

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF FLORIDA
GAINESVILLE DIVISION

CHARLES JAMES GRAPSKI,)
)
Plaintiff,)
v.)
)
CITY OF ALACHUA, FLORIDA,)
a Florida municipal corporation,)
CLOVIS WATSON, JR., individually,)
JEAN CALDERWOOD, individually,)
ROBERT E. JERNIGAN, individually,)
GIB COERPER, individually, and)
PATRICK BARCIA, JR., individually,)
)
Defendants.)
/

CASE NO.:

COMPLAINT
FOR DECLARATORY JUDGMENT, INJUNCTIVE RELIEF
AND DAMAGES

Plaintiff brings this suit pursuant to 42 U.S.C. §1983 seeking a declaratory judgment declaring certain policies, practices and actions of the City of Alachua, and certain of its individual officers and representatives, to be unconstitutional under the First, Fourth and Fourteenth Amendments to the United States Constitution, and the corresponding provisions of the Florida Constitution. Plaintiff further seeks an award of damages arising from those unconstitutional policies, practices and actions.

JURISDICTION

1. This suit is brought pursuant to 42 U.S.C. §1983:

Every 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, any citizen of the United States or

other person within the jurisdiction thereof to the deprivation of any rights, privileges, or immunities secured by the Constitution and laws, shall be liable to the party injured in an action at law, suit in equity, or other proper proceeding for redress...

2. This Court has “Federal Question” jurisdiction pursuant to 28 U.S.C. §1331 to hear cases arising under the Constitution of the United States, under 28 U.S.C. §1343(3) to redress the deprivation under color of state law of any right, privilege or immunity secured by the Constitution, and under 28 U.S.C. §1343(4) to secure equitable or other relief for the protection of civil rights.

3. The Court has the authority to issue declaratory judgments and permanent injunctions pursuant to 28 U.S.C. §§2201 and 2202, and Rule 65, Fed.R.Civ.P.

4. This Court may enter an award of attorney’s fees pursuant to 42 U.S.C. §1988.

5. This Court is authorized to award damages for violation of Plaintiff’s constitutional rights under 42 U.S.C. §1983.

6. This Complaint seeks declaratory and injunctive relief to prevent violations of the Plaintiff’s rights, privileges and immunities under the Constitution of the United States and Title 42 U.S.C. §§1983 and 1988, specifically seeking redress for the deprivation under color of state statute, ordinance, regulation, custom or usage of rights, privileges, and immunities secured by the Constitution and laws of the United States. The rights sought to be protected in this cause of action arise and are secured under the First, Fourth and Fourteenth Amendments to the Constitution.

7. This Court has supplemental jurisdiction over Plaintiff’s state law claims pursuant to 28 U.S.C. §1366.

8. Plaintiff has satisfied the notice requirements of §768.28(6) Fla.Stat. by notifying the Mayor of ALACHUA by letters dated November 22, 2006, in regard to claims arising out of incidents that occurred in 2006, and dated February 19, 2007 and October 12, 2007, in regard to incidents that occurred in 2007.

9. ALACHUA received the notice letter pertaining to 2006 incidents in 2006.

10. ALACHUA received the notice letters pertaining to 2007 incidents in 2007.

VENUE

11. Venue is proper in the Northern District of Florida, Gainesville Division, since the policies and acts complained of are those of the CITY OF ALACHUA, FLORIDA, which is within the district and geographical area assigned to the Gainesville Division.

PARTIES

12. At all times relevant hereto, Plaintiff CHARLES JAMES GRAPSKI (hereinafter referred to as “GRAPSKI”) was a citizen and elector of Alachua County and the State of Florida.

13. At all times relevant hereto, the CITY OF ALACHUA, FLORIDA (hereinafter referred to as “ALACHUA” or the “CITY”) was a Florida municipal corporation established in accordance with Article VIII §2, Florida Constitution or preceding constitutional provisions.

14. At all times relevant hereto, CLOVIS WATSON, JR. (hereinafter referred to as “WATSON”), was City Manager of the City of Alachua. At all relevant times, WATSON was also designated as Alachua’s Police Commissioner. WATSON is sued in

his individual capacity.

15. At all times relevant hereto, ALACHUA had reported to the Florida Department of Law Enforcement that WATSON was employed by ALACHUA as a full time law enforcement officer.

16. At all times relevant hereto, JEAN CALDERWOOD (hereinafter referred to as "CALDERWOOD"), served as a representative of the City of Alachua. At times she held the position of Mayor of the City of Alachua, and at other times she served in the capacity of a City Commissioner of the City of Alachua. CALDERWOOD is sued in her individual capacity.

17. At all times relevant to allegations involving GIB COERPER (hereinafter referred to as "COERPER"), that individual served as Mayor of the City of Alachua. COERPER is sued in his individual capacity.

18. At all times relevant hereto, ROBERT E. JERNIGAN (hereinafter referred to as "JERNIGAN"), was employed by ALACHUA as Chief of Police. JERNIGAN is sued in his individual capacity.

19. At all time relevant hereto, PATRICK BARCIA, JR. (hereinafter referred to as "BARCIA") was a police officer employed by the CITY OF ALACHUA. BARCIA is sued in his individual capacity.

FACTS

20. GRAPSKI is a political and social activist with a keen interest in the governance and operations of the CITY OF ALACHUA.

21. GRAPSKI has led a campaign to foster strict compliance with the public records laws of the State of Florida (Chapter 119) and is particularly interested in what he

believes is the blatant disregard of those laws by ALACHUA. GRAPSKI has submitted frequent public records requests to the CITY on his own behalf and as a principal in a non-profit corporation known as The Open Records Project, Inc.

22. One of GRAPSKI's disputes over the CITY's public records policies and Sunshine Law violations was recently decided substantially in his favor in the landmark case of Grapski v. City of Alachua, 31 So.3d 193, 200 (Fla. 1st DCA 2010).

23. GRAPSKI has also been a vocal critic of the City administration and of certain City personnel, including Defendants WATSON, CALDERWOOD and JERNIGAN. Part of that criticism has centered on the fact that WATSON held a variety of positions in City government in apparent violation of Florida law.

24. GRAPSKI has been a frequent speaker at public hearings including City Commission meetings.

25. GRAPSKI has also been active in political protests and litigation against the CITY OF ALACHUA and various officials of the CITY with respect to the 2006 City election which was marred by voter fraud and widespread procedural irregularities.

26. Plaintiff has a constitutional right to petition government for redress of grievances.

27. Plaintiff has a constitutional right to engage in political speech and to speak with representatives of CITY government on matters of concern to the Plaintiff.

28. Plaintiff has a constitutional right to access public property and public officials on the same terms and conditions as other citizens of ALACHUA.

29. Plaintiff has the right under the Florida Constitution and Florida law to request and access public records.

2006 ARREST – ALLEGED ILLEGAL RECORDING

30. In the spring 2006, GRAPSKI was a candidate for the House of Representatives of the State of Florida in the district that includes the City of Alachua within its constituency.

31. Eileen McCoy, a citizen of Alachua, commenced civil action 06 CA-1590 in the circuit court for the Eighth Judicial Circuit of Florida in and for Alachua County to contest Alachua's 2006 election.

32. An organization in which GRAPSKI was a principal joined as a plaintiff in civil action 06 CA-1590.

33. GRAPSKI and a fellow political activist, Michael Canney, made an appointment with ALACHUA's officials to inspect public records pertaining to the election on April 28, 2006.

34. On April 28, 2006, GRAPSKI and McCoy went to ALACHUA's City Hall for the purpose of inspecting and copying public records pertaining to the 2006 election.

35. ALACHUA's officials denied GRAPSKI's and McCoy's requests to inspect records.

36. GRAPSKI and McCoy went to WATSON's office to request his assistance in inspecting records.

37. GRAPSKI placed a voice recorder in plain view on a table in WATSON's office and took a seat.

38. WATSON arrived and took a seat opposite GRAPSKI.

39. When he entered the office, WATSON saw the recorder on his desk.

WATSON knew that the conversation between GRAPSKI and himself was being recorded on GRAPSKI's recorder.

40. WATSON consented to GRAPSKI's recording the conversation.

41. WATSON's consent is recorded on GRAPSKI's recorder.

42. WATSON scheduled a time on Monday, May 1, 2006 for GRAPSKI and McCoy to return to ALACHUA's City Hall to inspect election records.

43. In the meantime WATSON and GRAPSKI exchanged emails about recording conversations. GRAPSKI stated, clearly and forcefully, that he intended to continue recording conversations with public officials about public business because he had a legal right to do so.

44. WATSON determined that he was going to arrest GRAPSKI and charge him with a crime for having recorded the conversation of April 28, 2006.

45. WATSON knew at the time he made the decision to arrest GRAPSKI that there was no probable cause to arrest GRAPSKI for having recorded the conversation of April 28, 2006, or for any other reason.

46. Sometime between April 28, 2006 and May 1, 2006, WATSON conferred with ALACHUA's Mayor, CALDERWOOD, about his intention to arrest GRAPSKI or have him arrested.

47. Mayor, CALDERWOOD ratified WATSON's decision and informed him that ALACHUA would "back up" WATSON's decision to arrest GRAPSKI.

48. With WATSON's knowledge and consent, GRAPSKI returned to ALACHUA's City Hall on Monday, May 1, 2006, to inspect public records pertaining to the 2006 election.

49. WATSON directed ALACHUA's police chief JERNIGAN to be present on that occasion and to bring additional police officers to arrest GRAPSKI.

50. While GRAPSKI was inspecting public records with WATSON's consent, WATSON arrested GRAPSKI, or directed Chief JERNIGAN to arrest GRAPSKI, on charges that GRAPSKI had illegally recorded the conversation of April 28, 2006 referred to herein.

51. ALACHUA, WATSON and JERNIGAN arrested GRAPSKI against his will and without GRAPSKI's consent.

52. GRAPSKI did not illegally voice record the conversation with WATSON on April 28, 2006

53. WATSON, JERNIGAN and CALDERWOOD had no reasonable grounds or probable cause to arrest or to detain GRAPSKI.

54. No reasonable public official or law enforcement officer could have believed that GRAPSKI violated any law when he recorded the conversation with WATSON on April 28, 2006.

55. WATSON, JERNIGAN, and CALDERWOOD knew that GRAPSKI had not committed a crime in recording the conversation with WATSON on April 28, 2006.

56. GRAPSKI committed no crime when he attempted to inspect public records on May 1, 2006, and no person could have believed that there were any reasonable grounds or probable cause to believe that he did.

57. WATSON made the decision to arrest GRAPSKI while acting as ALACHUA's City Manager. As City Manager, WATSON had the authority to make this decision on behalf of ALACHUA and he made the decision as the final decision making

authority for the CITY.

58. CALDERWOOD ratified WATSON's decision to arrest GRAPSKI and made the decision to provide ALACHUA's support for GRAPSKI's arrest. As Mayor, CALDERWOOD had the authority to make this decision on behalf of ALACHUA and she made the decision as the final decision making authority for the CITY.

59. Against GRAPSKI's consent, ALACHUA's officers handcuffed and physically removed him from ALACHUA's City Hall, transported him to jail in Gainesville, and booked him into the County jail in Gainesville.

60. GRAPSKI was incarcerated in the County jail on May 1, 2006 and remained there until the morning of May 2, 2006.

61. WATSON swore to and signed a complaint against GRAPSKI and filed it with the State Attorney of the Eighth Judicial Circuit of Florida to instigate a prosecution against GRAPSKI. WATSON swore in the complaint that GRAPSKI committed a felony when he recorded the April 28, 2006 conversation between WATSON and GRAPSKI described herein.

62. WATSON initiated this prosecution as ALACHUA's final decision maker with the knowledge and approval of ALACHUA and CALDERWOOD.

63. No reasonable law enforcement officer could have believed that probable cause existed to initiate a prosecution against GRAPSKI on charges that he unlawfully recorded the conversation with WATSON on April 28, 2006.

64. WATSON, or another of ALACHUA's employees or agents, seized GRAPSKI's voice recorder when he was arrested, without a warrant or court order.

65. Based upon the complaint filed by WATSON, the Office of the State

Attorney filed an information against GRAPSKI in case number 2006-CF-002034-A and charged him with the felony crime of illegally recording the April 28, 2006 conversation with WATSON.

66. These charges were without legal merit at the time they were filed.

67. With ALACHUA's knowledge and approval WATSON agreed to testify against GRAPSKI.

68. On November 16, 2006 the case against GRAPSKI came to be tried by jury before the Honorable Aymer Curtin.

69. With ALACHUA's knowledge and approval, WATSON came to the courthouse on November 16, 2006 with the intention of testifying against GRAPSKI.

70. Upon hearing GRAPSKI's pre-trial motion to dismiss, Judge Aymer Curtin dismissed the charges in case number 2006-CF-002034-A against GRAPSKI as being without legal or factual merit.

71. The trial court's order in case number 2006-CF-002034-A was not appealed and is now unappealable.

72. The prosecution against GRAPSKI in case number 2006-CF-002034-A terminated in GRAPSKI's favor.

73. The prosecution that ALACHUA, WATSON, CALDERWOOD and the City's other agents, officers and employees commenced against GRAPSKI was initiated and continued without probable cause and for improper purposes.

74. ALACHUA, WATSON and CALDERWOOD arrested and charged GRAPSKI with a crime with the specific intent and purpose of interfering with GRAPSKI's constitutional rights to inspect ALACHUA's public records; to instruct his

representatives and to petition for redress of grievances guaranteed by Article I, §5 Florida Constitution; to petition for redress of grievances guaranteed by the First and Fourteenth Amendments to the United States Constitution.

75. These actions were taken as part of a calculated and intentional effort to thwart GRAPSKI in his efforts to challenge the CITY's election and to bring attention to improper practices at the CITY.

76. ALACHUA, WATSON and CALDERWOOD arrested and charged GRAPSKI with a crime for the purpose of retaliating against GRAPSKI for having exercised his First Amendment right to join in the suit against ALACHUA to contest Alachua's 2006 election on grounds of misconduct of its officers and officials.

77. As a direct and proximate result of Defendants' unlawful acts related to his May 1, 2006 arrest, GRAPSKI suffered the loss of rights guaranteed to him under the First, Fourth and Fourteenth Amendments to the United States Constitution.

2006 Exclusion from City Hall

78. Notwithstanding his arrest, GRAPSKI continued with his campaign to obtain public records, to actively participate in Alachua politics and to petition the CITY's representatives for needed reforms.

79. GRAPSKI made additional requests to inspect and copy public records pertaining to the 2006 election and other public records maintained by ALACHUA.

80. ALACHUA refused to comply with most of GRAPSKI's subsequent public records requests.

81. In December 2006, GRAPSKI went to the offices of City Attorney Marian B. Rush to make a request to inspect and copy public records of ALACHUA contained in

her office. As City Attorney, Rush was the custodian of the public records which Plaintiff sought and was the proper official to receive GRAPSKI's request pursuant to Chapter 119 of the Florida Statutes.

82. Marian Rush refused to accept GRAPSKI's public records request and contacted the Gainesville Police Department to have GRAPSKI issued a trespass warning to prevent him from making public records requests in her office.

83. Marian Rush sent State Attorney Cervone a message stating that she wanted to see GRAPSKI jailed.

84. On February 12, 2007 GRAPSKI went to ALACHUA's temporary City Hall¹ with citizens Tamara Robbins and Michael Canney for the purpose of inspecting public records and discussing ALACHUA's failure to comply with earlier public records requests.

85. ALACHUA'S record custodian Alan Henderson refused to provide GRAPSKI public records or to permit GRAPSKI to inspect them and refused to discuss GRAPSKI's requests with him. GRAPSKI then requested that WATSON assist him in obtaining the records.

86. WATSON refused to assist GRAPSKI in obtaining access to public records and directed GRAPSKI to leave the City Hall.

87. WATSON had no reason and no legal basis to direct GRAPSKI to leave

¹ The "temporary" City Hall was utilized by the CITY while its permanent facilities were being renovated. During the renovations, the CITY conducted all of its business from the temporary City Hall and those facilities were fully accessible to and by members of the public.

the City Hall.

88. WATSON instructed Chief JERNIGAN to require GRAPSKI to leave the premises.

89. WATSON made the decision to eject GRAPSKI from City Hall while acting as ALACHUA's City Manager. As City Manager, WATSON had the authority to make this decision on behalf of ALACHUA and he made the decision as the final decision making authority for the CITY.

90. GRAPSKI asked JERNIGAN to take his complaint against WATSON, Henderson and ALACHUA for violating Florida's public records laws.

91. JERNIGAN refused to accept GRAPSKI's complaint that WATSON, Henderson and ALACHUA were violating the public records laws of Florida.

92. At JERNIGAN's direction, Alachua police officer Smith gave GRAPSKI a written trespass warning.

93. JERNIGAN and Smith were following WATSON's directions.

94. Officer Smith orally directed GRAPSKI to leave the site of ALACHUA's temporary City Hall and its parking lot and road access.

95. Officer Smith also orally directed GRAPSKI not to return to the designated site of ALACHUA's temporary City Hall for 12 months.

96. WATSON, ALACHUA and its officers and agents excluded GRAPSKI from the premises of ALACHUA's temporary City Hall without probable cause and for improper purposes.

97. While that trespass notice was issued under color of state law and authority, the notice was in fact illegal and void as applied to GRAPSKI.

98. WATSON, JERNIGAN and ALACHUA specifically intended to interfere with GRAPSKI's constitutional rights to inspect ALACHUA's public records; to instruct his representatives and to petition for redress of grievances guaranteed by Article I, §5 Florida Constitution; to petition for redress of grievances guaranteed by the First and Fourteenth Amendments to the United States Constitution; to retaliate against him for having exercised his First Amendment right to join in the suit against ALACHUA to contest Alachua's 2006 election; and to retaliate against him for having prevailed in case number 2006-CF-002034-A they had commenced against him.

99. GRAPSKI's inability to return to ALACHUA's City Hall deprived him of rights guaranteed by the Florida and United States Constitution to inspect ALACHUA's public records, to petition government for redress of grievances and to instruct his representatives.

2007 Arrest at City Commission Meeting

100. At approximately 7:00 P.M. on February 12, 2007, GRAPSKI went to the elementary school in the City of Alachua where the ALACHUA's City Commission had convened in a regular public meeting.

101. This is a different premises from the site of ALACHUA's temporary City Hall designated in the trespass warning referred to hereinabove.

102. As a citizen and elector, GRAPSKI had a constitutional right guaranteed by Article I §24 Florida Constitution and the First Amendment to the United States Constitution to attend ALACHUA's City Commission meeting.

103. As a citizen and elector GRAPSKI had a constitutional right to attend ALACHUA's city commission meeting to instruct his representatives and to seek redress

of grievances guaranteed by Article I §5 Florida Constitution and by the First and Fourteenth Amendments to the United States Constitution.

104. The City Commission routinely sets aside time at its public meetings for citizen comments on topics of concern to members of the public, including issues which do not appear on the meeting agenda.

105. During the period of the meeting allocated for citizen comment, GRAPSKI addressed ALACHUA's City Commission about the ongoing refusal of ALACHUA's employees and officials to respond to his public records requests.

106. GRAPSKI also addressed ALACHUA's City Commission about the then-pending law suit challenging Alachua's 2006 election.

107. GRAPSKI handed CALDERWOOD, WATSON and City Attorney Rush a copy of a letter pertaining to the requests he had made to ALACHUA's officials for public records.

108. Mayor CALDERWOOD admonished GRAPSKI with what she referred to as a "final warning" for being "disruptive."

109. GRAPSKI returned to his seat in the front row of the public audience.

110. GRAPSKI remained in his seat until he was forcibly removed against his consent by ALACHUA's police officials as described hereinbelow.

111. Persons in the audience sitting behind GRAPSKI made comments to him and about him.

112. GRAPSKI turned in his chair without arising and in a soft voice offered to hand the persons sitting behind him a copy of the letter he had provided ALACHUA's officials to permit these persons to review it for themselves.

113. These persons indicated they did not wish to review the documents GRAPSKI proffered to them.

114. Without more, GRAPSKI retained the document and silently returned his attention to the podium.

115. GRAPSKI did not rise from his seat, did not raise his voice, did not interfere with or disrupt any speaker, and did not otherwise disturb the meeting.

116. GRAPSKI did not voluntarily interfere with the continuation of the meeting.

117. As GRAPSKI was addressing the individuals sitting behind him, other members of the audience were also speaking to one another. GRAPSKI's actions, attitude and speaking voice were no different than any other member of the audience attending the meeting.

118. Without provocation or probable cause, Mayor CALDERWOOD summarily singled out GRAPSKI and accused him of disrupting the meeting.

119. Mayor CALDERWOOD ordered Chief of Police JERNIGAN to make GRAPSKI leave the meeting.

120. GRAPSKI had a right to attend the meeting guaranteed by Article 1 §§5 and 24 Florida Constitution, and the First and Fourteenth Amendments to the United States Constitution, and Mayor CALDERWOOD had no reason, justification or probable cause to remove him.

121. Calderwood's order to have GRAPSKI removed from the ALACHUA Commission meeting was void and invalid when issued by the CITY as a violation of Plaintiff's constitutional right to petition the government for redress of grievances.

122. GRAPSKI retained his seat.

123. Mayor CALDERWOOD again directed Chief JERNIGAN to force GRAPSKI to leave the meeting.

124. As Mayor, CALDERWOOD had the authority to make this decision on behalf of ALACHUA and she made the decision to have GRAPSKI removed from the meeting as the final decision making authority for the CITY.

125. Chief JERNIGAN approached GRAPSKI where he was seated.

126. GRAPSKI maintained his seat and voluntarily and peaceably held up his hands together so that the police could seize them if they chose to do so.

127. Chief JERNIGAN placed handcuffs on GRAPSKI's upheld hands and ordered two of ALACHUA's police officers to remove him from the meeting.

128. ALACHUA's police officers did physically remove GRAPSKI from the building.

129. WATSON stepped down from the dais and as ALACHUA's Police Commissioner and City Manager oversaw Chief JERNIGAN and his officers as they physically removed GRAPSKI from the meeting.

130. JERNIGAN and ALACHUA's officers physically battered and removed GRAPSKI from ALACHUA's City Commission meeting with force and violence and against GRAPSKI's will and consent, thereby causing GRAPSKI to suffer pain, physical injury and humiliation.

131. On information and belief, GRAPSKI alleges that no other citizens have been forcibly removed from an ALACHUA City Commission meeting in the manner in which GRAPSKI was removed, nor has any other citizen been arrested for disrupting a

meeting of the City Commission.

132. GRAPSKI did not resist the wrongful removal and arrest and did not engage in or threaten violence of any kind.

133. GRAPSKI remained passive through his arrest. Because he did not get up from his seat following his handcuffing and arrest, ALACHUA officers picked him up and dragged him from the meeting.

134. At one point, ALACHUA's officers dropped GRAPSKI on concrete causing GRAPSKI to suffer pain; GRAPSKI's limbs jerked reflexively in the officers' grasp as a consequence of being dropped to the ground.

135. When out of sight of the audience, Chief JERNIGAN ordered one of the officers to "Taser" GRAPSKI if he did not stand up.

136. GRAPSKI had done nothing to justify using the Taser against him and ALACHUA's officers knew it. GRAPSKI was at that time restrained and was not resisting his unlawful arrest in any way.

137. GRAPSKI was terrified that he would be assaulted with a Taser as a result of JERNIGAN's order that the device be used against him and GRAPSKI's fear of being "Tasered" was reasonable under the circumstances.

138. ALACHUA's officers did not obey Chief JERNIGAN's order to "Taser" GRAPSKI.

139. WATSON was present during the entire time ALACHUA's officers were removing GRAPSKI from the public meeting, including when JERNIGAN ordered the officers to "Taser" GRAPSKI if he did not stand up. WATSON supervised and oversaw ALACHUA's officials when they arrested GRAPSKI and removed him from the

meeting.

140. As ALACHUA's City Manager and Police Commissioner WATSON had the authority to make the decision to arrest and charge GRAPSKI on behalf of ALACHUA and he made these decisions as the final decision making authority for the CITY.

141. WATSON did not countermand JERNIGAN's order to "Taser" GRAPSKI.

142. JERNIGAN arrested GRAPSKI and charged him with trespass after warning, disorderly conduct, resisting arrest without violence, and resisting arrest with violence.

143. GRAPSKI committed no crime and is innocent of all charges.

144. No reasonable police officer could have believed that GRAPSKI had committed any crime under these facts and circumstances.

145. ALACHUA's police officers kept handcuffs on GRAPSKI until they booked him into jail about two hours later, on February 12, 2007.

146. On February 12, 2007, JERNIGAN swore to and executed a criminal complaint against GRAPSKI and filed it with the State Attorney of the Eighth Judicial Circuit of Florida.

147. JERNIGAN's complaint charged GRAPSKI with disorderly conduct, resisting arrest with violence, resisting arrest without violence, and trespass based upon the incident described above.

148. As ALACHUA's Chief of Police JERNIGAN had the authority to make this decision on behalf of ALACHUA and he made the decision to charge GRAPSKI as

the final decision making authority for the CITY.

149. No reasonable police officer could have believed that grounds existed for initiating a prosecution on these charges against GRAPSKI.

150. GRAPSKI remained incarcerated in jail until about 3:00 P.M. on February 13, 2007.

151. The sworn complaint made by ALACHUA and JERNIGAN, and the arrest of GRAPSKI, were made without probable cause and for improper purposes.

152. WATSON, CALDERWOOD, JERNIGAN and ALACHUA specifically intended to interfere with GRAPSKI's constitutional rights to inspect ALACHUA's public records; to instruct his representatives and to petition for redress of grievances guaranteed by Article I §5 Florida Constitution; to petition for redress of grievances guaranteed by the First and Fourteenth Amendments to the United States Constitution; to retaliate against him for having exercised his First Amendment right to join in the suit against ALACHUA to contest Alachua's 2006 election; and to retaliate against him for having prevailed in case number 2006-CF-002034-A they had commenced against him.

153. By letter dated February 19, 2007, GRAPSKI informed the City of Alachua that he intended to sue the ALACHUA, JERNIGAN and CALDERWOOD for unlawful arrest committed against him on February 17, 2007.

154. By letter dated March 1, 2007 JERNIGAN, acting for ALACHUA, provided State Attorney Bill Cervone a portfolio of several hundred pages outlining occasions in which GRAPSKI and Michael Canney (a party to the election law suit against ALACHUA) had attempted to obtain public records from ALACHUA and its employees and officials.

155. WATSON approved JERNIGAN's actions in collecting this information and providing it to the State Attorney.

156. By letter of March 1, 2007 JERNIGAN, acting for ALACHUA, provided the Sheriff of Alachua County a portfolio of several hundred pages outlining occasions in which GRAPSKI and Michael Canney had attempted to obtain public records from ALACHUA and its employees and officials.

157. WATSON approved JERNIGAN's actions in collecting this information and providing it to the Sheriff.

158. JERNIGAN and WATSON provided this information to the State Attorney and the Sheriff, in an effort to pressure the authorities to prosecute GRAPSKI without probable cause and for improper purposes. In particular, the CITY, JERNIGAN and WATSON intended to interfere with GRAPSKI's constitutional rights to attend ALACHUA City Commission meetings; to inspect ALACHUA's public records; to instruct his representatives and to petition for redress of grievances guaranteed by Article I §5 Florida Constitution; to petition for redress of grievances guaranteed by the First and Fourteenth Amendments to the United States Constitution; to retaliate against GRAPSKI for having exercised his First Amendment right to join in the suit against ALACHUA to contest Alachua's 2006 election; and to retaliate against him for having prevailed in case number 2006-CF-002034-A they had commenced against him.

159. The State Attorney filed no information against GRAPSKI arising from the charges of trespass, disruption and resisting arrest, and the initiated prosecution against GRAPSKI terminated in his favor.

Second Removal from City Commission Meeting

160. On Friday, August 3, 2007 GRAPSKI deposited a check for more than \$700 in his account in his bank account in the Millennium Bank branch in Alachua.

161. On Sunday August 5, 2007 at about 10:00 pm, GRAPSKI bought gasoline at a Kangaroo gasoline and convenience store in Alachua.

162. GRAPSKI gave his check to the attendant in the amount of \$40 and a few cents to pay for the gas he had purchased.

163. Ultimately, the Kangaroo station operator deposited GRAPSKI's check and GRAPSKI's bank paid it.

164. On August 5, 2007 Kangaroo's electronic service did not inform Kangaroo that GRAPSKI had made the deposit on August 3 and did not guarantee the check. However, the check was never dishonored by the bank and was paid when properly presented in the ordinary course of business and in accordance with the bank's usual policies and procedures.

165. The Kangaroo attendant called an Alachua police officer to complain.

166. An Alachua police officer investigated and filed APD Offense Event Report 2007008289, which concluded: "No charges are being filed and there is no further information to report."

167. On the evening of Monday, August 6, 2007, GRAPSKI attended ALACHUA's City Commission meeting.

168. During the citizens' comment period, a local citizen, Robert Sharpe, told ALACHUA's City Commission that GRAPSKI was guilty of passing bad checks and asked the Commission to prevent GRAPSKI from addressing the Commission.

169. Sharpe's allegation arose from the incident at the Kangaroo station of the night before. Sharpe's allegation was factually incorrect and baseless.

170. After all other speakers had concluded and before the citizens' comments portion of the meeting was closed, GRAPSKI rose to make a point of order in the way of reply to Sharpe's false allegations against him.

171. GRAPSKI was speaking during a time specifically reserved for citizen comment and had the right to address the Commission at that time. GRAPSKI did not act in a disruptive manner, did not threaten or disparage the Mayor, the Commission or any members of the audience, and he otherwise acted with appropriate decorum.

172. GIB COERPER, who was then serving as Mayor of ALACHUA, peremptorily directed JERNIGAN to remove GRAPSKI from the meeting.

173. As Mayor, COERPER had the authority to make this decision on behalf of ALACHUA and he made the decision to have GRAPSKI removed from the meeting as the final decision making authority for the CITY.

174. GRAPSKI left the meeting under protest to avoid being arrested again.

175. GRAPSKI had a right to attend the meeting guaranteed by Article 1 §§5 and 24 Florida Constitution and the First and Fourteenth Amendments to the United States Constitution and Mayor COERPER had no reason, justification or probable cause to remove him.

176. No reasonable public official or police officer could have believed that grounds existed for forcibly removing GRAPSKI from the public meeting.

177. GRAPSKI has been effectively banned from speaking to the CITY Commission at public meetings as a consequence of his several arrests, the issuance of

trespass notices and his ejection from public meetings.

2007 Arrest for Filing Complaint Against Jernigan

178. On Tuesday, August 7, 2007, Sharpe filed a complaint against GRAPSKI with the ALACHUA police department pertaining to the Kangaroo gas station incident in which Sharpe claimed to be acting as a “concerned citizen.”

179. A second Alachua officer investigated the Kangaroo station incident and made a second report, which concluded: “This incident was a follow up to CR#2007008223. No further action shall be taken by this officer regarding this incident.”

180. GRAPSKI became aware that defamatory details about the Kangaroo incident were being posted on the Internet. Because some of the details were not public knowledge, GRAPSKI concluded that officers with the ALACHUA police department were responsible for “leaking” that information.

181. On the morning of Wednesday, August 8, 2007, GRAPSKI went to the offices of the ALACHUA police department and requested a meeting with then-Deputy Chief Reiter to discuss the sources of the information about the Kangaroo station incident that had begun appearing on the Internet.

182. Reiter informed GRAPSKI regarding the procedure for making a complaint and provided GRAPSKI a brochure about the process.

183. Reiter agreed to make inquiries about GRAPSKI’s complaint and obtained information about it.

184. Despite the previous two police investigations which had concluded that GRAPSKI had not issued a bad check and had not committed any crime, Chief JERNIGAN obtained copies of both CR#2007008223 and CR#2007008224 and made his

own investigation of this \$40 check incident.

185. There was no legitimate police purpose for the third investigation undertaken by JERNIGAN. The official police investigations had already concluded with a finding that no crime had been committed and there was no reasonable basis or probable cause to believe that additional investigation would lead to a contrary conclusion.

186. JERNIGAN undertook this investigation solely to uncover private information regarding GRAPSKI in an effort to embarrass and discredit GRAPSKI in the public eye.

187. On August 8, 2007 JERNIGAN obtained GRAPSKI's check from the Kangaroo station without a warrant and without a subpoena.

188. JERNIGAN telephoned the Millennium Bank in Alachua, spoke to a bank employee, identified himself as a police officer, and without a warrant and without a subpoena, obtained personal financial information concerning GRAPSKI's bank account.

189. GRAPSKI did not authorize Millennium Bank to permit JERNIGAN or ALACHUA to inspect or be informed of his financial records.

190. Despite documentation to the contrary, Chief JERNIGAN filed report CR#2007008223 in which he stated that GRAPSKI's check was not good on August 5, 2007. However, JERNIGAN's report CR#2007008223 also concluded: "This case is closed."

191. At some time on or before Friday, September 10, 2007 JERNIGAN gave the police reports about the Kangaroo matter to WATSON.

192. It was not JERNIGAN's usual practice to inform WATSON about an

investigation of a \$40.00 bad check complaint that proved groundless and JERNIGAN did so only because the false complaint had been made against GRAPSKI.

193. WATSON then provided the police reports pertaining to the Kangaroo incident to the members of the ALACHUA City Commission, including CALDERWOOD.

194. It was not WATSON's usual practice to inform ALACHUA City Commission about an investigation of a \$40.00 bad check complaint that proved groundless and WATSON did so only because the false complaint had been made against GRAPSKI.

195. On Friday, August 10, 2007, Saturday, August 11, 2007, and Sunday, August 12, 2007 Hugh Calderwood (the former Mayor and current Commissioner's husband), posted on the Internet information about GRAPSKI he took from Chief JERNIGAN's report, including information JERNIGAN obtained from his unauthorized contacts with Millennium Bank.

196. GRAPSKI was alarmed and upset both by the CITY's access to his personal financial information and by the posting of false and defamatory materials on the Internet incorporating information leaked by CITY personnel.

197. On Monday morning, August 13, 2007 GRAPSKI went to the ALACHUA police station at about 9:30 A.M. to obtain the police reports pertaining to the Kangaroo incident. This was the first time GRAPSKI learned of the third investigation conducted by JERNIGAN after the formal police investigations had already been concluded.

198. At about 10:30 am on August 13, 2007, GRAPSKI returned to the ALACHUA police station to file an official complaint against the ALACHUA police

department and Chief JERNIGAN regarding the unauthorized access to and use of his personal financial information.

199. GRAPSKI entered the public lobby and requested to speak with JERNIGAN to make a complaint.

200. JERNIGAN initially avoided speaking with GRAPSKI.

201. GRAPSKI then requested that he be permitted to speak to the second in command for the purpose to making a complaint against JERNIGAN and others involved in wrongfully accessing his bank records.

202. GRAPSKI was told to wait in the lobby and did so for about 20 minutes.

203. GRAPSKI sat quietly and did nothing to disturb the business of the police headquarters or the members of the public present.

204. In the meantime, JERNIGAN informed WATSON that GRAPSKI had come to the police station to make a complaint and requested instructions. On information and belief, GRAPSKI alleges that WATSON instructed JERNIGAN to refuse GRAPSKI's request to file a complaint and directed JERNIGAN to remove GRAPSKI from the premises.

205. JERNIGAN then appeared in the public lobby, asked GRAPSKI to accompany him outside the building onto the sidewalk in front of the entrance into the public lobby.

206. When outside on the sidewalk in front of the public lobby, GRAPSKI requested JERNIGAN to accept an official complaint against JERNIGAN or the ALACHUA personnel responsible for obtaining unauthorized information from Millennium Bank.

207. JERNIGAN refused to accept GRAPSKI's complaint about himself or anyone else and refused to let him make a written complaint with any other ALACHUA employee.

208. GRAPSKI continued to insist that he had a right to file a complaint with the department against JERNIGAN and asked JERNIGAN to permit him to speak with the second in charge if JERNIGAN would not accept his complaint.

209. During this conversation JERNIGAN accepted a telephone call from WATSON at which time WATSON instructed JERNIGAN to refuse to accept GRAPSKI's complaint and to remove him from the premises.

210. After speaking with WATSON, JERNIGAN refused to accept GRAPSKI's complaint and advised GRAPSKI that no official with the CITY would accept a complaint from him.

211. Chief JERNIGAN re-entered the public lobby of the police department building and physically locked GRAPSKI out of the public building.

212. The building was otherwise open to the public for business.

213. Several citizens were inside the public lobby conducting their public business at the time.

214. JERNIGAN singled out GRAPSKI and only GRAPSKI for exclusion from the public building.

215. GRAPSKI knocked on the door and asked to be permitted to file a complaint against JERNIGAN and others involved.

216. JERNIGAN and Alachua police officer BARCIA came out of the public lobby onto the sidewalk where GRAPSKI was standing.

217. BARCIA is the son of CALDERWOOD.

218. GRAPSKI again asked to file a complaint against JERNIGAN and others involved.

219. JERNIGAN again refused.

220. BARCIA asked JERNIGAN, "Is he under arrest yet?"

221. GRAPSKI turned to JERNIGAN, asked if he were under arrest, and held his hands together offering to be handcuffed.

222. GRAPSKI made no threatening or aggressive act of any kind whatsoever.

223. JERNIGAN, BARCIA and another ALACHUA officer then arrested GRAPSKI. During the course of the arrest, JERNIGAN and BARCIA intentionally seized, attacked and battered GRAPSKI without his consent and without probable cause.

224. JERNIGAN arrested GRAPSKI on a charge of trespass.

225. JERNIGAN knew that GRAPSKI had committed no crime and that no reasonable basis existed to believe that he had committed a crime.

226. JERNIGAN had no valid reason to arrest GRAPSKI on any charge and no reason to batter him.

227. BARCIA had no reason to arrest and batter GRAPSKI.

228. No reasonable police officer could have believed that any reason existed to arrest GRAPSKI and no officer could have believed that there was any basis to seize, attack and batter GRAPSKI, who had committed no crime and who did not resist in any way.

229. As Chief of Police, JERNIGAN had the authority to make the decision to arrest GRAPSKI and to take him physically into custody, and he made the decision to

arrest GRAPSKI and take him into custody as the final decision making authority for the CITY.

230. JERNIGAN took these actions with WATSON's knowledge and approval.

231. This arrest made by ALACHUA, JERNIGAN and the City's other agents, officers and employees was made without probable cause and for improper purposes.

232. JERNIGAN and BARCIA arrested and charged GRAPSKI with a crime with the specific intent and purpose of interfering with GRAPSKI's constitutional rights to instruct his representatives and to petition for redress of grievances guaranteed by Article I §5 Florida Constitution; to petition for redress of grievances guaranteed by the First and Fourteenth Amendments to the United States Constitution; to retaliate against him for having exercised his first amendment right to join in the suit against ALACHUA to contest Alachua's 2006 election; to retaliate against him for having prevailed in case number 2006-CF-002034-A they had commenced against him; and to retaliate against GRAPSKI for trying to file a complaint against JERNIGAN and other officers of the CITY.

233. Immediately after his arrest, ALACHUA officers took GRAPSKI to a hospital emergency room for treatment for injuries he received as a result of the battery committed by JERNIGAN and BARCIA.

234. ALACHUA officers then took GRAPSKI to the Alachua County jail and booked him into the jail on various charges arising out of the incident described in the preceding paragraphs.

235. Ultimately, GRAPSKI was taken to the North Florida Regional Hospital in Gainesville for treatment of the injuries inflicted upon him stemming directly from his

arrest and battery and proximately arising from his subsequent incarceration.

236. GRAPSKI was near death and remained hospitalized under the guard of a correctional officer for several days.

237. GRAPSKI was incarcerated for two weeks immediately after the arrest and, with some intervening periods of release, was subsequently incarcerated for 105 days, followed by additional sporadic days of incarceration.

238. JERNIGAN and ALACHUA initiated a criminal prosecution against GRAPSKI by filing a complaint with the State Attorney of the Eighth Judicial Circuit charging GRAPSKI with trespass, resisting arrest with violence, battery on JERNIGAN, BARCIA, and on Alachua police officer Lattimer.

239. JERNIGAN initiated this prosecution as ALACHUA's final decision maker and did so with WATSON's approval.

240. Based upon ALACHUA and JERNIGAN's complaint against GRAPSKI, the State Attorney filed an information in case number 01-2007-CF-003672A charging GRAPSKI *inter alia* with trespass on land after warning, resisting an officer with violence, battery upon an officer (meaning JERNIGAN), battery on officer BARCIA, and battery upon officer Lattimer.

241. On November 13, 2009 a jury acquitted GRAPSKI of the charges of trespass on land after warning, resisting an officer (JERNIGAN) with violence, and battery upon JERNIGAN.

242. ALACHUA and JERNIGAN's initiation of prosecution against GRAPSKI on charges of trespass to land after warning, resisting an officer with violence, and battery upon JERNIGAN was done without probable cause and for an improper purpose.

243. No reasonable police officer could have believed that probable cause existed to initiate a prosecution against GRAPSKI on these charges. In particular, the initial basis for arrest – an alleged trespass after warning – was entirely pretextual and without legal foundation.

COLOR OF STATE LAW

244. As a political subdivision of the State of Florida, organized and operating under the laws of the State of Florida, ALACHUA and its agents, including WATSON, CALDERWOOD, JERNIGAN, COERPER, and BARCIA, were, and are, acting under color of state law and authority.

245. The actions and policies of ALACHUA, WATSON, CALDERWOOD, JERNIGAN, COERPER, and BARCIA have deprived and will continue to deprive Plaintiff of rights guaranteed and protected by the First, Fourth and Fourteenth Amendments to the United States Constitution and by the corresponding provisions of the Florida Constitution.

246. The several arrests of the Plaintiff, and his repeated removals from public meetings and the halls of Government, are not isolated events but are part of an intentional and calculated campaign to deprive Plaintiff of his constitutional rights.

247. The individual Defendants, while acting in their capacity as officers, employees and agents of the CITY OF ALACHUA have conspired among themselves to bring about the repeated arrest of the Plaintiff and his exclusion from public meetings to punish him for his political activities and for his efforts to seek relief through the Courts of this State.

248. Defendants have also used physical force and intimidation to literally beat

Plaintiff into submission. Plaintiff has been physically assaulted - and even threatened with a Taser - for passive and lawful resistance to false and pretextual criminal charges.

249. The crimes of which Plaintiff has been accused are entirely pretextual and the Defendants knew that there was no basis in law or fact to arrest and charge Plaintiff with any crime.

250. The arrests and prosecutions complained of in this litigation have all been resolved in Plaintiff's favor.

DAMAGES AND ATTORNEY'S FEES

251. As a direct and proximate result of Defendants' unlawful acts, GRAPSKI has suffered the loss of rights guaranteed to him under the First, Fourth and Fourteenth Amendments to the United States Constitution and the associated rights protected under the Florida Constitution.

252. Plaintiff's Fourth Amendment rights were violated by the unconstitutional seizure of his person and property, his unlawful arrest and detention, and the malicious prosecution of false criminal charges.

253. Plaintiff has been deprived of his First Amendment right to engage in free expression and to petition the government for redress of his grievances.

254. In addition to the loss of his constitutional rights, Plaintiff experienced physical and emotional injuries, pain and discomfort, embarrassment and humiliation, psychological harm and monetary losses.

255. Plaintiff also suffered injury to his reputation due to the concerted effort by the CITY and its officers, employees and agents, to leak false and defamatory information about him, to publicize the several false arrests of the Plaintiff and to

criticize him publicly for his advocacy of constitutional rights and the right of the public to participate in government.

256. The arrest, incarceration and prosecution of GRAPSKI also forced him to withdraw his candidacy from the election for State Representative and disrupted his pursuit of an advanced degree at the University of Florida.

257. The individual Defendants engaged in a concerted campaign to deprive Plaintiff of his First Amendment rights in violation of the United States Constitution and to subject him to physical assault and emotional trauma through repeated arrests without probable cause or even a reasonable belief that a crime had been committed. Plaintiff's right to participate as a citizen in the political process, to air his political views, to seek redress of grievances and to otherwise engage in his rights as a citizen of this democracy are basic rights guaranteed by the Constitution and long recognized in our jurisprudence. Defendants' actions in violating Plaintiff's well-established rights are completely unacceptable in a constitutional republic and should subject the individual Defendants to punitive damages.

258. Plaintiff has retained JOSEPH W. LITTLE and GARY S. EDINGER as his attorneys to represent them in this action and has agreed to pay them a reasonable fee, which fee Defendants must pay pursuant to 42 U.S.C. §1988.

COUNT I - DECLARATORY JUDGMENT

(Right to Free Speech – Federal First Amendment)

259. Plaintiff realleges the allegations set forth in paragraphs 1 through 258, and incorporates those allegations in this Count by reference.

260. This is an action for declaratory relief against Defendants CITY OF

ALACHUA, CLOVIS WATSON, JR., JEAN CALDERWOOD, ROBERT E. JERNIGAN, and GIB COERPER to determine whether their repeated arrests of the Plaintiff and other efforts to thwart his political activities violate Plaintiff's rights under the First and Fourteenth Amendments to freedom of speech.

261. The First Amendment to the United States Constitution states that "Congress shall make no law... abridging the freedom of speech..."

262. A continuing controversy has arisen between the parties concerning Plaintiff's rights to free speech on matters of public, political and individual concern.

263. Plaintiff has been repeatedly arrested by the Defendants when attempting to review public records and when speaking before the ALACHUA City Commission. Despite those arrests and the repeated violation of his constitutional rights, Plaintiff intends to continue his activism and will redouble his efforts to secure public records and to bring to the attention of his fellow citizens the wrongdoing and improper policies of CITY government and its officials.

264. Plaintiff is threatened with further arrests and is in doubt whether he will ever be permitted to speak again before the ALACHUA Commission. Those fears are not speculative, but are well-founded both in the long history of disputes between these parties and by the fact that the CITY and its officials have actively conspired to violate Plaintiff's constitutional rights through a campaign of harassment, false arrests, physical battery and public condemnation of Plaintiff's character.

265. Plaintiff maintains that his arrests were and are unlawful and were undertaken without probable cause or reasonable belief that he had committed any crime; all such charges being pretextual and in furtherance of the Defendants' efforts to silence

and intimidate the Plaintiff and to deny him the ability to speak freely.

266. Likewise the repeated removal of the Plaintiff from City Commission meetings is unlawful and in furtherance of the Defendants' efforts to silence and intimidate the Plaintiff and to deny him the ability to speak freely.

267. Plaintiff has suffered damages as a result of the violation of his constitutional rights.

268. Plaintiff has a right to have this Court declare his rights under the First and Fourteenth Amendments as those rights are infringed upon by the Defendants' actions, policies and procedures.

269. Plaintiff asserts that his position, set forth in this Complaint, is legally sound and supported by fact and law. However, the Defendants' policies, practices and actions, have created a *bona fide* controversy between the parties, and Plaintiff is in doubt as to his rights, privileges and immunities. Plaintiff requires, therefore, a declaratory judgment declaring his rights, privileges and immunities.

WHEREFORE, Plaintiff prays for the following relief:

A. That this Court take jurisdiction over the parties and this cause;

B. That the Court find and declare that Defendants engaged in a concerted effort to silence and censor Plaintiff's speech through a campaign of harassment, false arrests, physical battery and public condemnation of Plaintiff's character, all in violation of the First Amendment to the United States Constitution.

C. That the Court declare that GRAPSKI's arrest on May 1, 2006 was illegal and violated Plaintiff's right of free speech under the First Amendment because that arrest was pretextual and was used to further the Defendants' campaign to silence and

ensor Plaintiff's speech.

D. That the Court declare that GRAPSKI's arrest on February 12, 2007 was illegal and violated Plaintiff's right of free speech under the First Amendment because that arrest was pretextual and was used to further the Defendants' campaign to silence and censor Plaintiff's speech.

E. That the Court declare that GRAPSKI's arrest on August 13, 2007 was illegal and violated Plaintiff's right of free speech under the First Amendment because that arrest was pretextual and was used to further the Defendants' campaign to silence and censor Plaintiff's speech.

F. That the Court declare that the trespass warnings issued against GRAPSKI were invalid when issued and were illegal orders.

G. That the Court declare that the prosecution of GRAPSKI on the arrest of May 1, 2006, that terminated in GRAPSKI's favor on November 16, 2006, was malicious and without probable cause and was used to further the Defendants' campaign to silence and censor Plaintiff's speech in violation of the First Amendment.

H. That this Court award Plaintiff money damages against all Defendants for infringement of his constitutional rights pursuant to 42 U.S.C. §1983, and for injury to his person.

I. That this Court award Plaintiff punitive damages against Defendants CLOVIS WATSON, JR., JEAN CALDERWOOD, ROBERT E. JERNIGAN, and GIB COERPER, individually, to punish those individual Defendants for their unlawful actions and to deter those individual Defendants and others from engaging in the same or similar acts in the future.

J. That this Court award Plaintiff his recoverable costs, including a reasonable attorney's fee pursuant to 42 U.S.C. §1988, against all Defendants.

K. That this Court award Plaintiff all other relief in law and in equity to which he may be entitled.

COUNT II - DECLARATORY JUDGMENT

(Right to Petition – Federal First Amendment)

270. Plaintiff realleges the allegations set forth in paragraphs 1 through 258, and incorporates those allegations in this Count by reference.

271. This is an action for declaratory relief against Defendants CITY OF ALACHUA, CLOVIS WATSON, JR., JEAN CALDERWOOD, ROBERT E. JERNIGAN, and GIB COERPER to determine whether their repeated arrests of the Plaintiff and other efforts to thwart his political activities violate Plaintiff's rights under the First and Fourteenth Amendments.

272. The First Amendment to the United States Constitution guarantees to the Plaintiff the right "to petition the Government for a redress of grievances".

273. A continuing controversy has arisen between the parties concerning Plaintiff's rights to petition the government on matters of public, political and individual concern.

274. Plaintiff has been repeatedly arrested by the Defendants when attempting to review public records and when speaking before the ALACHUA City Commission. Despite those arrests and the repeated violation of his constitutional rights, Plaintiff intends to continue his activism and will redouble his efforts to secure public records and to bring to the attention of his fellow citizens the wrongdoing and improper policies of

CITY government and its officials.

275. Plaintiff is threatened with further arrests and is in doubt whether he will ever be permitted to speak again before the ALACHUA Commission. Those fears are not speculative, but are well-founded both in the long history of disputes between these parties and by the fact that the CITY and its officials have actively conspired to violate Plaintiff's constitutional rights through a campaign of harassment, false arrests, physical battery and public condemnation of Plaintiff's character.

276. Plaintiff maintains that his arrests were and are unlawful and were undertaken without probable cause or reasonable belief to believe that he had committed any crime; all such charges being pretextual and in furtherance of the Defendants' efforts to silence and intimidate the Plaintiff and to physically deny him the ability to petition the government for redress of his grievances.

277. Likewise the repeated removal of the Plaintiff from City Commission meetings is unlawful and in furtherance of the Defendants' efforts to silence and intimidate the Plaintiff and to deny him the ability to petition the government for redress of his grievances.

278. Plaintiff has suffered damages as a result of the violation of his constitutional rights.

279. Plaintiff has a right to have this Court declare his rights under the First, and Fourteenth Amendments as those rights are infringed upon by the Defendants' actions, policies and procedures.

280. Plaintiff asserts that his position, set forth in this Complaint, is legally sound and supported by fact and law. However, the Defendants' policies, practices and

actions, have created a *bona fide* controversy between the parties, and Plaintiff is in doubt as to his rights, privileges and immunities. Plaintiff requires, therefore, a declaratory judgment declaring his rights, privileges and immunities.

WHEREFORE, Plaintiff prays for the following relief:

A. That this Court take jurisdiction over the parties and this cause;

B. That the Court find and declare that Defendants engaged in a concerted effort to prevent Plaintiff from petitioning government for the redress of grievances through a campaign of harassment, false arrests, physical battery and public condemnation of Plaintiff's character, all in violation of the First Amendment to the United States Constitution.

C. That the Court declare that the trespass notices issued to Plaintiff and his ejection from public meetings and public offices operated as a prior restraint, were not narrowly tailored and were not supported by a compelling government interest.

D. That the Court declare that the trespass notices issued to Plaintiff and his ejection from public meetings and public offices constituted an unconstitutional infringement upon Plaintiff's right to petition government for redress of grievances.

E. That the Court declare that GRAPSKI's arrest on May 1, 2006 was illegal and violated Plaintiff's right to petition government for the redress of grievances under the First Amendment because that arrest was pretextual and was used to further the Defendants' campaign to prevent Plaintiff from petitioning government for redress of grievances.

F. That the Court declare that GRAPSKI's arrest on February 12, 2007 was illegal and violated Plaintiff's right to petition government for the redress of grievances

under the First Amendment because that arrest was pretextual and was used to further the Defendants' campaign to prevent Plaintiff from petitioning government for redress of grievances.

G. That the Court declare that GRAPSKI's arrest on August 13, 2007 was illegal and violated Plaintiff's right to petition government for the redress of grievances under the First Amendment because that arrest was pretextual and was used to further the Defendants' campaign to prevent Plaintiff from petitioning government for redress of grievances.

H. That the Court declare that the trespass warnings issued against GRAPSKI were invalid when issued and were illegal orders.

I. That this Court award Plaintiff money damages against all Defendants for infringement of his constitutional rights pursuant to 42 U.S.C. §1983, and for injury to his person.

J. That this Court award Plaintiff punitive damages against Defendants CLOVIS WATSON, JR., JEAN CALDERWOOD, ROBERT E. JERNIGAN, and GIB COERPER, individually, to punish those individual Defendants for their unlawful actions and to deter those individual Defendants and others from engaging in the same or similar acts in the future.

K. That this Court award Plaintiff his recoverable costs, including a reasonable attorney's fee pursuant to 42 U.S.C. §1988.

L. That this Court award Plaintiff all other relief in law and in equity to which he may be entitled.

COUNT III - INJUNCTIVE RELIEF

(Federal First Amendment)

281. Plaintiff realleges the allegations set forth in paragraphs 1 through 258, and incorporates those allegations in this Count by reference.

282. This is an action for injunctive relief to enjoin the CITY OF ALACHUA from enforcing the trespass warnings issued against Plaintiff and from taking any further action to prevent Plaintiff from addressing the CITY Commission in accordance with rights guaranteed under the First and Fourteenth Amendments.

283. A controversy has arisen between the parties concerning Plaintiff's rights to access public property and public officials to redress his legitimate grievances over the conduct, policies and personnel of the CITY OF ALACHUA.

284. Plaintiff was issued a trespass notice on February 12, 2007 purporting to exclude Plaintiff from the ALACHUA City Hall. Plaintiff was arrested for trespass on two occasions; to-wit: February 12, 2007 and August 13, 2007. In addition, Plaintiff has been removed from two ALACHUA City Commission meetings; to-wit: on February 12, 2007 and August 6, 2007.

285. Plaintiff has been threatened with further arrests should he ever again "disrupt" a meeting of the ALACHUA City Commission. Past arrests and threats show that the CITY considers any attempt on the part of Plaintiff to address issues in controversy to be an unacceptable "disruption".

286. The CITY's trespass notices and threats to eject Plaintiff from public meetings prevent Plaintiff from petitioning government for redress of grievances.

287. Written communications to the CITY lack the impact of face-to-face

interactions with Commissioners and the public, particularly given Florida's strong laws and policies requiring that government decisions be made at public meetings "in the Sunshine". Accordingly, Plaintiff's inability to physically attend Commission meetings substantially infringes upon his right to petition government for redress of grievances.

288. The trespass notices, arrests and threats to eject Plaintiff from public meetings are not narrowly tailored to address any compelling government interest. The CITY'S interest in orderly public meetings can be met through the exercise of its arrest powers should Plaintiff exceed the bounds of decorum on any individual occasion without imposing an effective ban on communications with the CITY Commission at public meetings.

289. The trespass notices, arrests and threats to eject Plaintiff from public meetings operate as a prior restraint and a continuing violation of Plaintiff's First Amendment right to speak and to petition the government for redress of grievances, now and in the future.

290. There is a substantial, actual, and justiciable controversy involving Plaintiff's rights under the First and Fourteenth Amendments to the United States Constitution, as those rights will be affected by the enforcement of the CITY's effective ban on Plaintiff's ability to speak to the CITY Commission at public meetings.

291. Plaintiff will suffer an irreparable injury unless the Court issues a permanent injunction prohibiting Defendant from violating Plaintiff's constitutional rights in the future.

292. The public interest would be served by the granting of injunctive relief. In fact, the public interest is disserved by actions, such as those of Defendant's, which

interfere with the public's rights guaranteed under the First and Fourteenth Amendments.

WHEREFORE, Plaintiff prays for the following injunctive relief:

A. That the Court take jurisdiction over the parties and this cause;

B. That the Court enter a temporary and permanent injunction forever enjoining Defendant CITY OF ALACHUA and its various agents and employees from enforcing any existing trespass notice against Plaintiff barring him from accessing the ALACHUA City Hall or any location where a CITY Commission meeting is being held during such meeting.

C. That the Court enter a temporary and permanent injunction forever enjoining Defendant and its various agents and employees from issuing further trespass warnings against these Plaintiff with respect to City Hall and its environs without a Court Order.

D. That the Court enter a temporary and permanent injunction forever enjoining Defendant and its various agents and employees from excluding or removing Plaintiff from a public meeting in the absence of a Court order unless Plaintiff poses a physical threat to participants or disrupts the meeting to the point where order cannot be restored through ordinary means.

E. That this Court award Plaintiff his recoverable costs, including a reasonable attorney's fee pursuant to 42 U.S.C. § 1988; and

F. That this Court award Plaintiff all other relief in law and in equity to which he may be entitled.

COUNT IV - DECLARATORY JUDGMENT

(Federal Fourth Amendment Violation - February 12, 2007)

293. Plaintiff realleges the allegations set forth in paragraphs 1 through 159 and 244 through 258 and incorporates those allegations in this Count by reference.

294. This is an action for declaratory relief against Defendants CITY OF ALACHUA, CLOVIS WATSON, JR., JEAN CALDERWOOD and ROBERT E. JERNIGAN, to determine whether their arrest of the Plaintiff on February 12, 2007 violated Plaintiff's rights under the Fourth Amendment to the United States Constitution.

295. The Fourth Amendment to the United States Constitution provides that "[t]he right of the people to be secure in their persons, houses, papers, and effects, against unreasonable searches and seizures, shall not be violated, and no warrant shall issue but upon probable cause...".

296. Plaintiff had a constitutional right to attend the ALACHUA City Commission meeting on February 12, 2007 and further had the right to address the City Commission during the time set aside for citizen comment. At the conclusion of his remarks to the ALACHUA City Commission, Plaintiff had the right to remain in the audience to hear the comments of other citizens and to observe the actions and decisions of the ALACHUA City Commission.

297. CALDERWOOD had no legal basis to order GRAPSKI's removal from the ALACHUA City Commission meeting on February 12, 2007 and WATSON and JERNIGAN had no legal basis to arrest GRAPSKI.

298. No probable cause existed to detain or arrest GRAPSKI and no reasonable person could have believed that he was committing a crime by attending and participating

in the February 12, 2007 ALACHUA City Commission meeting.

299. Defendants knew that there was no lawful basis to arrest and exclude Plaintiff from the February 12, 2007 ALACHUA City Commission meeting.

300. Defendants intentionally violated Plaintiff's Fourth Amendment right to be free of unreasonable seizures by arresting Plaintiff and excluding him from the February 12, 2007 ALACHUA City Commission meeting.

301. Defendants further violated Plaintiff's Fourth Amendment rights by arranging for his incarceration in jail, by filing false criminal charges against him and by actively encouraging and participating in the wrongful prosecution of Plaintiff.

302. Defendants' actions in arresting and prosecuting Plaintiff were not isolated acts, but were part of a larger campaign by which ALACHUA and its officers, employees and agents harassed, intimidated and physically battered Plaintiff, all in an effort to disrupt his speech and political activities, to violate his constitutional rights and to cause him personal pain, suffering and damages.

303. Defendants violated Plaintiff's Fourth Amendment rights as well as the clearly established law in this Circuit.

304. The violation of Plaintiff's Fourth Amendment rights was intentional, malicious and carried out with complete disregard for the Plaintiff's constitutional rights.

305. Plaintiff has been damaged by the violation of his Fourth Amendment rights.

306. There is a substantial, actual, and justiciable controversy involving Plaintiff's rights under the Fourth Amendment to the United States Constitution, and as those rights will be affected by the continuation of the policies and actions of Defendants

as described above.

WHEREFORE, Plaintiffs pray for the following relief:

- A. That this Court take jurisdiction over the parties and this cause.
- B. That this Court enter a judgment declaring that the Defendants' arrest of Plaintiff on February 12, 2007, and his exclusion from the ALACHUA City Commission meeting, violated Plaintiff's Fourth Amendment rights for the reasons stated above.
- C. That this Court enter a judgment declaring that the Defendants' actions in incarcerating Plaintiff, filing false criminal charges against him and their participation in the prosecution of those false charges violated Plaintiff's Fourth Amendment rights for the reasons stated above.
- D. That this Court award Plaintiff money damages against all Defendants for infringement of his constitutional rights pursuant to 42 U.S.C. §1983, and for injury to his person.
- E. That this Court award Plaintiffs punitive damages against Defendants CLOVIS WATSON, JR., JEAN CALDERWOOD and ROBERT E. JERNIGAN individually, to punish them for their unlawful actions and to deter those individual Defendants and others from engaging in the same or similar acts in the future.
- F. That this Court award Plaintiff his recoverable costs, including a reasonable attorney's fee pursuant to 42 U.S.C. §1988.
- G. That this Court award Plaintiff all other relief in law and in equity to which he may be entitled.

COUNT V - DECLARATORY JUDGMENT

(Federal Fourth Amendment Violation - August 13, 2007)

307. Plaintiff realleges the allegations set forth in paragraphs 1 through 19 and 160 through 258, and incorporates those allegations in this Count by reference.

308. This is an action for declaratory relief against Defendants CITY OF ALACHUA, CLOVIS WATSON, JR., ROBERT E. JERNIGAN and PATRICK BARCIA, JR., to determine whether their arrest of the Plaintiff on August 13, 2007 violated Plaintiff's rights under the Fourth Amendment to the United States Constitution.

309. The Fourth Amendment to the United States Constitution provides that "[t]he right of the people to be secure in their persons, houses, papers, and effects, against unreasonable searches and seizures, shall not be violated, and no warrant shall issue but upon probable cause...".

310. Plaintiff has a constitutional right to petition government for redress of grievances. That right specifically includes the right to file complaints against CITY officials who abuse the law.

311. Plaintiff repeatedly attempted to file such complaints against CITY officials for the wrongful actions addressed hereinabove, including the improper effort to obtain and release Plaintiff's personal financial records.

312. Plaintiff attempted to follow the CITY's procedures for filing a complaint and attempted to file that complaint with officers designated by the CITY to receive such complaints.

313. WATSON, JERNIGAN and BARCIA had no legal basis to arrest GRAPSKI on August 13, 2007.

314. No probable cause existed to detain or arrest GRAPSKI and no reasonable person could have believed that he was committing a crime by entering the police station for purposes of filing a lawful complaint against officers and employees of the CITY.

315. Defendants knew that there was no lawful basis to arrest Plaintiff on August 13, 2007 and no lawful reason to prevent him from filing a complaint against CITY officials.

316. Defendants intentionally violated Plaintiff's Fourth Amendment right to be free of unreasonable seizures by arresting Plaintiff on August 13, 2007.

317. Defendants further violated Plaintiff's Fourth Amendment rights by arranging for his incarceration in jail, by filing false criminal charges against him and by actively encouraging and participating in the wrongful prosecution of Plaintiff.

318. Defendants actions in arresting and prosecuting Plaintiff were not isolated acts, but were part of a larger campaign by which ALACHUA and its officers, employees and agents harassed, intimidated and physically battered Plaintiff, all in an effort to disrupt his speech and political activities, to violate his constitutional rights, and to cause him personal pain, suffering and damages.

319. Defendants violated Plaintiff's Fourth Amendment rights as well as the clearly established law in this Circuit.

320. The violation of Plaintiff's Fourth Amendment rights was intentional, malicious and carried out with complete disregard for the Plaintiff's constitutional rights.

321. Plaintiff has been damaged by the violation of his Fourth Amendment rights.

322. There is a substantial, actual, and justiciable controversy involving

Plaintiff's rights under the Fourth Amendment to the United States Constitution, and as those rights will be affected by the continuation of the policies and actions of Defendants as described above.

WHEREFORE, Plaintiffs pray for the following relief:

A. That this Court take jurisdiction over the parties and this cause.

B. That this Court enter a judgment declaring that the Defendants' arrest of Plaintiff on August 13, 2007 violated Plaintiff's Fourth Amendment rights for the reasons stated above.

C. That this Court enter a judgment declaring that the Defendants' actions in incarcerating Plaintiff, filing false criminal charges against him and their participation in the prosecution of those false charges violated Plaintiff's Fourth Amendment rights for the reasons stated above.

D. That this Court award Plaintiff money damages against all Defendants for infringement of his constitutional rights pursuant to 42 U.S.C. §1983, and for injury to his person.

E. That this Court award Plaintiffs punitive damages against Defendants CLOVIS WATSON, JR., ROBERT E. JERNIGAN and PATRICK BARCIA, JR., individually, to punish them for their unlawful actions and to deter those individual Defendants and others from engaging in the same or similar acts in the future.

F. That this Court award Plaintiff his recoverable costs, including a reasonable attorney's fee pursuant to 42 U.S.C. §1988.

G. That this Court award Plaintiff all other relief in law and in equity to which he may be entitled.

COUNT VI - DECLARATORY JUDGMENT

(Free Speech – Florida Constitution)

323. Plaintiff realleges the allegations set forth in paragraphs 2 through 258, and incorporates those allegations in this Count by reference.

324. This Court has jurisdiction over this state law cause of action because Plaintiff's other claims involve Federal Questions and this Court has supplemental jurisdiction pursuant to 28 U.S.C. §1367.

325. This is an action for declaratory relief pursuant to Chapter 86, Fla.Stat. against the CITY OF ALACHUA to determine whether the CITY's trespass notices, arrests and threats to eject Plaintiff from public meetings violate Plaintiff's rights under Article I, §4 of the Florida Constitution.

326. Article I, §4 of the Florida Constitution provides that "[e]very person may speak, write and publish sentiments on all subjects but shall be responsible for the abuse of that right. No law shall be passed to restrain or abridge the liberty of speech..."

327. A controversy has arisen between the parties concerning Plaintiff's rights to free speech on matters of public, political and individual concern.

328. Plaintiff has been repeatedly arrested by the Defendants when attempting to review public records and when speaking before the ALACHUA City Commission. Despite those arrests and the repeated violation of his constitutional rights, Plaintiff intends to continue his activism and will redouble his efforts to secure public records and to bring to the attention of his fellow citizens the wrongdoing and improper policies of CITY government and its officials.

329. Plaintiff is threatened with further arrests and is in doubt whether he will

ever be permitted to speak again before the ALACHUA Commission. Those fears are not speculative, but are well-founded both in the long history of disputes between these parties and by the fact that the CITY and its officials have actively conspired to violate Plaintiff's constitutional rights through a campaign of harassment, false arrests, physical battery and public condemnation of Plaintiff's character.

330. Plaintiff maintains that his arrests were and are unlawful and were undertaken without probable cause or reasonable belief to believe that he had committed any crime; all such charges being pretextual and in furtherance of the Defendants' efforts to silence and intimidate the Plaintiff and to physically deny him the ability to speak freely on matters of public concern.

331. Likewise the repeated removal of the Plaintiff from City Commission meetings is unlawful and in furtherance of the Defendants' efforts to silence and intimidate the Plaintiff and to speak freely on matters of public concern.

332. Plaintiff has a right to have this Court declare his rights under the Florida Constitution as those rights are infringed upon by the Defendant's actions, policies and procedures.

333. Plaintiff asserts that his position, set forth in this Complaint, is legally sound and supported by fact and law. However, the Defendants' policies, practices and actions, have created a *bona fide* controversy between the parties, and Plaintiff is in doubt as to his rights, privileges and immunities. Plaintiff requires, therefore, a declaratory judgment declaring his rights, privileges and immunities.

WHEREFORE, Plaintiff prays for the following relief:

A. That this Court take jurisdiction over the parties and this cause;

B. That the Court find and declare that the CITY and its officers, employees and agents engaged in a concerted effort to prevent Plaintiff from engaging in free speech through a campaign of harassment, false arrests, physical battery and public condemnation of Plaintiff's character, all in violation of the Florida Constitution.

C. That the Court declare that the trespass notices issued to Plaintiff and his ejection from public meetings and public offices operated as a prior restraint, were not narrowly tailored and were not supported by a compelling government interest.

D. That the Court declare that the trespass notices issued to Plaintiff and his ejection from public meetings and public offices constituted an unconstitutional infringement upon Plaintiff's right to free speech.

E. That the Court declare that GRAPSKI's arrest on May 1, 2006 was illegal and violated Plaintiff's right of free speech under the Florida Constitution because that arrest was pretextual and was used to further the Defendants' campaign to silence and censor Plaintiff's speech.

F. That the Court declare that the prosecution of GRAPSKI on the arrest of May 1, 2006, that terminated in GRAPSKI's favor on November 16, 2006, was malicious and without probable cause and was used to further the Defendants' campaign to silence and censor Plaintiff's speech in violation of the First Amendment.

G. That the Court declare that GRAPSKI's arrest on February 12, 2007 was illegal and violated Plaintiff's right of free speech under the Florida Constitution because that arrest was pretextual and was used to further the Defendants' campaign to silence and censor Plaintiff's speech.

H. That the Court declare that GRAPSKI's arrest on August 13, 2007 was

illegal and violated Plaintiff's right of free speech under the Florida Constitution because that arrest was pretextual and was used to further the Defendants' campaign to silence and censor Plaintiff's speech.

I. That the Court declare that the prosecution of GRAPSKI on the arrest of August 13, 2007, on charges of trespass and battery upon JERNIGAN, that terminated in GRAPSKI's favor, was malicious and without probable cause and was used to further the Defendants' campaign to silence and censor Plaintiff's speech in violation of the First Amendment.

J. That the Court declare that the trespass warnings issued against GRAPSKI were invalid when issued and were illegal orders.

K. That this Court award Plaintiff all other relief in law and in equity to which he may be entitled.

COUNT VII - DECLARATORY JUDGMENT

(Right to Petition – Florida Constitution)

334. Plaintiff realleges the allegations set forth in paragraphs 2 through 258, and incorporates those allegations in this Count by reference.

335. This Court has jurisdiction over this state law cause of action because Plaintiff's other claims involve Federal Questions and this Court has supplemental jurisdiction pursuant to 28 U.S.C. §1367.

336. This is an action for declaratory relief pursuant to Chapter 86, Fla.Stat. against the CITY OF ALACHUA to determine whether the CITY's trespass notices, arrests and threats to eject Plaintiff from public meetings violate Plaintiff's rights under Article I, §5 of the Florida Constitution.

337. Article I, §5 of the Florida Constitution provides that “[t]he people shall have the right peaceably to assemble, to instruct their representatives, and to petition for redress of grievances.

338. A continuing controversy has arisen between the parties concerning Plaintiff’s rights to petition the government on matters of public, political and individual concern.

339. Plaintiff has been repeatedly arrested by the Defendants when attempting to review public records and when speaking before the ALACHUA City Commission. Despite those arrests and the repeated violation of his constitutional rights, Plaintiff intends to continue his activism and will redouble his efforts to secure public records and to bring to the attention of his fellow citizens the wrongdoing and improper policies of CITY government and its officials.

340. Plaintiff is threatened with further arrests and is in doubt whether he will ever be permitted to speak again before the ALACHUA Commission. Those fears are not speculative, but are well-founded both in the long history of disputes between these parties and by the fact that the CITY and its officials have actively conspired to violate Plaintiff’s constitutional rights through a campaign of harassment, false arrests, physical battery and public condemnation of Plaintiff’s character.

341. Plaintiff maintains that his arrests were and are unlawful and were undertaken without probable cause or reasonable belief to believe that he had committed any crime; all such charges being pretextual and in furtherance of the Defendants’ efforts to silence and intimidate the Plaintiff and to physically deny him the ability to petition the government for redress of his grievances.

342. Likewise the repeated removal of the Plaintiff from City Commission meetings is unlawful and in furtherance of the Defendants' efforts to silence and intimidate the Plaintiff and to deny him the ability to petition the government for redress of his grievances.

343. Plaintiff has a right to have this Court declare his rights under the Florida Constitution as those rights are infringed upon by the Defendant's actions, policies and procedures.

344. Plaintiff asserts that his position, set forth in this Complaint, is legally sound and supported by fact and law. However, the Defendants' policies, practices and actions, have created a *bona fide* controversy between the parties, and Plaintiff is in doubt as to his rights, privileges and immunities. Plaintiff requires, therefore, a declaratory judgment declaring his rights, privileges and immunities.

WHEREFORE, Plaintiff prays for the following relief:

- A. That this Court take jurisdiction over the parties and this cause;
- B. That the Court find and declare that the CITY and its officers, employees and agents engaged in a concerted effort to prevent Plaintiff from petitioning government for the redress of grievances through a campaign of harassment, false arrests, physical battery and public condemnation of Plaintiff's character, all in violation of the Florida Constitution.
- C. That the Court declare that the trespass notices issued to Plaintiff and his ejection from public meetings and public offices operated as a prior restraint, were not narrowly tailored and were not supported by a compelling government interest.
- D. That the Court declare that the trespass notices issued to Plaintiff and his

ejection from public meetings and public offices constituted an unconstitutional infringement upon Plaintiff's right to petition government for redress of grievances.

E. That the Court declare that GRAPSKI's arrest on May 1, 2006 was illegal and violated Plaintiff's right to petition government for the redress of grievances under the Florida Constitution because that arrest was pretextual and was used to further the Defendants' campaign to violate Plaintiff's rights under the Florida Constitution.

F. That the Court declare that the prosecution of GRAPSKI on the arrest of May 1, 2006, that terminated in GRAPSKI's favor on November 16, 2006, was malicious and without probable cause and was used to further the Defendants' campaign to silence and censor Plaintiff's speech in violation of the Florida Constitution.

G. That the Court declare that GRAPSKI's arrest on February 12, 2007 was illegal and violated Plaintiff's right to petition government for the redress of grievances under the First Amendment because that arrest was pretextual and was used to further the Defendants' campaign to violate Plaintiff's rights under the Florida Constitution.

H. That the Court declare that GRAPSKI's arrest on August 13, 2007 was illegal and violated Plaintiff's right to petition government for the redress of grievances under the First Amendment because that arrest was pretextual and was used to further the Defendants' campaign to violate Plaintiff's rights under the Florida Constitution.

I. That the Court declare that the prosecution of GRAPSKI on the arrest of August 13, 2007, on charges of trespass and battery upon JERNIGAN, that terminated in GRAPSKI's favor, was malicious and without probable cause in violation of Plaintiff's rights under the Florida Constitution.

J. That the Court declare that the trespass warnings issued against GRAPSKI

were invalid when issued and were illegal orders.

K. That this Court award Plaintiff all other relief in law and in equity to which he may be entitled.

COUNT VIII - INJUNCTIVE RELIEF

(Free Speech and Access - Florida Constitution)

345. Plaintiff realleges the allegations set forth in paragraphs 2 through 258, and incorporates those allegations in this Count by reference.

346. This Court has jurisdiction over this state law cause of action because Plaintiff's other claims involve Federal Questions and this Court has supplemental jurisdiction pursuant to 28 U.S.C. §1367.

347. This is an action for injunctive relief to enjoin the CITY OF ALACHUA from enforcing the trespass warnings issued against Plaintiff and from taking any further action to prevent Plaintiff from addressing the CITY Commission in accordance with rights guaranteed under Article I, Sections 4 and 5 of the Florida Constitution.

348. Article I, §4 of the Florida Constitution provides that “[e]very person may speak, write and publish sentiments on all subjects but shall be responsible for the abuse of that right. No law shall be passed to restrain or abridge the liberty of speech...”

349. Article I, §5 of the Florida Constitution provides that “[t]he people shall have the right peaceably to assemble, to instruct their representatives, and to petition for redress of grievances.

350. A controversy has arisen between the parties concerning Plaintiff's right of free speech and the right to petition government for redress of grievances as guaranteed by the Florida Constitution.

351. Plaintiff was issued a trespass notice on February 12, 2007 purporting to exclude Plaintiff from the ALACHUA City Hall. Plaintiff was arrested for trespass on two occasions; to-wit: February 12, 2007 and August 13, 2007. In addition, Plaintiff has been removed from two ALACHUA City Commission meetings; to-wit: on February 12, 2007 and August 6, 2007.

352. Plaintiff has been threatened with further arrests should he ever again “disrupt” a meeting of the ALACHUA City Commission. Past arrests and threats show that the CITY considers any attempt on the part of Plaintiff to address issues in controversy to be an unacceptable “disruption”.

353. The CITY’s trespass notices and threats to eject Plaintiff from public meetings prevent Plaintiff from petitioning government for redress of grievances and from fully exercising his right of free speech on topics of public concern.

354. Written communications to the CITY lack the impact of face-to-face interactions with Commissioners and the public, particularly given Florida’s strong laws and policies requiring that government decisions be made at public meetings “in the Sunshine”. Accordingly, Plaintiff’s inability to physically attend Commission meetings substantially infringes upon his right to petition government for redress of grievances.

355. The trespass notices, arrests and threats to eject Plaintiff from public meetings are not narrowly tailored to address any compelling government interest. The CITY’S interest in orderly public meetings can be met through the exercise of its arrest powers should Plaintiff exceed the bounds of decorum on any individual occasion without imposing an effective ban on communications with the CITY Commission at public meetings.

356. The trespass notices, arrests and threats to eject Plaintiff from public meetings operate as a prior restraint and a continuing violation of Plaintiff's right of free speech and right to petition the government for redress of grievances, now and in the future.

357. There is a substantial, actual, and justiciable controversy involving Plaintiff's rights under the Florida Constitution, as those rights will be affected by the enforcement of the CITY's effective ban on Plaintiff's ability to speak to the CITY Commission at public meetings.

358. Plaintiff will suffer an irreparable injury unless the Court issues a permanent injunction prohibiting Defendant from violating Plaintiff's constitutional rights in the future.

359. The public interest would be served by the granting of injunctive relief. In fact, the public interest is disserved by actions, such as those of Defendant's, which interfere with the public's rights guaranteed under the Florida Constitution.

WHEREFORE, Plaintiff prays for the following injunctive relief:

- A. That the Court take jurisdiction over the parties and this cause;
- B. That the Court enter a temporary and permanent injunction forever enjoining Defendant CITY OF ALACHUA and its various agents and employees from enforcing any existing trespass notice against Plaintiff barring him from accessing the ALACHUA City Hall or any location where a CITY Commission meeting is being held during such meeting.
- C. That the Court enter a temporary and permanent injunction forever enjoining Defendant and its various agents and employees from issuing further trespass

warnings against these Plaintiff with respect to City Hall and its environs without a Court Order.

D. That the Court enter a temporary and permanent injunction forever enjoining Defendant and its various agents and employees from excluding or removing Plaintiff from a public meeting in the absence of a Court order unless Plaintiff poses a physical threat to participants or disrupts the meeting to the point where order cannot be restored through ordinary means.

E. That this Court award Plaintiff all other relief in law and in equity to which he may be entitled.

COUNT IX - DECLARATORY JUDGMENT

(Right to Access Public Records – Florida Constitution)

360. Plaintiff realleges the allegations set forth in paragraphs 2 through 258, and incorporate those allegations in this Count by reference.

361. This Court has jurisdiction over this state law cause of action because Plaintiff's other claims involve Federal Questions and this Court has supplemental jurisdiction pursuant to 28 U.S.C. §1367.

362. This is an action for declaratory relief pursuant to Chapter 86, Fla.Stat. against the CITY OF ALACHUA to determine whether the CITY's trespass notices, arrests and threats to eject Plaintiff from public meetings violate Plaintiff's rights under Article I, §24 of the Florida Constitution.

363. Article I, §44 of the Florida Constitution provides that "[e]very person has the right to inspect or copy any public record made or received in connection with the official business of any public body, officer or employee of the state, or persons acting on

their behalf...”

364. A controversy has arisen between the parties concerning Plaintiff’s rights to access public records of the CITY OF ALACHUA.

365. On February 12, 2007, Plaintiff entered City Hall along with two other citizens for the purpose of inquiring about the status of public records requests sent by Plaintiff and others.

366. At that time and place, Plaintiff acted no differently than the other citizens present for the same purpose.

367. At that time and place, Plaintiff had the same right to access City Hall as the other two citizens, or indeed, any of the citizens of ALACHUA.

368. Plaintiff was treated differently than the two citizens who accompanied him and differently than any other citizen of the CITY.

369. A trespass warning was issued only to Plaintiff and not to his compatriots or other citizens.

370. The CITY has not previously issued trespass warnings to other citizens directing them not to approach City Hall or its environs.

371. Plaintiff was singled out for selective and unequal enforcement and suffered a unique disability imposed upon him and no other citizens of ALACHUA.

372. The CITY issued the trespass warning because it wishes to hide public records and to frustrate Plaintiff’s efforts toward political accountability.

373. Plaintiff often went to City Hall to personally inspect voluminous records rather than bear the exorbitant cost of copying numerous documents.

374. Plaintiff is no longer able to access City Hall for the purpose of inspecting

and obtaining public records.

375. The trespass warning, arrests and threats of arrest had the specific purpose and effect of denying Plaintiff the ability to access public records in the future.

376. The CITY specifically intended to frustrate and deprive Plaintiff of his constitutional right to access public records when it issued the trespass warning, when it arrested Plaintiff, and when it threatened to do so.

377. The trespass warnings, arrests and threats were not issued for a legitimate law enforcement purpose, but were issued in order to silence Plaintiff and frustrate his attempts to exercise his constitutional rights to access public records.

378. Plaintiff has a right to have this Court declare his rights under the Florida Constitution as those rights are infringed upon by the Defendant's actions, policies and procedures.

379. Plaintiff asserts that his position, set forth in this Complaint, is legally sound and supported by fact and law. However, the Defendant's policies and practices, have created a *bona fide* controversy between the parties, and Plaintiff is in doubt as to his rights, privileges and immunities. Plaintiff requires, therefore, a declaratory judgment declaring his rights, privileges and immunities.

380. There is a substantial, actual, and justiciable controversy involving Plaintiff's rights under the Florida Constitution, as those rights will be affected by the enforcement of the trespass warnings, threats and arrests and Defendant's policies and actions with respect to Plaintiff's attempts to review public records.

WHEREFORE, Plaintiff prays for the following relief:

A. That this Court take jurisdiction over the parties and this cause;

B. That the Court declare that the February 12, 2007 trespass warning was an unconstitutional infringement upon Plaintiff's right to inspect and access public records under Article I, §24 of the Florida Constitution.

C. That the Court declare that the February 12, 2007 trespass warning was invalid when issued and is an illegal order.

D. That the Court declare that the CITY's subsequent efforts to harass, intimidate and exclude Plaintiff from City Hall, including the several arrests, removals and exclusions from public meetings, were part of an illegal campaign to deprive Plaintiff of his right to access public records.

E. That this Court award Plaintiff all other relief in law and in equity to which he may be entitled.

COUNT X - INJUNCTIVE RELIEF
(Public Records - Florida Constitution)

381. Plaintiff realleges the allegations set forth in paragraphs 2 through 258 and 361 through 375 and incorporates those allegations in this Count by reference.

382. This Court has jurisdiction over this state law cause of action because Plaintiff's other claims involve Federal Questions and this Court has supplemental jurisdiction pursuant to 28 U.S.C. §1367.

383. There is a substantial, actual, and justiciable controversy involving Plaintiff's rights under the Florida Constitution, as those rights will be affected by the enforcement of the CITY's effective ban on Plaintiff's access to public records.

384. Plaintiff will suffer an irreparable injury unless the Court issues a permanent injunction prohibiting Defendant from violating Plaintiff's constitutional

rights in the future.

385. The public interest would be served by the granting of injunctive relief. In fact, the public interest is disserved by actions, such as those of Defendant's, which interfere with the public's rights guaranteed under the Florida Constitution.

WHEREFORE, Plaintiff prays for the following injunctive relief:

- A. That the Court take jurisdiction over the parties and this cause;
- B. That this Court enter a mandatory injunction requiring the CITY and its various agents and employees to accept public records requests made by Plaintiff in writing or in person and that the CITY act on such public records requests promptly as required by Florida law.
- C. That the Court enter a temporary and permanent injunction forever enjoining Defendant CITY OF ALACHUA and its various agents and employees from enforcing any existing trespass notice against Plaintiff barring him from accessing the ALACHUA City Hall for the purpose of making public records request as provided by Florida law.
- D. That the Court enter a temporary and permanent injunction forever enjoining Defendant and its various agents and employees from issuing further trespass warnings against the Plaintiff with respect to City Hall and its environs without a Court Order.
- E. That this Court award Plaintiff all other relief in law and in equity to which he may be entitled.

COUNT XI

(State Law Claim - False Arrest – February 12, 2007)

386. Plaintiff realleges the allegations set forth in paragraphs 2 through 258, and incorporates those allegations in this Count by reference.

387. This Court has jurisdiction over this state law cause of action because Plaintiff's other claims involve Federal Questions and this Court has supplemental jurisdiction pursuant to 28 U.S.C. §1367.

388. This is an action for damages against ALACHUA, WATSON, CALDERWOOD and JERNIGAN brought under the laws of the State of Florida and based on the illegal arrest and detention of Plaintiff.

389. Defendants did not have a warrant or Court order authorizing Plaintiff's arrest or detention on February 12, 2007.

390. Defendants had no legal basis to physically detain and arrest the Plaintiff and Defendants knew that the detention and arrest was without legal basis.

391. Defendants had no probable cause to believe that Plaintiff had committed any crime on February 12, 2007.

392. A reasonable police officer in similar circumstances could not have believed that Plaintiff committed a crime or breached the peace at the February 12, 2007 ALACHUA Commission meeting.

393. Defendants arrested Plaintiff because they disagreed with the content of Plaintiff's speech, with his several suits against the CITY and because of his political activism and not because the Plaintiff was violating any law or otherwise breaching the peace.

394. Defendants acted intentionally and maliciously with the express intention of depriving Plaintiff of his freedom and of his civil liberties.

395. Plaintiff was detained and arrested against his will.

396. Plaintiff has suffered damages as a direct and proximate result of his illegal arrest and detention, including loss of his freedom, physical discomfort, pain and suffering, fear of physical assault, humiliation and embarrassment.

397. Plaintiff sues ALACHUA in negligence for having negligently trained and instructed the foregoing officers and negligently permitted them to take the foregoing wrongful actions against GRAPSKI.

WHEREFORE, Plaintiff prays for the following relief:

A. That this Court take jurisdiction over the parties and this cause;

B. That this Court award Plaintiff money damages against ALACHUA pursuant to §768.28 Fla. Stat. to compensate for the injuries ALACHUA's negligence caused him to suffer.

C. That this Court award Plaintiff compensatory and punitive damages against Defendants CLOVIS WATSON, JR., JEAN CALDERWOOD and ROBERT E. JERNIGAN, individually, to punish those individual Defendants for their unlawful actions and to deter those individual Defendants and others from engaging in the same or similar acts in the future.

D. That this Court award Plaintiff his recoverable costs together with all other relief in law and in equity to which he may be entitled.

COUNT XII

(State Law Tort Claim – Battery - February 12, 2007)

398. Plaintiff realleges the allegations set forth in paragraphs 2 through 258, and incorporates those allegations in this Count by reference.

399. This Court has jurisdiction over this state law cause of action because Plaintiff's other claims involve Federal Questions and this Court has supplemental jurisdiction pursuant to 28 U.S.C. §1367.

400. This is an action against ALACHUA and JERNIGAN to recover damages for battery.

401. While serving in his capacity as Chief of Police for the City of ALACHUA, JERNIGAN had offensive, non-consensual physical contact with Plaintiff.

402. Specifically, JERNIGAN handcuffed the Plaintiff and assisted in dragging him from the County Commission meeting.

403. JERNIGAN took these actions at the direction of the Mayor, CALDERWOOD, and under the supervision of the City Manager, WATSON.

404. Other law enforcement officers employed by the CITY assisted JERNIGAN in dragging and carrying Plaintiff to the police station and, in the course of doing so, dropped him and threatened him with a Taser, all against Plaintiff's will and without his consent.

405. Plaintiff has a clear legal right to bodily privacy and to be secure in his person against illegal seizures.

406. Defendants ALACHUA and JERNIGAN knew that there was no legal basis to touch Plaintiff or to physically remove him against his will from a public meeting

in a public facility.

407. As a direct and proximate result of Defendants' physical assaults on Plaintiff, Plaintiff has suffered damages, including loss of his freedom, physical discomfort, pain and suffering, fear of physical assault, humiliation and embarrassment.

408. Plaintiff sues ALACHUA in negligence for having negligently trained and instructed the foregoing officers and negligently permitted them to take the foregoing wrongful actions against GRAPSKI.

WHEREFORE, Plaintiff prays for the following relief:

- A. That this Court take jurisdiction over the parties and this cause.
- B. That this Court award Plaintiff money damages against ALACHUA pursuant to §768.28, Fla.Stat. to compensate Plaintiff for the injuries ALACHUA's negligence caused him to suffer.
- C. That this Court award Plaintiff compensatory and punitive damages against Defendant JERNIGAN, individually, to punish JERNIGAN for his unlawful actions and to deter JERNIGAN and others from engaging in the same or similar acts in the future.
- D. That this Court award Plaintiff his recoverable costs together with all other relief in law and in equity to which he may be entitled.

COUNT XIII

(State Law Claim – Malicious Prosecution – February 12, 2007)

409. Plaintiff realleges the allegations set forth in paragraphs 2 through 258, and incorporates those allegations in this Count by reference.

410. This Court has jurisdiction over this state law cause of action because

Plaintiff's other claims involve Federal Questions and this Court has supplemental jurisdiction pursuant to 28 U.S.C. §1367.

411. This is an action for damages against ALACHUA, WATSON, CALDERWOOD and JERNIGAN brought under the laws of the State of Florida and based on the malicious prosecution of Plaintiff.

412. Defendants had no probable cause to believe that Plaintiff had committed any crime on February 12, 2007.

413. A reasonable police officer in similar circumstances could not have believed that Plaintiff committed a crime or breached the peace at the February 12, 2007 ALACHUA Commission meeting.

414. Defendants filed criminal charges against Plaintiff knowing at the time they did so that Plaintiff had not committed any crime.

415. Once film of the incident was reviewed, it became obvious that Plaintiff had committed no crime and that there was no basis to prosecute Plaintiff on any charges. Despite this knowledge, the Defendants refused to drop the charges and persisted in their efforts to have Plaintiff prosecuted.

416. Defendants maliciously filed and pursued criminal charges against Plaintiff on charges he did not commit without probable cause and for the improper purpose of interfering with his right of free speech and the right to petition government for redress of grievances guaranteed by the First and Fourteenth Amendments to the United States Constitution; and to retaliate against him for exercising his First Amendment right to join in the suit against ALACHUA to contest Alachua's 2006 election on grounds of misconduct of its officers and officials.

417. Defendants acted intentionally and maliciously with the express intention of depriving Plaintiff of his freedom and of his civil liberties.

418. Plaintiff was detained and prosecuted against his will.

419. Plaintiff has suffered damages as a direct and proximate result of the malicious prosecution on false charges, including loss of his freedom, physical discomfort, pain and suffering, fear of physical assault, humiliation and embarrassment and lost income.

420. Plaintiff sues ALACHUA in negligence for having negligently trained and instructed the foregoing officers and negligently permitted them to take the foregoing wrongful actions against GRAPSKI.

WHEREFORE, Plaintiff prays for the following relief:

A. That this Court take jurisdiction over the parties and this cause;

B. That this Court award Plaintiff money damages against ALACHUA pursuant to §768.28, Fla.Stat. to compensate Plaintiff for the injuries ALACHUA's negligence caused him to suffer.

C. That this Court award Plaintiff compensatory and punitive damages against Defendants CLOVIS WATSON, JR., JEAN CALDERWOOD and ROBERT E. JERNIGAN, individually, to punish those individual Defendants for their unlawful actions and to deter those individual Defendants and others from engaging in the same or similar acts in the future.

D. That this Court award Plaintiff his recoverable costs together with all other relief in law and in equity to which he may be entitled.

COUNT XIV

(State Law Claim - False Arrest – August 13, 2007)

421. Plaintiff realleges the allegations set forth in paragraphs 2 through 258, and incorporates those allegations in this Count by reference.

422. This Court has jurisdiction over this state law cause of action because Plaintiff's other claims involve Federal Questions and this Court has supplemental jurisdiction pursuant to 28 U.S.C. §1367.

423. This is an action for damages against ALACHUA, WATSON, JERNIGAN and BARCIA brought under the laws of the State of Florida and based on the illegal arrest and detention of Plaintiff.

424. Defendants did not have a warrant or Court order authorizing Plaintiff's arrest or detention on August 13, 2007.

425. Defendants had no legal basis to physically detain and arrest the Plaintiff and Defendants knew that the detention and arrest was without legal basis.

426. Defendants had no probable cause to believe that Plaintiff had committed any crime on August 13, 2007.

427. A reasonable police officer in similar circumstances could not have believed that Plaintiff trespassed or committed a crime on August 13, 2007 when he attempted to file a complaint against official wrongdoing by CITY officials.

428. Defendants arrested Plaintiff because they wished to thwart his efforts to file a complaint against official wrongdoing by CITY officials and as part of their campaign to punish Plaintiff for his political speech, his several suits against the CITY, and his political activism, and not because the Plaintiff was violating any law or otherwise breaching the peace.

429. Defendants acted intentionally and maliciously with the express intention of depriving Plaintiff of his freedom and of his civil liberties.

430. Plaintiff was detained and arrested against his will.

431. Plaintiff has suffered damages as a direct and proximate result of his illegal arrest and detention, including loss of his freedom, physical discomfort, pain and suffering, fear of physical assault, humiliation and embarrassment.

432. Plaintiff sues ALACHUA in negligence for having negligently trained and instructed the foregoing officers and negligently permitted them to take the foregoing wrongful actions against GRAPSKI.

WHEREFORE, Plaintiff prays for the following relief:

A. That this Court take jurisdiction over the parties and this cause;

B. That this Court award Plaintiff money damages against ALACHUA pursuant to §768.28, Fla.Stat. to compensate Plaintiff for the injuries ALACHUA's negligence caused him to suffer.

C. That this Court award Plaintiff compensatory and punitive damages against Defendants CLOVIS WATSON, JR., ROBERT E. JERNIGAN, and PATRICK BARCIA, JR., individually, to punish those individual Defendants for their unlawful actions and to deter those individual Defendants and others from engaging in the same or similar acts in the future.

D. That this Court award Plaintiff his recoverable costs together with all other relief in law and in equity to which he may be entitled.

COUNT XV

(State Law Tort Claim – Battery - August 13, 2007)

433. Plaintiff realleges the allegations set forth in paragraphs 2 through 258, and incorporates those allegations in this Count by reference.

434. This Court has jurisdiction over this state law cause of action because Plaintiff's other claims involve Federal Questions and this Court has supplemental jurisdiction pursuant to 28 U.S.C. §1367.

435. This is an action against ALACHUA and BARCIA to recover damages for battery.

436. While serving in his capacity as an officer of the ALACHUA police department, BARCIA had offensive, non-consensual physical contact with Plaintiff.

437. Specifically, BARCIA handcuffed the Plaintiff and physically beat the Plaintiff when GRAPSKI passively refused to walk with BARCIA following his unlawful arrest on August 13, 2007.

438. BARCIA took these actions at the direction of Chief of Police JERNIGAN and City Manager WATSON.

439. Other law enforcement officers employed by the CITY assisted BARCIA in dragging and carrying Plaintiff away and in beating the Plaintiff when Plaintiff passively refused to walk with them following his arrest, all against Plaintiff's will and without his consent.

440. Plaintiff has a clear legal right to bodily privacy and to be secure in his person against illegal seizures.

441. Defendants ALACHUA and BARCIA knew that there was no legal basis

to touch Plaintiff or to physically remove him against his will from a public meeting where Plaintiff had a right to be.

442. As a direct and proximate result of Defendants' physical assaults on Plaintiff, Plaintiff has suffered damages, including loss of his freedom, physical discomfort, pain and suffering, fear of physical assault, humiliation and embarrassment.

443. Plaintiff sues ALACHUA in negligence for having negligently trained and instructed the foregoing officers and negligently permitted them to take the foregoing wrongful actions against GRAPSKI.

WHEREFORE, Plaintiff prays for the following relief:

- A. That this Court take jurisdiction over the parties and this cause.
- B. That this Court award Plaintiff money damages against ALACHUA pursuant to §768.28, Fla.Stat. to compensate Plaintiff for the injuries ALACHUA's negligence caused him to suffer.
- C. That this Court award Plaintiffs compensatory and punitive damages against Defendant BARCIA, individually, to punish BARCIA for his unlawful actions and to deter BARCIA and others from engaging in the same or similar acts in the future.
- D. That this Court award Plaintiff his recoverable costs together with all other relief in law and in equity to which he may be entitled.

COUNT XVI

(State Law Claim – Malicious Prosecution – August 13, 2007)

444. Plaintiff realleges the allegations set forth in paragraphs 2 through 258, and incorporates those allegations in this Count by reference.

445. This Court has jurisdiction over this state law cause of action because

Plaintiff's other claims involve Federal Questions and this Court has supplemental jurisdiction pursuant to 28 U.S.C. §1367.

446. This is an action for damages against ALACHUA, WATSON, JERNIGAN and BARCIA brought under the laws of the State of Florida and based on the malicious prosecution of Plaintiff.

447. Defendants had no probable cause to believe that Plaintiff had committed any crime on August 13, 2007.

448. A reasonable police officer in similar circumstances could not have believed that Plaintiff trespassed or committed a crime on August 13, 2007 when he attempted to file a complaint against official wrongdoing by CITY officials.

449. Defendants filed criminal charges against Plaintiff knowing at the time they did so that Plaintiff had not committed any crime.

450. Upon investigation of the alleged incident, it became obvious that Plaintiff had not committed any crime and that there was no basis to prosecute Plaintiff on any charges. Despite this knowledge, the Defendants refused to drop the charges and persisted in their efforts to have Plaintiff prosecuted.

451. Defendants maliciously filed and pursued criminal charges against Plaintiff on charges he did not commit without probable cause and for the improper purpose of interfering with his right of free speech and the right to petition government for redress of grievances guaranteed by the First and Fourteenth Amendments to the United States Constitution; and to retaliate against him for exercising his First Amendment right to join in the suit against ALACHUA to contest Alachua's 2006 election.

452. Defendants acted intentionally and maliciously with the express intention of depriving Plaintiff of his freedom and of his civil liberties.

453. Plaintiff was detained and prosecuted against his will.

454. Plaintiff has suffered damages as a direct and proximate result of the malicious prosecution on false charges, including loss of his freedom, physical discomfort, pain and suffering, fear of physical assault, humiliation and embarrassment and lost income.

455. Plaintiff sues ALACHUA in negligence for having negligently trained and instructed the foregoing officers and negligently permitted them to take the foregoing wrongful actions against GRAPSKI.

WHEREFORE, Plaintiff prays for the following relief:

A. That this Court take jurisdiction over the parties and this cause;

B. That this Court award Plaintiff money damages against ALACHUA pursuant to §768.28, Fla.Stat. to compensate Plaintiff for the injuries ALACHUA's negligence caused him to suffer.

C. That this Court award Plaintiff compensatory and punitive damages against Defendants CLOVIS WATSON, JR., ROBERT E. JERNIGAN, and PATRICK BARCIA, JR., individually, to punish those individual Defendants for their unlawful actions and to deter those individual Defendants and others from engaging in the same or similar acts in the future.

D. That this Court award Plaintiff his recoverable costs together with all other relief in law and in equity to which he may be entitled.

