle officers on August 24, 2011 when they lied and told Plaintiff that they had searched him and his vehicle as a result of a traffic violation. Plaintiff never connected their traffic stop and subsequent search with his meeting with Defendant MEDFORD. Therefore, Plaintiff agreed to meet Defendant MEDFORD on August 26, 2011 at the Ewa Beach Foodland as a favor to Waller.

70. On August 26, 2011, Plaintiff pulled into the parking lot of Foodland in Ewa Beach to meet Defendant MEDFORD and parked his car. Defendant officers approached Plaintiff's driver's side door and ordered Plaintiff out of the car.

71. Defendant officers repeatedly asked the Plaintiff, "where is the dope and where is the money."

72. For the second time in a matter of a few days, Plaintiff and Plaintiff's automobile were thoroughly searched. Again, no money, drugs, or contraband was found on Plaintiff or in Plaintiff's automobile.

73. This lack of evidence did not stop Defendants from falsely arresting Plaintiff. Defendant officers knew that Defendant MEDFORD was not trustworthy, that Plaintiff was innocent, and that they had lost the \$1,900.00 in buy money.

74. Rather than charge Defendant MEDFORD, the Defendant officers conspired to falsely arrest, charge, and maliciously prosecute Plaintiff. Since Defendant officers ignored best practices, policies, and procedures, Defendant officers conspired to cover up their mistakes by falsely arresting, charging, and maliciously prosecuting Plaintiff.

75. Upon arresting Plaintiff, Defendant officers illegally seized Plaintiff's automobile, a 1999 Lexus, without probable cause and forfeited Plaintiff's automobile having no legal basis or justification for doing so.

76. Defendants failed to notify Plaintiff of his rights regarding his vehicle being forfeited. Plaintiff never received any complaint, court date, hearing or notice regarding his vehicle.

77. Plaintiff is informed and believes, and therefore alleges, that the above-described actions of Defendants were without reasonable, just, and/or probable cause.

78. Plaintiff is informed and believes, and therefore alleges, that no formal reviews, investigations, disciplinary proceedings, or retraining related to the conduct of Defendant officers were initiated by Defendants KEALOHA and/or CITY AND COUNTY OF HONOLULU with respect to following the Honolulu Police Department's Narcotics/Vice Investigation Operational Plan for Control Purchase Investigations, which was in effect at all times relevant to this complaint.

79. On August 30, 2011, Plaintiff was indicted by a grand jury for Defendant CITY AND COUNTY OF HONOLULU for Methamphetamine Trafficking in the 1st Degree, Hawai'i Revised Statute §712-1240.7.

80. On or about September 9, 2011, Defendant KEALOHA, despite knowing that Defendant officers had not followed the written policy for informant controlled buys, authorized the false and flawed investigation report be forwarded to Keith Kaneshiro, the prosecutor for Defendant CITY AND COUNTY OF HONOLULU.

81. On January 28, 2013 Plaintiff's case was dismissed without prejudice because Defendant MEDFORD failed to appear.

82. In August 2013, Plaintiff was indicted again based on the false testimony presented by Defendants to the grand jury.

83. Presenting false evidence to grand juries by undercover officers was a policy and practice endorsed by Defendant KEALOHA.

84. For example, in July 2013, Defendant KEALOHA and other Honolulu Police Department undercover officers engaged in filing false reports resulting in an innocent man, Gerard Puana, being charged with a federal crime for allegedly stealing Defendant KEALOHA's mailbox. On June 27, 2019, Defendant KEALOHA, his Prosecutor wife Katherine Kealoha, and two Honolulu Police Department officers were found guilty of conspiracy and obstruction of justice in

that case.

85. Defendants for the second time, appeared before the grand jury, and while under oath, knowingly presented false testimony against Plaintiff, which resulted in Plaintiff being indicted a second time on the same charges for allegedly selling methamphetamines to Defendant MEDFORD on August 24, 2011.

86. On or about June 2014, Defendant MEDFORD was arrested once again by officers of the Honolulu Police Department for possessing drugs and paraphernalia. Defendant MEDFORD was arrested along with her husband/partner and two other individuals.

87. Soon after her arrest in 2014, Defendant MEDFORD agreed to cooperate and testify against Plaintiff in his pending second trial.

88. Plaintiff's second trial was scheduled on September 4, 2015. Plaintiff arrived for court on the first day of trial and entered the elevator alone, headed to the courtroom on the third floor.

89. As the elevator doors were closing, Defendant MEDFORD and two officers, in plain clothes wearing Honolulu Police Department badges on chains around their necks, stepped on the elevator and pressed the button for the fourth floor.

90. Plaintiff exited the elevator on the third floor by himself. Defendant MEDFORD and the two plain clothes officers remained on the elevator.

91. Defendant MEDFORD then came into court and falsely accused Plaintiff of threatening her while they were on the elevator. Defendant MEDFORD falsely claimed Plaintiff threatened her just before Defendant MEDFORD was to testify in Plaintiff's second trial.

92. The court took Defendant MEDFORD's word that Plaintiff threatened Defendant MEDFORD on the elevator. The judge modified Plaintiff's bond for violating the no contact order and imposed new conditions on the Plaintiff, including a 6:00 PM curfew.

93. A few days after the court modified Plaintiff's bond, Plaintiff was working a job in Hawai'i Kai and because of bad traffic did not arrive at his home in Waianae until shortly after 6:00 PM. When Plaintiff arrived at his house from work, a uniform police officer was parked outside of his home waiting for him. Shortly thereafter, the officer appeared in court stating that Plaintiff had violated the curfew condition of his bond, and Plaintiff's bond was revoked.

94. Plaintiff, unable to afford bond, was taken into custody in September 2015 and incarcerated at the Oahu Community Correctional Center while he awaited trial.

95. Shortly after Plaintiff's second trial began, Defendant MEDFORD, despite being warned about her testimony, but afraid that her lies would be exposed, intentionally caused a mistrial.

96. Defendant KEALOHA, as a policy maker for Defendants, actively engaged in similar tactics of intentionally causing mistrials in order to cover up official police misconduct and keep the truth buried.

97. In December 2104, in the federal trial *U.S.A. v. Gerard Puana* (case no: 1:13-cr-00735), Defendant KEALOHA was called as a witness for the Government. Defendant KEALOHA intentionally testified in a manner that he knew would cause a mistrial, which in fact caused a mistrial. Defendant KEALOHA intentionally caused the mistrial to prevent the court from discovering that he and other undercover police officers falsified reports in order to charge Gerard Puana with a federal crime, despite knowing Gerard Puana was innocent.

98. The Honolulu Police Department under Defendant KEALOHA had a policy and practice of knowingly causing mistrials to cover up their own wrongdoings, and this policy and pratice was used by Defendant MEDFORD in Plaintiff's second trial in 2015.

99. Defendant MEDFORD was warned by the court and the Prosecutor that she could not take the stand and claim that Plaintiff had sold her drugs prior to August of 2011. Despite numerous warnings, Defendant MEDFORD took the stand, gave prohibited statements, and intentionally caused a mistrial.

100. Although Defendant MEDFORD did not show up for Plaintiff's first trial and intentionally caused a mistrial in Plaintiff's second trial, in 2015,

Defendant MEDFORD was sentenced to probation in her pending drug case.

While Defendant MEDFORD was free despite having admitted to multiple instances of possessing and using drugs, Plaintiff remained in jail, sleeping on the concrete, due to the overcrowded conditions at Oahu Community Correctional Center.

101. In 2016, the Defendants began the third trial against Plaintiff. This trial ended in a hung jury on March 17, 2016. Plaintiff was then offered a plea for credit for time served and probation, but Plaintiff refused to plead guilty to something he did not commit, and so his case was scheduled for a fourth trial.

102. Though Plaintiff's defense attorney asked that Plaintiff be released from custody while his fourth trial was pending, Plaintiff remained in custody under the deplorable over-crowded conditions at Oahu Community Correctional Center while he awaited his fourth trial.

103. In 2017, Plaintiff's fourth trial began. This time, Defendant MEDFORD failed to appear at the trial call despite being subpoenaed.

104. On January 11, 2018 Plaintiff's attorney made a motion to dismiss the Plaintiff's case with prejudice based on Defendant MEDFORD's failure to appear. The court granted the motion and Plaintiff's case was dismissed with prejudice.

105. Shortly after his case was dismissed with prejudice, Plaintiff was released from custody. Plaintiff suffered over seven years fighting his wrongful

arrest. Three of those years Plaintiff suffered in custody, based on lies perpetrated and/or supported by the Defendants.

V. STATEMENT OF RELIEF

106. This is an action to redress the deprivation under color of statutes, ordinances, rules, regulations, customs, policies, practices, and/or usages of rights, privileges, and immunities secured to Plaintiff by the Fourth, Fifth, Eighth, and Fourteenth Amendments to the Constitution of the United States, inter alia, Article I, §§ 2,5,6,7 and 12 of the Constitution of the State of Hawai‘i, inter alia, and 42 U.S.C. § 1983, et seq.

107. Plaintiff contends that he was wrongfully seized, denied his liberty, had his vehicle wrongfully seized and unconstitutionally forfeited, and maliciously prosecuted due to the acts of Defendants in violation of applicable provisions of the Constitution of the United States and the Constitution of the State of Hawai‘i, inter alia.

COUNT I **(Constitutional and/or 42 U.S.C. § 1983 Violations - Municipal Liability for Unconstitutional Asset Forfeiture)**

108. Plaintiff hereby repeats, realleges, and incorporates by reference the allegations contained in Paragraphs 1 through 107 above, as though fully set forth herein.

109. Plaintiff alleges that it is the policy, practice, and custom of Defendant

KEALOHA, the Honolulu Police Department, its supervisors, and police officers to tolerate and ratify the use of unreasonably taking of money and/or property of value, belonging to citizens, and unlawfully keeping it under the guise of asset forfeiture.

110. Plaintiff is informed and believes, and thereupon alleges, that the Defendants acted and/or purported to act herein under color of statutes, ordinances, rules, regulations, customs, policies, and/or usages of the City and County of Honolulu, State of Hawai‘i, and in the scope and course of their employment as police officers and unlawfully seized and forfeited Plaintiff’s automobile.

111. In 1988, a law enforcement coalition consisting of the Attorney General for the State of Hawai‘i, four-county prosecutors, and police chiefs proposed the uniform forfeiture law which became Hawai‘i Revised Statute § 712A.

112. Under Hawai‘i Revised Statute § 712A, the Honolulu Police Department has a large financial stake in forfeiture. The Honolulu Police Department receives 25% of forfeiture proceeds, with 25% going to the prosecuting attorneys, and 50% going to the Attorney General for the State of Hawai‘i.

113. The Honolulu Police Department has a policy and practice of using Hawai‘i Revised Statute § 712A as a way to generate profit and seize property of

citizens without probable cause or reasonable suspicion of illegal activity, in violation of the Fourth Amendment of the Constitution of the United States.

114. From 2001 to 2014, the Honolulu Police Department accounted for 46.5% of the asset forfeitures in the entire state of Hawai‘i, more than any other police department or state agency.

115. Many citizens, such as Plaintiff, cannot afford to pay either the required up front bond of \$2,500.00 or 10% of the estimated value of the property seized, therefore allowing the Honolulu Police Department to take from the poor without any oversight to ensure that the process is fair.

116. Plaintiff’s vehicle was forfeited, without reasonable suspicion or probable cause; and, even though he is innocent of the charges and never convicted. Hawai‘i Revised Statute § 712A is instituted by Defendants for profit, not justice, and therefore is unconstitutional under the Fourth, Eighth, and Fourteenth Amendments of the Constitution of the United States.

117. Plaintiff is informed and believes, and therefore alleges, that the asset forfeiture policies, procedures, and rules as implemented by all Defendants (with the exception of Defendant MEDFORD) amount to an unconstitutional seizure, taking and an excessive fine in violation of the Fourth, Eighth and Fourteenth Amendments of the Constitution of the United States.

COUNT II
(42 U.S.C. § 1983 – Fourteenth Amendment *Brady* Violations)

118. Plaintiff hereby repeats, realleges, and incorporates by reference the allegations contained in Paragraphs 1 through 117 above, as though fully set forth herein.

119. In the manner described more fully above, Defendant officers acted individually, jointly, and in conspiracy with each other, destroyed, failed to disclose, and otherwise withheld and/or suppressed exculpatory information and material from the prosecution, Plaintiff, and Plaintiff's defense counsel.

120. Defendant officers were acting under color of state law and within the scope of their employment when they took those actions.

121. Defendant officers' misconduct directly resulted in the unjust criminal prosecution of Plaintiff, thereby denying him his constitutional right to a fair trial guaranteed by the Constitution of the United States. By their actions, Defendant officers misled and misdirected the criminal prosecution of Plaintiff. Absent this misconduct, the repeated prosecutions of Plaintiff would not have been pursued and there is a reasonable probability that Plaintiff would not have had to sit in jail for almost three years until the case was finally dismissed with prejudice.

122. In the manner described more fully above, the misconduct described in this count was undertaken pursuant to the policies and practices of Defendant CITY AND COUNTY OF HONOLULU and the Honolulu Police Department.

123. In the manner described more fully above, the policies and practices

of Defendant CITY AND COUNTY OF HONOLULU and the Honolulu Police Department were the moving force behind the misconduct described in this count and the violation of Plaintiff's rights. The widespread practices were so well settled as to constitute *de facto* policy of the Honolulu Police Department and they were allowed to exist because the municipal policymakers with authority over the same exhibited dilberate indifference to the problems, thereby effectively ratifying them.

124. In addition, the misconduct described in this count was undertaken pursuant to the policy and practice of Defendant CITY AND COUNTY OF HONOLULU and the Honolulu Police Department in that the violation of Plaintiff's rights described in this count was committed by the relevant final policy maker for Defendant CITY AND COUNTY OF HONOLULU, or the persons to whom final policy making authority was delegated.

125. Defendant CITY AND COUNTY OF HONOLULU is liable because the violation of Plaintiff's rights as described in this count was caused by the policies, practices, customs, and/or actons of policymakers for these Defendants.

126. As a direct and proximate result of the Defendants' actions, Plaintiff's constitutional rights were violated and he suffered injuries and damages, including but not limited to loss of liberty, physical sickness and injury, emotional pain and suffering, and other grievous and continuing injuries and damages as set forth in this complaint.

COUNT III
(42 U.S.C. § 1983 – Fourth and Fourteenth Amendments
Fabrication of False Evidence)

127. Plaintiff hereby repeats, realleges, and incorporates by reference the allegations contained in Paragraphs 1 through 126 above, as though fully set forth herein.

128. In the manner described more fully above, the Defendant Officers and Defendant MEDFORD, acting individually, jointly and in conspiracy with each other, fabricated evidence, including without limitation, false police reports, false declaration for a search warrant, and fabricated statements and testimony.

129. The Defendant officers and Defendant MEDFORD were acting under color of law and within the scope of their employment when they took these actions.

130. The Defendant officers and Defendant MEDFORD's misconduct directly resulted in the unjust criminal prosecution of Plaintiff thereby denying him his constitutional right to a fair trial guaranteed by the Constitution of the United States. Absent this misconduct, there would have been no probable cause for Plaintiff's continued detention, and the prosecution of Plaintiff could not have been pursued.

131. In the manner described more fully above, the misconduct described in this count was undertaken pursuant to the policies and practices of Defendant

CITY AND COUNTY OF HONOLULU and the Honolulu Police Department.

132. In the manner described more fully above, the policies and practices of the Defendant CITY AND COUNTY OF HONOLULU and the Honolulu Police Department were the moving force behind the misconduct described in this count and the violation of Plaintiff's rights. The widespread practices were so well-settled as to constitute *de facto* policy in the Honolulu Police Department, and they were allowed to exist because municipal policymakers with authority over the same exhibited deliberate indifference to the problems, thereby effectively ratifying them.

133. In addition, the misconduct described in this count was undertaken pursuant to the policy and practice of Defendant CITY AND COUNTY OF HONOLULU and the Honolulu Police Department in that the violation of Plaintiff's rights as described in this Count was committed by the relevant final policymaker for Defendant CITY AND COUNTY OF HONOLULU, or the persons to whom final policymaking authority had been delegated.

134. Defendant CITY AND COUNTY OF HONOLULU is liable because the violations of Plaintiff's rights as described in this count were caused by the policies, practices, customs, and/or actions of policymakers for these Defendants.

135. As a direct and proximate result of the Defendants' actions, Plaintiff's constitutional rights were violated and he suffered injuries and damages, including

not limited to loss of liberty, physical sickness and injury, emotional pain and suffering, and other grievous and continuing injuries as set forth above.

COUNT IV

**(42 U.S.C. § 1983 – Fourth and Fourteenth Amendment Violations
Due Process and Continued Detention Without Probable Cause¹)**

136. Plaintiff hereby repeats, realleges, and incorporates by reference the allegations contained in Paragraphs 1 through 135 above, as though fully set forth herein.

137. Plaintiff alleges that it is the policy, practice, and custom of Defendant CITY AND COUNTY OF HONOLULU, Defendant KEALOHA, the Honolulu Police Department, its supervisors, and police officers to tolerate and ratify the use of unreliable, dangerous, and substandard unreliable informants, and give false testimony so that they can charge and convict people of crimes, both the guilty and the innocent, by any means necessary.

138. Plaintiff is informed and believes, and therefore alleges, that the Defendants acted and/or purported to act herein under color of statutes, ordinances, rules, regulations, customs, policies, and/or usages of the City and County of Honolulu, State of Hawai‘i, and in the scope and course of their employment as police officers and/or confidential informant acting as an authorized police agent.

139. The policy and practice of Defendants, in an undercover capacity, is

¹ Occasionally referred to as “federal malicious prosecution.”

to commit perjury, fabricate evidence, and even frame innocent people.

140. Plaintiff is informed and believes, and therefore alleges, that the Defendants impermissibly used their offices and/or law enforcement powers and authority to wrongfully interrogate, arrest, and incarcerate Plaintiff without reasonable or just cause, and prosecute and/or influence the prosecution of Plaintiff impermissibly.

141. In the manner described more fully above, the policies and practices of Defendant CITY AND COUNTY OF HONOLULU and the Honolulu Police Department through Defendant KEALOHA were the moving force behind the misconduct described in this count and the violation of Plaintiff's rights. The widespread practices were so well settled as to constitute *de facto* policy in the Honolulu Police Department, and they were allowed to exist because the municipal policymakers with authority over the same exhibited deliberate indifference to the problems, thereby effectively ratifying them.

142. In the manner described more fully above, Defendant officers and Defendant MEDFORD, acting individually, jointly, and in conspiracy with each other, instigated, influenced, or participated in the decision to prosecute Plaintiff, when there was no probable cause for his criminal prosecution. As a consequence of his criminal prosecution, Plaintiff suffered a deprivation of liberty apart from his initial seizure. Plaintiff's criminal prosecution was terminated in his favor in a

manner indicative of his innocence.

143. Defendant officers and Defendant MEDFORD accused Plaintiff of criminal activity knowing those accusations were without genuine probable cause, and they made statements to prosecutors with the intent of exerting influence to institute and continue judicial proceedings.

144. Statements made by Defendant officers and Defendant MEDFORD regarding Plaintiff's alleged culpability were made with knowledge that said statements were false and perjured. In doing so, Defendant officers fabricated evidence and withheld exculpatory information.

145. In the manner described more fully above, the Defendant officers' and Defendant MEDFORD's misconduct denied Plaintiff his constitutional rights to procedural due process under the Fourteenth Amendment and the right under the Fourth Amendment to be free from continued detention without probable cause. Absent misconduct, there would have been no probable cause for Plaintiff's continued detention, and the prosecution of Plaintiff could not and would not have been pursued. This misconduct caused Plaintiff to be wrongfully accused, arrested and repeatedly prosecuted for crimes for which he is innocent.

146. Furthermore, in the manner described more fully above, Defendant officers, acting individually, jointly, and in conspiracy with each other, deliberately engaged in arbitrary and conscience-shocking conduct that contravened

fundamental canons of decency and fairness and violated Plaintiff's substantive due process rights under the Fourteenth Amendment.

147. Defendant officers and Defendant MEDFORD were acting under color of state law and within the scope of their employment when they took these actions.

148. In the manner described more fully above, the misconduct described in this count was undertaken pursuant to the policies and practices of Defendant CITY AND COUNTY OF HONOLULU and the Honolulu Police Department.

149. In the manner described more fully above, the policies and practices of Defendant CITY AND COUNTY OF HONOLULU and the Honolulu Police Department were the moving force behind the misconduct described in this count and the violation of Plaintiff's rights. The widespread practices were so well settled as to constitute *de facto* policy in the Honolulu Police Department, and they were allowed to exist because municipal policymakers with authority over the same exhibited deliberate indifference to the problems, thereby effectively ratifying them.

150. In addition, the misconduct described in this count was undertaken pursuant to the policy and practice of Defendant CITY AND COUNTY OF HONOLULU and the Honolulu Police Department in that the violation of Plaintiff's rights described in this count was committed by the relevant final policy

maker for Defendant CITY AND COUNTY OF HONOLULU, or the persons to whom final policy making authority was delegated.

151. Defendant CITY AND COUNTY OF HONOLULU is liable for the violation of Plaintiff's rights as described in this count because the violation was caused by the policies, practices, customs, and/or actions of policymakers for these Defendants.

152. As a direct and proximate result of the Defendants' actions, Plaintiff's constitutional rights were violated and he suffered injuries and damages, including but not limited to loss of liberty, physical sickness and injury, emotional pain and suffering, and other grievous and continuing injuries and damages as set forth above.

V. ALL COUNTS

As to all Counts, Plaintiff is entitled to damages and to recover Plaintiff's reasonable attorney fees and costs, and other related expenses incurred by Plaintiff.

WHEREFORE, Plaintiff prays as follows:

- A. For general damages as proven at trial;
- B. For treble damages pursuant to 18 U.S.C. § 1964(c);
- C. A ruling finding Hawai'i Revised Statute § 712A unconstitutional.
- D. For special damages as proven at trial;
- E. For punitive and exemplary damages against the individually named

Defendants;

F. For reimbursement of his costs and fees incurred; and

G. For such other further relief as the Court may deem just and proper.

VI. DEMAND FOR JURY TRIAL

Plaintiff demands trial by jury pursuant to Federal Rule of Civil Procedure 38(b) on all issues so triable.

VII. CERTIFICATION

Under Federal Rule of Civil Procedure 11, by signing below, I certify to the best of my knowledge, information, and belief that this complaint: (1) is not being presented for an improper purpose, such as to harass, cause unnecessary delay, or needlessly increase the cost of litigation; (2) is supported by existing law or by a nonfrivolous argument for extending, modifying, or reversing existing law; (3) the factual contentions have evidentiary support or, if specifically so identified, will likely have evidentiary support after a reasonable opportunity for further investigation or discovery; and (4) the complaint otherwise complies with the requirements of Rule 11.

DATED: Honolulu, Hawai'i, December 17, 2019.

/s/ Jennifer L. Brown
JENNIFER BROWN, #10885
Attorney for Plaintiff
SEFO FATAI

Hawai'i Civil Rights Project
2485 Dole Street Honolulu, HI 96822
(808) 554-5576
hawaiicivilrightsproject@gmail.com