

UNITED STATES DISTRICT COURT
for the MIDDLE DISTRICT of FLORIDA
JACKSONVILLE DIVISION

JAMES R. THOMAS)
and)
LINDA S. THOMAS,)
)
Plaintiffs,)
)
vs.)
)
CITY OF PALM COAST,)
)
JIM LANDON, in his official)
and individual capacities,)
)
NESTOR ABREU, in his official)
and individual capacities,)
)
BARBARA GROSSMAN, in her official)
and individual capacities,)
)
DEBRA CHAUDOIN, in her official)
and individual capacities,)
)
MICHAEL DONOVAN, in his official)
and individual capacities,)
)
SHELLY ADORANTE,)
aka Michelle Adorante Sandell,)
in her official and)
individual capacities,)
)
EVA BOIVIN, in her official)
and individual capacities, and)
)
MICHAEL HADDEN, in his official)
and individual capacities,)
)
Defendants.)

Civil Action No. _____

COMPLAINT

Plaintiff, JAMES R. THOMAS, and Plaintiff, LINDA S. THOMAS, sue the Defendants, the CITY OF PALM COAST, JIM LANDON, NESTOR ABREU, BARBARA GROSSMAN, DEBRA CHAUDOIN, MICHAEL DONOVAN, SHELLY ADORANTE, EVA BOIVIN, and MICHAEL HADDEN and state as follows:

STATEMENT OF JURISDICTION AND VENUE

1. This complaint seeks damages pursuant to 42 U.S.C. §1983 for violation of Plaintiffs' constitutional rights, particularly under the provisions of the Fourth and Fourteenth Amendments to the Constitution, and various Florida state law claims.

2. This Court has original jurisdiction pursuant to 28 U.S.C. §1331 and 28 U.S.C. §1343. This Court has supplemental jurisdiction to hear the state claims of Plaintiffs James and Linda Thomas under 28 U.S.C.A. §1367.

3. Venue is properly in this Court under 28 U.S.C.A. §1391 (b) because the unlawful conduct and events occurred in Flagler County, the City of Palm Coast is an entity within Flagler County, and the Defendants worked within Flagler County and the City of Palm Coast.

PARTIES

4. At all times material to this Complaint, Plaintiff JAMES R. THOMAS was, and is, a United States citizen, and a resident of the City of Palm Coast, Florida.

5. At all times material to this Complaint, Plaintiff LINDA S. THOMAS was, and is, a United States citizen, and a resident of the City of Palm Coast, Florida.

6. At all times material to this Complaint, Defendant CITY OF PALM COAST was a municipal corporation or entity organized and existing under the laws of the State of Florida and Federal government.

7. At all times material to this Complaint, JIM LANDON was employed by the City of Palm Coast as City Manager. He is sued in his individual and official capacities.

8. At all times material to this Complaint, NESTOR ABREU was employed by the City of Palm Coast as Director of Community Development. He is sued in his individual and official capacities.

9. At all times material to this Complaint, BARBARA GROSSMAN was the Code Enforcement Manager employed by the City of Palm Coast. She is sued in her individual and official capacities.

10. At all times material to this Complaint, DEBRA CHAUDOIN was a Code Enforcement Supervisor employed by the City of Palm Coast. She is sued in her individual and official capacities.

11. At all times material to this Complaint, MICHAEL DONOVAN was a Code Enforcement Supervisor employed by the City of Palm Coast. He is sued in his individual and official capacities.

12. At all times material to this Complaint, SHELLY ADORANTE was an Animal Control Officer employed by the City of Palm Coast. She is sued in her individual and official capacities.

13. At all times material to this Complaint, EVA BOIVIN was an Animal Control Officer employed by the City of Palm Coast. She is sued in her individual and official capacities.

14. At all times material to this Complaint, MICHAEL HADDEN was a Code Enforcement Officer employed by the City of Palm Coast. He is sued in his individual and official capacities.

15. Plaintiffs are informed and believe and therefore allege that at all times mentioned in this Complaint, Defendants, and each of them, were the agents, employees, servants, joint ventures, partners, and/or co-conspirators of the other Defendants named in this Complaint and that at all times, each of the Defendants was acting within the course and scope of that relationship with the other Defendants.

16. Each of the Defendants caused, and is legally responsible for the incidents, unlawful conduct, injuries and damages alleged by personally participating in the unlawful conduct, or acting jointly or conspiring with others to act, by authorizing or allowing, explicitly or implicitly, policies, plans, customs, practices, or omissions that led to the unlawful conduct, by failing to take action to prevent the unlawful conduct, by failing or refusing to initiate and maintain adequate training or supervision, and thus constituting deliberate indifference to the Plaintiffs' rights, and by ratifying the unlawful conduct that occurred by agents and officers under their direction and control, including failing to take remedial or disciplinary action as further put forth in the Claims herein.

17. In doing the acts and/or omissions alleged, Defendants and each of them, acted under color of authority and/or color of law at all relevant times on behalf of the City of Palm Coast.

18. Plaintiffs are informed and believe, and therefore allege, that the violations of the Plaintiffs' constitutional rights complained of were caused by customs, policies, and/or practices authorized by policy makers of Defendant City of Palm Coast, City Manager Jim Landon, and other supervisory officials of City of Palm Coast's Code Enforcement and Animal Control Departments, which encouraged, authorized, directed, condoned, and/or ratified the unconstitutional and unlawful conduct complained of in this Complaint. These customs, policies, and/or practices were the moving force behind the violations alleged, and include, but are not limited to, exposing persons and their homes or property to unreasonable searches during the course of code enforcement and animal control investigations; failing to maintain adequate policies; failing to adequately train, supervise and control investigators/officers concerning animal control and code enforcement; failing to investigate and impose discipline on animal control and code enforcement officers who employ improper investigation methods and tactics; and failing to adopt other remedial measures and policies to ensure that such violations do not recur as further put forth in the Claims herein.

FACTS

19. On Thursday, February 25, 2010, City of Palm Coast Animal Control Officer Shelly Adorante ("Animal CO Adorante") received a call from a mail carrier at 12:30 P.M. who

saw two dogs locked inside the vehicle belonging to the Plaintiffs, located in the Plaintiffs' driveway at 72 Smith Trail, Palm Coast, Florida.

20. The vehicle was in the shade, and the windows were partially opened.

21. Shortly thereafter Animal CO Adorante arrived at the Plaintiffs' residence.

22. Animal CO Adorante then left an "Animal Control Courtesy Notice" at 12:50 P.M. No citation was issued and no fine was imposed.

23. At about 12:54 P.M., Animal CO Adorante left a message on a phone belonging to the person who owned another truck also parked in Plaintiffs' driveway.

24. Simultaneous to Plaintiff Linda Thomas trying to return the call, Animal CO Adorante called again at 12:59 P.M. In the phone conversation that ensued, Plaintiff Linda Thomas advised Animal CO Adorante that the Thomases were on their way home from Jacksonville.

25. At no time did Animal CO Adorante tell Ms. Thomas that the dogs were in distress or that she would cite her with a violation within a given number of hours after writing a courtesy notice. In fact, Animal CO Adorante stated in a written report that the dogs were not in distress.

26. Then, in the same phone conversation, Animal CO Adorante inquired of Plaintiff Linda Thomas about how many animals were in the house. Plaintiff Linda Thomas asked what relevance that had to the dogs that were in the vehicle. Animal CO Adorante replied that she had looked in Thomas's window and seen more dogs.

27. The window that Animal CO Adorante looked into was the living room window, and located about five feet away from the front door.

28. Plaintiff Linda Thomas was alarmed, and told Animal CO Adorante that she had no right to look into the windows of her home. Animal CO Adorante angrily told Ms. Thomas that she could look in Thomas's window, backyard, or anywhere else that she wanted.

29. Plaintiff Linda Thomas then advised Animal CO Adorante that the actions Animal CO Adorante stated that she had the authority to do would violate the Plaintiffs' Fourth Amendment Constitutional rights.

30. Plaintiff Linda Thomas was angered and distressed about City of Palm Coast Animal CO Adorante's conduct at Thomas's home when no one was there. At a hearing, in her sworn testimony, Animal CO Adorante characterized Thomas's reaction as "rude in her tone of voice. . . . And she proceeded to be aggressively hostile with me." At the same hearing, Plaintiff Thomas testified that she would characterize her reaction to Animal CO Adorante as "totally irate."

31. Even though the dogs were not in distress, and even after Plaintiff Linda Thomas accused Animal CO Adorante of civil rights and constitutional violations, Animal CO Adorante stayed in or around the Thomas property until about 3:00 P.M. when she claimed to have left. The Plaintiffs were not home while Animal CO Adorante was on their property.

32. While there, Animal CO Adorante walked away from the Plaintiffs' front door, and stood in front of the Plaintiffs' front living room window. Animal CO Adorante then photographed the interior of the Plaintiffs' home. The photographed area of the inside of the

Thomas's house included the living room, dining area, and through the sliding doors onto the patio, where the Thomases stored a boat out of the view of the public eye.

33. While there, Animal CO Adorante also walked into the Thomas's side yard, and looked around the corner of the house into the backyard and at the patio area that is located up against the house, i.e., the same area where she first observed the boat only by looking through the Thomas's windows.

34. The Thomas's yard was fenced in, with the fence running perpendicular to the house, extending from the back right corner and the back left corner of the house, leaving the front yard and side yards (up to the back corners of the house) unfenced.

35. At some time that same day, Animal Control Officer Eva Boivin ("Animal CO Boivin") joined Animal CO Adorante. She, too, walked onto the Thomas's side yard, walked up to the fence, and looked around to the back of the house to see the same area and the boat on the private patio.

36. After Plaintiff Thomas asserted her Fourth Amendment constitutional rights and right of privacy to Animal CO Adorante, Animal CO Adorante called Code Enforcement Officer Michael Hadden ("Code EO Hadden") for him to write a citation for boats in or around the house, including the boat that could only be seen when she looked through the windows of the Thomas home, or by walking on the Thomas's home's side yard, and looking around the corner of the house to the patio located approximately midway behind the house.

37. After Plaintiff Thomas asserted her constitutional rights to Animal CO Adorante in the aforementioned telephone conversation, Animal CO Adorante then wrote a Notice of Violation at 2:20 P.M.

38. What had been a notice for dogs left without water was elevated to a citation for two counts of animal cruelty by Animal CO Adorante. It was written on February 25, 2010 at 2:20 p.m., charging Appellant Thomas with two counts of violating Sec. 8-35 of the Code of Ordinances, City of Palm Coast, Florida with a fine of \$100 for each dog.

39. Animal CO Adorante did not find any dogs in distress.

40. Without knowledge of, or consent from the Thomases, after Plaintiff Thomas asserted her rights, Animal CO Adorante continued to stay at the Thomas residence until about 3:00 P.M.

41. When Code EO Hadden arrived at the Thomas residence just before 2:00 P.M., he photographed two boats that were barely visible from the street, apparently using a telephoto lens.

42. Code EO Hadden also walked onto the side yard of the Thomas property with City of Palm Coast Animal CO Adorante and Animal CO Boivin. Like the two Animal COs, Code EO Hadden went up to the fence and looked around the corner to the back of the house to view the boat on the private patio slab that could not otherwise be viewed from a public place. As he wrote in his report, he “walked to the fence with Eva and Shelly and observed another large speedboat directly behind the house.”

43. Code EO Hadden photographed the boat that was located on the private slab behind the house, testifying at a hearing “The third shot was - - - I was on her property.” See #70.

44. Code EO Hadden wrote a warning notice for three boats, including the one not visible to him from a public location, and for a trash can located in front of the garage door.

45. For the second time, Code EO Hadden returned to the property on March 2, 2010, and again walked onto private property so that he could look behind the Thomas home to see the boat still directly behind the home which was still not visible from a public view. He reported that the other two boats were gone.

46. On or about March 4 or 5, 2010, Plaintiffs James and Linda Thomas met with Nestor Abreu (“Director Abreu”), City of Palm Coast, Director of Community Development, at the City of Palm Coast offices.

47. The Thomases told Director Abreu of their constitutional rights that the Code Enforcement and Animal Control Officers had violated.

48. Director Abreu claimed ignorance of the law, and had no concern about whether any laws were broken by his officers, showing indifference.

49. Director Abreu referred the Thomases to Barbara Grossman, City of Palm Coast, Code Enforcement Manager.

50. Upon information and belief, Director Abreu is supervisor to Code Enforcement Manager Barbara Grossman (“Code E. Mgr. Grossman”).

51. After the Thomases (Plaintiffs) complained and advised Director Abreu of the events, Code EO Hadden repeatedly returned to the Thomas's property without their knowledge (except for his seventh time on the property, *see*, #62).

52. For the third time, Officer Hadden returned to the property on March 10, 2010, and again went onto private property and looked behind the Thomas home to see the boat still in the same location directly behind the home and not visible from a public view.

53. On about March 12, 2010, Plaintiff Linda Thomas met with Code E. Mgr. Grossman at the City of Palm Coast offices.

54. Upon information and belief Code E. Mgr. Grossman is the supervisor of the Animal Control Officers and the Code Enforcement Officers, and of their supervisors, Debra Chaudoin and Michael Donovan.

55. Plaintiff Linda Thomas advised Code E. Mgr. Grossman of the Constitutional violations. Grossman was indifferent. She advised Ms. Thomas that she could have a hearing on the matter.

56. After Code E. Mgr. Grossman was advised of the misconduct of the officers, Code EO Hadden still repeatedly returned to the Thomas's property with Code E. Mgr. Grossman's knowledge, approval, and condonation.

57. Evidence of Code E. Mgr. Grossman's knowledge includes, but is not limited to, (1) Grossman's attendance and testimony at the hearing on May 5, 2010; (2) an email on April 22, 2010 from Code E. Mgr. Grossman to other named defendants - - Michael Donovan (Code Enforcement Supervisor), Debra Chaudoin (Code Enforcement Supervisor), Eva Boivin (Animal

CO), Shelly Adorante (Animal CO), Carol Hickey (Office Staff), and Nestor Abreu (Director), and (3) an email from Code EO Hadden to Grossman on April 22, 2010.

58. For the fourth time, Code EO Hadden returned to the property on March 17, 2010 and again viewed the boat behind the house in the same location not visible to the public.

59. For the fifth time, Code EO Hadden returned to the property on March 30, 2010 and again viewed the boat behind the home in the same location not visible to the public.

60. For the sixth time, Code EO Hadden returned to the property on April 6, 2010 and again viewed the boat behind the home in the same location not visible to the public.

61. For the seventh time, Code EO Hadden returned to the property on or about April 21 or 22, 2010 and again looked behind the Thomas home to see that the boat was not there, and that the Thomases had complied with the Notice.

62. The Thomases came home to view Officer Hadden on their neighbor's property looking into the Thomas's backyard where, upon information and belief, he was taking pictures. He then came onto their property against their protests.

63. Code EO Hadden knew that a hearing had been requested because he posted the Notice of Hearing, slamming it onto the garage door.

64. Code E. Mgr. Grossman acted intentionally, maliciously, deliberately, and with deliberate indifference to the Thomases' constitutional rights. This is evidenced by the referenced April 22, 2010 email where Code E. Mgr. Grossman knew that Code EO Hadden was

returning the Thomas's home for a seventh time, warning to "be careful" and "to request a deputy if any issues at 72 Smith Trail (The Thomas's address)."¹

65. Code EO Hadden acted intentionally, maliciously, deliberately, and with deliberate indifference to the Thomases' constitutional rights as evidenced further by an email copied from him to Sergeant Paul F. Mercado and copied to Code E. Mgr. Grossman on April 22, 2010, stating "It could not have worked out better He [sic - the] owners of the boat who live at 72 Smith Tr. arrived at the address while we were taking pictures, went ballistic and became verbally abusive"²

66. The Plaintiffs were emotionally distraught and outraged by the intentional, continuing, repeated violations of their Constitutional rights by the City of Palm Coast and its employees, and their malicious and deliberate indifference.

67. Plaintiff Linda Thomas requested two hearings, one for the citation regarding the boats and one for the animal control allegations and citation of cruelty to animals.

68. The first hearing, regarding the boats, took place before the Code Enforcement Board ("CEB", which refused to hear the Constitutional violations claimed) on May 5, 2010.

69. Testimony at the hearing included Code EO Hadden, Code E. Mgr. Grossman, and Plaintiff Linda Thomas.

70. Code EO Hadden admitted under oath at the hearing that he was on the Thomas property and that the Animal Control Officers led the way, testifying, "I was on her property

¹Copy attached, Ex. A.

²Copy attached, Ex. A.

. . . I followed them [Animal Control Officers Adorante and Boivin] to the side of the house and observed the third boat, and I took that picture from there.”

72. The Board ruled in favor of the City that the boats in question were on the Thomas property in violation of the City Code.

73. The City of Palm Coast, Code Enforcement board ordered the Thomases to pay administrative costs of \$150.00 to the City of Palm Coast for enforcing its codes.

74. The Thomases appealed the decision to the Circuit Court, Seventh Judicial Circuit, In and For Flagler County, Florida, 2010 CA 001202.

75. On June 22, 2010, the Court reversed and remanded the case to the CEB.³

76. In its order of June 22, 2012, the Court found that the Thomases “were afforded no due process.” The Court found that “Appellants had no opportunity to exercise their right against an unreasonable search by the animal control officer.”

77. On the issue of the legality of the search, the Court held that “[t]he City of Palm Coast has the initial burden of proof to establish the legality of the search.”

78. Instead of having a hearing of the constitutional issues on remand, the City of Palm Coast avoided addressing it by dismissing the case in its amended order of dismissal of October 8, 2012.⁴

³Copy of Order is attached, Ex. B.

⁴Copy of Order is attached, Ex. C.

79. Plaintiff Linda Thomas requested a hearing on the citations charging her with two counts of violating Section 8-35 of the Code of Ordinances, City of Palm Coast, Florida, Cruelty to Animal.

80. The City did not disclose a written report that indicated the dogs were not in distress. Appellant Thomas made a public records request, and discovered the report.

81. The hearing was held on May 27, 2010. The hearing officer was Lonnie Groot (“HO Groot”), former City Attorney for the City of Palm Coast.

82. At the hearing, Animal CO Adorante testified regarding Plaintiff Thomas’s immediate reaction to Adorante’s comments and conduct as “rude in her tone of voice. . . .And she proceeded to be aggressively hostile with me.”

83. At the hearing, Plaintiff Linda Thomas testified to her emotions regarding Animal CO Adorante’s conduct and comments that she could look wherever she wanted at the Thomas home without their consent, testifying that she was “totally irate.”

84. Plaintiff Thomas also testified to her emotional state from being charged with cruelty to animals as “the most disturbing thing that has ever happened to me in my life.” She explained that she is a member of a national AKC club for which she wrote the ethics, and had recently published an article on estate planning for your animals.

85. In addition, Plaintiff Linda Thomas was distressed by the initial phone call, worried that something had happened to her dogs.

86. At the hearing, Animal CO Adorante admitted that she stood right in from of the Thomases' living room window, looked through it, and took a photograph of the interior of their home.

87. Upon information and belief, Code E. Mgr. Grossman listened to the hearing from her office.

88. HO Groot ruled in favor of the City, finding that Plaintiff Linda Thomas had violated the ordinance and assessed a penalty of \$200.

89. Plaintiff Thomas appealed the decision to Circuit Court, Seventh Judicial Circuit, In and For Flagler County, Florida, 2010 CA 001339.

90. On June 22, 2012, the Court ruled in favor of Linda Thomas, and issued an order reversing the order on final hearing dated June 1, 2010.⁵

91. The Court found that “[t]here was no evidence adduced at the hearing that the animals were in distress or required water, food or exercise. . . . Furthermore, there is no record support for the Hearing Officer’s finding of abandonment”

92. Upon information and belief, no corrective or disciplinary action was taken against Animal CO Adorante, Animal CO Boivin, or Code EO Hadden.

93. Upon information and belief, no corrective or disciplinary action was taken against Director Abreu, Code E. Mgr. Grossman, Supervisor Chaudoin, or Supervisor Donovan.

94. Jim Landon is the City Manager.

⁵Copy of Court Order is attached, Ex. D.

95. Under the City of Palm Coast Municipal Code, Jim Landon, the City Manager, is authorized to designate certain City employees or agents as Code Enforcement Officers. The training and qualifications of the employees or agents designated as Code Enforcement Officers shall be determined by the City Manager.

96. Accordingly, Jim Landon was responsible for the training and supervision of Nestor Abreu, Barbara Grossman, Debra Chaudoin, Michael Donovan, Shelly Adorante, Eva Boivin, and Michael Hadden.

97. Based upon information and belief, Nestor Abreu was responsible for the training and supervision of Barbara Grossman, Debra Chaudoin, Michael Donovan, Shelly Adorante, Eva Boivin, and Michael Hadden.

98. Based upon information and belief, Barbara Grossman was responsible for the training and supervision of Debra Chaudoin, Michael Donovan, Shelly Adorante, Eva Boivin, and Michael Hadden.

99. Based upon information and belief, Debra Chaudoin and Michael Donovan were responsible for the training and supervision of Shelly Adorante, Eva Boivin, and Michael Hadden.

100. Plaintiffs allege that each of the Defendants performed, participated in, aided and/or abetted in some manner the acts averred in this action, directly and proximately caused the damages averred below, and are liable to the Plaintiffs for the damages and other relief sought in this action.

STATEMENT OF CLAIMS

FIRST CLAIM FOR RELIEF - 42 U.S.C. §1983

Fourth and Fourteenth Amendment Violations

Protection Against Unreasonable Searches and the Right to be Secure in Their Home

by all Plaintiffs against

Defendants City of Palm Coast, Jim Landon, Nestor Abreu, Barbara Grossman, Debra

Chaudoin, Michael Donovan, Shelly Adorante, Eva Boivin, and Michael Hadden

101. Plaintiffs incorporate by reference all of the preceding paragraphs as if set forth here in full.

102. The conduct and/or failure to act by the City of Palm Coast and all other Defendants deprived the Plaintiffs of the rights to be secure in their home and free from unreasonable searches under the Fourth Amendment and Fourteenth Amendment of the United States Constitution.

103. The actions of the Defendants violated clearly established and well settled federal constitutional rights of the Plaintiffs.

104. Defendants' misconduct directly and proximately caused Plaintiffs to suffer injury, including an invasion of privacy, shock, outrage, extreme emotional distress, and humiliation.

SECOND CLAIM FOR RELIEF - 42 U.S.C. §1983

Fourteenth Amendment Violations

Substantive Due Process Violations

by all Plaintiffs against

Defendants City of Palm Coast, Jim Landon, Nestor Abreu, Barbara Grossman, Debra

Chaudoin, Michael Donovan, Shelly Adorante, Eva Boivin, and Michael Hadden

105. Plaintiffs incorporate by reference all of the preceding paragraphs as if set forth here in full.

106. The City of Palm Coast and all other named Defendants, continued to and repeatedly did violate the Plaintiffs' Fourth Amendment rights.

107. Animal CO Adorante wrote a citation for animal cruelty after Plaintiff Linda Thomas asserted her Fourth amendment right against an unreasonable search of her home, even though Animal CO Adorante reported that no animals were in distress. Animal CO Adorante acted vindictively and maliciously to the Plaintiffs.

108. Where Code EO Michael Hadden went onto the Plaintiffs' property at least seven times, with the knowledge that Plaintiffs' had asserted their Fourth amendment rights, he acted maliciously, and repeatedly violated their rights.

109. Where Defendants Abreu and Grossman were advised of the violations of the Plaintiffs' constitutional rights, there was time for reflection by all of the Defendants and an opportunity to take corrective actions, yet they did not. The Defendants all acted with indifference to the Plaintiffs' constitutional rights.

110. Where email from Code E. Mgr. Grossman was sent to named defendants, advising them that Code EO Michael Hadden would be returning to the property, even though she had been advised that the boat was not visible to the public, all Defendants acted vindictively and maliciously to the Plaintiffs after they had asserted their Fourth amendment rights, and continued to violate their rights.

111. All of the Defendants acted with deliberate indifference to Plaintiffs and their Constitutional rights.

112. The Defendants' misconduct alleged above was outrageous and shocking to the conscience and deprived the Plaintiffs' of the substantive component of due process in violation of the Fourteenth Amendment to the United States Constitution (Art. XIV, U.S. Constitution).

113. Defendants' misconduct directly and proximately caused the Plaintiffs to suffer injury, including an invasion of privacy, shock, outrage, extreme emotional distress, and humiliation.

THIRD CLAIM FOR RELIEF - 42 U.S.C. §1983

Failure to Train, Supervise, and Discipline Employees

By All Plaintiffs against

City of Palm Coast and Jim Landon, City Manager, in his Official and Individual Capacity

114. Plaintiffs incorporate by reference all of the preceding paragraphs as if set forth here in full.

115. Upon information and belief, City Manager Jim Landon was charged by law to designate certain City employees or agents as Code Enforcement Officers. The training and qualifications of the employees or agents designated as Code Enforcement Officers shall be determined by the City Manager.

116. Upon information and belief, at all times, the City of Palm Coast and City Manager Jim Landon failed to train, and/or supervise, and/or discipline, and/or condoned the unconstitutional actions by Nestor Abreu, Barbara Grossman, Debra Chaudoin, Michael Donovan, Animal CO Shelly Adorante, Animal CO Eva Boivin, and Code EO Michael Hadden against the Plaintiffs.

117. Upon information and belief, the named Defendants ratified the violations in this case, failing to take any corrective action.

118. By consciously and deliberately overlooking the acts of misconduct by their subordinates, City of Palm Coast and City Manager Jim Landon established a custom and practice of condoning and ratifying such misconduct and established a pattern of tolerating constitutional violations among their subordinate officers. The condoning of misconduct was so comprehensive and well-known that subordinates were emboldened to blatantly violate the constitutional rights of persons such as the Plaintiffs.

119. Defendants City of Palm Coast and City Manager Jim Landon, through their custom and practice of encouraging, condoning, tolerating and ratifying constitutional violations by the subordinates Nestor Abreu, Barbara Grossman, Michael Donovan, Debra Chaudoin, Animal CO Shelly Adorante, Animal CO Eva Boivin, and Code EO Michael Hadden were

deliberately indifferent to the constitutional violations committed by these subordinate Defendants.

120. Based on the customs and practice of condoning, tolerating, and ratifying constitutional violations and failure to adequately train and discipline the subordinate officers who committed constitutional violations, City of Palm Coast and City Manager Jim Landon are liable for constitutional violations committed by Defendants, and for the damages suffered by Plaintiffs set forth in this Complaint.

121. The mentioned acts of the named Defendants were willful, wanton, malicious and oppressive, justifying the awarding of exemplary and punitive damages.

FOURTH CLAIM FOR RELIEF - 42 U.S.C. §1983

Failure to Train, Supervise, and Discipline Employees

By All Plaintiffs against Defendant Nestor Abreu in his Official and Individual Capacity

122. Plaintiffs incorporate by reference all of the preceding paragraphs as if set forth here in full.

123. Upon information and belief, at all times, Nestor Abreu, Director of Community Development, failed to train, and/or supervise, and/or discipline, and/or condoned the unconstitutional actions of Barbara Grossman, Debra Chaudoin, Michael Donovan, Animal CO Shelly Adorante, Animal CO Eva Boivin, and Code EO Michael Hadden against the Plaintiffs.

124. Defendant Abreu , after being informed of the violation by the Plaintiffs, failed to remedy the wrong.

125. Upon information and belief, Defendant Abreu failed to discipline his subordinates for violating the Plaintiffs' constitutional rights.

126. Defendant Abreu participated directly in the alleged constitutional violations subsequent to the initial violation by allowing continued operation of a policy that caused the complained of constitutional harms.

127. Defendant Abreu effectively created a policy or custom under which unconstitutional practices occurred, or allowed the continuance of such a policy or custom.

128. Defendant Abreu was grossly negligent in training subordinates who committed the wrongful acts.

129. Defendant Abreu was grossly negligent in supervising subordinates who committed the wrongful acts.

130. Defendant Abreu exhibited deliberate indifference to the rights of the Plaintiffs by failing to act on information that unconstitutional acts were occurring.

131. By consciously and deliberately overlooking the acts of misconduct by his subordinates, Defendant Abreu established a custom and practice of condoning and ratifying such misconduct and established a pattern of tolerating constitutional violations among their subordinate officers. The condoning of misconduct was so comprehensive and well-known that subordinates were emboldened to blatantly violate the constitutional rights of persons such as the Plaintiffs.

132. Defendant Abreu, through his custom and practice of encouraging, condoning, tolerating and ratifying constitutional violations by the subordinates Barbara Grossman, Michael Donovan, Debra Chaudoin, Animal CO Shelly Adorante, Animal CO Eva Boivin, and Code EO

Michael Hadden, was deliberately indifferent to the constitutional violations committed by these subordinate Defendants.

133. Based on the customs and practice of condoning, tolerating, and ratifying constitutional violations and failure to adequately train and discipline the subordinate officers who committed constitutional violations, Defendant Abreu is liable for constitutional violations committed by Defendants, and for the damages suffered by Plaintiffs set forth in this Complaint.

134. The mentioned acts of the named Defendant were willful, wanton, malicious and oppressive, justifying the awarding of exemplary and punitive damages.

FIFTH CLAIM FOR RELIEF - 42 U.S.C. §1983

Failure to Train, Supervise, and Discipline Employees

By All Plaintiffs against

Defendant Barbara Grossman in her Official and Individual Capacity

135. Plaintiffs incorporate by reference all of the preceding paragraphs as if set forth here in full.

136. Upon information and belief, at all times, Barbara Grossman, Code Enforcement Manager, failed to train, and/or supervise, and/or discipline, and/or condoned the unconstitutional actions of Debra Chaudoin, Michael Donovan, Animal CO Shelly Adorante, Animal CO Eva Boivin, and Code EO Michael Hadden against the Plaintiffs.

137. Defendant Grossman, after being informed of the violations by the Plaintiffs, failed to remedy the wrong.

138. Upon information and belief, Defendant Grossman failed to discipline her subordinates for violating the Plaintiffs' constitutional rights.

139. Defendant Grossman participated directly in the alleged constitutional violations subsequent to the initial violation by allowing continued operation of a policy that caused the complained of constitutional harms.

140. Defendant Grossman participated directly in the alleged constitutional violations subsequent to the initial violation by encouraging the complained of constitutional harms.

141. Defendant Grossman participated directly in the alleged constitutional violations subsequent to the initial violation by testifying on behalf of and/or supporting her subordinates at hearings.

142. Defendant Grossman effectively created a policy or custom under which unconstitutional practices occurred, or allowed the continuance of such a policy or custom.

143. Defendant Grossman was grossly negligent in training subordinates who committed the wrongful acts.

144. Defendant Grossman was grossly negligent in supervising subordinates who committed the wrongful acts.

145. Defendant Grossman exhibited deliberate indifference to the rights of the Plaintiffs by failing to act on information that unconstitutional acts were occurring.

146. By consciously and deliberately overlooking the acts of misconduct by her subordinates, Defendant Grossman established a custom and practice of condoning and ratifying such misconduct and established a pattern of tolerating constitutional violations among their

subordinate officers. The condoning of misconduct was so comprehensive and well-known that subordinates were emboldened to blatantly violate the constitutional rights of persons such as the Plaintiffs.

147. Defendant Grossman, through her custom and practice of encouraging, condoning, tolerating, and ratifying constitutional violations by the subordinates Debra Chaudoin, Michael Donovan, Animal CO Shelly Adorante, Animal CO Eva Boivin, and Code EO Michael Hadden was deliberately indifferent to the constitutional violations committed by these subordinate Defendants.

148. Based on the customs and practice of condoning, tolerating, and ratifying constitutional violations and failure to adequately train and discipline the subordinate officers who committed constitutional violations, Defendant Grossman is liable for constitutional violations committed by Defendants, and for the damages suffered by Plaintiffs set forth in this Complaint.

149. The mentioned acts of the Defendant were willful, wanton, malicious and oppressive, justifying the awarding of exemplary and punitive damages.

SIXTH CLAIM FOR RELIEF - 42 U.S.C. §1983

Failure to Train, Supervise, and Discipline Employees

All Plaintiffs against

Defendants Debra Chaudoin and Michael Donovan, In their Official and Individual
Capacities

150. Plaintiffs incorporate by reference all of the preceding paragraphs as if set forth here in full.

151. Upon information and belief, at all times, Debra Chaudoin and Michael Donovan failed to train, and/or supervise, and/or discipline, and/or condoned the unconstitutional actions Animal CO Shelly Adorante, Animal CO Eva Boivin, and Code EO Michael Hadden against the Plaintiffs.

152. Defendants Chaudoin and Donovan, after being informed of the violation by the Plaintiffs, failed to remedy the wrong.

153. Upon information and belief, Defendants Chaudoin and Donovan failed to discipline their subordinates for violating the Plaintiffs' constitutional rights.

154. Defendants Chaudoin and Donovan participated directly in the alleged constitutional violations subsequent to the initial violation by allowing continued operation of a policy that caused the complained of constitutional harms.

155. Defendant Chaudoin and Donovan participated directly in the alleged constitutional violations subsequent to the initial violation by encouraging the complained of constitutional harms.

156. Defendant Chaudoin participated directly in the alleged constitutional violations subsequent to the initial violation by testifying on behalf of and/or supporting the actions of Animal CO Shelly Adorante, Animal CO Eva Boivin, and Code EO Michael Hadden at the hearing on May 27, 2010.

157. Defendants Chaudoin and Donovan effectively created a policy or custom under which unconstitutional practices occurred, or allowed the continuance of such a policy or custom.

158. Defendants Chaudoin and Donovan were grossly negligent in training subordinates who committed the wrongful acts.

159. Defendants Chaudoin and Donovan were grossly negligent in supervising subordinates who committed the wrongful acts.

160. Defendants Chaudoin and Donovan exhibited deliberate indifference to the rights of the Plaintiffs by failing to act on information that unconstitutional acts were occurring.

161. By consciously and deliberately overlooking the acts of misconduct by their subordinates, Defendants Chaudoin and Donovan established a custom and practice of condoning and ratifying such misconduct and established a pattern of tolerating constitutional violations among their subordinate officers. The condoning of misconduct was so comprehensive and well-known that subordinates were emboldened to blatantly violate the constitutional rights of persons such as the Plaintiffs.

162. Defendants Chaudoin and Donovan, through their custom and practice of encouraging, condoning, tolerating, and ratifying constitutional violations by subordinates

Animal CO Shelly Adorante, Animal CO Eva Boivin, and Code EO Michael Hadden were deliberately indifferent to the constitutional violations committed by these subordinate Defendants.

163. Based on the customs and practice of condoning, tolerating, and ratifying constitutional violations and failure to adequately train and discipline the subordinate officers who committed constitutional violations, Defendants Chaudoin and Donovan are liable for constitutional violations committed by Defendants, and for the damages suffered by Plaintiffs set forth in this Complaint.

164. The mentioned acts of the named Defendants were willful, wanton, malicious and oppressive, justifying the awarding of exemplary and punitive damages.

SEVENTH CLAIM FOR RELIEF

Negligence

All Plaintiffs against All Defendants

165. Plaintiffs incorporate by reference all of the preceding paragraphs as if set forth here in full.

166. Defendants' acts, omissions, and misconduct alleged in this Complaint constituted a breach of their duty to Plaintiffs to avoid causing the harm alleged and avoid and prevent violations of Plaintiffs' constitutional, statutory, and common law rights.

167. The breach was a substantial factor in causing the injuries and damages suffered by Plaintiffs as alleged.

EIGHTH CLAIM FOR RELIEF

Intentional Infliction of Emotional Distress

All Plaintiffs against All Defendants

168. Plaintiffs incorporate by reference all of the preceding paragraphs as if set forth here in full.

169. At all times mentioned, individual defendants were acting individually and in their official capacity within the course and scope of their employment with the City of Palm Coast.

170. Defendants acted intentionally or recklessly and knew or should have known that emotional distress would likely result.

171. Defendants knew or should have known that their conduct was outrageous, beyond all bounds of decency, utterly intolerable in a civilized community, and violated the Constitutional rights of the Plaintiffs.

172. Defendants' acts were done with malicious and oppressive intent.

173. Defendants' conduct caused emotional distress to both Plaintiffs.

174. The emotional distress was severe, including shock, outrage, grief, loss of sleep, humiliation, anger, worry, and nausea.

NINTH CLAIM FOR RELIEF

Negligent Infliction of Emotional Distress

All Plaintiffs against All Defendants

175. Plaintiffs incorporate by reference all of the preceding paragraphs as if set forth here in full.

176. Defendants acted negligently, intentionally or recklessly, and knew or should have known that emotional distress would likely result.

177. Defendants knew or should have known that their conduct was outrageous, beyond all bounds of decency, utterly intolerable in a civilized community, and violated the Constitutional rights of the Plaintiffs.

178. Defendants' conduct caused emotional distress to both Plaintiffs.

179. The emotional distress was severe, including shock, outrage, grief, loss of sleep, humiliation, anger, worry, and nausea.

TENTH CLAIM FOR RELIEF

Governmental Intrusion on the Plaintiffs' Right of Privacy

and into the Personal Lives of the Plaintiffs

All Plaintiffs against All Defendants

180. Plaintiffs incorporate by reference all of the preceding paragraphs as if set forth here in full.

181. Plaintiffs had a legitimate expectation and right of privacy in their home and its curtilage.

182. Plaintiffs had a right to be left alone and free from governmental intrusion into their private lives.

183. Defendants intruded physically into the private quarters of the Plaintiffs.

184. Defendants permitted and/or condoned and/or photographed the inside of the home of the Plaintiffs.

185. Defendants permitted and/or condoned and/or photographed the private area of the Plaintiffs' backyard.

186. There was no compelling governmental interest warranting the intrusion into the Plaintiffs' privacy.

187. There was no compelling governmental interest warranting repeated visits to, and lingering on or about, the Thomas home.

188. Defendants knew or should have known that their conduct was outrageous, beyond all bounds of decency, utterly intolerable in a civilized community, and violated the Constitutional rights of the Plaintiffs.

ELEVENTH CLAIM FOR RELIEF

Invasion of Privacy

All Plaintiffs against All Defendants

189. Plaintiffs incorporate by reference all of the preceding paragraphs as if set forth here in full.

190. Defendant Animal CO Adorante, Defendant Animal CO Boivin, and Defendant Code EO Hadden entered the Thomas's property without lawful excuse, photographed the

private area of the inside of the Plaintiffs' home, and/or photographed the private area of the Plaintiffs' backyard.

191. All other Defendants permitted and/or condoned and/or encouraged the unlawful physical intrusion on the Plaintiffs privacy.

192. A reasonable person would find the intrusion and invasion of the Plaintiffs' home alarming, outrageous, and objectionable.

TWELFTH CLAIM FOR RELIEF

Negligent Training and Supervision

All Plaintiffs against

City of Palm Coast, Jim Landon, Nestor Abreu, Barbara Grossman, Debra Chaudoin, and

Michael Donovan

193. Plaintiffs incorporate by reference all of the preceding paragraphs as if set forth here in full.

194. Upon information and belief, each of the named defendants failed to train and supervise their subordinates in well-established Constitutional rights and in other law.

195. City of Palm Coast and its supervisory employees owed duties to Plaintiffs to manage their departments, supervise and train their employees, and prevent their employees from committing the misconduct described in this Complaint.

196. Upon information and belief, Jim Landon's subordinates at all relevant times were Defendants Nestor Abreu, Barbara Grossman, Debra Chaudoin, Michael Donovan, Animal CO Shelly Adorante, Animal CO Eva Boivin, and Code EO Michael Hadden.

197. Upon information and belief, Nestor Abreu's subordinates at all relevant times were Defendants Barbara Grossman, Debra Chaudoin, Michael Donovan, Animal CO Shelly Adorante, Animal CO Eva Boivin, and Code EO Michael Hadden.

198. Upon information and belief, Barbara Grossman's subordinates at all relevant times were Defendants Debra Chaudoin, Michael Donovan, Animal CO Shelly Adorante, Animal CO Eva Boivin, and Code EO Michael Hadden.

199. Upon information and belief, Debra Chaudoin's and Michael Donovan's subordinates at all relevant times were Animal CO Shelly Adorante, Animal CO Eva Boivin, and Code EO Michael Hadden.

200. As a result of the named Defendants' negligent failure to train and supervise their subordinates, Plaintiffs suffered violations to their Constitutional rights, emotional distress, governmental intrusion of their privacy, invasion of privacy, and trespass to their land.

THIRTEENTH CLAIM FOR RELIEF

Malicious Prosecution

All Plaintiffs Against All Defendants

201. Plaintiffs incorporate by reference all of the preceding paragraphs as if set forth here in full.

202. All Defendants were involved in the civil proceedings against the Plaintiffs.

203. There was no probable cause for the prosecution of the citations against the Plaintiffs.

204. The civil citation for cruelty to animals was written maliciously where said citation was written after Plaintiff Linda Thomas asserted her constitutional rights.

205. The civil citation for cruelty to animals was written maliciously where Animal CO Adorante reported that no dogs were in distress.

206. The civil citation for the boat located behind the house was written maliciously, where the citation was written after Plaintiff Linda Thomas asserted her constitutional rights.

207. The civil citation for the boat located behind the house could not have been written without violating the Plaintiffs' Fourth amendment Constitutional rights.

208. As the email from Barbara Grossman and the email from Michael Hadden indicate, despite having asserted their Constitutional rights, malicious intent continued through the repeated and continued violations, through and including the seventh visit by Code EO Hadden.

209. Ultimately the Court decided in favor of the Thomases on appeal on all citations.

210. The Court ruled that the Thomas's right to due process was denied during the hearing process where the Code Enforcement Board refused to hear the claim of an illegal search, and relied upon Code EO Hadden and Barbara Grossman.

211. The Court found there was no evidence to support the citation for cruelty to animals or the hearing officer's finding of abandonment, reversing the Order on Final Hearing Dated June 1, 2010.

212. Upon information and belief, Code EO Hadden and Barbara Grossman with knowledge of the illegal search, proceeded to prosecute the citation, never expecting the Thomases to appeal the citation and administrative fees assessed.

213. As a result of the malicious prosecution, the Thomases expended large amounts of time and money to defend themselves, and suffered as explained herein in other paragraphs and claims.

FOURTEENTH CLAIM FOR RELIEF

Defamation

Plaintiff Linda Thomas against Defendant Shelly Adorante

214. Plaintiff incorporates by reference all of the preceding paragraphs as if set forth here in full.

215. Animal CO Adorante reported that no dogs were in distress in the vehicle belonging to the Thomases, that was parked in their driveway.

216. Animal CO Adorante cited Plaintiff Linda Thomas with cruelty to animals after Plaintiff Thomas asserted her constitutional rights.

217. Animal CO Adorante acted with malice.

218. Animal CO Adorante knew that the dogs were not in distress.

219. An accusation of animal cruelty is an accusation that reflects about a person's traits.

220. Upon information and belief, the citation is public information and publicly displayed in the City of Palm Coast offices.

221. Anyone with knowledge of the citation would know that it referred to Plaintiff Linda Thomas as the person allegedly being cruel to animals.

222. The Court found that “[t]here was no evidence adduced at the hearing that the animals were in distress or required water, food, or exercise during the three hours that they remained in the vehicle. To the contrary, Shelly Adorante, witness for the City who issued the citations, testified that ‘The dogs did not appear to be in distress, so I did not take any further action to have them removed.’”

FIFTEENTH CLAIM FOR RELIEF

Trespass to Land

All Plaintiffs against Animal CO Adorante, Animal CO Boivin, and Code EO Hadden

223. Plaintiffs incorporate by reference all of the preceding paragraphs as if set forth here in full.

224. Defendants Adorante, Boivin, and Hadden went onto the Thomas’s property on purpose and deliberately.

225. Defendant Adorante was advised by the Plaintiff Linda Thomas that she had no right to be on the Thomas’s property.

226. Upon information and belief, Defendant Hadden went onto the Thomas’s property on seven different occasions on purpose and deliberately.

227. All entries were without the consent of the Plaintiffs.

228. Entries on the property on February 25, 2010 were made even after the Plaintiff Linda Thomas asserted their rights, and told Animal CO Adorante she had no right to be on the

property in the manner she had advised Plaintiff Thomas that she was purposely and deliberately proceeding.

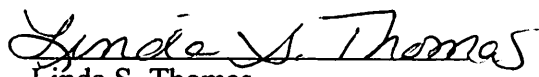
RELIEF REQUESTED

Plaintiffs request judgment against Defendants, and each of them for the following:

1. General and special damages;
2. Punitive and exemplary damages against all Defendants sued in their individual capacities in an amount sufficient to deter and to make an example of each such individual Defendant;
3. Pre and post judgment interest;
4. Attorney fees and costs of suit;
5. Such other relief as this court deems just and equitable.

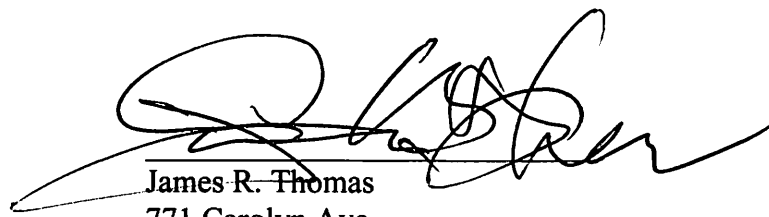
I declare under penalty of perjury that the foregoing statements of fact are true and correct.

Feb. 11, 2014
Date


Linda S. Thomas
72 Smith Trail
Palm Coast, FL 32164
thomases@earthlink.net
904-430-0689
Cell 305-731-9901

I declare under penalty of perjury that the foregoing statements of fact are true and correct.

FEB. 11, 2014
Date


James R. Thomas
771 Carolyn Ave.
Little Torch Key, FL 33042
thomases@earthlink.net
Cell 305-731-4705