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IN THE UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF OKLAHOMA

FILED

FEB 04 2013

Phil Lombardi, Clerk
U.S. DISTRICT COURT

[1] JOHN F. SINGER, an Individual,)
)
) Case No.
 Plaintiff,)
 v.) Judge
)
 [1] JANICE STEIDLEY, Individually)
 and as District Attorney for District #12)
 (Craig, Mayes and Rogers County), State)
 of Oklahoma; and [2] M. BRYCE LAIR,)
 Individually and as First Assistant)
 District Attorney for District #12 (Craig,)
 Mayes and Rogers County), State of)
 Oklahoma,)
)
 Defendants.)

13 CV - 72 GKF - TLW

VERIFIED COMPLAINT

Plaintiff, John F. Singer (“Singer”), hereby submits his Verified Complaint against Defendants, Janice Steidley, Individually and as District Attorney for District #12 (Craig, Mayes and Rogers County), State of Oklahoma (“Steidley”); and M. Bryce Lair, Individually and as First Assistant District Attorney for District #12 (Craig, Mayes and Rogers County), State of Oklahoma (“Lair”) (collectively, “Defendants”).

The Parties

1. Plaintiff, Singer, is an Oklahoma resident residing within the Northern District of Oklahoma.
2. Defendant, Steidley, is an Oklahoma resident residing within the Northern District of Oklahoma. At all times material to this action, Defendant Steidley was the District Attorney for District #12 (Craig, Mayes and Rogers County), State of Oklahoma. Defendant Steidley is being sued in both her individual capacity and in her official capacity.

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3. Defendant, Lair, is an Oklahoma resident residing within the Northern District of Oklahoma. At all times relevant to this action, Defendant Lair was the First Assistant District Attorney for District #12 (Craig, Mayes and Rogers County), State of Oklahoma. Defendant Lair is being sued in both his individual capacity and in his official capacity.

Jurisdiction and Venue

4. This action arises under the First and Fourteenth Amendments to the United States Constitution, under the Civil Rights Act, 42 U.S.C. §1983.

5. This Court has jurisdiction over the federal claims pursuant to 28 U.S.C. §§ 1331 and 1343. This Court has supplemental jurisdiction of the state law claims pursuant to 28 U.S.C. § 1367.

6. Venue is proper in this Court pursuant to 28 U.S.C §1391(b)(2) by virtue of the fact that substantially all acts and omissions that form the basis for Singer’s claims occurred in the Northern District of Oklahoma.

Facts

7. Singer is an employee of the Claremore Police Department (“CPD”). He became a patrol officer for CPD in 2000, and then was promoted to Investigator in 2005.

8. Singer has been the lead investigator in multiple violent murders and large scale Federal drug conspiracies. Singer also has considerable experience as a narcotics investigator and has purchased controlled substances in an undercover capacity in excess of 100 occasions. On a daily basis, Singer is responsible for investigating serious crimes within the City of Claremore, ranging from child abuse and sex crimes to white collar crimes. Singer is regularly called upon by other agencies in northeast Oklahoma to assist in the investigation of major crimes.

9. In addition to his duties with CPD, Singer has been commissioned as a Special Deputy for the United States Marshals Service in the Northern District of Oklahoma. In this capacity, Singer serves on the Northern Oklahoma Violent Crimes Task Force, the purpose of which is to locate and apprehend federal and state fugitives wanted for violent crimes.

10. Singer is certified by the International Association of Chiefs of Police and the National Highway Traffic Safety Administration as a Drug Recognition Expert and instructor, regularly teaching the topic in Oklahoma and elsewhere to police officers, teachers, school administrators and parents. Singer is an expert in the clandestine manufacture of methamphetamine and teaches the topic to law enforcement officers and first responders from across Oklahoma.

11. Singer has been decorated numerous times for his law enforcement accomplishments, including being twice named Narcotics Investigator of the Year by the Association of Oklahoma Narcotics Officers, and being named Officer of the Year by the Rogers County Law Enforcement Association.

12. In June of 2010, Defendant Steidley approached Singer, informed him that she intended on running for the office of District Attorney for District 12, and requested his assistance in obtaining the support of local police departments. Singer agreed, and was instrumental in Steidley's eventual election as District Attorney.

13. Defendant Steidley appointed Defendant Lair as her First Assistant District Attorney.

14. Soon after Steidley was elected District Attorney, Singer came to the conclusion that Steidley's performance as District Attorney was substandard, and therefore became and has remained a vocal critic of her performance as District Attorney.

15. Subsequent to her election, Singer participated in a background check of a criminal investigator hired by Steidley, and determined that the investigator's background contained a number of issues that would require disclosure to attorneys defending prosecutions in which he was involved, pursuant to *United States v. Giglio*, 405 U.S. 150 (1972) ("**Giglio Material**"). Singer notified Steidley of this information, and explained *Giglio* Material to Steidley, as she was not familiar with the case or the concept.

16. Singer also informed Steidley that he would not work on any cases with this *Giglio*-impaired investigator, nor would he allow the investigator to become involved in any of Singer's cases. This angered Steidley greatly.

17. In the fall of 2012, Steidley inquired of Singer through an agent as to whether Singer's wife intended on running against Steidley in 2014 for the office of District Attorney. Immediately after this conversation, Steidley made clear that she intended on starting her 2014 campaign immediately.

18. On January 6, 2013, The Claremore Daily Progress published an article that was critical of Steidley's performance as District Attorney with regard to the prosecution of drug offenses ("**January 6 Article**"). All of the drug prosecutions referenced in the January 6 Article were investigated by Singer.

19. Soon after publication of the January 6 Article, and due to Singer's criticisms of the District Attorneys' office, his participation in the background investigation of the District Attorneys' investigator, Steidley's concern that Singer's wife was going to run against her for District Attorney, and their assumption that Singer was the principal source for the January 6 Article, Steidley and Lair commenced a concerted action to retaliate against Singer and to

intimidate him by destroying Singer's career as a law enforcement officer and his reputation both with the public and within the law enforcement community.

20. Because of Singer's exemplary record as a law enforcement officer, Steidley and Lair decided to manufacture evidence that Singer had acted improperly during the investigation of one of his cases, and then use this manufactured evidence against Singer in order to destroy his career and ruin his reputation. Steidley and Lair chose a case that Singer had investigated over 18 months prior and determined, without a judicial determination and without affording Singer due process, that Singer had acted improperly. Even though Steidley and Lair had this information relating to Singer in their possession for 18 months, they took no action on the information until after the January 6, 2013 article in the Claremore newspaper.

21. After making their determination that Singer had acted improperly, Steidley and Lair then decided that their manufactured evidence constituted *Giglio* Material, and therefore needed to be disclosed to criminal defense counsel in cases investigated by Singer. The determination that their manufactured evidence constituted *Giglio* Material was made without a judicial determination and without affording Singer due process.

22. With their manufactured evidence in hand, Steidley and Lair took the following actions to discredit Singer in the public, with law enforcement and with the legal community:

- a. On or about January 7, 2013, Steidley and Lair approached the United States Attorney for the Northern District of Oklahoma and presented his office with their manufactured evidence;
- b. On or about January 8, 2013, Steidley and Lair approached Singer's superior, Chief Stan Brown of the CPD, and presented him with their manufactured evidence;
- c. On or about January 9, 2013, Steidley and Lair approached Chief Dennis Nichols of the Pryor Police Department, and presented him with their manufactured evidence;

- d. On or about January 14, 2013, Steidley signaled her intention to disclose the manufactured *Giglio* Material relating to Singer to criminal defense counsel in cases that had been investigated by Singer;
- e. On or about January 17, 2013, Steidley leaked her intention to file charges against Singer for his alleged wrongful conduct;
- f. Also on or about January 17, 2013, Lair, through his close friend, Josh Lee, disclosed the existence of the manufactured *Giglio* Material relating to Singer on the Oklahoma Criminal Defense Attorney Website;
- g. On or about January 25, 2013, Steidley and Lair disclosed the manufactured *Giglio* Material to defense counsel in Rogers County District Court Case Nos. CF-2012-551 and JD-2012-20.
- h. On or about January 29, 2013, Lair provided a statement to the Claremore Daily Progress that *Giglio* Material existed with regard to Singer, and that the District Attorneys' office did not need to have a judicial finding on this issue.
- i. On or about January 30, 2013, Steidley provided a lengthy interview to the Claremore Daily Progress concerning the manufactured *Giglio* Material.

23. As a result of Defendants' unlawful and tortious conduct, and their violation of Singer's clearly established constitutional rights under the First and Fourteenth Amendments to the United States Constitution, Singer's constitutionally-protected property interest in his employment, good name, reputation and integrity has been severely and irrevocably damaged.

24. Singer relies on his reputation as a criminal investigator in order to continue his work with the Claremore Police Department, the United States Marshal's Office, and the Northern Oklahoma Violent Crimes Task Force.

25. Defendants' actions in disseminating the alleged *Giglio* Material relating to Singer in retaliation for his exercise of his First Amendment rights and in violation of his Fourteenth Amendment due process rights have harmed and lowered Singer's reputation in the public and the law enforcement community.

26. Specifically, Defendants' actions have already caused Singer significant, irreparable damage to his reputation and employment with the Claremore Police Department and the U.S. Marshals Service. For example, (1) Singer has been informed by his superiors that, if the material in question is, in fact, *Giglio* Material, his employment will be terminated; (2) Singer has been placed on modified duty in that he cannot work on any cases or take any action that would require him to be a witness; (3) All of Singer's pending criminal prosecutions in state and federal court have been stayed indefinitely; and (4) Singer is unable to open any new prosecutions with the United States Attorneys Office.

27. In addition, Singer's effectiveness as an investigator for the Claremore Police Department and the U.S. Marshals Service has been and will continue to be severely and irreparably damaged by the dissemination of the alleged *Giglio* Material, because he will be subject to attacks on his credibility each and every time that he testifies on behalf of the prosecution in state and federal courts.

FIRST CLAIM FOR RELIEF
Civil Rights/42 U.S.C. §1983; Deprivation of First Amendment Rights
(Defendants in their Individual Capacities)

28. Singer incorporates all of the foregoing allegations in each of the paragraphs above as though fully set forth herein.

29. Singer exercised his clearly established, federally protected rights under the First Amendment of the United States Constitution when he engaged in speech and association regarding issues involving matters of public concern, specifically the performance of the District Attorneys' office.

30. Defendants, as a matter of custom and policy, acting with deliberate, conscious, and callous indifference to Plaintiff's First Amendment rights to freedom of speech and association, participated in, led, authorized, tolerated, and/or ratified the illegal misconduct set

forth herein, including but not limited to the campaign by Defendants to: (1) manufacture evidence that Singer had acted wrongfully in the investigation of a crime; (2) determine, without notice to and an opportunity to be heard by Singer and without a judicial determination, that the evidence manufactured by Defendants constituted *Giglio* Material; and (3) disseminate their manufactured evidence to law enforcement at the federal and state level as well as criminal defense attorneys and the public. This conduct by Defendants was intended to retaliate against and intimidate Singer for exercising his First Amendment rights to freedom of speech and association. Each of these acts was committed by a final policymaker with respect to that action for the District Attorneys' office, and/or was committed pursuant to an official or *de facto* policy or custom of the District Attorneys' office of retaliation for the exercise of lawful rights.

31. Defendants' actions and omissions were taken under color of state law, making the Defendants liable under 42 U.S.C. §1983 ("**Section 1983**").

32. Singer's Section 1983 claims are actionable against Steidley and Lair in their individual capacities, as laws prohibiting retaliation for exercising First Amendment rights to speak out on, and associate with respect to matters of public concern. In light of the law clearly established at the time of these violations, the actions of Steidley and Lair were objectively unreasonable.

33. As a result of Defendants' violations of Singer's First Amendment rights, Singer has suffered actual and compensatory damages for which Singer is entitled to recover.

WHEREFORE, Singer respectfully requests that this Court: (1) grant Singer judgment against Steidley and Lair in their individual capacity only for Defendants' violations of Singer's First Amendment rights; (2) award Singer attorney fees and costs incurred in the filing and

prosecution of the current claim; and (3) for such other relief to which this Court deems Singer is entitled.

SECOND CLAIM FOR RELIEF
Civil Rights/42 U.S.C. §1983; Deprivation of Fourteenth Amendment Rights
(Defendants in their Individual Capacities)

34. Singer incorporates all of the foregoing allegations in each of the paragraphs above as though fully set forth herein.

35. Singer, as a public employee, has a clearly established property interest in continued employment that is protected by the Fourteenth Amendment to the United States Constitution.

36. Singer also has a clearly established liberty interest in his good name, reputation, honor and integrity that is protected by the Fourteenth Amendment to the United States Constitution.

37. Defendants, as a matter of custom and policy, acting with deliberate, conscious and callous indifference to Singer's Fourteenth Amendment rights, participated in, led, authorized, tolerated, and/or ratified the illegal misconduct stated herein, including but not limited to engaging in Defendants' campaign to: (1) manufacture evidence that Singer had acted wrongfully in the investigation of a crime; (2) determine, without providing due process to Singer and without a judicial determination, that the evidence manufactured by Defendants constituted *Giglio* Material; and (3) disseminate, without providing due process to Singer, their manufactured evidence to law enforcement at the federal and state level as well as criminal defense attorneys and the public. This conduct by Defendants was intended to retaliate against and intimidate Singer. Each of these acts was committed by a final policymaker with respect to that action for the District Attorneys' office, and/or was committed pursuant to an official or *de*

facto policy or custom of the District Attorneys' office as retaliation for the exercise of lawful rights.

38. Defendants' actions and omissions were taken under color of state law, making the Defendants liable under 42 U.S.C. §1983 ("**Section 1983**").

39. Singer's Section 1983 claims are actionable against Steidley and Lair in their individual capacities, as laws prohibit violation of Singer's property interest in continued employment and his liberty interest in his good name, reputation, honor and integrity without due process.

40. As a result of Defendants' violations of Singer's Fourteenth Amendment rights, Singer has suffered actual and compensatory damages for which Singer is entitled to recover.

WHEREFORE, Singer respectfully requests that this Court: (1) grant Singer judgment against the Defendants in their individual capacity only for Defendants' violations of Singer's Fourteenth Amendment rights; (2) award Singer attorney fees and costs incurred in the filing and prosecution of the current claim; and (3) for such other relief to which this Court deems Singer is entitled.

THIRD CLAIM FOR RELIEF
Exemplary Damages
(Defendants in their individual capacities)

41. Singer incorporates all of the foregoing allegations in each of the paragraphs above as though fully set forth herein.

42. Defendants' conduct showed reckless disregard for the rights of Singer.

43. Defendants acted intentionally and with malice toward Singer.

WHEREFORE, Singer respectfully requests that this Court: (1) grant Singer judgment against the Defendants in their individual capacity only for exemplary damages; and (2) for such other relief to which this Court deems Singer is entitled.

FOURTH CLAIM FOR RELIEF
Declaratory Judgment
(Defendants in their individual and official capacities)

44. Singer incorporates all of the foregoing allegations in each of the paragraphs above as though fully set forth herein.

45. There is an actual, justiciable controversy between Singer and Defendants as to whether the alleged evidence relating to Singer constitutes *Giglio* Material.

46. Singer seeks a ruling from this Court that: the referenced evidence does not constitute *Giglio* Material.

WHEREFORE, Singer respectfully requests that this Court grant Singer a judgment declaring that the material that is being disseminated by Defendants concerning Singer is not *Giglio* Material.

FIFTH CLAIM FOR RELIEF
Injunction
(Defendants in their individual and official capacities)

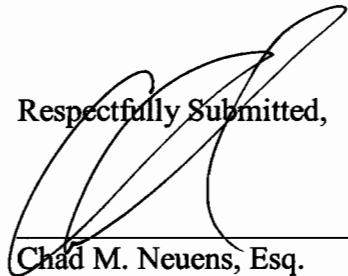
47. Singer incorporates all of the foregoing allegations in each of the paragraphs above as though fully set forth herein.

48. Singer will suffer irreparable harm if the Court fails to grant injunctive relief.

49. Singer seeks a permanent injunction enjoining Defendants from further disseminating the alleged *Giglio* Material or any other falsehoods concerning Singer.

WHEREFORE, Singer respectfully requests that the Court issue an Order enjoining Defendants from publishing or disseminating the alleged *Giglio* Material or any other falsehoods concerning Singer to any person or entity.

Respectfully Submitted,



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VERIFICATION

STATE OF OKLAHOMA)
)
COUNTY OF ROGERS)

John F. Singer, being of lawful age, being first duly sworn upon oath, deposes and states that he is authorized to make this Verification, that he has read and understood the foregoing Verified Complaint, and that all matters therein are true and correct to the best of his knowledge and belief.





JOHN F. SINGER

STATE OF OKLAHOMA)
)
COUNTY OF ROGERS)

Before me, the undersigned, a Notary Public, in and for said County and State, on this 1st day of February, 2013, personally appeared John F. Singer to me known to be the identical person who executed the same as his free and voluntary act and deed of the uses and purposes therein set forth.

IN WITNESS WHEREOF, I hereunto set my official signature and affixed by notarial seal the day and year last above written.



Notary Public
My Commission Expires: _____
My Commission Number: _____


[Seal]