UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF NEW YORK

JOHN R. DETTELIS,

Plaintiff,

vs.

COUNTY OF CATTARAUGUS and
LORI PETIT RIEMAN, Individually and in
her official capacity as CATTARAUGUS COUNTY
DISTRICT ATTORNEY,

Defendants.

COMPLAINT

Case No. _____

Plaintiff JOHN R. DETTELIS, by and through his attorneys, HOGANWILLIG, PLLC, as and for his Complaint against the Defendants, herein alleges:

PARTIES AND JURISDICTION

1. Plaintiff JOHN R. DETTELIS (hereafter "Plaintiff") was and is a citizen of the United States of America and resident of the State of New York, residing in the Village of Delevan, County of Cattaraugus, State of New York.

2. Upon information and belief, Defendant COUNTY OF CATTARAUGUS was and is a municipal corporation organized and existing under the laws of the State of New York, with principal offices located at 303 Court Street in the Village of Little Valley, County of Cattaraugus and State of New York.

3. Upon information and belief, Defendant COUNTY OF CATTARAUGUS maintained a department within Defendant COUNTY OF CATTARAUGUS known as the Cattaraugus County District Attorney's Office, with principal offices in the Village of Little Valley, County of Cattaraugus, State of New York.

HOGANWILLIG
Attorneys at Law
2410 NORTH FOREST ROAD | SUITE 301 | AMHERST, NEW YORK 14068
Phone: 716.636.7600 | Toll Free: 800.636.5255 | Fax: 716.636.7606 | www.hoganwillig.com

4. At all times referred to herein, Defendant COUNTY OF CATTARAUGUS, by its agents, servants and representatives, was responsible for the operation, maintenance and control of the Cattaraugus County District Attorney's Office and the selection, training, supervision, evaluation and disciplining of District Attorneys and/or Assistant District Attorneys in the Cattaraugus County District Attorney's Office.

5. Upon information and belief, Defendant LORI PETIT RIEMAN was and is a natural person residing in the County of Cattaraugus and State of New York.

6. Upon information and belief, Defendant LORI PETIT RIEMAN was and is the duly elected Cattaraugus County District Attorney.

7. Upon information and belief, Defendant LORI PETIT RIEMAN was and is an employee, agent, servant and/or representative of Defendant COUNTY OF CATTARAUGUS, specifically the Cattaraugus County District Attorney's Office.

8. At all times referred to herein, Defendant LORI PETIT RIEMAN, and her agents, servants and representatives, was responsible for the operation, maintenance and control of the Cattaraugus County District Attorney's Office and the selection, training, supervision, evaluation and disciplining of Assistance District Attorneys in the Cattaraugus County District Attorney's Office.

9. At all times referred to herein, Defendant LORI PETIT RIEMAN and/or her agents, servants and representatives, acted on behalf of Defendant COUNTY OF CATTARAUGUS and the State of New York as a municipal policymaker with the granted authority, including but not limited, to: (a) act as an advocate for the People of the State of New York during criminal prosecutions; (b) act as an officer of the Court; (c) evaluate, prepare and prosecute criminal cases up to and including trial and appeal; and (d) ensure that criminal

HOGANWILLIG
Attorneys at Law
2410 NORTH FOREST ROAD | SUITE 301 | AMHERST, NEW YORK 14068
Phone: 716.636.7600 | Toll Free: 800.636.5255 | Fax: 716.636.7606 | www.hoganwillig.com

proceedings are handled ethically and in accordance with the laws and Constitutions of the State of New York and the United States.

10. This action arises under New York State law and under the United States Constitution, particularly under the provisions of the Fourth, Fifth and Fourteenth Amendments to the Constitution and under Federal law, particularly the Civil Rights Act, 42 U.S.C. § 1983.

11. Plaintiff seeks attorneys' fees herein pursuant to 42 U.S.C. § 1988.

12. This Court has jurisdiction over this action pursuant to 28 U.S.C. § 1331, 28 U.S.C. § 1343 and 28 U.S.C. § 1367(a).

13. At all times referred to herein, all activities giving rise to the instant action occurred within the State of New York.

14. Each of the acts of Defendant LORI PETIT RIEMAN was performed in the course of her role as Cattaraugus County District Attorney and under the color and pretense of the law, statutes, ordinances, regulations, customs and usages of the State of New York and County of Cattaraugus, and under her authority and within the scope of her employment as a public official.

15. Alternatively, each of the acts of Defendant LORI PETIT RIEMAN were done maliciously, intentionally, wantonly and/or negligently and performed outside the scope of her role as Cattaraugus County District Attorney or in excess of her authority pursuant to said role.

16. Plaintiff sues Defendant LORI PETIT RIEMAN, a public employee, in both her official and individual capacities with regard to the New York State tort claims and in her individual capacities with regard to the civil rights claims.

17. Upon information and belief, at all times referred to herein, Defendant COUNTY OF CATTARAUGUS had a policy and custom of failing to afford citizens due process,

HOGAN WILLIG
Attorneys at Law
2410 NORTH FOREST ROAD | SUITE 301 | AMHERST, NEW YORK 14068
Phone: 716.636.7600 | Toll Free: 800.636.5255 | Fax: 716.636.7606 | www.hoganwillig.com

infringing on citizens' constitutional right to freedom from bodily restraint, depriving citizens of their liberty interests under the Constitution and of generally disregarding the rights of citizens under the United States Constitution.

18. On or about March 27, 2014, Plaintiff served on Defendant COUNTY OF CATTARAUGUS, through their duly authorized agents, a verified written Notice of Claim pursuant to Section 50-e of the General Municipal Law of the State of New York setting forth the time, place, and manner in which the claim arose.

19. More than thirty (30) days have elapsed from the date the Notice of Claim of Plaintiff was served and Defendant COUNTY OF CATTARAUGS has neglected and refused to make payment.

20. This action is being commenced upon said claim within one (1) year and ninety (90) days after the happening of events upon which this claim is based.

ALLEGATIONS PERTAINING TO PLAINTIFF'S CLAIMS

21. Plaintiff was arraigned in the Town of Yorkshire Court on or about July 19, 2011 upon a misdemeanor information alleging that he committed assault in the third degree in violation of New York Penal Law §120.00, a class A misdemeanor punishable by a sentence of incarceration of up to one year, or a period of probation supervision of up to one year, and/or a fine.

22. Section 30.30(1)(b) of the New York Criminal Procedure Law requires the People (the District Attorney) to be ready for trial within ninety (90) days of the commencement of a class A misdemeanor criminal action.

HOGANWILLIG
Attorneys at Law
2410 NORTH FOREST ROAD | SUITE 301 | AMHERST, NEW YORK 14068
Phone: 716.636.7600 | Toll Free: 800.636.5255 | Fax: 716.636.7606 | www.hoganwillig.com

23. Upon information and belief, the instant criminal action, and the calculation of its "speedy trial time," that is, the time within which the Cattaraugus County District Attorney's Office was required to be ready for trial, commenced on July 19, 2011.

24. On or about August 4, 2011, an Assistant District Attorney, employed by COUNTY OF CATTARAUGUS, specifically Cattaraugus County District Attorney's Office, and appearing on behalf of the Cattaraugus County District Attorney, proposed to Plaintiff and Town Court as pre-trial disposition a "plea to the charge" (which included a written notation claiming trial readiness) to resolve the criminal action, which Plaintiff rejected, upon which time the Yorkshire Town Justice attempted to schedule trial the following week. The Assistant District Attorney then orally acknowledged he was, in fact, not ready to proceed to trial by stating, "I'm gonna need more time than a week . . ." The Town Justice then scheduled trial for October 13, 2011.

25. Upon the scheduled date, time and place for trial, October 13, 2011 at the Town of Yorkshire Court, the alleged complainant failed to appear, and the People (Cattaraugus County District Attorney's Office) were therefore still not ready to proceed to trial. The Town Court stated, "The ADA . . . has stated that they are not ready for trial."

26. As a result, on October 13, 2011, Plaintiff's defense counsel moved to dismiss the class A misdemeanor charge of assault in the third degree against Plaintiff.

27. The Assistant District Attorney announced the People did not oppose the motion, stating, "I have no argument against that, Judge" and additionally admitted, "I've . . . had no contact with [the complainant]."

28. Thereupon on October 13, 2011 the Yorkshire Town Court, Hon. Deborah L. Titus, T.J., granted the Plaintiff's motion to dismiss the misdemeanor charge of assault in the

HOGANWILLIG
Attorneys at Law
2410 NORTH FOREST ROAD | SUITE 301 | AMHERST, NEW YORK 14068
Phone: 716.636.7600 | Toll Free: 800.636.5255 | Fax: 716.636.7606 | www.hoganwillig.com

third degree, and, addressing the Plaintiff, Ordered that "the charges are dismissed. Everything will be cleared from your record, sir."

29. Upon information and belief the "speedy trial time" within which the People would have been required by statute to be ready for trial pursuant to section 30.30(1)(b) of the Criminal Procedure Law expired on or about October 17, 2011.

30. On or about October 31, 2011, approximately fourteen (14) days after the expiration of the People's "speedy trial time," the Cattaraugus County District Attorney's Office, knowing the "speedy trial time" for this case had elapsed, unlawfully, recklessly and maliciously moved to "restore" to the trial calendar the misdemeanor criminal prosecution of the Plaintiff, which had been previously dismissed by the Court on October 13, 2011.

31. The Town Court did not hold a hearing, but scheduled oral argument of the People's motion for January 12, 2012.

32. On January 12, 2012, an Assistant District Attorney employed by COUNTY OF CATTARAUGUS, specifically Cattaraugus County District Attorney's Office, and appearing on behalf of the Cattaraugus County District Attorney, argued to the Yorkshire Town Court that the previously dismissed case against the Plaintiff should be restored to the Court's calendar "in the interests of justice," notwithstanding that no such provision of law exists which authorizes such restoration of a dismissed case on such grounds.

33. Upon information and belief, the Assistant District Attorney either knew or should have known that no provision of law authorizes a Town Justice to "restore" a dismissed case, and no provision of law authorizes reinstatement of a prosecution beyond the expiration of its "speedy trial time."

HOGANWILLIG
Attorneys at Law
2410 NORTH FOREST ROAD | SUITE 301 | AMHERST, NEW YORK 14068
Phone: 716.636.7600 | Toll Free: 800.636.5255 | Fax: 716.636.7606 | www.hoganwillig.com

34. During oral argument the Assistant District Attorney further acknowledged that "the People did not oppose" the Plaintiff's earlier motion to dismiss granted by the prior Town Justice on October 13, 2011 "because at that point we had never spoken with [the complainant]," tacitly acknowledging that a written notation of trial readiness submitted to the Town Justice on August 4, 2011 was ineffective and erroneous; it was illusory.

35. The Town of Yorkshire Court, Hon. Daniel Laird, T.J. granted the unlawful motion of the Cattaraugus County District Attorney to reopen the dismissed case against the claimant "in the interest of justice." The Town Justice added, "I don't see any problem with the speediness of it."

36. The Cattaraugus County District Attorney's Office continued to prosecute Plaintiff notwithstanding the District Attorney's knowledge that the "speedy trial time" had elapsed on or about October 17, 2011 (two weeks prior to the People's motion to "restore" the prosecution), and that the District Attorney knew or should have known that no statutory provision authorizes a local criminal court, such as Yorkshire Town Court, to reopen a dismissed case.

37. After further pre-trial proceedings, the Town Justice scheduled trial to commence on May 8, 2012.

38. Upon information and belief, on or about May 8, 2012, nearly a year after the Plaintiff's initial arraignment on the class A misdemeanor assault in the third degree charge, Plaintiff was convicted after trial of assault in the third degree, a class A misdemeanor.

39. On October 11, 2012 the Assistant District Attorney declared at sentencing proceedings, "It is the People's recommendation that the Court sentence the defendant to one

HOGANWILLIG
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year in jail." Such a one-year sentence for a class A misdemeanor represents the maximum period of incarceration authorized by law.

40. The Yorkshire Town Court, Hon. Daniel Laird, T.J., at sentencing proceedings held October 11, 2012, then imposed a jail sentence of six months.

41. The District Attorney's Office made its sentencing recommendation of one year in jail, and the Town Court imposed its sentence of six months in jail, notwithstanding that the District Attorney's Office and the Town Court knew, or should have known, that on the date upon which the District Attorney's Office filed its motion urging the Town Court to "restore" in the "interests of justice" the misdemeanor case against the Plaintiff, the speedy trial time had elapsed and there was no statutory authority authorizing the Court to reopen a dismissed case "in the interests of justice."

42. Plaintiff timely and vigorously opposed the motion by the Cattaraugus County District Attorney's Office to "restore" the dismissed case against Plaintiff and to proceed with its untimely and unlawful prosecution of the misdemeanor charge filed against him. Following sentencing, on October 30, 2012 the Plaintiff timely filed a Notice of Appeal to the appropriate intermediate appellate court, the Cattaraugus County Court.

43. On October 30, 2012, Hon. Thomas P. Franczyk, Acting J.S.C., granted the Plaintiff's application for an Order staying and suspending the Judgment of Conviction (including the Town Court's sentence of six months incarceration) and further Ordered that the Plaintiff be released from custody upon posting bail in the amount of $2500 pending determination of the Appeal to the County Court, Appellate Term.

44. The Plaintiff was released from the Cattaraugus County Jail on October 30, 2012.

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45. At the time of his release upon the Order of Supreme Court, Hon Thomas P. Franczyk, A.J.S.C., Plaintiff had served twenty-one (21) days imprisonment as a result of his unlawful and malicious prosecution by the Cattaraugus County District Attorney; his unlawful conviction; the unlawful and malicious sentencing recommendation by the Cattaraugus County District Attorney; and the unlawful sentence of incarceration imposed by the Yorkshire Town Court upon the recommendation of the Cattaraugus County District Attorney.

46. On or about, February 23, 2013, Plaintiff timely perfected and filed his appeal with Cattaraugus County Court, alleging that the Town Court's granting of the District Attorney's motion to "reopen" the prosecution of Plaintiff (i.e., restore the case to the trial calendar) was an unlawful violation of Plaintiff's right to a speedy trial as guaranteed by section 30.30 of the Criminal Procedure Law.

47. Oral argument was held before the Cattaraugus County Court, Appellate Term, Hon. Ronald D. Ploetz, J.C.C., on April 15, 2013. The Court reserved decision.

48. In a Decision and Order issued May 14, 2013, the Cattaraugus County Court, Hon. Ronald D. Ploetz, J.C.C., noted that the District Attorney's motion to restore the case to the Yorkshire Town Court trial calendar conceded that "the statutory [speedy trial] time period would not expire until October 17, 2011" and further noted that "The ADA's motion, however, was dated October 31, 2011, after the October 17, 2011 deadline identified by the ADA."

49. The County Court ruled that the Town Court "should have" determined whether more than 90 days of the time period between the commencement of the criminal action and the District Attorney's motion to reopen the dismissed case were "chargeable to the People." If so, the County Court stated, "the case should have been dismissed."

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Phone: 716.636.7600 | Toll Free: 800.636.5255 | Fax: 716.636.7606 | www.hoganwillig.com

50. Therefore, the County Court declared it would hold the "speedy trial" issue raised in Plaintiff's appeal in abeyance, and remanded the case to Yorkshire Town Court for a determination of the speedy trial issue, and specifically whether there was any period of time which was excludable from the People's 90-day speedy trial period.

51. The Yorkshire Town Court again failed to hold a hearing, but on October 10, 2013 entertained argument upon the County Court's remand of the speedy trial issue.

52. Plaintiff's counsel argued to the Town Court that the People's written notation of trial readiness made on August 4, 2011 was "illusory" because the Assistant District Attorney immediately stated he could not be ready for trial the following week; because the Assistant District Attorney admitted on October 13, 2011 that "I've had no contact with [the criminal complainant]"; and because on January 12, 2012 the ADA further admitted that at the time of dismissal the People "had never spoken with the [complainant]".

53. The Assistant District Attorney argued generally that "I don't believe that the People have to be in contact with the witness prior to stating readiness." He presented no evidence of excludable time, but asked that Plaintiff's "30.30 motion" "be denied" and that the Court's jail sentence "be executed." The ADA asserted that after the Town Court's dismissal of the case on October 13, 2011 "the victim contacted me after court . . . and informed me that he never received any notice," implying trial readiness prior to expiration of the speedy trial period. (In the same ADA's argument to the same Court on January 12, 2012 the ADA asserted he had been contacted on an unspecified date [necessarily between October 13 and October 31, 2011] by "the victim's attorney, that his client did not receive the notice").

54. Regardless, District Attorney's Office failed to specify or submit any specific dates or time periods as being excludable from the calculation of the People's 90-day speedy trial

HOGANWILLIG
Attorneys at Law
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period, which was the purpose of the County Court's remand. Moreover, the ADA offered no response to the rhetorical question posed by Plaintiff's attorney at the conclusion of oral argument on remand: "Then why wasn't there a declaration of readiness made before the ninety days was [sic] up?"

55. On November 14, 2013 the Yorkshire Town Court, Hon. Daniel Laird, T.J., granted the request made by the District Attorney's Office and issued a one-sentence Decision: "After reviewing the 30/30 motions presented to this court and previous court records, I hereby deny the defendants [sic] motion." The Town Court failed to specify any dates or period(s) of time that it held to be excludable from the People's speedy trial time, or to provide any calculation or determination of speedy trial time to the County Court.

56. Upon information and belief, the Town Court's decision was caused by the reckless, malicious and unlawful prosecution of Claimant by the Cattaraugus County District Attorney, and the COUNTY OF CATTARAUGUS, as set forth hereinabove, notwithstanding the District Attorney's knowledge that the People's "speedy trial time" had elapsed on or about October 17, 2011 (two weeks prior to the People's motion to "restore" the prosecution), and the District Attorney's further knowledge that no statutory provision authorizes a local criminal court, such as Yorkshire Town Court, to reopen a dismissed case once its speedy trial time has elapsed.

57. The foregoing actions taken by the Cattaraugus County District Attorney's Office were taken on behalf of, at the direction of, and/or with the knowledge, of Defendant LORI PETIT RIEMAN the Cattaraugus County District Attorney.

58. On December 30, 2013, County Court, Cattaraugus County, Hon. Ronald D. Ploetz, J.C.C., overruled the Yorkshire Town Court, granted Plaintiff's appeal, reversed and

HOGANWILLIG
Attorneys at Law
2410 NORTH FOREST ROAD | SUITE 301 | AMHERST, NEW YORK 14068
Phone: 716.636.7600 | Toll Free: 800.636.5255 | Fax: 716.636.7606 | www.hoganwillig.com

vacated Plaintiff's conviction, and dismissed all charges against Plaintiff, on the grounds that the reinstatement of the case against the Plaintiff after expiration of the statutory speedy trial time violated the Plaintiff's right to a speedy trial and was therefore illegal.

59. The Plaintiff JOHN R. DETELLIS was denied his right to liberty as a result of the reckless, negligent, malicious and unlawful actions of the Cattaraugus County District Attorney's Office and the COUNTY OF CATTARAUGUS.

60. The Plaintiff was wrongfully incarcerated, deprived of his liberty, and served twenty-one (21) days unlawful imprisonment as a result of this malicious prosecution by the Cattaraugus County District Attorney and the COUNTY OF CATTARAUGUS.

61. The Plaintiff suffered economic and monetary damages to his family and business as a result of this malicious prosecution by, and his unlawful imprisonment caused by, the Cattaraugus County District Attorney and the COUNTY OF CATTARAUGUS.

62. The Plaintiff suffered extreme physical, mental and emotional distress, pain and suffering to himself and to members of his immediate family as a result of this malicious prosecution by, and his unlawful imprisonment caused by, the Cattaraugus County District Attorney and the COUNTY OF CATTARAUGUS.

AS AND FOR A FIRST CAUSE OF ACTION AGAINST ALL DEFENDANTS: DEPRIVATION OF CIVIL RIGHTS THROUGH WRONGFUL PROSECUTION

63. Plaintiff repeats and re-alleges each and every allegation contained in paragraphs "1" through "62" above as though more fully set forth at length herein.

64. The Defendants willfully disregarded and violated Plaintiff's statutory right to a speedy trial as guaranteed by section 30.30 of the Criminal Procedure Law of New York.

65. Despite the foregoing, the Defendants proceeded to pursue criminal charges and to undertake a criminal prosecution against Plaintiff, notwithstanding the District Attorney's

HOGANWILLIG
Attorneys at Law
2410 NORTH FOREST ROAD | SUITE 301 | AMHERST, NEW YORK 14068
Phone: 716.636.7600 | Toll Free: 800.636.5255 | Fax: 716.636.7606 | www.hoganwillig.com

prior concession that the People failed to be timely ready for trial and their prior consent to dismissal of the charge.

66. As a result, Plaintiff was maliciously prosecuted by the Defendants in a manner that violated Plaintiff's right to due process under the law.

67. The malicious prosecution conducted by the Defendants was in direct violation of Plaintiff's clearly established right under the Fourth and Fifth Amendments, as applied to the States by the Fourteenth Amendment, as well as the Fourteenth Amendment itself to be secure against unreasonable seizure of his person, to be free from bad faith prosecution and to be free from deprivation of liberty without due process of law.

68. The aforesaid conduct of the Defendants was pursuant to a policy and custom of Defendant COUNTY OF CATTARAUGUS as evidenced by the direct and involvement and/or knowledge of Defendant LORI PETIT RIEMAN regarding the foregoing events.

69. As a result of the foregoing, Plaintiff's right to be secure from unreasonable seizure of his person, to be free from a bad faith prosecution and to be free from deprivation of liberty without due process secured by the Fourth, Fifth and Fourteenth Amendments was violated; Defendants were in violation of the Civil Rights Act - 42 U.S.C. § 1983; Plaintiff was greatly injured emotionally and mentally, was subjected to humiliation and embarrassment and was obliged to and did expend large sums of money to defend the charges against him.

70. As a result of the foregoing, Plaintiff has been injured and damaged, and was subjected to humiliation and embarrassment, all to Plaintiff's damage in the sum of ONE MILLION DOLLARS, plus punitive damages in the amount of THREE MILLION DOLLARS against Defendant LORI PETIT RIEMAN in her individual capacity.

HOGANWILLIG
Attorneys at Law
2410 NORTH FOREST ROAD | SUITE 301 | AMHERST, NEW YORK 14068
Phone: 716.636.7600 | Toll Free: 800.636.5255 | Fax: 716.636.7606 | www.hoganwillig.com

AS AND FOR A SECOND CAUSE OF ACTION AGAINST ALL DEFENDANTS: MALICIOUS PROSECUTION

71. Plaintiff repeats and re-alleges each and every allegation contained in paragraphs "1" through "70" above as though more fully set forth at length herein.

72. The Defendants willfully disregarded and violated Plaintiff's right to a speedy trial as guaranteed by section 30.30 of the Criminal Procedure Law of New York

73. Despite the foregoing, the Defendants proceeded to pursue criminal charges and to undertake a criminal prosecution against Plaintiff, notwithstanding the District Attorney's prior concession that the People failed to be timely ready for trial and their prior consent to dismissal of the charge.

74. The Defendants initiated and/or continued the prosecution against Plaintiff maliciously, in bad faith and without probable cause.

75. The malicious prosecution of this action continued over the course of years, causing Plaintiff great anxiety, stress, injury, damage and expense.

76. On December 30, 2013, County Court, Cattaraugus County, Hon. Ronald D. Ploetz, J.C.C., overruled the Yorkshire Town Court, granted Plaintiff's appeal, reversed and vacated Plaintiff's conviction, and dismissed all charges against Plaintiff, on the grounds that the reinstatement of the case against the Plaintiff after expiration of the statutory speedy trial time violated the Plaintiff's right to a speedy trial and was therefore illegal.

77. The aforesaid malicious prosecution was performed by Defendant LORI PETIT RIEMAN within the scope of, and in furtherance of, her role as Cattaraugus County District Attorney on behalf of Defendant COUNTY OF CATTARAUGUS.

78. Alternatively, the aforesaid malicious prosecution was performed by Defendant LORI PETIT RIEMAN malicious, intentionally, wantonly and/or negligently and performed

HOGAN WILLIG
Attorneys at Law
2410 NORTH FOREST ROAD | SUITE 301 | AMHERST, NEW YORK 14068
Phone: 716.636.7600 | Toll Free: 800.636.5255 | Fax: 716.636.7606 | www.hoganwillig.com

outside the scope of her role as Cattaraugus County District Attorney or in excess of her authority pursuant to said role.

79. As a result of the foregoing, Plaintiff has been injured and damaged, and was subjected to humiliation and embarrassment, all to Plaintiff's damage in the sum of ONE MILLION DOLLARS, plus punitive damages in the amount of THREE MILLION DOLLARS against Defendant LORI PETIT RIEMAN in her individual capacity.

AS AND FOR A THIRD CAUSE OF ACTION AGAINST DEFENDANT LORI PETIT RIEMAN: INTENTIONAL INFLICTION OF EMOTIONAL DISTRESS

80. Plaintiff repeats and re-alleges each and every allegation contained in paragraphs "1" through "79" above as though more fully set forth at length herein.

81. Defendant LORI PETIT RIEMAN's aforementioned actions in ignoring Plaintiff's right to a speedy trial as guaranteed by section 30.30 of the Criminal Procedure Law of New York and proceeding to pursue criminal charges and undertake a criminal prosecution against Plaintiff were outrageous, shocking and exceeded all reasonable bounds of decency.

82. Defendant LORI PETIT RIEMAN's aforementioned actions were taken with the intention of causing Plaintiff severe emotional distress.

83. As a result of the foregoing, Plaintiff has been injured and damaged, and was subjected to humiliation and embarrassment, all to Plaintiff's damage in the sum of ONE MILLION DOLLARS, plus punitive damages in the amount of THREE MILLION DOLLARS against Defendant LORI PETIT RIEMAN in her individual capacity.

AS AND FOR A FOURTH CAUSE OF ACTION AGAINST DEFENDANT LORI PETIT RIEMAN: NEGLIGENT INFLICTION OF EMOTIONAL DISTRESS

84. Plaintiff repeats and re-alleges each and every allegation contained in paragraphs "1" through "83" above as though more fully set forth at length herein.

HOGANWILLIG
Attorneys at Law
2410 NORTH FOREST ROAD | SUITE 301 | AMHERST, NEW YORK 14068
Phone: 716.636.7600 | Toll Free: 800.636.5255 | Fax: 716.636.7606 | www.hoganwillig.com

85. Defendant LORI PETIT RIEMAN's aforementioned actions in willfully disregarding and violating Plaintiff's right to a speedy trial as guaranteed by section 30.30 of the Criminal Procedure Law of New York and proceeding to pursue criminal charges and undertake a criminal prosecution against Plaintiff, notwithstanding the District Attorney's prior concession that the People failed to be timely ready for trial and their prior consent to dismissal of the charge, caused Plaintiff emotional distress.

86. The aforementioned incidents were caused wholly and solely as a consequence of the carelessness of Defendant LORI PETIT RIEMAN and without any negligence on the part of Plaintiff contributing thereto.

87. As a result of the foregoing, Plaintiff has been injured and damaged, and was subjected to humiliation and embarrassment, all the Plaintiff's damage in the sum of ONE MILLION DOLLARS, plus punitive damages in the amount of THREE MILLION DOLLARS against Defendant LORI PETIT RIEMAN in her individual capacity.

AS AND FOR A FIFTH CAUSE OF ACTION AGAINST ALL DEFENDANTS: NEGLIGENT HIRING, TRAINING AND SUPERVISION

88. Plaintiff repeats and re-alleges each and every allegation contained in paragraphs "1" through "87" above as though more fully set forth at length herein.

89. Plaintiff repeats and re-alleges each and every allegation contained in paragraphs "1" through "129" above as though more fully set forth at length herein.

90. At all relevant times stated herein, Defendant COUNTY OF CATTARAUGUS operated, maintained, managed, supervised and controlled a District Attorney's Office as part of and in conjunction with its municipal functions.

91. At all relevant times stated herein, upon information and belief, Defendant LORI PETIT RIEMAN served as the Cattaraugus County District Attorney and supervised employees

HOGANWILLIG
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of the Cattaraugus County District Attorney's Office and Defendant COUNTY OF CATTARAUGUS.

92. At all relevant times stated herein, upon information and belief, Defendant LORI PETIT RIEMAN managed, supervised, trained and controlled Assistant District Attorneys.

93. At all relevant times stated herein, Defendants had the duty to screen and investigate the backgrounds of the Assistant District Attorneys they hired, and to train, supervise, manage and control said Assistant District Attorneys.

94. At all relevant times stated herein, Defendants had a duty to competently and sufficiently train personnel they hired and retained, to conform their conduct to a standard for the protection of individuals, such as Plaintiff, against the unreasonable risk of harm by conducting themselves in such a manner so as not to intentionally, wantonly and/or negligently fail to adhere to proper and ethical prosecutorial procedures or to violate the rights of or inflict injuries to citizens such as Plaintiff herein.

95. At all relevant times stated herein, Defendants had a duty to competently and sufficiently train their personnel, including Defendants in proper and ethical prosecutorial procedures and in the protection of the rights of citizens, including Plaintiff, under the United States Constitution.

96. Defendants were negligent in the hiring of the aforesaid agents, servants and/or employees in that they knew, or in the exercise of reasonable care should have known, that said agents, servants and/or employees of Defendant COUNTY OF CATTARAUGUS did not possess the temperament and psychological makeup to properly carry out their duties as responsible government officials.

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97. Defendants were negligent in the training of the aforesaid agents, servants and/or employees in that they failed to train Defendants in proper and ethical prosecutorial procedures and/or in the rights of suspects under the United States Constitution in general.

98. Defendants were negligent in their supervision of the aforesaid agents, servants and/or employees in that they permitted said agents, servants and/or employees to violate proper and ethical prosecutorial procedures and/or the rights of citizens under the United States Constitution in general; failed to discipline personnel who violated proper and ethical prosecutorial procedures and/or the rights of suspects under the United States Constitution in general; tolerated the behavior of personnel who violated proper and ethical prosecutorial procedures and/or the rights of suspects under the United States Constitution; and failed to enforce proper prosecutorial criteria or guidelines.

99. As a result of the foregoing, Plaintiff has been injured and damaged, and was subjected to humiliation and embarrassment, all to Plaintiff's damage in the sum of ONE MILLION DOLLARS.

WHEREFORE, Plaintiff demands judgment against Defendants as follows:

a) on the first cause of action, to Plaintiff in the sum of ONE MILLION DOLLARS ($1,000,000) against Defendants, plus THREE MILLION DOLLARS ($3,000,000) against Defendant LORI PETIT RIEMAN in her individual capacity; and/or

b) on the second cause of action, to Plaintiff in the sum of ONE MILLION DOLLARS ($1,000,000) against Defendants, plus THREE MILLION DOLLARS ($3,000,000) against Defendant LORI PETIT RIEMAN in her individual capacity; and/or

HOGANWILLIG
Attorneys at Law
2410 NORTH FOREST ROAD | SUITE 301 | AMHERST, NEW YORK 14068
Phone: 716.636.7600 | Toll Free: 800.636.5255 | Fax: 716.636.7606 | www.hoganwillig.com

c) on the third cause of action, to Plaintiff in the sum of ONE MILLION DOLLARS ($1,000,000) against Defendant LORI PETIT RIEMAN, plus THREE MILLION DOLLARS ($3,000,000) against Defendant LORI PETIT RIEMAN in her individual capacity; and/or

d) on the fourth cause of action, to Plaintiff in the sum of ONE MILLION DOLLARS ($1,000,000) against Defendant LORI PETIT RIEMAN, plus THREE MILLION DOLLARS ($3,000,000) against Defendant LORI PETIT RIEMAN in her individual capacity; and/or

e) on the fifth cause of action, to Plaintiff in the sum of ONE MILLION DOLLARS ($1,000,000) against Defendants; and/or

f) costs and disbursements of this action and attorneys' fees pursuant to 42 U.S.C. § 1988(b); and/or

g) for such other and further relief as this Court may deem just, proper and equitable.

Dated: December 30, 2014
Amherst, New York

s/Glenn Pincus

Glenn Pincus, Esq.
HOGANWILLIG, PLLC
Attorneys for Plaintiff
2410 North Forest Road, Suite 301
Amherst, New York 14068
Telephone: (716) 636-7600
gpincus@hoganwillig.com