

IN THE UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF TEXAS  
BEAUMONT DIVISION

PHILIP R. KLEIN,

*Plaintiff,*

v.

LAYNE WALKER,

*Defendant.*

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CASE NO. 1:14-CV-00509-RC-ZJH

**PLAINTIFF PHILIP KLEIN’S SECOND AMENDED  
ORIGINAL COMPLAINT**

TO THE HONORABLE JUDGE OF SAID COURT:

Comes now Philip Klein (“Klein”) complaining of Layne Walker (“Walker”), in his Second Amended Original Complaint, cause of actions show the following:

**I. PARTIES**

1. Plaintiff is Philip Klein, a resident of Jefferson County, Texas.
2. Defendant is Layne Walker, a resident of Jefferson County, Texas.

**III. JURISDICTION & VENUE**

3. This court has jurisdiction pursuant to 28 U.S.C. § 1331 (federal question), and 28 U.S.C. § 1343 (civil rights); and 28 U.S.C. § 1367 (supplemental jurisdiction). Venue is proper in the Eastern District of Texas pursuant to 28 U.S.C. § 1391(a) as at least one of the parties currently resides or is located in the District at the time of filing suits as well as under 28 U.S.C. § 1391(a)(2) because all or a substantial part of the underlying events occurred in the Eastern District of Texas.

## V. NATURE OF CLAIMS

4. In this action against Defendant Walker, Plaintiff Klein brings federal claims and pendent state claims.

5. Plaintiff Klein's federal claims are brought pursuant to Title 42, U.S.C. §1983 and §1988, and seek to enforce and vindicate rights secured to Klein under the First Amendment to the United States Constitution to be free from retaliation by Walker and a civil conspiracy to retaliate by Walker and un-included parties<sup>1</sup>, for the exercise by Klein of First Amendment rights in publishing criticisms of Walker, Dorrell, and Retzlaff and reporting misconduct by Walker to the Commission for Judicial Conduct, and the Texas Attorney General .

6. Plaintiff Klein also brings in the alternative, pendent state tort claims for defamation of Klein and his businesses, and for tortious interference with his business relationships, both contractual and prospective.

7. Plaintiff Klein also asserts, in the alternative, a state civil conspiracy claim amongst Walker, Dorrell, and Retzlaff to defame Klein and his businesses, and for tortious interference with his business relationships, both contractual and prospective.

8. Plaintiff Klein previously asserted a state tort claim for Intentional Infliction of Emotional Distress, which he now abandons.

9. In Klein's section 1983 claims wherein he claims Walker as an active Judge who unconstitutionally acted non-judicially or exceeded his authority, Klein seeks both damages, declaratory and injunctive relief; however, Klein does not seek damages against Defendant Walker for any judicial act or deed wherein Walker functioned as a state district judge, where he had any subject matter jurisdiction.

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<sup>1</sup> The un-included or "un-indicted" co-conspirators are Jeffrey Dorrell, and Thomas Retzlaff.

10. In Klein's section 1983 claims, he seeks damages for acts performed by Walker, whether during Walker's term of office as a state district judge of the 252<sup>nd</sup> Criminal District Court of Jefferson County, Texas, or after January 14, 2014, when Walker resigned that office where Walker acted without any subject matter jurisdiction, under pretense of law, and has attempted to use his official position as a LISTED Judge per Tex. Government Code §§ 74.054, 74.055.

11. In Klein's section 1983 claim, he seeks declaratory relief against Walker for acts performed by Walker where he may or may not have lacked all subject matter jurisdiction as a state district judge presiding over the 252<sup>nd</sup> Criminal District Court, a court of general jurisdiction under Texas law which empowered Walker to function as a judge over or conduct certain proceedings which are involved in this suit.

12. Although regarding the acts complained of herein, Walker acted either during his term of state office or after he had resigned his state office to function as an active state district judge when assigned by State Administrative Judge Olin Underwood as a Visiting Judge presumed to be in good standing.

13. Nevertheless, Walker used, during both his terms as an active state district judge and as a listed Visiting Judge, "in apparent good standing," influence of pretense of law and official position to cause others to act on his behalf to harm Klein.

14. Walker, during his term of office, between January 2012, and January 14, 2014, made four attempts to cause the revocation of Klein's several business licenses regulated by the Texas Department of Public Safety, and Process Server Review board (of the Supreme Court).

15. Walker has expanded the authority he possessed as a sitting state judge and a certified Visiting Judge on the state's list of available listed judges in good standing, to exude the air of and

use influence official authority, by example his representations of himself as “District Judge Layne Walker,” to influence the Process Server’s Review Board.

16. In fact, Walker filed his notarized complaint(s) against Klein’s state licensing agenc[ies], as “Judge Layne Walker, 252<sup>nd</sup> District Ct. 1001 Pearl Street, Beaumont, Texas.”

17. On June 2, 2014, when Walker testified before the Process Server Review Board on his complaint to have disciplinary action taken against Klein’s license as a Supreme Court Process Server and Walker’s attorney Mark Sparks (Provost \* Umphrey) in his opening statement to the Process Server Review Board said, “If it pleases the court,.....I represent Judge Layne Walker of the 252<sup>nd</sup> Judicial District, a felony criminal court, in Beaumont, Jefferson County, Texas.”

18. In his 1983 conspiracy claim against Walker, Klein alleges Walker entered into a conspiracy with Jeffrey Dorrell and Thomas Retzlaff to retaliate against Klein because of his, Klein’s exercises of protected speech.

19. Walker conferred with Dorrell personally through his attorney, and or electronically, and with Retzlaff through Dorrell, personally and/or electronically, about the plan/conspiracy to defame Klein and destroy his businesses.

20. Walker’s conspiracy with Dorrell herein commenced on or about 2012, with Retzlaff, his client, being subsequently included by Dorrell.

21. The conspirator’s plan has been to stop Klein from writing negative articles on the Internet about Walker, and to stop Klein from reporting Walker to appropriate law enforcement and regulatory agencies by putting Klein out of business; lately, Klein has been threatened with being murdered.

22. The conspirators plan had been to discredit Klein publicly, and cause Klein to lose his state licenses to do business as a Personal Protection Agent, Private Investigator, and Supreme Court Process Server (a plan referred herein to as the “de-licensing”). (Exh\_)

23. In 2014, the conspirators plan included the strategy of depriving Klein of necessary and required liability insurance coverage with Lloyds of London.

24. The conspirators’ chosen means were litigation and internet, defamation, harassment and threats.

25. Dorrell and Retzlaff with his Bexar County ties decided to locate persons with grudges against Klein and use the grudges as the bases of frivolous tort claims against Klein and his businesses, thus taxing his insurance carrier so heavily that Klein would lose his coverage.

26. On or about October 29, 2014, Dorrell acted to further the conspiracy by filing what he and Retzlaff describe as an “\$8 million” claim in Bexar County, Texas against Klein’s business entities on behalf of two Mexican residents, EM/VFM.

27. Klein’s commercial insurance broker, EDIA, designated San Antonio defense counsel Rick Espy to defend Klein in Dorrell’s suit.

28. The conspiracy was furthered by Retzlaff interfering with Klein’s attorney-client relationship with attorney Rick Espy.

29. Retzlaff went to Espy’s home and frightened the attorney’s wife, then pursued Espy’s daughter, a Pepperdine student, with threats and obscene Internet communications.

30. As a result, Espy withdrew as Klein’s attorney in Dorrell’s Bexar County case.

31. In furtherance of the conspiracy and through aide by Dorrell, Retzlaff then obtained Klein’s insurance account records and on or about May 17, 2016, Retzlaff, made contact with Klein’s liability insurance broker EDIA, and it’s corporate counsel, Carlos Peniche.

32. In his communications with Peniche, Retzlaff falsely represented that he had a claim against Klein and said various false facts in support of the Fictitious claim.

33. Retzlaff, in furtherance of the conspiracy, used the guillable Peniche to identify and make contact with Klein's London insurer's counsel, Savanna Boyles, to whom he made further false and defamatory factual statements about Klein (and Morgan).

34. Retzlaff for the conspiracy threatened Klein's insurance carrier would have to pay sanctions against Klein, in his lawsuit against Layne Walker, because Dorrell has never lost a case.

35. Retzlaff, in furtherance of the conspiracy, also made threats against Klein's life even promising to murder Klein by Internet communication, which will be set out with more detail, hereinafter, causing Klein to have the vehicles for his business bulletproofed, at a cost of approximately \$42,000.00.

36. Retzlaff, in furtherance of the conspiracy, is believed to have: hacked Klein's commercial Internet server; attempted to implant a listening device on Klein's business telephones; attempted illegal entry of Klein's business; and make a nighttime intrusion onto Klein's home property.

37. Klein has brought alternatively claims against Walker acting alone and in civil conspiracy with Dorrell and Retzlaff, for the following state torts:

a. Defamation:

i. false statements of fact maliciously made by Walker to the Texas Department of Public Safety, and/or the Supreme Court Process Server Review Board in 2014;

ii. false statements of fact maliciously made by Dorrell in Kleinwatch and/or Sam the Eagle;

- iii. false statements of fact maliciously made by Retzlaff in Kleinwatch and/or Sam the Eagle;
  - iv. false statements of fact maliciously made by Retzlaff to Rick Espy and/or his wife.
  - v. false statements of fact maliciously made by Retzlaff to Carlos Peniche, and Savanna Boyles;
  - vi. false statements of fact maliciously made by Retzlaff on the internet under the guise of various names;
  - vii. the false statements made by Walker, and/or Dorrell, and/or Retzlaff were made in the furtherance of a conspiracy formed on or about 2012-2013 to retaliate against Klein for his exercise of protected speech;
  - viii. the false statements have been unambiguous, and/or ambiguous but susceptible by innuendo or implication to being interpreted or understood as defamatory.
- b. Tortious interference with business relationships and contracts:
- i. Klein must maintain liability insurance in order to be licensed by the state as a Personal Protection Agent, Private Investigator, and Supreme Court Process Server;
  - ii. Dorrell and Retzlaff and Walker, acting in civil conspiracy have agreed to a plan to destroy Klein's business by depriving Klein of required business licenses, and most recently, of depriving Klein of professional liability insurance through a contract ( he had with

Lloyd's of London through EDIA by filing frivolous lawsuits by Dorrell, and Retzlaff 's knowingly making false, defamatory statements to Klein's commercial insurance broker and underwriter on or about May 16-19, 2016.

38. Klein also seeks equitable relief, in the nature of declaratory relief where the court will declare that Walker, and/or Dorrell, and/or Retzlaff has acted to retaliate against Klein for exercising protected speech have acted in conspiracy with Jeffrey Dorrell, and/or Thomas Retzlaff to further that plan of retaliation by harming Klein's reputation and businesses; and Klein seeks injunctive relief whereby Walker would be enjoined from further unconstitutional acts against Klein.

### **FACTS**

39. At all material times to this lawsuit, Plaintiff Klein has been a political observer and commentator through the Southeast Texas Political Review ("STPR"), a DPS licensed Private Investigator, Personal Protection Agent, and Supreme Court Process Server.

40. In order to maintain his professional licenses, Walker has maintained liability insurance from Lloyds on London.

41. After being licensed as an attorney by the Texas Supreme Court, Defendant Walker began a practice in the area of criminal law in his hometown of Beaumont, Texas.

42. Defendant Walker is: the grandson of the late Jefferson County Commissioners, both Mr. and Mrs. Ted Walker; son of Judge Ron Walker, former State District Judge, former Chief Judge of the Ninth Court of Appeals, and Jefferson County Judge; and nephew of Ted Walker, former District Attorney of Jasper County, Texas.



43. Defendant Walker affiliated with local criminal defense lawyer Lum Hawthorne in the practice of criminal law on or about 1993, in whose office he remained until he became an active State District Judge in 2002.

44. On January 1, 2002, Defendant Walker was invested as the District Judge of the 252<sup>nd</sup> District Criminal Court, Jefferson County, Texas.

45. In 2005, Defendant Walker's father, Ron Walker, having retired from the office of the Chief Judge Ninth Court of Appeals for Jefferson County Judge ran for Jefferson County Judge, in opposition to incumbent County Judge Carl Griffith, a friend of Klein's, who Klein openly supported in the race.

46. Thereafter, Ron Walker won and Klein on STPR criticized County Judge Ron Walker because of his management of the County and his messy personal life revealed, as related to Judge Ron Walker's divorce from his second wife, a highly respected County office holder from whom he was divorced after discovery of his scandalous behavior.

47. Coincidentally, in 2007, after Klein began criticizing Walker's father, County Judge Ron Walker, two Googlespot bloggers appeared on the internet and began attacking Klein using especially mephitic language; the two anti-Klein blogs are: "Kleinwatch"; and Sam the Eagle".

48. In 2008 the two anti-Klein blogspots, "Kleinwatch" and "Sam the Eagle," began to be notice by Klein because of the impact on his business.

49. Klein was informed by Google that the source computer server of the two blogspots tracked to a local lawyer, Brent Coon and his Coon Dog Productions.

50. Coon was connected directly and/or through his staff to Mark Sparks, one of Walker's attorneys, and/or Defendant Walker.

51. Walker had lifetime connections with his attorney, Walker's attorney, Mark Sparks (employed by Provost \* Umphrey Law Firm LLP) and Spark's had connections with Jeffrey Dorrell ("Dorrell") (with Houston/Katy law firm of Hanszen Laporte), who had connections with Thomas Retzlaff ("Retzlaff"); Walker gathered his co-conspirators, they agreed to hurt Klein, and Dorrell and Retzlaff became Walker's "point dog86".

52. After Klein had made Walker's father, Judge Ron Walker a subject of critical columns in STPR, to blog spots purpose to target Klein with critical comment surfaced on Jefferson County-area Internet, to wit: Operation Kleinwatch; and Sam the Eagle.

53. Jeffrey Dorrell, from Vidor, Texas, claims to have been a Congressional aide to Charlie Wilson, as well as, a self-proclaimed successful "oil man," and most recently a work-a-day lawyer in Harris County, Texas.

54. Retzlaff is less illustrious; and having been represented by Dorrell, has been arrested and convicted for multiple crimes, and even stripped of parental rights because of his outrageous sexual behavior in the presence of his children, ever including exposing them to incest and child-sex ( See: *Retzlaff v. Tex. Dep't of Protective & Regulatory Servs.*, NO. 03-98-00201-CV, 1999 Tex. App. LEXIS 5547 (App.—Austin 1999); *Retzlaff v. Texas Dep't of Protective & Regulatory Servs.*, 2000 Tex. App. LEXIS 1381 (Tex. App. Austin, Mar. 2, 2000); and *Retzlaff v. Texas Dep't of Protective & Regulatory Servs.*, 531 U.S. 946, 148 L. Ed. 2d 278, 121 S. Ct. 345, 2000 U.S. LEXIS 6951 (2000))

55. On or about 2009, and because of "Kleinwatch" and "Sam the Eagle," Klein filed a "Rule 202 Investigative Claims" discovery action against Google Inc., and Michael Neil Harrison (a current/former Coon employee), in the 172<sup>nd</sup> District Court of Jefferson County, Texas, in order to discover the account information from Google Inc. and Michael Neil Harrison, regarding

identities of the publishers of “Kleinwatch” and “Sam the Eagle,” Judge Floyd granted Klein’s motion and ordered Google to release the information.

56. However, Attorney Jeffrey Dorrell, with close ties to Walker through Provost \* Umphrey, appeared on behalf of respondents, effectively “Kleinwatch” and “Sam the Eagle” interests, and “appealed” Judge Floyd’s order to the Ninth Court of Appeals (“9COA”), which reversed and remanded Floyd, keeping the identities and account information of Operation Kleinwatch and Sam the Eagle secret from Klein.

57. Klein “appealed” the Court of Appeals decision to the Texas Supreme Court which declined to alter the Court of Appeal’s the decision, resulting in the matter being returned to Judge Floyd’s court for an evidentiary hearing.

58. The hearing in Judge Floyd’s court occurred on January 17, 2012, when Dorrell argued Klein to be a “public figure”, claimed Klein was constitutionally unprotected, and unentitled to the sought-after information.

59. On January 30, 2012, Floyd denied Klein’s “202” petition for discovery, and Kleinwatch’s ostensible author, “Gus Pillsbury” threatened to write more.

60. During 2012, about the time of Dorrell appearance in the Kleinwatch, Sam the Eagle Google case, Thomas Retzlaff, a convicted felon and revenge blogger surfaced as an attack blogger for Dorrell and Walker.

61. Retzlaff and/or Dorrell, for Walker began attempting to identify people whom they could use as surrogates to make frivolous, million dollar claims against Klein.

62. It was announced by Retzlaff’s and Dorrell’s blog that if they could deprive Klein of insurance coverage, they could destroy his business and his stream of income.

63. Meanwhile, in August 2011, a Houston based African-American activist, Quannell X, had appeared in Beaumont criticizing Walker for specific legal inequities in the administration of his court's business, calling Walker a "racist."

64. After Quannell X's appearance, Klein was hired in December 2011, by a local African American couple whose son, had been denied adequate a legal defense because of Indigent Defense Fund ("IDF") fund shortages.

65. Walker administered the IDF, and Klein discovered and published to the public the fact that Judge Walker had apparently misused earmarked, public funds from the Jefferson County IDF, to benefit his friends, which included a reported business partner, and political cronies.

66. After critical attention was triggered by Klein to Defendant Walker's mishandling of the IDF in February 2012 in the STAAR, Klein reported Walker to Attorney General Greg Abbott, and began to blog about Walker's antics with increasing frequency.

67. Klein was told that "only white lawyers and an African American non-lawyer friend (and reported employee of Walker's, and campaign officer of Joe "Quarterback" Stevens), Arthur Louis, were being paid by Walker from the IDF.

68. Klein submitted a freedom of information request Jefferson County Auditor Swain and confirmed that Arthur Louis, neither lawyer nor investigator, was receiving Walker-ordered payments to Louis' private business; Klein wrote about it in the STPR describing Walker's misuse of the fund.

69. At all times material to this lawsuit, Klein has been represented both personally and commercially by Beaumont attorney John S. Morgan ("Morgan").

70. Not only did Klein report Walker's misusing of the IDF to Attorney General Gregg Abbott, but also to the Commission on Judicial Conduct.

71. Morgan had been married to Kathleen Winslow Morgan ("KWM"), daughter of Jefferson County's health service director, and more importantly, the granddaughter of the late United States District Judge Joe Fisher.

72. Beaumont, Jefferson County, Texas has long been the center of legal activities in "East Texas."

73. It was openly known that Walker was meeting with Provost\* Umphrey lawyers, (where two of KWM's first cousins of KWM are senior Equity Partners), during the Morgan custody fight in 2012.

74. Walker, although judge of the 252<sup>nd</sup> Criminal District Court, had adjudicated only two family/domestic cases: the divorce of Gilbert Adams (the younger) (the senior Gilbert Adams being the Chairman of the Democratic Party); and in 2011-2012, the custody dispute of Klein's lawyer, John S. Morgan and KWM involving custodial issues of the couple's three children.

75. Both the Adams and Morgan cases were politically, high-profile in Jefferson County.

76. The Morgan custody case was very bitter with allegations of drug abuse, illicit sexual affairs, and questions of psychological fitness being made against KWM, with charges of perjury, and manipulation of his minor daughter (to make accusations against KWM) and false reporting were made against John Morgan.

77. Walker disliked Klein for his articles and identified Morgan with Klein.

78. In April 2012, during Defendant Walker's handling of the Morgan custody case, Walker identified two female courtroom observers as Klein employees, and ordered litigant Morgan to order them to leave, because Walker identified Morgan with Klein.

79. After Klein was denied the opportunity to confirm the Googlespot bloggers on January 30, 2012, “Kleinwatch” immediately published a blog, “crowing” about Dorrell’s victory over Klein.

80. The Kleinwatch blog which is still on the internet<sup>2</sup>, called Klein a “serial abuser of our state courts,” has a “penchant for dating farm animals,” praised “Kleinwatch’s” and “Sam the Eagle’s” “attorney, Jeffrey L. Dorrell: You are the best!”, called “Philip R. Klein: “a scurrilous piece of human flotsam...” , and said *“I suspect that Philip’s most recent attack on Judge Walker has more to do with the custody suit brought by John Morgan, Phillips attorney, against his ex-wife, than Philip’s silly ‘investigations’...*

81. Walker repeated that claim against Klein in his March 29, 2016, deposition herein.

82. The January 30, 2012 article, Kleinwatch written by “Gus Pillsbury” continued, *“I’ve lost count of the number of times that Philip has claimed Judge Layne Walker was ‘under investigation’ and that ‘charges are pending’ [signed by Gus Pillsbury at 7:51 p.m.]”*

83. The January 30, 2012, edition “Kleinwatch” ominously promised, “... **so I have this to say: there is more to come, so check back regularly. I’ve only just begun...**”

84. “Gus Pillsbury” has been identified as a probable **alias of Dorrell**.

85. On March 6, 2012, Klein complained to the State Judicial Conduct Commission about Walker’s mishandling of the IDF and other matters.

86. During the April 2012 Morgan-custody fight in Walker's court, in addition to ordering Morgan to order Klein’s employees to leave the open courtroom, Walker had conducted an evidentiary hearing at which Morgan was cross-examined by KWM’s lawyer, Sheryl Johnson-Todd.

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<sup>2</sup> Operation Kleinwatch: “We Beat Philip R. Klein! Operation Kleinwatch.blogspot.com”

87. During her cross-examination of Morgan on April 10-11, 2012, KWM's lawyer, Johnson Todd, asked Morgan about Klein and whether he, Morgan had involvement in Klein's investigative articles about Walker.

88. To prove the Morgan connection to Klein, Walker sanctioned Johnson-Todd's seizure of Morgan's cell phone and ordered KWM's lawyer to examine the private and privileged content of the phone, including privileged emails and text messages.

89. Klein publicized in STPR that Defendant Walker had made grossly draconian, and partisan rulings against Morgan and deprived him of a relationship and visitation with his children as another example of Walker's abuse of office.

90. Klein also publicized Walker's "abuse" of a well-known Black lawyer, Stella Morrison.

91. In 2013, Stella Morrison retained Morgan to sue Walker for violation of her federal 2013 constitutional rights violations, and Klein publicized that event as well.

92. When Morgan filed a civil rights suit for Morrison against Walker, he hired Klein to serve Walker with the federal summons; Klein assigned the task to his employees Steve Hartman because Hartman had experience with service of process on Walker.

93. Klein's licensed process server employee Steve Hartman, on his first routine service attempt on Walker in April 2013, had tried to serve Walker at his courthouse chambers, but was denied service opportunity by Walker's staff, causing Hartman to go to the District Attorney's office for assistance, where he was told only to go serve Walker at home.

94. Hartman's attempt to serve Walker at home resulted in Hartman being subjected to false allegations and threats by Walker and his son; Walker, armed with a handgun and backed up by his son, forced Hartman to leave Walker's property allowing, Hartman to accomplish service only by dropping the service-papers at the gun-toting Walker's feet.

95. On May 28, 2013, in the Morrison matter, Hartman went to the 252<sup>nd</sup> District Court to serve Judge Walker during a break in proceedings.

96. For self-protection, Hartman was equipped with a “pen” video/audio recorder, when he went to Walker’s courtroom; while prepared for the worst, Hartman planned to make every reasonable effort to serve Walker with Morrison’s lawsuit, which he did.

97. Hartman entered Walker’s courtroom, *deported himself properly and non-provocatively* , remained behind the bar which separates the public portion or gallery of the courtroom from the well of the courtroom and the bench.

98. When the opportunity presented itself, Hartman, still standing in the courtroom’s gallery, unobtrusively approached the bailiff and politely informed the officer that he had federal court papers to serve on Walker.

99. While Hartman was talking to the bailiff, Walker was on the bench conducting court business.

100. Walker recognized Hartman in the audience as Klein’s employee, sensed the purpose of Hartman’s presence, and communicated with the bailiff to arrest Hartman, without probable cause.

101. Walker instructed the bailiff to remove Hartman from the courtroom and take Hartman to jail.

102. Walker and the bailiff fabricated facts to justify Hartman’s arrest, and Walker identified all lawyers in the courtroom and induced them to give false statements about the facts surrounding Hartman’s arrest in two Class B misdemeanor criminal charges.

103. Klein criticized Walker in his blog and accused Walker of improper manipulation of events from “behind the scene”, and stealing evidence, the tell-tale recorder pen.



104. On August 23, 2013, Klein received official notice from the State Commission on Judicial Conduct that his first complaint No. CJC 12-072-DI about Walker's handling or misuse of the IDF was dismissed, yet his second complaint against Walker in No. CJC 12-1003-DI remained under investigation.

105. On the same day, August 23, 2013, Klein was served with Notice that Walker had filed a baseless, and false complaint against Klein as an authorized process server with the Supreme Court of Texas Process Server Review Board.

106. Klein had filed a complaint against Walker with the State Commission on Judicial Conduct regarding Walker's conduct, including Walker's multiple attempts to cause the state to delicense both Klein and his employee, Steve Hartman.

107. After filing the complaint against Walker, Klein was contacted by Jerry Jordan, fellow blogger on Southwest Texas Investigates", Walker's friend and sometime media outlet.

108. Jordan announced to Klein and asked for Klein's reaction to a story Jordan had been given by Walker that a Special Prosecution, Shane Phelps, had been appointed by Walker to investigate and seek grand jury indictments of Morgan for alleged crimes committed during his custody hearings, and of Klein for allegedly tampering with witnesses through the STPR.

109. Klein had urged attorney Tom Burbank and other lawyers recruited by Walker as witnesses for the May 28, 2013 arrest of Hartman, to "Tell the truth".

110. Because of the threatened indictment, Klein hired Paul Schiffer, Houston criminal defense lawyer at a cost of \$10,000.00; Schiffer who contacted Phelps to verify the story.

111. Also in November 2013, investigators for the state's Judicial Conduct Commission interviewed Klein, Morgan, and other Jefferson County District Judges (2), related to complaints filed against Walker by Klein, Morgan, and Morrison.

112. After Walker filed his complaints with Klein's licensing agencies in August 2013, and started a process to indict Klein and Morgan, Klein filed his state constitutional suit against Walker on November 27, 2013, and Walker generally began to curtail his published stories on Walker in the STPR, unless the information he published was primarily documented by records or persons he knew.

113. On November 27, 2013, Klein filed an equitable claim under the Texas Constitution against Walker, Phelps and Jefferson County, in the 136<sup>th</sup> District Court of Jefferson County, Texas, seeking declaratory and injunctive relief.

114. The judge of that court recused himself and administrative Judge Olin Underwood appointed Judge Mike Mayes of Conroe to preside in Klein's case.

115. It was learned by Klein that the Commission on Judicial Conduct was prompting Walker to resign after his eleventh anniversary as an active judge, on January 1, 2014, and agree not to seek re-election in exchange for the Commission's halting its investigation, and suppression of administrative prosecution or comment; in other words, if Walker did not accept the Commission's "deal", he would lose his "good standing" status and not be eligible to be a certified State Visiting Judge.

116. On December 10, 2013, Walker accepted the private settlement proposed by the state and announced his intention not to seek re-election, and resign in January 2014.

117. On January 14, 2014, Walker resigned his office as District Judge of the 252<sup>nd</sup> Criminal District Court of Jefferson County and by accepting the Commissioners deal retained his judicial status and was added to the state Administrative Judge's list of eligible "in good standing", Visiting District Judges, maintained by Judge Olin Underwood.

118. After Walker left the bench in 2014, another Jefferson County District, Judge John Stevens assumed authority over Phelps and dispensed with Phelps' services, ending his investigations.

119. In the February 8, 2014, online edition of the STPR, Klein in a restrained manner, laid out the story of his involvement with Walker, called "Walkergate;" in that writing, Klein also was critical of Sheriff Mitch Woods, District Attorney Tom Maness, "County Attorney" Tam Ruggs and Count Judge Jeff Branick, diluting his criticism of Walker.

120. During the time period from Walker's leaving the 252<sup>nd</sup> District Court, and the dismissal of Klein's state action by Montgomery County District Judge Michael Mayes, on September 23, 2014, Dorrell and Retzlaff as part of the Walker conspiracy began generalizing false articles on the internet, falsely accusing Klein by unambiguous and ambiguous words of defamatory acts.

121. When Judge Mayes decided as a matter of law that the 136<sup>th</sup> District Court did not have jurisdiction to adjudicate Klein's claim against Walker for equitable relief (declaratory and injunctive) after Walker's violation of the Texas Constitution.

122. Klein curtailed and became more guarded in his speech about Walker as the hearing date approached on June 6, 2014, regarding Walker's complaint to the Process Server's Board, mentioning Walker seldom alone, and mostly, doing so in tandem with Tom Maness or Jeff Branick other past or current County officials, or in reference to documented matters such as the Indigent Defense Fund.

123. Klein began to back-off criticizing sitting district judges, except in clearly documented cases, restricting his use of opinion.

124. On February 23, 2014, Klein outlined in STPR how Doug Barlow and James Makin, as death penalty defense attorneys in Jefferson County had been documented as being favored by Walker's management of the Indigent Defense Fund's assets.

125. In that same edition of the STPR Klein spent less direct attention to Walker, again diluting his criticism of Walker with names of other County political figures, notably departing from his practice in earlier STPR editions of Walker's open alliance with Provost Umphrey, the Fisher family, Mark Sparks, Jeff Dorrell and Dorrell's revenge blogger/client Thomas Retzlaff, and the threat of more complaints and lawsuits against Klein.

126. On March 7, 2014, Klein published his last edition of the STPR before it was "hacked," forcing a loss of Klein's software and some archived editions.

127. Klein hired a computer technician, and it was confirmed that Klein's business computer system had been hacked by outside person(s).

128. Around the time of Klein's computer was hacked there was an attempted burglary of Klein's office captured by Klein's security system, which he reported to the police, and meddling with his telephone lines.

129. On June 2, 2014, Klein restored computer capability and restarted public STPR.

130. Klein's June 2, 2014, edition off STPR previewed the upcoming, June 6, 2014, hearing before the Process Server's Board in Austin, Texas on Walker's complaints against Klein and Stephen Hartman.

131. Mark Sparks, Provost Umphrey attorney for Walker, gave notice to the Board that Walker would testify in support of his complaint, which focused on the May 28, 2013, arrest of Hartman in the 252<sup>nd</sup> District Courtroom after Hartman had informed a bailiff that he was there to serve Walker with a federal lawsuit during an upcoming break in the court proceedings.

132. On June 6, 2014, Sparks introduced Walker as Judge Layne Walker of the 252<sup>nd</sup> District Court and Klein was represented by Morgan, assisted by Aldo Watson.

133. In that proceeding, Walker testified falsely about the events of May 28, 2013, and Klein.

134. Walker's version of the events of that day have been contradicted by the recording of Hartman's "Spy pen," a previously un-transcribed recording of the court reporter, the affidavit of Sheriff Deputy Tony Barker, and eyewitnesses.

135. Shortly after the hearing, the Process Server Board dismissed Walker's complaint,

136. As of June 6, 2014, Walker had filed four administrative complaints against Walker and lost all four.

137. In October 2014, Dorrell filed the "8 million-dollar" EM/VFM suit against Klein and a Klein client in the district court of Bexar County on behalf of EM/VBM, a couple in Mexico. The suit was clearly in retaliation for Walker's loss at the Process Server Board.

138. Dorrell associate and client, revenge blogger Thomas Retzlaff, revealed the plan of Walker's lawyer, Dorrell to continue the attack against Klein by generating litigation against Klein which would force Klein's commercial insurance carrier Lloyds:

139. Klein's insurance carrier designated a San Antonio lawyer Rick Espy, Espy & Associate, P.C. law firm to defend Klein.

140. Dorrell's associate and client Thomas Retzlaff, a convicted felon, went to Espy's home and frightened Espy's wife. Retzlaff, having learned that Espy's daughter attended Pepperdine University and worked part-time as a babysitter, began an obscene computer assault on Espy's daughter.

141. To protect his family, Espy withdrew as Klein's attorney; and Morgan to prevent a gap in representation appeared in the Bexar County suit as Klein's attorney, in opposition to Dorrell.

142. Dorrell and Retzlaff used the pleading in the EM/VBM suit, as well as the internet to continue to defame Klein obviously purposed to draw Klein into attempting a legal defense of

himself in which Dorrell and Retzlaff for Walker could invoke the recently passed defamer's tool, "Chapter 27-Texas Anti-Slapp" statute.

143. Dorrell sent harassing emails to Klein despite Dorrell's knowledge of Espy's representation of Klein.

144. As revealed by Retzlaff, Klein filed a grievance against Dorrell with the State Board of Texas on February 4, 2015, which was dismissed on June 24, 2015, for directly harassing Klein.

145. On July 1, 2015, Klein published an article about Walker based on and including records obtained at the Jefferson County Courthouse, which testimony, said that Walker, when a sitting District Judge, had privately initiated a communication with a female complaintant and her current lover, related to a criminal case growing out of romantic dispute with former boyfriend, Aldo Watson, her current lover; and as a result Walker imposed a twelve-million-dollar bond against the woman's former lover, an assistant to Morgan against Walker on June 6, 2014..

146. In July 2015, Judge John Stevens appointed Josh Schaffer a Special Prosecutor to investigate the May 28, 2013, arrest of Hartman.

147. In 2015, Klein wrote a story about Walker while on the bench of the 252<sup>nd</sup> District Court secretly talking to a female, complaining witness against a lawyer who was a political enemy of Walker's and who appeared with Morgan to defend Klein in the June 6, 2014 hearing before the Process Server Review Board; after the conversation Walker set a \$12 million bond on the lawyer's who had appeared with Walk who the

148. Then on April 16, 2016, [www.viaviewfiles.net](http://www.viaviewfiles.net), another Walker/Dorrell/Retzlaff blog, clearly prompted by a conspiracy of Walker through Dorrell and his associate Retzlaff, was published defaming Klein, and also stating,

*“In yet another stunning, not so stunning defeat, Klein got his ass handed to him yet again on account of one of his stupid, vexatious LOLsuits here by American Hero and Honorary Admin of the BV files Texas attorney Joe Fisher! This is a LOLsuit that was filed against our other American Hero and Honorary Admin of the BV files Judge Layne Walker of Texas. The attorney representing Klein is Laurence Wade Watts [all contact information] Hooray for Joe! Hooray for Judge Walker!”*

149. Additional anti-Klein and defamatory blogs have been spinning up, authored by Dorrell’s client and associate Thomas Retzlaff. The author of “viaviewfiles” blogs even has access to and publishes images of private communications between the State Bar of Texas and Jeffrey Dorrell, material that is confidential to the Bar and the and the targeted member.

150. In fact, and in addition to his authored articles as “Gus Pillsbury” in “Kleinwatch”, and directly and indirectly in “Sam the Eagle”, and in conspiracy with Retzlaff in “viaviewfiles”, and Retzlaff@Texas.net, all in furtherance of the conspiracy with Walker, Dorrell has been professionally involved in: the 2009-2012 defense of the formal discovery of the identity of the blogger, “Gus Pillsbury” in “Kleinwatch,” and “Sam the Eagle”, and defamation of Klein; the 2014 prosecution of a frivolous “8 million dollar” liability lawsuit (“EM/VBM”) against Klein on behalf Mexican nationals who are currently reported to be listed on a federal “no-fly” list and unable to re-enter the United States; the 2015 defense of KWM’s attorney Sheryl Johnson-Todd, in a defamation suit brought by Klein’s lawyer, Morgan, with a pushback Anti-Slapp suit brought against Morgan; Dorrell now openly represents Walker in a noticed 2016 defamation action by “Judge Layne Walker” against Klein, because of an article by Klein about Walker’s indictment.

151. On October 10, 2015, an Internet posting probably by Retzlaff (on behalf of the conspiracy with Walker and Dorrell) said, *“getting his liability insurance canceled was just the first step. The next step is getting his PI license revoked. Oh, and yeah, Klein it really is the subject of the grand jury investigation and Bexar County (San Antonio) Texas. 100% VERIFIED, bitch !! #GFY McGibney #TangoDown@Bullyville and @Cheaterville Hahahahahaaha.”*

152. On October 16, 2015, an Internet posting probably by Retzlaff (on behalf of the conspiracy with Walker and Dorrell) said, *“Phillip Klein needs to die die die said: Now that the District Court here in San Antonio has officially signed off on Phillip Klein’s attorney quitting the case, how soon will it be till Klein gets hit with a notice of deposition? I am willing to bet that several pages of questions have already been prepared. If I were to hazard a guess, many of the questions have to do with his involvement with the McGibney gang. Except..., It is not a guess. It is an absolute fact since I had the honor of helping to draft many of the questions. Hey Philip-I guess we will be seeing each other far sooner than you think .”*

153. On December 7, 2015 an Internet posting probably by Retzlaff (on behalf of the conspiracy with Walker and Dorrell) said, *“ ‘Their mistake was wandering outside the protective umbrella of the Jefferson County judiciary, exemplified by Gerald Eddins’ no, their mistake was [f\_\_\_\_g] with a man who doesn’t give two shits about their police threats are LOL suit threats, and who has the ability and monies to stop their [m\_\_\_\_\_g] heads into the ground-all for the LULZ.... Klein is going to lose his business as sure as the sun rises over Galveston Bay each day. He won’t be able to take on a single missing child case without me contacting the families and local authorities and pointing out that Klein is a shady [m\_\_\_\_\_r] and a criminal. Which will result in a loss of monies for this [s\_\_thead].”*



154. On December 8, 2015, an Internet posting probably by Retzlaff (on behalf of the conspiracy with Walker and Dorrell) said: *“Neal Rauhauser (@nrauhauser) said: that was too long to actually read. As I understand the expected progression of events: first, Morgan gets disbarred. Maybe that was yesterday, will have to wait and see. Second, Philip loses \$8m libel suit. Third, KIC has to close, because can’t get insurance.”*

155. On Sunday, December 6, 2015, an Internet posting probably by Retzlaff (on behalf of the conspiracy with Walker and Dorrell) said [displaying a photograph of Klein’s internet profile summary and building] Phillip Klein is a Nederland, Texas, based private investigator who runs a company called Klein in Investigations and Consulting (<http://kleininvestigations.com/>). He is also a criminal who assisted John Morgan in filing a series of FALSE child sex abuse claims against Morgan’s ex-wife and he is also a criminal who created some FAKE child custody court papers that resulted in the FALSE ARREST of two INNOCENT PEOPLE near San Antonio, Texas. Thus, Phillip Klein and his little private eye company MUST BE PUT OUT OF BUSINESS and we need your help to do it!”

156. On March 3, 2016, an Internet posting probably by Retzlaff (on behalf of the conspiracy with Walker and Dorrell) said “I hope someone murders Phillip Klein soon.”

157. On March 19, 2016, an Internet posting probably by Retzlaff (on behalf of the conspiracy with Walker and Dorrell) said “murder Phillip Klein and win a new car!... We need your help, are teeming millions of readers, listeners, and supporters. We need your help in putting Phillip Klein and his company Klein investigations & consulting OUT OF BUSINESS. The sooner we can put Phillip Klein out of business the faster Phillip Klein will be out of business exclamation he is a piece of human garbage.”

158. After Walker filed his four false and defamatory complaints against Klein in 2013, all of which were dismissed by the respective administrative agencies, he has acted against Klein through his co-conspirators Dorrell and Retzlaff, until he acted through Dorrell on May 13, 2016, to give Klein notice of an intended defamation suit.

159. Klein became fearful of the increasing pressure and cost imposed by defending against unfounded claims prompted by Walker; Klein refrained from “scooping: or investigating and publishing additional anecdotal claims against Walker.

160. Walker and former member of his court staff were indicted by Jefferson County Special Prosecutor, Josh Schaffer, on or about May 12, 2016.

161. On May 11, 2016, Klein published an article in the STPR regarding Walker’s indictment.

162. Klein’s article about Walker prompted Dorrell’s letter of representation to Klein and demand for his apology to Walker.

163. Klein Investigations, Inc., and Klein Investigations and Consulting has been insured for liability by Lloyds of London through El Dorado Insurance Agency Inc. (“EDIA”) in Houston.

164. Dorrell’s May 13, 2016 letter to Klein was quickly followed by a series of emails from Dorrell’s associate and client Tom Retzlaff to Klein’s liability insurance broker’s, EDIA’s attorney, Carlos Peniche, (Exh\_) on May 16 and 18, 2016.

165. Retzlaff pretended to have a claim against Klein, and by that ruse secured Klein’s liability insurance account information, including payment history on Klein’s Lloyd’s of London policy from Klein’s insurance broker’s attorney, Carlos Peniche.

166. In furtherance of the conspiracy and to attempt to create terror in Philip Klein, Retzlaff has threatened to Klein’s life in October 2015 December 2015, even into March 2016.

167. On June 10, 2016, as Klein left having dinner with his son, daughter-in-law and granddaughter at Port Arthur restaurant, Klein's son noticed a man taking photos of Klein, and his family. Klein's son took a photo of the man provoking a violent outrage.

168. After alerting his father who had left the restaurant unaware of the photographer, Klein's son left with his family.

169. Klein discovered he had left his credit card at the restaurant and returned to collect it and see if the mysterious observer was in the restaurant.

170. The man was pointed out to Klein, who thought the man might be Thomas Retzlaff, approached the seated stranger, who identified himself and his companion as friends of Walkers, Eugene and Ann Landry. Ann Landry had been Walker's coordinator and now is employed at Provost Umphrey.

171. When Klein entered the restaurant to collect his credit card and waiting meal, Ann Landry's husband Eugene Landry was seen sitting with Ann Landry at a table; while neither and in our her husband Eugene were known to Klein at the time he approached them politely ask why Eugene had been photographing Klein and his family which prompted Eugene to erupt in anger and stand as if he were going to attack

172. Simultaneously, it has been learned that Ann telephoned 911 in an attempt to file false charges of harassment against Klein.

173. Klein, out of fear for his and his family's life has asked local, state and national law enforcement authorities for protection, as well as bullet-proofing his vehicles because of Retzlaff's threats against Klein's life ad lives of his staff.

### **CAUSES OF ACTION**

174. This is not a public employees' Free Speech case.

175. This is a case where Klein exercised Free Speech in the internet media, and reported Layne Walker, a sitting District Judge for perceived corruption, fraud, waste, mismanagemen.

176. Walker was and has been motivated to maliciously retaliate against Klein, form a conspiracy with Jeffrey Dorrell, and Thomas Retzlaff to maliciously file false complaints (in which each conspirator/ person has acted to further the conspiracy's plan), maliciously publish false words, (some of which were unambiguous and others while seemingly ambiguous were reasonably meant to and were understood to be defamatory), (even to take fraudulent and illegal actions to force Klein out of business, and even threatening Klein with murder, all for the purpose of punishing and restraining Klein's speech.

177. Klein has curtailed and backed-off from his former persistent and robust criticism of Walker and other political figures because of Walker's and his co-conspirators.

178. Klein has curtailed and backed-off from his former persistent and robust criticism of Walker and other political figures because of the actions of Walker and his coconspirators.

179. Klein has expended \$42,000.00 armoring his business and personal vehicles out of fear for the safety of his employees, family and himself.

180. Klein has terminated his relationship with his insurance carrier due to direct interference of Walker and his co-conspirators.

181. The actions of Walker and his coconspirators have resulted in increased insurance costs to Klein of roughly \$10,000.00; and if not enjoined, Walker and his coconspirators will prevent Klein's ability to maintain insurance altogether, and destroy his businesses and profession.

182. Walker has even filed or caused to be filed false claims against Klein with the licensing agencies which govern and regulate Klein's business and livelihood, and even

hereafter future false claims against Klein to interfere with Klein's ability to maintain required insurance for his business and practice as a licensed private investigator, Personal Protection Agent, Supreme Court Process Server. .

183. Klein's exercise of protected speech in the STPR, his internet blog, and Klein's report to the State Judicial Conduct Commission and the Texas Attorney General as well as to others were protected speech and legally motivated Walker to callously disregard Klein's rights, causing him injury and damages.

184. Klein's exercise of protected speech motivated Walker and his co-conspirators to retaliate against Klein to the adverse actions undertaken by Walker.

185. Walker was acting under color of state law a sitting District Judge and a listed or certified Visiting Judge to retaliate against Klein.

186. Walker is not entitled to immunity, either qualified or absolute, and at no time was Klein a party or witness to any proceeding in front of Walker.

187. Walker's actions were malicious, for the purpose of destroying Klein's ability to make a living, his standing in the community, and to deprive him of his professional licenses.

188. Walker's malicious actions were intended to and did have a chilling effect upon Klein's exercise of his First Amendment Rights, as those actions would have chilled any person of ordinary firmness.

189. Walker and his co-conspirators proximately caused Klein harm and damages.

190. Walker in conspiracy with Dorrell and Retzlaff have maliciously interfered with Klein's contract with Lloyds of London, Rick Espy, and to harm and destroy Klein's livelihood and ability to earn a living.

191. Klein also seeks compensation and punitive damages against Walker.

192. Klein seeks a declaratory judgement whereby Walker would be declared to have formed a conspiracy with Jeffrey Dorrell, and/or Thomas Retzlaff to violate Klein's First Amendment rights; violated Klein's First amendment rights.

193. Klein seeks an injunction (permanent) whereby Walker would be enjoined from further violating Klein's constitutional rights secured by the First Amendment to the Constitution of the United States.

194. Further, Klein seeks all other relief to which he may show himself justly entitled, whether in equity or law, including reasonable attorney's fees, costs, and both pre-and post-judgment interest.

Respectfully submitted,

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**CERTIFICATE OF SERVICE**

I hereby certify that on this the 27th day of June 2016, a true and correct copy of the foregoing was forwarded to opposing counsel(s) of record by electronically filing same in accordance with the Court's ECF service rules, to:

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/s/ Larry Watts\_\_\_\_\_

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