UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF ILLINOIS
EASTERN DIVISION

ANNABEL K. MELONGO Plaintiff, v. ASA ROBERT PODLASEK; ASA JULIE GUNNIGLE; INVESTIGATOR KATE GARCIA (NÉE O'HARA) (STAR NO. 423); INVESTIGATOR JAMES DILLON (STAR NO. 1068); INVESTIGATOR ANTONIO RUBINO (STAR NO. 5043); INVESTIGATOR RICH LESIAK (STAR NO. 5000); DR. MATHEW S. MARKOS; ASST. ATTY. GENERAL KYLE FRENCH; COOK COUNTY; RANDY ROBERTS; SCHILLER PARK DET. WILLIAM MARTIN; VILLAGE OF SCHILLER PARK; CAROL SPIZZIRRI Defendants.	)	Case No.13-CV-4924 Honorable Judge John Z. Lee Magistrate Judge Sheila M. Finnegan **JURY TRIAL DEMANDED**

THIRD AMENDED COMPLAINT

NOW COMES Plaintiff, Annabel K. Melongo, by and through the undersigned counsel and Miller Shakman & Beem LLP, and for cause of action against the defendants, both jointly and severally, respectfully states as follows:

INTRODUCTION

1. Eleven years ago, Plaintiff was arrested and charged with computer tampering based on the unsupported, false allegations of her former employer, Defendant Carol Spizzirri.

2. Defendant Spizzirri was the Founder and President of a now defunct non-profit organization known as Save a Life Foundation ("SALF"). Defendant Spizzirri held herself out as a certified nurse who began SALF after she lost her daughter in a fatal hit and run car accident.

Defendant Spizzirri claimed that her daughter's life would have been saved had she received prompt emergency first aid at the scene of the accident. Based on this story, Defendant Spizzirri created SALF with a purported mission of training emergency responders in life supporting first aid.

3. In and around Spring, 2006, Defendant Spizzirri and SALF came under scrutiny for its questionable financial activities. Spizzirri was exposed as a serial fabricator who lied about her credentials (she is not a certified nurse) and the underlying facts of her daughter's death (her daughter crashed her own car while under the influence of alcohol and did not die as a result of not receiving first aid emergency care). Critically, serious questions were raised regarding SALF's use of nearly $9 million of state and federal funding.

4. Around that time, SALF's computer servers crashed, allegedly deleting hundreds of financial records. Defendant Spizzirri falsely accused Plaintiff, her former employee, of causing the deletion of SALF's financial records. On information and belief, Defendant Spizzirri herself was responsible for SALF's computer crash and the resulting destruction of financial records.

5. Defendant Spizzirri used her influence and power with Illinois politicians, including former Cook County State's Attorney Richard Devine to embark on a 'witch hunt' of Plaintiff and frame Plaintiff for computer tampering.

6. Defendants Roberts, Martin, and French, as well as Defendants Podlasek and Gunnigle, conducted no meaningful investigation of Spizzirri's claims, ignored exculpatory evidence, and falsely charged and prosecuted Plaintiff for the offense of computer tampering.

7. On July 29, 2014, Plaintiff was exonerated of all computer tampering charges.

8. On April 13, 2010, while Plaintiff's computer tampering charges pended in the Circuit Court of Cook County, Plaintiff was arrested again without probable cause for threatening a public official and for violating the Illinois Eavesdropping Statute, struck down as unconstitutional by the Illinois Supreme Court, *People v. Melongo*, 2014 IL 114852 (March 20, 2014). *See also*, *ACLU of Illinois v. Anita Alvarez*, 679 F. 3d 583 (7th Cir. 2012).

9. Plaintiff was accused of secretly recording three separate telephone conversations she had with Pamela Taylor, a supervisor in the Official Court Reporters' office of the Circuit Court of Cook County, Criminal Division and posting those conversations to her website www.illinoiscorruption.net.

10. At that time, Plaintiff's website www.illinoiscorruption.net chronicled her efforts to defend against criminal charges of computer tampering which she claimed were the product of prosecutorial misconduct and political corruption. Plaintiff's stated purpose in maintaining her website is to expose corruption in the Cook County criminal justice system.

11. Even though Defendants knew that Plaintiff's conduct of recording Taylor was protected under a statutory exemption of the Illinois Eavesdropping statute, Defendants arrested, detained, and later maliciously prosecuted Plaintiff for violating the Eavesdropping Statute. Defendants did so to retaliate against Plaintiff for exercising her First Amendment rights to free speech and freedom of press. Additionally, Plaintiff was arrested for making allegedly threatening statements on her website.

12. Defendants Podlasek, Gunnigle, Garcia, Dillon, Rubino, Lesiak, French, and Markos participated in Plaintiff's arrest on April 13, 2010, despite recognizing that they lacked probable cause to arrest her, either for eavesdropping or for threatening a public official.

13. Plaintiff's charges for eavesdropping were dismissed in their entirety on July 26, 2012. However, Plaintiff was incarcerated at the Cook County Jail for more than 20 months as a result of the eavesdropping and tampering charges and spent an additional six (6) months on house arrest before the dismissal of the charges.

14. After eight years, 20 months of incarceration, two trials, and an appeal, Plaintiff has been vindicated of all wrongdoing.

PARTIES

15. Plaintiff Annabel Melongo was an adult resident citizen of Cook County, Illinois at the time the original complaint was filed on July 10, 2013.

16. On information and belief, Defendant Robert Podlasek is an adult resident of Cook County, Illinois. At all times material hereto, Defendant Podlasek was a duly appointed Assistant Cook County State's Attorney and was acting under the color of state law. Podlasek is sued individually.

17. On information and belief, Defendant Julie Gunnigle was an adult resident of Cook County, Illinois at the time the complaint was filed, and now resides in Arizona. At all times material hereto, Defendant Gunnigle was a duly appointed Assistant Cook County State's Attorney and was acting under the color of state law. Gunnigle is sued individually.

18. On information and belief, Kate Garcia (whose name was formerly Kate O'Hara) is an adult resident of Cook County, Illinois. At all times material hereto, Defendant Garcia was an investigator at the Cook County State's Attorney's Office and was acting under the color of state law. Garcia is sued individually and in her official capacity as an investigator at the Cook County State's Attorney's Office.

19. On information and belief, Defendants Dillon, Rubino, and Lesiak are adult residents of Cook County, Illinois. At all times material hereto, Defendants Dillon, Rubino, and Lesiak were duly appointed members of the Cook County Sheriff's Department and were acting by virtue of their position as law enforcement officers and under color of state law. They are sued in their individual and official capacities as officers of the Cook County Sheriff's Department.

20. On information and belief, Defendant Kyle French is an adult resident of Maryland. At all times material hereto, Defendant French was a duly appointed Assistant Illinois Attorney General and was acting under color of state law. French is sued individually.

21. On information and belief, Dr. Mathew S. Markos is an adult resident of Cook County, Illinois. At all times material hereto, Dr. Markos was the director of Forensic Clinical Services at the Circuit Court of Cook County and was acting in a law enforcement capacity and under color of state law. Markos is sued individually and in his official capacity.

22. Cook County is a municipality chartered by the State of Illinois and as such is a political subdivision of the State of Illinois and among its other functions operates and maintains a law enforcement agency known as the Cook County Sheriff's Department.

23. On information and belief, Defendant Roberts is an adult resident of Cook County, Illinois. At all times material hereto, Defendant Roberts was a duly appointed member of the Cook County State's Attorney's office and was acting by virtue of his position as a law enforcement officer and under color of state law. He is sued in his individual capacity.

24. On information and belief, Schiller Park Detective William Martin is an adult resident of Cook County, Illinois. At all times material hereto, Defendant Martin was a duly appointed member of the Schiller Park Police Department and was acting by virtue of his

position as a law enforcement officer and under color of state law. Defendant Martin is sued in his individual and official capacity as an officer of the Schiller Park Police Department.

25. The Village of Schiller Park is a municipality chartered by the State of Illinois and as such is a local public entity, and among its other functions operates and maintains a law enforcement agency known as the Schiller Park Police Department.

26. On information and belief, Carol Spizzirri is an adult resident of San Marcos, California. She was the Founder and President of the Save a Life Foundation ("SALF").

JURISDICTION AND VENUE

27. Each and all acts of defendants, other than Defendant Spizzirri, were performed under the color and pretense of the Constitutions, statutes and ordinances, regulations, customs, and usages of the United States of America, the State of Illinois, the County of Cook, and under the authority of their office as law enforcement officers for Cook County, Illinois.

28. The incidents which give rise to this cause of action occurred within this jurisdiction and within two years of the filing of this Complaint.

29. Venue is proper in this venue pursuant to 28 U.S.C. § 1391, as all the defendants are residents of this district and/or all the acts or omissions which give rise to this cause of action occurred within this district.

30. Jurisdiction is proper pursuant to federal question jurisdiction, 28 U.S.C. § 1331, 28 U.S.C. § 1343(a)(3)(4) and 42 U.S.C. § 1983. Plaintiff further invokes the pendent and supplemental jurisdiction of this Court to hear and decide claims arising under state law pursuant to 28 U.S.C. § 1367.

FACTUAL ALLEGATIONS

Plaintiff hereby incorporates, in their entirety, each and every paragraph contained in this Third Amended Complaint ("Complaint") and by reference makes said paragraphs a part hereof as if fully set forth herein:

31. On October 31, 2006, Plaintiff Melongo was charged with two (2) counts of Computer Tampering under 720 ILCS 5/16-D-3(a)(3). The information alleged that Plaintiff forwarded an email belonging to Spizzirri to herself, and that she remotely deleted files, mostly financial, that belonged to the Save-A-Life Foundation ("SALF"), a now defunct non-profit organization with ties to numerous prominent Cook County and Illinois politicians.

32. Founded in 1993 by Defendant Spizzirri, SALF's mission was to pass and help to implement legislation nationwide that would require training in first aid and cardiopulmonary resuscitation for police, firefighters, teachers, public safety workers, and emergency dispatchers. SALF was a member organization of the Federal Emergency Management Agency and received nearly $9 million in federal and state funding during its existence.

33. Defendant Spizzirri cultivated relationships with prominent politicians to advance SALF and gain access to state and federal funding. By way of example, United States Secretary of Education Arne Duncan was a prominent supporter of SALF when he was CEO of the Chicago Public Schools. Dick Durbin, one of the highest ranking senators in the United States Senate was one of SALF's strongest supporters. Illinois Congresswoman Jan Schakowsky sponsored a Congressional Budget earmark for SALF. Former U.S. Senator Republican Norm Coleman sponsored a bill that would have awarded SALF millions if it had passed, and in 2006 the U.S. Conference of Mayors adopted the Community Response Systems Initiative Resolution, committing their support to SALF.

34. However, since November of 2006, SALF has been the subject of dozens of news/investigative reports that exposed SALF's founder Defendant Carol Spizzirri as a serial fabricator and questioned the organization's claims, practices, and finances. To date, the greater than $9 million received by SALF in state and federal funds remains unaccounted for. Meanwhile, Defendant Spizzirri has relocated to California, avoiding further scrutiny of her conduct while operating SALF.

35. The Illinois Attorney General, Charitable Trust Bureau represented that there was an investigation into SALF's activities. However, to date, no civil or criminal action has been brought against Defendant Spizzirri.

36. In and around mid-2006, Defendant Spizzirri became aware that SALF's financial activities were coming under scrutiny and that her financial activities as the President of SALF might be examined. In fact, in November, 2006, Reporter Chuck Goudie from ABC News Chicago aired a series of investigative reports that discredited Defendant Spizzirri and her organization.

37. In Spring, 2006, knowing SALF's financial record might come under review, Defendant Spizzirri falsely accused Plaintiff of remotely deleting financial files from SALF servers, claiming that Plaintiff was angry at Spizzirri for terminating her. Defendant Spizzirri contacted the Illinois Attorney General's office and reached out directly to her personal friend Cook County State's Attorney, Richard Devine, demanding that criminal charges be brought against Plaintiff.

38. On information and belief, Defendant Spizzirri herself caused the destruction of SALF's financial records and then fabricated a narrative accusing Plaintiff of tampering with the SALF servers and causing the destruction of hundreds of financial records. Using her power,

influence, and relationships, Defendant Spizzirri embarked on a "witch hunt" to have Plaintiff prosecuted for the offense of computer tampering all while diverting attention away from her own misconduct and questionable financial dealings.

39. Specifically, Defendant Spizzirri falsely claimed that Plaintiff had unlawfully accessed Spizzirri's email account and forwarded emails from Spizzirri's account to Plaintiff's Yahoo email address. In truth, Spizzirri herself, or someone else, forwarded the emails.

40. On information and belief, Spizzirri accused Plaintiff of accessing her email account and destroying computer files in an attempt to paint Melongo as a bitter computer hack whose goal was to retaliate against her former employer by destroying financial records. Defendant Spizzirri also falsely accused Plaintiff of remotely accessing SALF's servers, changing passwords, deleting financial files, and even stealing SALF's credit card numbers for the purpose of making purchases.

41. On information and belief, with a directive from the Cook County State's Attorney, Richard Devine, Defendant Cook County Investigator Randy Roberts along with Defendant Kyle French and Defendant Martin accepted Defendant Spizzirri's fabricated theory that Plaintiff had accessed SALF's servers and destroyed hundreds of financial records with no meaningful investigation. Indeed, these Defendants – and the other Defendants who later became involved, including Defendants Podlasek and Gunnigle – ignored ample exculpatory evidence showing that Plaintiff had no ability to access SALF's servers and could not have committed the offense of computer tampering.

42. No factual basis existed to support a finding of probable cause that Plaintiff had committed an act of computer tampering. Notwithstanding, Defendants Roberts, Martin and French effectuated a search of Plaintiff's apartment, arrested Plaintiff, and initiated computer

tampering charges against her.

43. The Illinois Attorney General's Office conducted an in-depth forensic analysis of Plaintiff's computer which resulted in a report hundreds of pages in length. Testimony from the Forensic Expert revealed that no evidence derived from Plaintiff's computer showed that Plaintiff had accessed Defendant Spizzirri's emails or the SALF servers, let alone caused those servers to crash or caused the destruction of hundreds of financial records.

44. Despite this stunning absence of evidence, Defendants Roberts, French, Podlasek, Gunnigle, and Martin continued to pursue criminal charges against Plaintiff.

45. Although the initial tampering charges were dismissed on January 10, 2007, the State (through Defendant Podlasek) indicted Plaintiff on three counts of computer tampering on January 17, 2007, based on perjured testimony of Defendant Martin. The State superseded Plaintiff's original indictment with a new indictment on May 28, 2008.

46. The report of proceedings reflects that Plaintiff's counsel appeared in court and entered a plea of not guilty to the superseding indictment on behalf of Plaintiff. Plaintiff did not indicate on the record that she understood the charges and the court directed all communication to her attorney - even referring to Plaintiff in the third person. However, at the conclusion of the proceeding the court inquired about Plaintiff's bond:

The Court:	There was some alleged deficiencies in the first indictment that Counsel talked about, '07 nolle pros case, superseded by 08-10502. Did she have a cash bond on that, or what kind of bond was she out on?
The Defendant:	I-bond.
The Court:	I-bond.

47. The isolated "I-Bond" statement allegedly uttered by "The Defendant" is the only indication that Plaintiff was present in court on June 18, 2008. Indeed, the docket sheet, the half sheet, the judge's notes, and the court call sheet all indicate that Plaintiff was not present in court that day and consequently was not arraigned.

48. After reviewing the report of proceedings from the June 18, 2008 court date, Plaintiff believed that her transcript was tampered and consequently contacted the office of the Official Court Reporters and spoke with Official Court Reporter Laurel Laudien who purportedly transcribed the proceedings. Plaintiff told Laudien that she was not present at the June 18, 2008 proceedings and questioned her as to why the transcript suggested she was. Ms. Laudien denied any inaccuracies in the transcript and eventually hung up the phone.

49. Laudien later admitted that she destroyed the audio recording of the June 18, 2008 court proceedings which would have proved that Plaintiff was not present at the arraignment.

50. On December 10, 2009, Pamela Taylor, the supervisor of the Official Court Reporters' office contacted Plaintiff and admonished her not to contact Ms. Laudien again. Irritated, Plaintiff hung up the phone. Taylor called Plaintiff back a second time and left a message on her voice mail directing all conversations about the June 18, 2008 transcript to herself by forbidding Plaintiff to talk to anybody else in her office about that tampered transcript.

51. Later that day, Plaintiff complied with Taylor's instructions and called her to question and discuss the accuracy of the June 18, 2008 transcript. Plaintiff recorded the conversation. Plaintiff recorded additional conversations with Taylor on December 15 and December 16, 2009.

52. Plaintiff recorded her conversations with Taylor in an effort to gather evidence to prove that she was not actually present for the June 18, 2008 court date where she was allegedly

arraigned on a superseding computer tampering indictment. In doing so, Plaintiff intended to prove a crime; namely that the court reporter fabricated the report of proceedings when she indicated that Defendant was present in open court and later destroyed the audio tape that would have proved that fabrication.

53. In November, 2009, Plaintiff created a website known as www.illinoiscorruption.net to chronicle her efforts at defending against the computer tampering charges that she claimed were instituted without probable cause and as a result of political pandering. On her website, Plaintiff states that she launched the site in an attempt to bring public attention to the abuses of the criminal justice system in Illinois.

54. On December 17, 2009, Plaintiff posted her conversations with Taylor on her website www.illinoiscorruption.net. Plaintiff noted that the recording of her conversations with Taylor was protected by 720 ILCS 5/14-3(I), an exemption to the Illinois Eavesdropping statute that permits the secretive recording of conversations to prove a crime under reasonable suspicion.

55. Plaintiff also contacted the FBI to report her belief that the June 18, 2008 transcripts were tampered, falsified or doctored. FBI agent Dana DePooter testified under oath that she received an email from Plaintiff complaining that the June 18, 2008 transcript had been tampered with or doctored.

56. In or around January 2010, Defendant French of the Illinois Attorney General's office began investigating Plaintiff's website and instructed a Senior Computer Evidence Recovery Technician, Amber Haqqani, to capture the website for investigative purposes. On information and belief, French also instructed the technician to monitor Plaintiff's website.

57. On January 8, 2010, Plaintiff, acting pro se, filed a motion to dismiss the computer tampering charges on the grounds that the State suborned perjury from its witnesses during the grand jury proceedings that resulted in her indictment.

58. On March 3, 2010, the date on which Plaintiff was scheduled to argue her motion to dismiss the charges, Defendants French, Podlasek, and Gunnigle moved to have Plaintiff psychologically examined ("BCX") to determine her fitness to stand trial and to represent herself, despite the fact that no evidence suggested that Plaintiff suffered from any mental health issues or that she did not understand the charges against her or could not assist in her own defense.

59. Thereafter, Plaintiff posted on her website that "Annabel has a big surprise in store for the court in its attempt to push her out of the case by pretending that she is psychologically unbalanced. The surprise will be known on April 14, 2010."

60. On April 13, 2010, Plaintiff submitted to a psychological exam to be conducted by Defendant Markos. On information and belief, at or around the time that Plaintiff was undergoing the evaluation, Defendants Podlasek and Gunnigle contacted Defendant Dillon or an unknown Cook County officer and instructed him or her to arrest Plaintiff because of the "inappropriate" "surprise" message posted on her website. Plaintiff explained to Dr. Markos that the surprise which she referred to was her hiring of a new attorney.

61. As a result of this direction, unknown Cook County Correctional officers were dispatched to the Criminal Court facility where they interrupted Plaintiff's evaluation by Defendant Markos and asked to speak with Defendant Markos privately.

62. After leaving the room for a short period, Defendant Markos returned and began questioning Plaintiff extensively about her website and her entries on the website, including the

"surprise" post. Markos attempted to elicit incriminating responses from Plaintiff during this so-called psychological exam about her website.

63. Immediately after the evaluation, Plaintiff stepped outside Defendant Markos' office and was arrested by unknown Cook County Sheriff officers and Defendant Dillon and transferred to the Cook County Central Intelligence Unit ("CIU"). Plaintiff was arrested for allegedly threatening a public official.

64. On information and belief, Plaintiff was interrogated by Defendants Dillon, Lesiak, and Rubino regarding her website and Plaintiff asserted her right to counsel. Defendants Dillon, Lesiak, and Rubino had no probable cause to detain Plaintiff for threatening a public official, but notwithstanding the lack of probable cause, Defendants Dillon, Lesiak and Rubino arrested and detained Plaintiff. On information and belief, they did so at the behest of Defendants Podlasek, Gunnigle, and French, and with the involvement of Defendant Garcia. Defendants French, Podlasek, Gunnigle, and Garcia were actively investigating the case, including taking action to subpoena the website's records.

65. The State abandoned its threatening of a public official charge, and on April 13, 2010, a complaint was filed against Plaintiff for violating the Illinois Eavesdropping statute when she recorded her conversations with Pamela Taylor and posted those conversations on her website. Although the alleged complainant on the Eavesdropping charges was Pamela Taylor, the complaint itself does not bear her signature.

66. No probable cause existed to justify arresting Plaintiff for threatening a public official. No probable cause existed to justify the eavesdropping charges where Plaintiff recorded her conversations with Taylor for the purpose of establishing that the Court Reporters' office had falsified transcripts that erroneously suggested that Plaintiff had been arraigned on a superseding

indictment when, in fact, she was not even present in court when the alleged arraignment took place. Indeed, Plaintiff herself reported the crime committed by the court reporter to the F.B.I. and published the recordings on her website.

67. Defendants Podlasek, Gunnigle, French, Rubino, Lesiak, Dillon and Garcia singled out Plaintiff for prosecution under the eavesdropping statute despite knowing that a statutory exemption applied to Plaintiff (or being charged with such knowledge). Defendants arrested Plaintiff and instituted charges against her purely out of vindictiveness and retaliation.

68. Additionally, City Hall employees and Chicago Tribune reporters regularly recorded conversations without the consent of all parties. Despite having knowledge of these violations of the eavesdropping statute, neither the Illinois Attorney General, nor the Cook County State's Attorney, nor the Cook County Sheriff's office investigated, arrested, and prosecuted these violators.

69. Despite an absence of probable cause to charge Plaintiff under the Illinois Eavesdropping Statute, Defendant Garcia, at the instruction of Defendants Podlasek and Gunnigle, obtained a search warrant to search Plaintiff's home.

70. On April 14, 2010, Plaintiff appeared in bond court and her bond was set at $30,000D Bond. But on April 20, 2010, at the request of Defendants French, Podlasek and Gunnigle, Judge Mary Brosnahan raised Plaintiff's bond to $500,000D bond.

71. On April 27, 2010, Plaintiff was indicted for three (3) counts of recording phone conversations under 720 ILCS 5/14-2(a)(1), and three (3) counts of publishing said conversations on Plaintiff's website www.illinoiscorruption.net.

72. On May 5, 2010, Judge Brosnahan reduced Plaintiff's bond to $300,000D bond. Unable to make bond, Plaintiff was incarcerated for a total of more than 20 months in the Cook

County Jail. During her incarceration, Plaintiff exercised due diligence in attempting to learn the basis for her arrest and determine the individuals responsible for that wrongful arrest.

73. Plaintiff filed a motion to dismiss the eavesdropping charges on December 13, 2010 which was denied by Judge Brosnahan.

74. On January 12, 2011, Plaintiff's trial on the eavesdropping charges commenced.

75. On January 14, 2011, Judge Brosnahan declared a mistrial because the jury was unable to reach a unanimous verdict on the charges.

76. On April 11, 2011, Chief Judge Timothy C. Evans reassigned Plaintiff's cases to the Honorable Judge Steven J. Goebel.

77. Thereafter, Plaintiff terminated her attorney and proceeded pro se. Plaintiff remained incarcerated.

78. On September 14, 2011, Judge David K. Frankland of Sangamon County declared the Illinois Eavesdropping Statute unconstitutional. *People v. Allison*, 2009-CF-50.

79. On September 20, 2011, ASA Podlasek moved before Judge Goebel to confiscate Plaintiff's legal files related to the computer tampering and eavesdropping charges allegedly for the purpose of redacting third-party social security numbers and credit card numbers. Judge Goebel granted ASA Podlasek's motion and ordered Plaintiff's former attorney to hand over her legal files to ASA Podlasek. ASA Podlasek demanded that Plaintiff relinquish both her case file on the eavesdropping charges and the computer tampering charges.

80. ASA Podlasek removed various documents from Plaintiff's file, including police reports and other memoranda critical to her defense.

81. On Plaintiff's motion, Judge Goebel released Plaintiff from the Cook County Jail and the Cook County Sheriff placed her in the electronic monitoring program on October 20, 2011 - a week after the maximum sentence for the offense of eavesdropping had expired.

82. On November 10, 2011, Defendant Podlasek moved before Judge Goebel to revoke Plaintiff's bond, alleging that she had made an unauthorized movement to her former attorney's office and "stole" her own legal file. The Court allowed Plaintiff to stay at liberty and to respond in writing to Defendant's motion. Notwithstanding the Court's order, Defendant Podlasek contacted the electronic monitoring program and instructed unknown Cook County sheriff's officers to arrest Plaintiff.

83. Plaintiff was imprisoned again until November 23, 2011 when Judge Goebel reinstated Plaintiff's bond and recommitted her to the electronic monitoring program.

84. On November 30, 2011, Plaintiff filed an amended motion to dismiss the eavesdropping charges.

85. On March 2, 2012, Circuit Court of Cook County Judge Stanley Sacks declared the Illinois Eavesdropping statute unconstitutional. *People v. Drew*, 10 CR 00046.

86. On March 19, 2012, Plaintiff argued her motion to dismiss the eavesdropping charges.

87. On May 8, 2012, the United States Court of Appeals for the Seventh Circuit declared the Illinois Eavesdropping statute unconstitutional in *ACLU v. Alvarez*, 679 F. 3d 582 (7th Cir. 2012).

88. On June 19, 2012, Judge Goebel granted Plaintiff's motion to dismiss and on July 26, 2012, officially dismissed the eavesdropping charges.

89. On July 28, 2014 - eight years after Plaintiff was charged with computer tampering - the State of Illinois dismissed two of the counts without explanation. Specifically, the State dismissed all charges related to allegations that Plaintiff had accessed the computer servers of SALF and caused the deletion or destruction of data.

90. However, the State proceeded to prosecute Plaintiff for unlawfully accessing Defendant Spizzirri's email account and for altering data by forwarding two emails to herself. The parties picked a jury and the State put on its case in chief.

91. A computer forensic analyst who previously worked for the Illinois Attorney General and conducted a complete forensic analysis of Plaintiff's computer testified that no forensic evidence showed that Plaintiff had accessed Spizzirri's email or servers.

92. At the close of the State's case, the defense moved for a directed finding and Cook County Circuit Court Judge Joyce entered a directed finding of not guilty.

93. After eight years since charges were originally brought, approximately two of which were spent in custody, Plaintiff was exonerated of all charges.

COUNT I

FEDERAL FALSE ARREST REGARDING APRIL 13, 2010 ARREST AGAINST DEFENDANTS PODLASEK, GUNNIGLE, GARCIA, DILLON, RUBINO, LESIAK, FRENCH, AND MARKOS

Plaintiff hereby incorporates, in their entirety, Paragraphs 1 to 93 of this Complaint and by reference makes said paragraphs a part hereof as if fully set forth herein.

94. Defendants Podlasek, Gunnigle, Garcia, Dillon, Rubino, Lesiak, French, and Markos committed the above described actions and/or omissions under the color of law and by virtue of their authority as law enforcement officers. They substantially deprived Plaintiff of her clearly established rights, privileges, and immunities, guaranteed to her by the United States

Constitution and in violation of 42 U.S.C. § 1983, and deprived Plaintiff of rights guaranteed to her under the Fourth Amendment to the United States Constitution to be free from unlawful search and seizure and to be free from unlawful arrest and seizure of her person.

95. Defendants Podlasek, Gunnigle, Garcia, Dillon, Rubino, Lesiak, French, and Markos either arrested Plaintiff or participated in or directed her arrest.

96. Defendants Podlasek, Gunnigle, Garcia, Dillon, Rubino, Lesiak, French, and Markos lacked probable cause to arrest Plaintiff.

97. As a direct and proximate result of the acts and omissions of Defendants Podlasek, Gunnigle, Garcia, Dillon, Rubino, Lesiak, French, and Markos in effectuating Plaintiff's unlawful arrest, Plaintiff's constitutional rights were violated and Plaintiff sustained substantial injuries.

COUNT II

FEDERAL FIRST AMENDMENT RETALIATION REGARDING APRIL 13, 2010 ARREST AGAINST DEFENDANTS PODLASEK, GUNNIGLE, GARCIA, DILLON, RUBINO, LESIAK, FRENCH, AND MARKOS

Plaintiff hereby incorporates, in their entirety, Paragraphs 1 to 97 of this Complaint and by reference makes said paragraphs a part hereof as if fully set forth herein.

98. Defendants Podlasek, Gunnigle, Garcia, Dillon, Rubino, Lesiak, French, and Markos committed the above described actions and/or omissions under the color of law and by virtue of their authority as law enforcement officers. They substantially deprived Plaintiff of her clearly established rights, privileges, and immunities, guaranteed to her by the United States Constitution and in violation of 42 U.S.C. § 1983, and deprived Plaintiff of rights guaranteed to her under the First Amendment to the United States Constitution.

99. Plaintiff engaged in activity protected by the First Amendment by publicly chronicling the State's computer tampering prosecution against her on her website and by publishing lawfully obtained taped conversations.

100. Defendants Podlasek, Gunnigle, Garcia, Dillon, Rubino, Lesiak, French, and Markos retaliated against Plaintiff for exercising her First Amendment rights to free speech and freedom of the press by arresting Plaintiff and/or participating in or directing her arrest.

101. Plaintiff's activity protected under the First Amendment was a motivating factor in the decision of Defendants Podlasek, Gunnigle, Garcia, Dillon, Rubino, Lesiak, French, and Markos to arrest Plaintiff on April 13, 2010.

102. Defendants Podlasek, Gunnigle, Garcia, Dillon, Rubino, Lesiak, French, Markos, Roberts, and Martin lacked probable cause to arrest Plaintiff.

103. As a direct and proximate result of the retaliatory acts of Defendants Podlasek, Gunnigle, Garcia, Dillon, Rubino, Lesiak, French, and Markos in effectuating Plaintiff's unlawful arrest, Plaintiff's constitutional rights were violated and Plaintiff sustained substantial injuries.

COUNT III

FEDERAL FALSE ARREST REGARDING NOVEMBER 10, 2011 ARREST AGAINST DEFENDANT PODLASEK

Plaintiff hereby incorporates, in their entirety, Paragraphs 1 to 103 of this Complaint and by reference makes said paragraphs a part hereof as if fully set forth herein.

104. Defendant Podlasek committed the above described actions and/or omissions under the color of law and by virtue of his authority as a law enforcement officer. He substantially deprived Plaintiff of her clearly established rights, privileges, and immunities, guaranteed to her by the United States Constitution and in violation of 42 U.S.C. § 1983, and

deprived Plaintiff of rights guaranteed to her under the Fourth Amendment to the United States Constitution to be free from unlawful search and seizure and to be free from unlawful arrest and seizure of her person.

105. Defendant Podlasek either arrested Plaintiff or participated in her arrest on November 10, 2011.

106. Defendant Podlasek lacked probable cause to arrest Plaintiff.

107. As a direct and proximate result of the acts and omissions of Defendant Podlasek in effectuating Plaintiff's unlawful arrest, Plaintiff's constitutional rights were violated and Plaintiff sustained substantial injuries.

COUNT IV

FEDERAL UNLAWFUL PRETRIAL DETENTION AGAINST DEFENDANTS PODLASEK, GUNNIGLE, GARCIA, DILLON, RUBINO, LESIAK, FRENCH, MARKOS, ROBERTS, AND MARTIN

Plaintiff hereby incorporates, in their entirety, Paragraphs 1 to 107 of this Complaint and by reference makes said paragraphs a part hereof as if fully set forth herein.

108. Defendants Podlasek, Gunnigle, Garcia, Dillon, Rubino, Lesiak, French, Markos, Roberts, and Martin committed the above described actions and/or omissions under the color of law and by virtue of their authority as law enforcement officers. They substantially deprived Plaintiff of her clearly established rights, privileges, and immunities, guaranteed to her by the United States Constitution and in violation of 42 U.S.C. § 1983, and deprived Plaintiff of rights guaranteed to her under the Fourth Amendment to the United States Constitution to be free from unlawful pretrial detention and to be free from unlawful seizure of her person.

109. Defendants Podlasek, Gunnigle, Garcia, Dillon, Rubino, Lesiak, French, Markos, Roberts, and Martin caused Plaintiff to be seized and detained prior to trial.

110. Defendants Podlasek, Gunnigle, Garcia, Dillon, Rubino, Lesiak, French, Markos, Roberts, and Martin caused Plaintiff to be seized and detained with malice and for political reasons, even though they lacked probable cause to seize and detain Plaintiff for computer tampering and eavesdropping.

111. As a direct and proximate result of the acts and omissions of Defendants Podlasek, Gunnigle, Garcia, Dillon, Rubino, Lesiak, French, Markos, Roberts, Martin, in effectuating Plaintiff's unlawful seizure and detention, Plaintiff's constitutional rights were violated and Plaintiff sustained substantial injuries.

COUNT V

FEDERAL DUE PROCESS CLAIM AGAINST DEFENDANT SCHILLER PARK POLICE DETECTIVE MARTIN

Plaintiff hereby incorporates, in their entirety, Paragraphs 1 to 111 of this Complaint and by reference makes said paragraphs a part hereof as if fully set forth herein.

112. Defendant Martin committed the above described actions and/or omissions under the color of law and by virtue of his authority as a law enforcement officer. He substantially deprived Plaintiff of her clearly established rights, privileges, and immunities, guaranteed to her by the United States Constitution and in violation of 42 U.S.C. § 1983, and deprived Plaintiff of rights guaranteed to her under the Due Process Clause of the Fourteenth Amendment.

113. Defendant Martin made false statements, including falsely stating that on July 20, 2006 Plaintiff confessed to accessing Defendant Spizzirri's email and on information and belief falsely stating that he received a report from "Mike" incriminating Plaintiff.

114. Defendant Martin included these fabricated statements in a police report.

115. Defendant Martin's false statements resulted in Plaintiff's indictment and prosecution.

116. As a result of the fabricated statements, Plaintiff was deprived of her liberty.

117. Absent the fabricated statements, Plaintiff would not have suffered the deprivation of liberty.

118. As a direct and proximate result of the acts and omissions of Defendant Martin, Plaintiff's constitutional rights were violated and Plaintiff sustained substantial injuries.

COUNT VI

STATE LAW TORTS AGAINST DEFENDANTS PODLASEK, GUNNIGLE, GARCIA, DILLON, RUBINO, LESIAK, FRENCH, MARKOS, ROBERTS, MARTIN AND SPIZZIRRI

Plaintiff hereby incorporates, in their entirety, Paragraphs 1 to 118 of this Complaint and by reference makes said paragraphs a part hereof as if fully set forth herein.

119. The acts, omissions and conduct of Defendants Podlasek, Gunnigle, French, Garcia, Dillon, Lesiak, Rubino, Markos, Roberts, Martin, and Spizzirri constitute false arrest, false imprisonment, malicious prosecution, conspiracy, negligent infliction of emotional distress, and intentional infliction of emotional distress under Illinois law.

120. As a direct and proximate result of the aforementioned acts and omissions of defendants, Plaintiff has been injured and damaged.

COUNT VII

AGAINST COOK COUNTY AND THE VILLAGE OF SCHILLER PARK FOR INDEMNIFICATION

Plaintiff hereby incorporates, in their entirety, Paragraphs 1 to 120 of this Complaint and by reference makes said paragraphs a part hereof as if fully set forth herein.

121. Pursuant to 745 ILCS 10/9-102, 55 ILCS 5/4-6003, and/or 55 ILCS 5/5-1106, COOK COUNTY is empowered and directed to pay any judgment for compensatory damages (and any associated attorneys' fees and costs) assessed against its employees or an independently

elected Cook County officer, such as the Cook County Sheriff and its deputies, including Defendants Podlasek, Gunnigle, Garcia, Roberts, Markos, Rubino, Lesiak, and Dillon, when such persons are liable for conduct within the scope of their employment.

122. Pursuant to 745 ILCS 10/9-102, 55 ILCS 5/4-6003, and/or 55 ILCS 5/5-1106, THE VILLAGE OF SCHILLER PARK is empowered and directed to pay any judgment for compensatory damages (and any associated attorneys' fees and costs) assessed against its employees, including Defendant Martin, when such person is liable for conduct within the scope of his employment.

123. The acts and/or omissions of Defendants Podlasek, Gunnigle, Garcia, Roberts, Markos, Rubino, Lesiak, Dillon, and Martin described in this Complaint were committed in the scope of their employment.

124. In the event that a judgment for compensatory damages is entered against Defendants Podlasek, Gunnigle, Garcia, Roberts, Markos, Rubino, Lesiak, and Dillon, COOK COUNTY should be held liable to pay the judgment as well as the associated attorneys' fees and costs.

125. In the event, that a judgment for compensatory damages is entered against Defendant Martin, THE VILLAGE OF SCHILLER PARK should be held liable to pay the judgment as well as the associated attorneys' fees and costs.

COUNT VIII

PUNITIVE DAMAGES AGAINST DEFENDANTS PODLASEK, GUNNIGLE, GARCIA, DILLON, RUBINO, LESIAK, FRENCH, MARKOS, ROBERTS, MARTIN, AND SPIZZIRRI

Plaintiff hereby incorporates, in their entirety, Paragraphs 1 to 125 of this Complaint and by reference makes said paragraphs a part hereof as if fully set forth herein.

126. The actions and/or omissions of defendants Podlasek, Gunnigle, Garcia, Dillon, Rubino, Lesiak, French, Markos, Roberts, Martin, and Spizzirri were unlawful, conscience shocking, and unconstitutional, and performed maliciously, recklessly, fraudulently, intentionally, willfully, wantonly, in bad faith, and in such a manner to entitle the Plaintiff to a substantial award of punitive damages against Defendants.

DAMAGES

Plaintiff hereby incorporates, in their entirety, Paragraphs 1 to 126 of this Complaint and by reference makes said paragraphs a part hereof as if fully set forth herein.

127. As a direct and proximate result of the aforementioned actions and omissions of the defendants, Plaintiff was injured and damaged. The damages for which Plaintiff seeks compensation from the defendants, both jointly and severally, include, but are not limited to, the following:

a. emotional pain and suffering of a past, present, and future nature;

b. physical pain and suffering of a past, present, and future nature, including damages resulting from a surgery Plaintiff underwent during her detention at Cook County Jail and its lasting effects;

c. loss of enjoyment of life of a past, present, and future nature;

d. fright, fear, aggravation, humiliation, anxiety, and emotional distress of a past, present, and future nature as a result of the injuries sustained as a result of the illegal actions of defendants;

e. loss of earning capacity;

f. attorney's fees pursuant to 42 U.S.C. § 1988;

g. punitive damages against applicable defendants;

h. pre-and post-judgment interest;

i. preclusion of defendants Garcia, Dillon, Lesiak, and Rubino from serving as police officers; and

j. all such relief, both general and specific, to which Plaintiff may be entitled to under the premises.

PRAYERS FOR RELIEF

Plaintiff hereby incorporates, in their entirety, each and every paragraph contained in this Complaint and by reference makes said paragraphs a part hereof as if fully set forth herein.

WHEREFORE, PREMISES CONSIDERED, Plaintiff sues the defendants both jointly and severally, for her personal injuries and prays for a judgment against the defendants for compensatory damages solely in an amount to be determined by a jury as reasonable and for all such further relief, both general and specific, to which she may be entitled under the premises.

WHEREFORE, PREMISES CONSIDERED, Plaintiff sues defendants Podlasek, Gunnigle, Garcia, Dillon, Rubino, Lesiak, French, Markos, Roberts, Martin, Spizzirri, Cook County, and the Village of Schiller Park in an amount solely to be determined by a jury as reasonable and for all such further relief, both general and specific, to which she may be entitled under the premises.

A JURY IS RESPECTFULLY DEMANDED TO TRY THE ISSUES ONCE JOINED.

Dated: January 23, 2018

ANNABEL K. MELONGO

By: /s/ Julia K. Schwartz
One of her attorneys

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CERTIFICATE OF SERVICE

I, Julia K. Schwartz, hereby certify that I caused the foregoing Third Amended Complaint to be served on all counsel of record to matter 13 C 4924 via ECF Filing on January 23, 2018.

/s/ Julia K. Schwartz