

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF TEXAS
DALLAS DIVISION**

RICKEY DALE WYATT

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Plaintiff

v.

**CITY OF DALLAS, DALLAS COUNTY,
DALLAS POLICE OFFICERS
J.J. COUGHLIN, CURTIS WATTS,
MACDONALD, J.H. CAWTHON, AND
SARAH B. WILLIAMS A/K/A
SALLY WILLIAMS**

CIVIL ACTION NO. 3:14-cv-01717-B

JURY DEMAND

Defendants

FIRST AMENDED COMPLAINT PURSUANT TO RULE 15 (a)(1)(B)

Plaintiff Rickey Dale Wyatt (“Plaintiff”), files this First Amended Complaint against defendants, City of Dallas, Dallas County, Dallas Police Officer J.J. Coughlin, Dallas Police Officer Curtis Watts, Dallas Police Officer MacDonald, Dallas Police Officer J.H. Cawthon, and Sarah B. Williams a/k/a Sally Williams (“Defendants”), and would respectfully show as follows:

**I.
INTRODUCTION**

1. Plaintiff Rickey Dale Wyatt is an innocent man who was taken from his family, arrested, charged, and framed by the Dallas Police Department for a rape he knew nothing about. He maintained his innocence throughout trial, and risked a 99-year sentence rather than accept a five-year recommended sentence as a plea bargain for a crime he did not commit. He offered to subject himself to every scientific test available at the time and requested all exculpatory evidence so he could defend himself. This was denied to him, and he was ultimately convicted based on false testimony and false scientific evidence.

2. Though Mr. Wyatt did not remotely match three victims' descriptions of their perpetrator, the Dallas Police Department arrested him and the Dallas County District Attorney's Office prosecuted him. The Southwest Institute of Forensic Sciences (commonly referred to as the Dallas County Crime Lab) misrepresented the results of forensic testing to convince a jury of Mr. Wyatt's guilt.

3. To further assure Mr. Wyatt's wrongful conviction, Dallas Police Officer J.J. Coughlin made false reports about Mr. Wyatt's physical appearance and concealed a photograph and records that conclusively established Mr. Wyatt was not the rapist. If defendants had not concealed crucial exculpatory evidence, manufactured other evidence, and engaged in systemic policies and practices which violated his rights, Mr. Wyatt would have walked out of the courtroom as a free man. Instead, he was sentenced to 99 years in prison.

4. Mr. Wyatt filed an appeal and six writs of habeas corpus – in 1981, 1983, 1984, 1989, 1990, 1994, and 2011. Each time (until 2011), the Dallas Police Department and District Attorney's Office failed to acknowledge they had withheld exculpatory evidence that Mr. Wyatt was entitled to receive. In fact, for 31 years, defendants concealed evidence (and the fact that they had manufactured evidence) to keep Mr. Wyatt in prison.

5. After 31 years, the Dallas County District Attorney's Office finally admitted Mr. Wyatt was wrongfully convicted. On January 4, 2012, the Honorable John Creuzot, Judge for the Dallas County District Court No. 4, signed an "Agreed Findings of Fact and Conclusions of Law on Applicant's Writ of Habeas Corpus." In that 32-page document, the Court concluded (and the Dallas County District Attorney's Office agreed) that Mr. Wyatt's writ of habeas corpus should be granted for a litany of reasons, including the failure to produce exculpatory evidence,

and other due process violations. *See*, Exhibit 1. Defendants caused the wrongful conviction of Mr. Wyatt.

6. The policies, customs, and practices of the City of Dallas regarding the hiring of its officers, the training and supervision of its officers, the handling and testing of evidence, its investigative techniques, its record keeping and documentation of evidence, and other aspects of its investigations and prosecutions during the time in which Mr. Wyatt was charged, tried, and filing his appeals, all contributed to this injustice. The City was either actually aware of or deliberately indifferent to the known or obvious consequences of its policies, customs, and practices.

7. Defendant Dallas County's official policies and customs were to employ Assistant District Attorneys who were inadequately trained and supervised with respect to their duty to disclose to defense all material exculpatory and impeachment evidence and/or to verify the veracity of the evidence its attorneys presented at trial.

8. The City of Dallas failed to question or evaluate even absurd claims, such as an allegation that Mr. Wyatt had lost 30 – 40 pounds in a week and a half. They failed to sufficiently interview the victims or, alternatively, assisted in pressuring the victims and other witnesses to falsely testify against Mr. Wyatt. Further, they failed to properly preserve evidence, and/or failed to assure its employees complied with its own policies and procedures, and/or their duties under Texas and federal law. Their final policymakers were either actually aware of or deliberately indifferent to the known or obvious consequences of these policies, customs, and practices, which include the fact that innocent citizens would be illegally convicted.

9. Defendant Dallas County also caused the wrongful conviction of Mr. Wyatt through the actions of its Crime Lab, the Southwest Institute of Forensic Sciences. The County's

official policies and customs, as promulgated and carried out by the final policymaker were to employ staff who were inadequately trained and supervised with respect to their duty to properly handle, test, analyze, and report about scientific evidence in their custody and truthfully report the implications of their findings.

10. Mr. Wyatt has been released, reunited with his daughter, introduced to his grandchild, and permitted to begin living his life as a free man. But he has been denied a lifetime of memories, career opportunities, and life experiences. Until recently, he had never seen the Internet or a cellular phone. He has suddenly found himself dropped into a world in which he is ill-equipped to survive. Mr. Wyatt served more time in prison than any other wrongfully convicted person in Texas. Now, he seeks his own justice.

II. JURISDICTION AND VENUE

11. This Court has jurisdiction under 28 U.S.C. § 1331.

12. Venue is proper in the Northern District of Texas under 28 U.S.C. § 1391(b) because that is the judicial district in which the claims arose and in which defendants resided or conducted business at the time of Mr. Wyatt's prosecution.

III. PARTIES

13. Plaintiff Rickey Dale Wyatt is an individual residing in Dallas, Texas.

14. Defendant City of Dallas is a home-rule city located in this judicial district.

15. Defendant Dallas County is a duly designated county of the State of Texas. Dallas County is sued for the constitutional and other harms suffered by plaintiff as a result of the County's official policies, procedures, and customs of the Dallas County District Attorney's

Office and Dallas County Crime Laboratory/Southwestern Institute of Forensic Sciences, as described herein.

16. Defendant J.J. Coughlin was employed by the City of Dallas as a Detective or Detective Supervisor in the Dallas Police Department at the time of the investigation and prosecution of Mr. Wyatt. He was subsequently a member of the Dallas Police Department Public Integrity Unit and employed to instruct classes in interview and interrogation techniques. Officer Coughlin is a Texas resident sued in his individual capacity.

17. Defendant Curtis Watts was employed by the City of Dallas as a police officer in the Dallas Police Department at the time of the investigation and prosecution of Mr. Wyatt. He is sued in his individual capacity.

18. Defendant MacDonald (whose first name is currently unknown) was employed by the City of Dallas as a police officer in the Dallas Police Department at the time of the investigation and prosecution of Mr. Wyatt. He is sued in his individual capacity.

19. Defendant J.H. Cawthon (whose first name is currently unknown) was employed by the City of Dallas as a police officer in the Dallas Police Department at the time of the investigation and prosecution of Mr. Wyatt. He is sued in his individual capacity.

20. Defendant Sarah B. Williams a/k/a Sally Williams was employed by Dallas County/SWIFS as a serologist at the time of the investigation and prosecution of Mr. Wyatt. Defendant Williams provided false reports regarding the interpretation of scientific results. The false reports directly led to the constitutional and other harms suffered by plaintiff. Defendant Williams is sued in her individual capacity.

**IV.
FACTS**

A. In 1980, Dallas Police were searching for a 5'6" – 5'10" black man with gold or yellow teeth who weighed 170 – 200 pounds.

21. On November 1, 1980 at approximately 10:15 p.m., Cynthia B. was raped by a man who stood at least 5'9", weighed 170 – 180 pounds, was clean shaven, approximately 30 years old, and had a gold tooth. She reported this detailed description to Dallas Police Department Investigator John Coughlin. Coughlin prepared a police report after the incident and a supplemental police report on November 15, 1980. At trial, Cynthia B., who weighed 175 pounds, affirmed her belief that she and the attacker weighed approximately the same.

22. A rape kit recovered biological evidence, which included significant amounts of active motile sperm. The Southwestern Institute of Forensic Sciences ("SWIFS") analyzed and preserved this evidence.

23. On December 19, 1980 at approximately 8:35 p.m., Pearline C. was walking to school when a man brandishing a blue steel pistol pulled her into an alley and threatened her. Pearline C. struggled with the perpetrator and freed herself. She described the man as 5'6", with yellow teeth, braided hair, and scars on his face. She did not report that he had facial hair.

24. On January 6, 1981 at approximately 6:40 p.m., Paula M. was raped by a man with a blue steel pistol. She told police that the perpetrator was a black male who was 5'6" and weighed 200 pounds. She did not report that he had facial hair.

25. The Dallas Police Department believed the same person committed all three crimes. Over the course of several weeks, Officer Coughlin showed Cynthia B. several photo line-ups. She did not identify anyone in the line-ups, and Officer Coughlin recommended the investigation be suspended for lack of workable leads.

26. On January 3, 1981, Officer MacDonald of the Dallas Police Department was investigating Pearline C.'s attempted rape and concluded that it was "related to many other rapes and aggravated assaults which [had] been committed by the same subject in that area." Officer MacDonald identified six possible suspects. When Pearline C. did not identify any of these suspects in the line-ups, Officer MacDonald recommended the investigation be suspended for lack of workable leads.

27. Officer J.H. Cawthon of the Dallas Police Department was investigating Paula M.'s rape and also identified six possible suspects. He showed Paula M. a photo line-up on January 10, 1981, but she did not identify any of the suspects as the perpetrator. After this photo line-up, Officers Coughlin and Watts took over the investigation of Paula M.'s rape from Officer Cawthon.

B. In January, 1981, Dallas Police tried to convince the victims that 5'7", 130 pound Rickey Wyatt was their attacker.

28. By January 20, 1981, Officers Coughlin and Watts had obtained a photograph of Mr. Wyatt and reported that Paula M. identified him in a photo line-up that day. However, upon information and belief, that report is false. For example, it includes information about Mr. Wyatt's medical history that the officers did not possess at the time of the alleged photo line-up. Despite claiming that Paula M. identified Mr. Wyatt on January 20, 1981, the officers did not arrest him until January 24, 1981.

29. On January 24, 1981, Paula M. was shown a live line-up which included Mr. Wyatt. **She failed to identify him.** Upon information and belief, the Dallas Police Department intentionally chose not to keep complete records from this live line-up, and possibly other line-ups in which Mr. Wyatt was not identified. Alternatively, they intentionally destroyed such records. They knowingly concealed their actions from the prosecutors and Mr. Wyatt.

30. On January 31, 1981, despite being ruled out as a suspect by at least Paula M., Officer Coughlin generated a report claiming that Cynthia B. and Pearline C. identified Mr. Wyatt's photo in a line-up. Upon information and belief, this report is also false or based upon police manipulation of the victims.

31. In 1980 and 1981, Mr. Wyatt weighed approximately 130 pounds, which is inconsistent with Cynthia B.'s description that the perpetrator was the same weight as she was – 170 – 180 pounds. Mr. Wyatt's size is also inconsistent with Paula M.'s description of her perpetrator as weighing approximately 200 pounds.

32. Defendants were aware that Mr. Wyatt could not be the perpetrator described by the victims. Nevertheless, the Dallas Police Department arrested Mr. Wyatt on January 24, 1981 and charged him with the rape of Cynthia B. Officers Coughlin and Watts recorded at the time of his arrest that Mr. Wyatt was 5'7" and weighed 130 pounds. Rather than note the dramatic discrepancy between Mr. Wyatt and the perpetrator, and release Mr. Wyatt, defendants fabricated and presented absurd evidence to account for the discrepancy.

C. Mr. Wyatt maintained his innocence at trial and sought discovery from the Dallas County District Attorney.

33. At all times, Mr. Wyatt asserted his innocence. He was unable to afford an attorney, and for a time, forced to represent himself. On May 20, 1981, he filed a *pro se* motion for a speedy trial. On June 12, 1981, Mr. Wyatt filed a *pro se* motion seeking a court order directing the State to identify its witnesses in advance of trial. On June 12, 1981, Mr. Wyatt filed a *pro se* motion seeking a court order requiring the State to provide criminal records of the witnesses in advance of trial.

34. Mr. Wyatt was able to secure the services of Attorney John Ellis shortly before trial. Mr. Ellis filed several pretrial motions. One motion requested a "hearing out of the

presence of the jury to determine what pretrial identification procedures were followed by the police department or by any of the witnesses.” Mr. Ellis also moved the Court to suppress any prior identifications, including live line-ups, because the State had not presented any evidence that Mr. Wyatt waived counsel at any prior live line-up.

35. Mr. Wyatt’s counsel also sought information about any and all identification procedures used by the Dallas Police, as well as: (1) statements Wyatt allegedly made to the State during the investigation; (2) statements by any witnesses or parties that were material to guilt or punishment; (3) the names and photographs of all other suspects who were identified by the Dallas Police; (4) any photographs of any line-ups in which Mr. Wyatt was present; (5) any documents produced during any line-ups in which Mr. Wyatt might have been present; and (6) any photographs of Mr. Wyatt that the Dallas Police Department used in its investigation. Defendants had several responsive items of evidence highly favorable to Mr. Wyatt. Unbeknownst to Mr. Wyatt or his attorney, one or more defendants suppressed this evidence.

D. Defendants fabricated evidence to falsely convict Mr. Wyatt.

36. At trial, Cynthia B. maintained that the perpetrator weighed 170 – 180 pounds, had no facial hair, and was nearly six feet tall. Specifically, she reported she was 5’5” or 5’6,” wearing three-inch heels during the assault, and the perpetrator was taller. Later in the trial, she recanted slightly (upon information and belief, under pressure from one or more defendants) and reported the perpetrator might have weighed 165 – 180 pounds.

37. At trial, Mr. Wyatt defended himself by pointing out he was significantly shorter and weighed significantly less than the perpetrator. Mr. Wyatt’s nephew, Robert Smith, testified that Mr. Wyatt was approximately 140 pounds when the crime occurred and was shorter than him. Mr. Smith was 5’8”. Mr. Smith and Mr. Wyatt’s cousin both testified that Mr. Wyatt had a

mustache and light beard (“fuzz under the chin”) at the time of the crime and was not clean-shaven like the perpetrator.

38. Undeterred by the facts, one or more defendants began fabricating evidence. First, Officer Coughlin contradicted Cynthia B.’s testimony regarding the man who raped her and claimed she told him at the hospital that the perpetrator was only 25 – 30 years old, 160 – 170 pounds, and 5’8”. Officer Coughlin’s new version contradicts his own prior police report.

39. Officer Coughlin did not stop there. **He reported that Mr. Wyatt told him he had lost 30 pounds in the week and a half prior to his arrest.** This was patently false and does not appear anywhere in defendants’ records. Defendants then accused Mr. Wyatt’s family of lying under oath about Mr. Wyatt’s weight and facial hair to protect him. This was a crucial issue in closing argument.

40. As trial neared, Mr. Wyatt – always asserting his innocence – requested serology testing on the samples taken from Cynthia B.’s sexual assault kit to determine the blood type of the perpetrator based upon his semen. Mr. Wyatt eagerly offered his own blood and saliva for comparison. Unfortunately, testing at the time was inconclusive. The results determined that the perpetrator could have been **any** blood type – Type A, Type B, Type AB, or Type O. Thus, the results were of no value.

41. Rather than acknowledge the testing was inconclusive, some defendants manipulated the results, took advantage of the jury’s lack of scientific background, and falsely claimed the test proved Mr. Wyatt’s guilt. The State used the report of Sarah B. Williams a/k/a Sally Williams, a serologist with SWIFS, to **claim the perpetrator had to be a non-secretor like Wyatt.** (Only 20 percent of African-American males are non-secretors.) That was patently false, since the sample also contained blood group substances A and H (which could have come from

either Cynthia B. or the perpetrator). The State referred to her report as the “most important” evidence other than Cynthia B.’s testimony and claimed, “all the scientific evidence found was consistent with [Wyatt’s] guilt; scientific proof.” The State went on to argue that Williams’s “scientific evidence showed . . . that it is consistent with [Wyatt’s] guilt that he’s the guilty party.”

42. Defendants’ combination of false and manipulated reports, including Officer Coughlin’s fabricated claim about Mr. Wyatt’s alleged significant weight loss, the false scientific conclusions from Williams, and Cynthia B.’s coerced identification of him, was a proximate cause of Mr. Wyatt’s unjust conviction and 99-year sentence for a crime he did not commit.

E. Defendants concealed evidence that would have exonerated Mr. Wyatt.

43. Not only did defendants fabricate evidence, they intentionally concealed evidence that would have exonerated Mr. Wyatt. For example, it is now known that defendants concealed that Mr. Wyatt was placed in a live line-up at the Dallas Police Department on January 24, 1981 and Paula M. could not identify him as the perpetrator. Upon information and belief, defendants may have concealed additional information regarding these line-ups or information about pressure or manipulative techniques they exerted upon the victims to falsely identify Mr. Wyatt.

44. It is also now known that defendants concealed a fingerprint card from a May 20, 1980 arrest of Mr. Wyatt that documented his weight at 135 pounds. This directly contradicts defendants’ claim that Mr. Wyatt had weighed 170 – 180 pounds in 1980 prior to his sudden 30 pound weight loss.

45. It is also now known that defendants concealed a photo of Mr. Wyatt that the Dallas Police Department took of him on May 20, 1980 documenting that he had a mustache and

other facial hair. This directly contradicts defendants' claim that Mr. Wyatt did not keep facial hair and his family lied about this fact under oath.

46. It is also now known that defendants concealed a police report from Paula M.'s assault in which she estimated that the perpetrator weighed 200 pounds.

47. Defendants' concealment of exculpatory evidence was a proximate cause of Mr. Wyatt's unjust conviction and 99-year sentence for a crime he did not commit.

F. Mr. Wyatt lost his appeal because defendants continued to conceal the fact that they fabricated evidence and continued to conceal crucial exculpatory evidence necessary for his defense.

48. Mr. Wyatt appealed his conviction. The Court of Appeals for the Fifth Supreme Judicial District at Dallas affirmed his conviction on October 20, 1982 in an unpublished opinion. Mr. Wyatt and his counsel were still unaware that he had been convicted with fabricated and concealed evidence. This was the proximate cause of the loss of his appeal.

G. Mr. Wyatt lost five writs of habeas corpus because defendants continued to conceal the fact that they fabricated evidence and concealed crucial exculpatory evidence necessary for his defense.

49. Mr. Wyatt filed and lost, in whole or in part, writs of habeas corpus in 1981, 1983, 1984, 1989, 1990, 1994, and 2011. Each time (until 2011), the Dallas Police Department and District Attorney's Office failed to acknowledge they had fabricated evidence at trial and withheld exculpatory evidence that Mr. Wyatt was entitled to receive. Mr. Wyatt and his counsel were still unaware that he had been convicted with fabricated and concealed evidence. This was the proximate cause of the loss of his writs of habeas corpus.

H. Mr. Wyatt proved his innocence after 31 years in prison.

50. Mr. Wyatt remained in custody from his arrest on January 24, 1981 until his release on January 4, 2012. During this time, he maintained his innocence. On April 5, 2001,

Chapter 64 of the Texas Code of Criminal Procedure was amended to grant convicted offenders the opportunity to seek post-conviction DNA testing to obtain evidence of their innocence. Mr. Wyatt, both individually and through pro bono counsel and the Innocence Project, requested DNA testing. His first request was made on June 8, 2001, only two months after the law was passed. On June 14, 2004, the State opposed Mr. Wyatt's request for DNA testing and claimed the evidence against him could not be located at the SWIFS. Based on this representation, Mr. Wyatt's request was denied.

51. In November, 2005, after repeated requested, the SWIFS notified Mr. Wyatt's counsel that it had located the slides from Cynthia B.'s sexual assault kit. The State finally consented to DNA testing, and the Court signed an order granting it on June 6, 2006.

52. Orchid Cellmark, a fully accredited private DNA laboratory, performed the DNA testing and determined Mr. Wyatt could not have been the perpetrator.

53. As a result of these DNA results, the District Attorney's Office agreed to make available to Mr. Wyatt the contents of its trial file.

54. On January 4, 2012, the Honorable John Creuzot, Judge for the Dallas County District Court No. 4, signed an "Agreed Findings of Fact and Conclusions of Law on Applicant's Writ of Habeas Corpus." In that 32-page document, the Court concluded (and the Dallas County District Attorney's Office admitted) that Mr. Wyatt's writ of habeas corpus should be granted for a litany of reasons, including the failure to produce exculpatory evidence, and other due process violations. *See*, Exhibit 1. Mr. Wyatt was subsequently released.

V.
CAUSES OF ACTION

55. With respect to each count of each cause of action, Mr. Wyatt incorporates by reference each paragraph of this Complaint.

56. Mr. Wyatt is entitled to the Fourteenth Amendment's protections against being deprived of life, liberty, or property without due process of law and the equal protection of laws. Mr. Wyatt's Fourteenth Amendment rights were violated, and he has an actionable claim under 42 U.S.C. § 1983, which imposes liability on "[e]very person who, under color of any statute, ordinance, regulation, custom, or usage, of any State or Territory or the District of Columbia, subjects, or causes to be subjected . . . the deprivation of any rights, privileges, or immunities secured by the Constitution and laws. . . ." The defendants are liable to plaintiff for numerous causes of action under 42 U.S.C. § 1983, as identified below.

A. COUNT I: CLAIM AGAINST DALLAS POLICE OFFICERS FOR FABRICATING EVIDENCE AND/OR CONSPIRING TO FABRICATE EVIDENCE REGARDING THE VICTIMS' IDENTIFICATION OF MR. WYATT AND ENGAGING IN UNCONSTITUTIONALLY SUGGESTIVE WITNESS IDENTIFICATIONS AND COACHING

57. Defendants Dallas Police Officers Coughlin, Watts, MacDonald, and Cawthon ("Dallas Police Officers") violated Mr. Wyatt's rights under 42 U.S.C. § 1983 and the Fourteenth Amendment of the United States Constitution by fabricating evidence and/or conspiring to fabricate evidence regarding the victims' identification of Mr. Wyatt.

58. The Dallas Police Officers each intentionally fabricated evidence, conspired to fabricate evidence, or had knowledge of fabricated evidence regarding the victims' identification of Mr. Wyatt at the time of the alleged crimes. For example, Officers Coughlin and Watts prepared a report on January 31, 1981 claiming that on January 20, 1981, they showed Paula M. a photograph of Mr. Wyatt after similar crimes stopped while he was in the hospital and in jail. However, the Dallas Police were not aware of Mr. Wyatt's hospitalization until after his arrest on January 24, 1981. The report is also suspect because it omits the crucial fact that Paula M. did not identify Mr. Wyatt in a live line-up on January 24, 1981. Upon information and belief, the

other Dallas Police Officers had knowledge of these false reports and either assisted in their preparation or conspired to remain silent, in violation of Mr. Wyatt's rights.

59. Upon information and belief, one or more of the Dallas Police Officers generated other false reports and engaged in deliberately unconstitutionally suggestive identification techniques to coerce or manipulate victims to falsely identify Mr. Wyatt before and during trial.

60. The Dallas Police Officers each had a clearly established duty to disclose to prosecutors these acts so that prosecutors would disclose it to Mr. Wyatt and his counsel. These deliberate acts denied Mr. Wyatt liberty without due process of law and as a proximate result of these unconstitutional actions, Mr. Wyatt sustained damage.

B. COUNT II: CLAIM AGAINST DALLAS POLICE OFFICERS FOR CONCEALING EVIDENCE AND/OR CONSPIRING TO CONCEAL EVIDENCE REGARDING THE VICTIMS' NON-IDENTIFICATION OF MR. WYATT AND DELIBERATELY FAILING TO PURSUE KNOWN AND EXCULPATORY INVESTIGATIVE LEADS

61. Defendants Dallas Police Officers Coughlin, Watts, MacDonald, and Cawthon violated Mr. Wyatt's rights under 42 U.S.C. § 1983 and the Fourteenth Amendment of the United States Constitution by concealing evidence and/or conspiring to conceal evidence regarding the victims' identification (or lack of identification) of Mr. Wyatt and their description of the perpetrator.

62. The Dallas Police Officers each intentionally failed to disclose to prosecutors or to Mr. Wyatt and his counsel that they had concealed evidence, conspired to conceal evidence, or had knowledge of concealed evidence regarding the victims' identification (or lack of identification) of Mr. Wyatt. One of more of the Dallas Police Officers participated in a January 24, 1981 live line-up where Paula M. failed to identify Mr. Wyatt. The Dallas Police Officers knew of this line-up, and possibly other line-ups in which Mr. Wyatt was not identified, and

failed to disclose this exculpatory evidence. The Dallas Police Officers intentionally failed to keep adequate records of these line-ups and failed to follow proper procedures, including advising Mr. Wyatt of his rights.

63. The Dallas Police Officers also intentionally failed to disclose an exculpatory police report in which Paula M. estimated that the perpetrator weighed 200 pounds. This report directly contradicts the defendants' assertion that Mr. Wyatt matched the description of the perpetrator.

64. The Dallas Police Officers each had a clearly established duty to disclose to prosecutors these acts so that prosecutors would disclose them to Mr. Wyatt and his counsel. These acts denied Mr. Wyatt liberty without due process of law and as a proximate result of these unconstitutional actions, Mr. Wyatt sustained damage.

C. COUNT III: CLAIM AGAINST DALLAS POLICE OFFICERS FOR FABRICATING EVIDENCE AND/OR CONSPIRING TO FABRICATE EVIDENCE REGARDING MR. WYATT'S PHYSICAL APPEARANCE AND THE PHYSICAL APPEARANCE OF THE PERPETRATOR, AND COACHING WITNESSES

65. Defendants Dallas Police Officers Coughlin, Watts, MacDonald, and Cawthon violated Mr. Wyatt's rights under 42 U.S.C. § 1983 and the Fourteenth Amendment of the United States Constitution by fabricating evidence and/or conspiring to fabricate evidence regarding Mr. Wyatt's physical appearance at the time of the alleged crimes and the physical appearance of the perpetrator.

66. The Dallas Police Officers each intentionally fabricated evidence, conspired to fabricate evidence, or had knowledge of fabricated evidence regarding Mr. Wyatt's physical appearance at the time of the alleged crimes and the physical appearance of the alleged perpetrators. Officer Coughlin falsely reported that Mr. Wyatt told him he had lost 30 pounds in

only a week and a half prior to his arrest. Officer Coughlin also falsely reported that Cynthia B. told him at the hospital that the man who raped her was only 25 - 30 years old, 160 - 170 pounds, and 5'8". Upon information and belief, one or more of the Dallas Police Officers urged Cynthia B. to recant her testimony at trial and claim the perpetrator was 165 - 180 pounds rather than 170 - 180 pounds.

67. The Dallas Police Officers each had a clearly established duty to disclose to prosecutors these acts so that prosecutors would disclose it to Mr. Wyatt and his counsel. These acts denied Mr. Wyatt liberty without due process of law and as a proximate result of these unconstitutional actions, Mr. Wyatt sustained damage.

D. COUNT IV: CLAIM AGAINST DALLAS POLICE OFFICERS FOR CONCEALING EVIDENCE AND/OR CONSPIRING TO CONCEAL EVIDENCE REGARDING MR. WYATT'S PHYSICAL APPEARANCE AND THE PHYSICAL APPEARANCE OF THE PERPETRATOR AND DELIBERATELY FAILING TO PURSUE KNOWN AND EXCULPATORY INVESTIGATIVE LEADS

68. Defendants Dallas Police Officers Coughlin, Watts, MacDonald, and Cawthon violated Mr. Wyatt's rights under 42 U.S.C. § 1983 and the Fourteenth Amendment of the United States Constitution by concealing evidence and/or conspiring to conceal evidence regarding Mr. Wyatt's physical appearance at the time of the alleged crimes and the physical appearance of the perpetrator.

69. The Dallas Police Officers each failed to disclose to prosecutors or to Mr. Wyatt and his counsel that they had concealed evidence, conspired to conceal evidence, or had knowledge of concealed evidence regarding Mr. Wyatt's physical appearance and the physical appearance of the alleged perpetrators at the time of the alleged crimes. The Dallas Police Officers intentionally failed to disclose that they possessed a photograph of Mr. Wyatt from May 20, 1980 documenting his mustache and other facial hair. This was exculpatory evidence that

the Dallas Police Officers had a duty to disclose that directly contradicted the defendants' claim that Mr. Wyatt did not keep facial hair and directly contradicted the victims' description of the physical appearance of the perpetrator.

70. The Dallas Police Officers also intentionally failed to disclose a fingerprint card of Mr. Wyatt from a May 20, 1980 arrest in which his weight was documented as 135 pounds. This directly contradicts the defendants' claim that Mr. Wyatt's weight had been significantly greater than 135 pounds prior to January 24, 1981. This was exculpatory evidence that the Dallas Police Officers had a duty to disclose.

71. The Dallas Police Officers each had a clearly established duty to disclose to prosecutors this information so that prosecutors would disclose it to Mr. Wyatt and his counsel. These acts denied Mr. Wyatt liberty without due process of law and as a proximate result of these unconstitutional actions, Mr. Wyatt sustained damage.

E. COUNT V: CLAIM AGAINST CITY OF DALLAS FOR ITS POLICIES AND CUSTOMS WITH RESPECT TO THE DALLAS POLICE DEPARTMENT

72. In the 1970s and 1980s, the City of Dallas maintained a policy, custom, and practice of operating a substandard police department that routinely violated the rights of citizens and failed to follow established law. More specifically, the City of Dallas failed to adequately train and supervise police officers with respect to fundamental investigative techniques and duties and allowed or encouraged them to conduct constitutionally impermissible identification procedures, manufacture evidence, engage in unconstitutionally selective identification line-ups, fail to keep or maintain adequate records, manipulate witness recollections, and fail to disclose material exculpatory and impeachment evidence to prosecutors and defense counsel. The practices, customs, and policies described herein were widespread and so common and well-settled as to fairly represent municipal policy.

73. These customs, practices, and policies were exacerbated by the fact that the City of Dallas pressured its officers to close cases at all costs, even though its officers were not adequately trained or supervised in the proper methods of securing evidence, locating suspects, and pursuing known and exculpatory leads. The officers were rewarded for convictions and suffered no consequences for convicting the wrong person. As a result, they were pressured into framing innocent citizens.

74. The effects of these policies are staggering. The University of Michigan's National Registry of Exonerations reveals that Dallas is one of the nation's worst offenders for wrongfully convicting innocent citizens. The Registry identifies 49 innocent men and women proven to have been wrongfully convicted in Dallas in the last 37 years.¹ This database does not yet include the July 25, 2014 exoneration of Mr. Michael Phillips, a disabled man wrongfully convicted of rape in Dallas only nine years after Mr. Wyatt's conviction. Mr. Phillips had given up trying to clear his name and simply accepted his fate when he was exonerated by happenstance when his DNA was tested 24 years into his sentence.

75. Dallas's deplorable record of framing its citizens has resulted in it having an exoneration rate **456%** higher than the national average² and more DNA exonerations than any other county or parish in the United States. Moreover, the unlawful customs, policies, and practices which led to Mr. Wyatt's wrongful conviction peaked at the time of his arrest. A staggering 47 of Dallas's 50 documented exonerations occurred within 16 years of Mr. Wyatt's

¹ Exhibit 2 is a printout of the National Registry of Exonerations list of citizens known to have been wrongfully convicted in Dallas County, Texas.

² Dallas County has a population of 2.45 million out of a national population of 313.9 million. Thus, 0.78% of the nation lives in Dallas County. Dallas County has 50 of the nation's 1,405 exonerations, which is 3.56% of the total. Thus, Dallas County's exoneration rate is 456% higher than the national average. Former Dallas Assistant District Attorney Edward Grey conducted a similar statistical study using additional evidence and concluded in his book "Henry Wade's Tough Justice: How Dallas County Prosecutors Led the Nation in Convicting the Innocent" that **Dallas County's exoneration rate is ten times the national average.**

trial. Twenty-eight of these 50 exonerations – **56 percent** – occurred within only **six years** of Mr. Wyatt’s arrest.

76. As Exhibit 2 establishes, nearly every wrongful conviction in Dallas County occurred for the same reason – “official misconduct,” “mistaken witness ID,” or “perjury or false accusation.” Not coincidentally, these are the exact factors leading to Mr. Wyatt’s wrongful conviction. Such abnormal and widespread “misconduct” does not occur by accident. The City and County of Dallas created an epidemic of injustice that its final policymakers knew about and encouraged through deliberate customs, policies, and practices, as discussed, *infra*.

77. This pattern, custom, and practice of the police coercing witnesses to testify falsely against innocent citizens was well-known in the Dallas community in the 1970s and 1980s. For example, in 1977, Randall Adams was sentenced to death for the murder of Dallas Police Officer Robert Wood. His conviction was based on the testimony of Emily Miller. Miller saw the killer (a black man) and did not identify Mr. Adams (who is white) in a line-up. The Dallas Police Department then instructed Miller to falsely identify Mr. Adams and perjure herself by testifying against him at trial. In exchange for this perjured testimony, the Dallas Police Department dismissed unrelated charges against Miller’s daughter.

78. In 1988, Errol Morris produced a documentary called *The Thin Blue Line* about the Dallas Police Department’s patterns, customs, and practices leading to Mr. Adams’s misidentification and wrongful conviction. The film was the 95th highest grossing documentary released since 1982, and Gene Siskel named it the seventh best film of 1988.

79. There are many similar cases from this era. On August 25, 1981, a shirtless man attacked and raped a woman who was riding her bicycle. The victim described her attacker as a black man in his 20s. She did not identify anyone from two photo lineups. A year later, the

Dallas Police mailed a new photo lineup to her. Of the six photos, two were unduly suggestive images of shirtless men. The Dallas Police Department made no effort to conduct the lineup in a controlled environment despite numerous United States Supreme Court cases establishing clear guidelines to the contrary. *See, Stovall v. Denno*, 388 U.S. 293, 302, 87 S.Ct. 1967, 18 L.Ed.2d 1199 (1967) and *United States v. Wade*, 388 U.S. 218 (1967). (“A major factor contributing to the high incidence of miscarriage of justice from mistaken identification has been the degree of suggestion inherent in the manner in which the prosecution presents the suspect to witnesses for pretrial identification. A commentator has observed that ‘[t]he influence of improper suggestion upon identifying witnesses probably accounts for more miscarriages of justice than any other single factor – perhaps it is responsible for more such errors than all other factors combined.’”)

80. As a result of this undue suggestion, the victim falsely identified Johnnie Lindsey (one of the two shirtless men in the photos) as her attacker. He was sentenced to life in prison and served 26 years until his exoneration by DNA evidence in 2009. Mr. Lindsey received \$2,069,321 in compensation because the Dallas Police Department’s unduly suggestive identification procedures led to his wrongful conviction.

81. On August 1, 1982, three men raped a Dallas woman. The victim knew one of the attackers – Stanley Bryant – and identified a photo of him the day of the attack. She described the other two attackers, who were approximately 19 years old. The Dallas Police Department arrested James Curtis Giles, who was 10 years older than the attackers and had two prominent gold teeth (unlike the attackers). Despite his having no physical resemblance to the real attacker, the Dallas Police Department pursued the case against Mr. Giles. In 1984, Bryant pled guilty, identified the other two attackers, and signed an affidavit stating Mr. Giles had nothing to do with the attack. Nevertheless, Mr. Giles served 25 years of a 30 year sentence

before his exoneration by DNA evidence in 2007. Mr. Giles received \$1,316,878 in compensation because the Dallas Police Department's unduly suggestive identification procedures led to his wrongful conviction. These examples are not comprehensive – they merely illustrate the custom, pattern, and practice of the Dallas Police Department in the 1970s and 1980s.

82. Upon information and belief, the Dallas Police Chief and/or his deputies were appointed by the City of Dallas as the chief policymakers for the Dallas Police Department during the relevant time. Dallas's police chiefs during this era promoted the customs, policies, and practices described in this complaint by their hiring, promotion, and training practices, their supervision of employees, oral and written policies, and public and private comments. These policymakers knew of the policies, customs, and practices described herein and implemented them with knowledge or deliberate indifference to the likelihood that wrongful convictions would result from them. These patterns and practices were so widespread as to practically have the force of law.

83. Don Byrd was Dallas Police Chief between 1973 and 1979. Chief Byrd had final policymaking authority over the hiring and training of many of the officers involved in Mr. Wyatt's wrongful arrest and prosecution, including Officer Coughlin in 1976. Chief Byrd was the chief policymaker when Mr. Adams was wrongfully convicted and maintained the customs, policies, and practices described in this complaint. Specifically, Chief Byrd allowed or encouraged his officers to conduct constitutionally impermissible identification procedures, manufacture evidence, engage in unconstitutionally selective identification line-ups, fail to keep or maintain adequate records, manipulate witness recollections, and fail to disclose material exculpatory and impeachment evidence to prosecutors and defense counsel.

84. Glen King served as Dallas police chief between 1979 and 1982 and was the chief policymaker most directly responsible for Mr. Wyatt's wrongful arrest and conviction. Chief King maintained the customs, policies, and practices described in this complaint, which were widely commented upon in the community. Specifically, Chief King allowed or encouraged his officers to conduct constitutionally impermissible identification procedures, manufacture evidence, engage in unconstitutionally selective identification line-ups, fail to keep or maintain adequate records, manipulate witness recollections, and fail to disclose material exculpatory and impeachment evidence to prosecutors and defense counsel.

85. In 1982, Billy Prince was appointed Dallas police chief. He maintained the customs, policies, and practices described in this complaint, which were widely commented upon in the community. For example, in 1983, Dallas led the nation in the rate of police shootings, prompting the May, 1984 issue of *Texas Monthly* to openly criticize the Department's culture, policies, and procedures and editorialize, "the cops have gone berserk." (p. 230).

86. In August, 1988, Mack Vines was appointed Dallas police chief. He also maintained the customs, policies, and practices described in this complaint. Two years after being hired, he was arrested and charged with perjury for lying under oath to a panel investigating the fatal shooting of a civilian by one of his officers. The Dallas Police Department's internal affairs investigation of the incident was forged, and Assistant Police Chief Greg Holliday accused Vines of instructing him to be mislead investigators. Vines was later hired as police chief of St. Petersburg, Florida. Seventy-four days into that job, he was fired.

87. Individual police officers confirmed that the customs, policies, and procedures described in this complaint were rampant during the 1970s and 1980s and well known to the City's final policymakers. In the June, 1987 issue of *D Magazine*, rookie Dallas Police Officer

Rodney Clark stated that in the 1980s, the Dallas Police Department trained its officers to shun nonviolent problem solving and see the City as a “war zone where danger lurked in every encounter.” Clark’s supervisor, Officer Gary Blair, was “bitter” and had a “siege mentality” in which he “antagonized civilians,” beat them up until they were hospitalized, charged them with bogus crimes, and changed arrest reports. When Clark expressed concern to supervisors, they ignored him and tried to intimidate him into silence. When another officer, Lt. Johnnie Sullivan, forwarded Clark’s complaint to Assistant Police Chief Leslie Sweet, he was twice told to file it away.

88. Eventually, Officer Blair was killed after provoking a gunfight with a civilian. The Dallas Police Department falsely charged the civilian with murder. When Officer Clark was subpoenaed to testify about Blair’s personality and openly stated he would testify truthfully, his fellow officers took a vote on whether to back him up if he was in trouble on the streets.

89. The civilian was acquitted, and the Dallas Police Department retaliated against Officer Clark. He was placed on administrative leave, and his fellow officers adorned the station with cartoons and poems mocking him. In his interview with *D Magazine*, Clark stated, “I was angry that my superiors permitted the peer pressure to continue. It was like they were condoning it.” Dishonesty was part of the Dallas police culture in the 1970s and 1980s. Only the “rogue” cops told the truth.

90. These customs, practices, and policies were systemic and in full force when Mr. Wyatt was charged. According to the Dallas Police Department’s arrest and prosecution records, as many as 12 officers and supervisors assisted in Mr. Wyatt’s wrongful arrest and/or prosecution. These include: (1) Officer J. Coughlin, badge number 3809; (2) Officer D.A. Watts, badge number 2786; (3) an investigator whose name cannot be deciphered; (4) a supervisor,

whose name cannot be deciphered but held badge number 2067; (5) Supervisor Lt. B.G. Maroney; (6) Officer Curtis Watts, badge number 3763; (7) Officer Brian Varker, badge number 4346; (8) Officer B.T. Beddingfield, badge number 1513; (9) Officer J.H. Cawthon, badge number 2174; (10) Officer C. Epperson, badge number 4133; (11) Officer A. Anderson, badge number 4039; and (12) Officer D.J. MacDonald, badge number 2447. Several reports have illegible signatures of possibly more officers and supervisors.

91. Dallas Police Department officers who engaged in the conduct described herein were promoted so they could perpetuate these customs, practices, and policies. For example, Officer Coughlin, who falsely testified against Mr. Wyatt, was later promoted to the Dallas Public Integrity Unit and tasked with investigating misconduct by other officers. This assured the Dallas Police Department could continue framing innocent citizens and perpetuate these customs, practices, and policies.

92. The City of Dallas's policies, customs, and practices were the moving force resulting in actions described in the proceeding Counts. On January 4, 2012, the Honorable John Creuzot, Judge for the Dallas County District Court No. 4, Mr. Wyatt has been exonerated, and a Texas , and Mr. Wyatt has been damaged as a proximate result of the City of Dallas's policies, customs, and practices.

F. COUNT VI: CLAIM AGAINST DALLAS COUNTY FOR CREATING A CUSTOM, POLICY, AND PRACTICE OF FAILING TO TRAIN AND SUPERVISE DISTRICT ATTORNEYS, FAILING TO REVIEW EVIDENCE FOR ITS VERACITY, AND FAILING TO DISCLOSE TO DEFENSE COUNSEL ALL MATERIAL EXCULPATORY EVIDENCE AND IMPEACHMENT EVIDENCE

93. Upon information and belief, Henry Wade and his senior assistants were Dallas County's final policymakers for the district attorney's office in the 1970s and 1980s. Mr. Wade served as district attorney from 1952 until 1988. In the 1970s and 1980s, Dallas County created

an official custom, policy, and practice of discouraging assistant district attorneys from disclosing material exculpatory and impeachment evidence and to present evidence lacking veracity. This custom, practice, and policy was well-documented by veteran prosecutors of the era, such as Edward Gray, who published a book in which he stated there was no formal training for prosecutors at all in the 1970s and 1980s. Instead, District Attorney Wade instructed lawyers to ignore legal errors and engage in “no-holds-barred, all out effort to get a guilty verdict” at all cost. Lawyers who failed to do so were given two weeks’ notice. *See*, Gray, Edward, “Henry Wade’s Tough Justice: How Dallas County Led the Nation in Convicting the Innocent.”

94. Prosecutors who implemented these instructions were known as “Henry’s boys.” As a result of their tactics, the District Attorney’s Office during this era convicted 93 percent of their cases, which prompted Dallas County criminal defense attorneys to call themselves the “Seven Percent Club.” Many of these convictions, such as the ones described elsewhere in this Complaint, were wrongful and accomplished in conspiracy with the Dallas Police Department and/or Dallas Crime Lab.

95. As a result of District Attorney Wade and his assistants’ instructions, Dallas Prosecutors not only intentionally withheld exculpatory evidence, but they instructed witnesses to testify falsely in court. For example, Richard Miles was sentenced to 40 years in prison for murder. The only witness who identified Mr. Miles at trial eventually came forward and signed an affidavit stating Dallas County District Attorney Thomas D’Amore had instructed him to lie in court. Mr. Miles was exonerated after serving 15 years in prison.

96. The District Attorney’s Office shared blame for Mr. Adam’s wrongful conviction as well. During the documentary *The Thin Blue Line*, it was discovered that Mr. Wade’s chief

prosecutor, Douglas Mulder, withheld exculpatory evidence from the defense and misled the court about the location of a key witness.

97. In 1980, the Dallas District Attorney's Office prosecuted Joyce Brown, an innocent woman, for the murder of a fur store owner. Ms. Brown was at work during the murder, and there was no physical evidence connecting her to the crime. Undeterred by the facts, the Dallas County District Attorney presented the perjured testimony of Martha Bruce, an inmate accused of attempted murder who had been convicted of filing a false police report only six months earlier. The district attorney represented to the jury that Bruce had not been offered a plea bargain in exchange for her testimony. However, shortly after Bruce's testimony, Mr. Wade personally lobbied for her release. Even after the real murderer was caught, Mr. Brown languished in prison for nine years. These cases are merely illustrative of the customs, policies, and practices of the Dallas County District Attorney's Office in the 1970s and 1980s.

98. The Dallas County District Attorney and his chief policymakers knew of these policies, customs, and practices and implemented them with knowledge of the likelihood that wrongful convictions would result from them. These policymakers knew or should have known that assistant district attorneys routinely failed to review the veracity of evidence presented at trial and failed to disclose material exculpatory and impeachment evidence to the defense. These patterns and practices were so widespread as to practically have the force of law.

99. Dallas County's official policies, customs, and practices were a moving force behind the denial of Mr. Wyatt's due process rights. The Dallas County district attorney's office deliberately failed to produce the exculpatory evidence described herein and in the Agreed Findings of Fact. Had the Dallas County district attorney's office disclosed this exculpatory evidence, Mr. Wyatt would not have been convicted. *See*, Exhibit 1, Agreed Findings of Fact.

Mr. Wyatt has been damaged as a proximate result of Dallas County's policies, customs, and practices.

G. COUNT VII: CLAIM AGAINST SARAH B. WILLIAMS A/K/A SALLY WILLIAMS FOR FALSELY REPORTING THAT THE RESULTS OF SCIENTIFIC SEROLOGICAL TESTING IMPLICATED MR. WYATT

100. Defendant Sarah B. Williams a/k/a Sally Williams was employed by Dallas County/SWIFS as a serologist at the time of the investigation and prosecution of Mr. Wyatt. Ms. Williams intentionally provided false reports regarding serological testing conducted on Cynthia B. and her attacker.

101. Ms. Williams tested fluid samples from Cynthia B.'s perpetrator against Mr. Wyatt's blood and reported the perpetrator came from a subset of 20% of African-American men who shared a non-secretor blood type like Mr. Wyatt. That was patently false. The testing actually revealed that the perpetrator could have had **any** of the four blood types. Ms. Williams deliberately falsified her report and testified falsely about the report's implications in an effort to wrongfully convict Mr. Wyatt.

102. Not only did Ms. Williams prepare a report to falsely implicate Mr. Wyatt, but her truthful results would have exculpated Mr. Wyatt. Ms. Williams intentionally failed to disclose that she had concealed exculpatory evidence regarding these test results.

103. Ms. Williams had a clearly established legal duty to report truthfully about the test results. Having failed in that duty, she had a duty to disclose to prosecutors the true implication of the test results so that prosecutors would disclose this information to Mr. Wyatt and his counsel. Ms. Williams's acts were committed in clear and deliberate violation of Mr. Wyatt's clearly established constitutional right to due process of law. Mr. Wyatt was wrongfully

convicted in part upon Ms. Williams's fabricated test results, and he sustained damage as a proximate result of these unconstitutional actions.

H. COUNT VIII: CLAIM AGAINST SWIFS AND DALLAS COUNTY FOR THEIR POLICIES AND CUSTOMS WITH RESPECT TO THE SWIFS

104. In the 1970s and 1980s, Dallas County maintained a policy, custom, and practice of operating a substandard crime laboratory that routinely violated the rights of citizens, failed to follow established law, and failed to supervise its employees.

105. Dallas County and the SWIFS's official policies, customs, and practices included employing staff, such as Ms. Williams, who were inadequately trained with respect to fundamental investigative techniques and duties (including the collection, testing, and interpretation of scientific evidence and data such as serological results). Upon information and belief, this training failed to comply with applicable state and federal standards and law at the time.

106. Upon information and belief, the final policymaker at the Dallas Crime Lab is the Chief Medical Examiner. Dr. Vincent J.M. Di Maio was Chief Medical Examiner in Dallas County from 1972 until 1981. The Chief Medical Examiner either encouraged his employees to fabricate evidence and make gross scientific misrepresentations about test results to unlawfully convict innocent citizens or was deliberately indifferent when County employees fabricated evidence and made gross scientific representations to unlawfully convict innocent citizens. These customs, policies, and practices were so widespread as to practically have the force of law. The County's final policymaker knew these policies, customs, and practices would violate the federal rights of citizens such as Mr. Wyatt and result in wrongful convictions.

107. Upon information and belief, Dallas County also failed to adequately fund the SWIFS and adopted a policy, custom, and practice of denying lab employees adequate staffing

and equipment. To save money, the County encouraged the use of substandard and expired chemicals in testing procedures and encouraging lab employees to take shortcuts and misrepresent test results. The County's final policymaker knew these policies, customs, and practices would violate the federal rights of citizens such as Mr. Wyatt and result in wrongful convictions.

108. These policies, customs, and practices are well documented. In the September, 2011 issue of *D Magazine*, Dr. Chris Nulf stated the lab has a history of practicing, "poor quality control," "sloppy training," and an official policy of retaliating against employees who try to correct these policies, customs, and practices. Moreover, the lab concealed these facts from accrediting agencies such as ASCLD/LAB.

109. Dr. Nulf was particularly critical of the lab's lack of training, and stated, "You never knew what to believe when someone told you something." He stated it was "a matter of practice" to use expired chemicals and he was fired when he noted on a test result that he had used an expired chemical. Dr. Nulf concluded the lab's customs, policies, and practices were sloppy and that, "[p]eople's liberties are at stake."

110. These policies, customs, and practices are long-standing and affected numerous cases during the era in which Mr. Wyatt was convicted. One such case occurred in April, 1981. A Dallas woman was raped and told police she could barely see her attacker because it was dark. Still, the police pressured her into identifying Larry Fuller in a photo lineup. To support this suggestive lineup, the Dallas Crime lab falsely testified that Mr. Fuller could not be excluded as a possible perpetrator because he was a non-secretor. However, because both Mr. Fuller and the victim were non-secretors, the sample had to contain biological material from a third person – the actual perpetrator. The Dallas County Crime Lab withheld this crucial exculpatory evidence

from the jury. Mr. Fuller was sentenced to 50 years in prison based on false testimony by the Dallas Crime Lab. He was later exonerated based on reliable testing.

111. Another case occurred on June 9, 1983, after a woman was raped in Dallas. The Dallas Police Department charged Donald Wayne Good with the crime. The Dallas County Crime Lab analyzed the biological samples and falsely testified that blood group markers on a blanket in the victim's home must have come from a Type O secretor, which matched Good's blood type and "one-third of the Caucasian male population." This testimony was improper because the evidence on the blanket could have been a mixture of fluids from the victim and the perpetrator and did not exclude anyone. The analyst also improperly failed to testify that 100% of the male population could have contributed to the sample if it was "masked" by the victim's fluids. As a result of this testimony, Mr. Good was convicted and has subsequently been exonerated based on reliable testing.

112. These are only a few examples of the Dallas Crime Lab's customs, practices, and policies of misrepresenting scientific test results to assist the Dallas Police Department in convicting misidentified innocent citizens. These customs, practices, and policies were most rampant in the 1970s and 1980s.

113. The widespread custom, practice, and policy of misrepresenting the results of "secretor" testing, which was used to convict Mr. Wyatt, was so pervasive that the Texas Legislature created the Texas Forensic Science Commission to evaluate mismanagement in Texas crime labs. These results are still being compiled and will lend further support to Mr. Wyatt's case.

114. Dallas County and the SWIFS's final policymakers knew of these policies, customs, and practices and implemented them with knowledge or deliberate indifference to the likelihood that wrongful convictions would result from them.

115. Mr. Wyatt sustained damage as a proximate result of these actions. He was wrongfully imprisoned based in part upon the false scientific evidence presented to a jury by the SWIFS.

VI.
DAMAGES

116. As a result of the defendants' conduct, Mr. Wyatt sustained damages far exceeding the minimum jurisdictional limits of this court.

VII.
JURY DEMAND

117. Plaintiff hereby demands a jury trial of all issues so triable, pursuant to Rule 38 of the Federal Rules of Civil Procedure.

VIII.
PRAYER

WHEREFORE, plaintiff prays for the following relief from the Court and Jury:

- a. compensatory damages;
- b. punitive damages against the non-municipal defendants;
- c. attorney's fees;
- d. prejudgment and post-judgment interest;
- e. court costs; and
- f. all other relief to which plaintiff is entitled in law or in equity.

Dated: August 5, 2014

Respectfully submitted,

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CERTIFICATE OF SERVICE

I, the undersigned counsel, hereby certify that a true and correct copy of the foregoing was sent in accordance with Fed.R.Civ.P. 5 by electronic transmission to all counsel of record listed below on the 5th day of August, 2014:

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