



August 4, 2021

Via Personal Service, First Class Mail, and Email to:

Maricopa County Board  
of Supervisors  
c/o Jaunita Garza,  
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Maricopa County Attorney's Office  
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Allister Adel, Esq.  
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Re: Notice of Claim pursuant to A.R.S. § 12-821.01 – April Sponsel

To All:

This firm represents April Sponsel with regard to her claims against the Maricopa County Attorney's Office (MCAO) and Allister Adel, Maricopa County Attorney for defamation and false light invasion of privacy and intentional interference with her employment contract. This letter is intended to be a Notice of Claim pursuant to and compliant with A.R.S. § 12-821.01. If for any reason you believe it is insufficient as a notice of claim in any respect, we ask that you immediately inform the undersigned of your position and provide our client with an opportunity to cure the claimed defect.

As shown below, Ms. Adel was fully aware of and had previously admitted to such, that Ms. Sponsel was working within the confounds of her professional and ethical prosecutorial duties with the approval of her supervisors regarding the criminal street gang charges stemming from the violence on October 17, 2020. Furthermore, to Ms. Sponsel's knowledge no police officer and no individual involved in the October 27, 2020, Grand Jury presentation ever gave anything, but honest and

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trustworthy testimony based on the facts known at that time. Ms. Sponsel has always and solely acted within her prosecutorial duties.

The following is a summary of the facts and our client's legal claims.

## I. Facts

Ms. Sponsel has been an MCAO prosecutor since May 2004. Her assignments have included, from 2007-2015, directing and prosecuting major gang-related cases and, from 2015-2019, serving as lead and co-counsel in cases involving aggravated assaults on law enforcement officers. Her credentials and reputation in this community are, and have always been, stellar.

Samples of Ms. Sponsel's annual MCAO evaluations for the past 17 years commending her for her exemplary service are attached. (Copies of MCAO Evaluations for the years 2018, 2019 and 2020 are attached as Exhibit 1 to this Notice of Claim.) As you can see from her most recent May 1, 2020, evaluation, she has consistently met or more often exceeded MCAO standards in every category:

April is the gold standard in how our [First Responders] Bureau aims to service our officer/first responder victims. She has developed an amazing network of contacts and a stellar reputation with law enforcement. This is earned respect that stems from April's constant professionalism. ... This has provided the new Bureau a jump start in creating a positive reputation for the First Responder] Bureau.

(Ex. 1, first page). Unfortunately, her years of exemplary service and reputation has been sullied and smeared by Maricopa County Attorney Allister Adel, who has found it politically expedient to throw her under the bus and falsely accuse her of wrongdoing in a gang-related prosecution that has drawn media attention and misguided public ire.

As you are very well aware, the Summer of 2020 was full of violent, unprecedented rioting in many cities across the country, including the City of Phoenix, Arizona. On May 28 and May 29, 2020, crowds of people converged on downtown Phoenix and in other Arizona cities in the name of Black Lives Matter and other organizations protesting the death of George Floyd and what has been called the "Summer of Unrest." During the early part of the protests, many of them were organized and peaceful and the organizers tried to work closely with the Phoenix Police Department. Some of the protestors, however, soon changed course and became bent on committing violent acts. These violent protestors were identified as groups aligning with Black Lives Matter and ANTIFA.

During the first days of unrest, several arrests were made for committing violent acts against property and law enforcement officers, and many were arrested for other crimes that included rioting. Due to the potential of escalating violence against law enforcement and other first responders, and given her experience and expertise, Ms. Sponsel spoke with her Bureau Chief, Sherry Leckrone, and offered to take a lead on any of these cases submitted for felony prosecution. Ms. Leckrone approved her request.

Throughout the summer, more and more arrests were made for violent acts, and a majority of these cases were assigned to Ms. Sponsel. Many relatively minor cases were not filed, but were sent to

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the City of Phoenix for misdemeanor prosecution. Very few of the more egregious cases were deemed appropriate for felony prosecution. In other words, measured and reasonable discretion was used to determine who to prosecute and who not to prosecute in accordance with MCAO policy guidelines.

Ms. Sponsel worked closely with Phoenix Police Department officers and supervisors on all of the of the riot cases that were submitted for charges. Pursuant to the MCAO policy, she kept her supervisor, Sherry Leckrone, and her Division Chief, Vince Goddard, informed of the status of these cases at all times due to the high-profile nature of these cases. She also kept the executive team informed through the database discussed below. Nicholas Michaud, a junior MCAO attorney, assisted her in keeping the chain of command informed and updating the database as well.

Early on, beginning with the first set of arrests in May, and due to the number of cases and the media exposure that the MCAO was seeing, members of the First Responders Bureau created and maintained a database at the request of the MCAO Executive Team, which included Tom Van Dorn, Kenneth Vick and Allister Adel. This database listed and kept up to date who was arrested, whether they had been charged, and whether they had pled guilty to any of the offenses. It was accessible by anyone in the office, so that if someone needed to check on the status of a case, they could easily do that. At no time during the Summer of 2020 was Ms. Sponsel or anyone else in her unit asked to staff any of the cases before they charged them. Each case was easily accessible by any member of the MCAO to answer any questions they might have about who was charged, what was charged, and the case status.

As the summer progressed, Phoenix Police and other agencies began to notice a trend from one group of rioters that specifically identified under the symbol and philosophy of ACAB (All Cops Are Bastards). Members tattooed ACAB on their person and left ACAB graffiti around the locations of their criminal conduct. Law Enforcement obtained information that this was a group tied to ANTIFA and that they were getting tattoos to show their loyalty to their cause.

As this trend emerged, witnesses came forward, specifically Ms. Riley Behrens, who was a member of ACAB. Ms. Behrens was present at a protest in Gilbert when she was attacked by counter-protestors. As part of that investigation, she began to talk with Gilbert Detective Terry Burchette about the philosophy and plans of members of different groups, including the ACAB criminal street gang. She told Det. Burchett about the gang and provided information on how they were increasing in violent ideology and that the violence was targeted only at members of law enforcement. Det. Burchett shared that information with Phoenix Officer Jeff Howell, who then passed it along to Ms. Sponsel and MCAO Detective Karl Martin. One of the goals of the MCAO and law enforcement is sharing information which is a cornerstone of Intelligence Based Prosecution. It is imperative that prosecutors understand the crimes that are facing a community and identify which defendants disproportionately drive those crimes. Pursuant to MCAO policy, attorneys like Ms. Sponsel, are encouraged to meet with members of law enforcement to ensure that individuals are properly charged based on the facts and evidence presented by law enforcement.

As the law enforcement investigation continued, Ms. Behrens agreed to work with the FBI and was in the process of being signed as a confidential informant. Upon the advice of her father's attorney,

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she, attended a meeting with the FBI task force of officers and agents and secretly recorded the meeting. After leaving the meeting, she or her attorney provided the recording to one of the news outlets in Phoenix, who then alerted the FBI and provided a copy of the recording to the FBI. The FBI refused to further work with Ms. Behrens.

On October 17, 2020, Ms. Sponsel was informed by the Phoenix Police Department, Downtown Operations Officers Lt. Benjamin Moore and criminal street gang expert Sgt. Doug McBride, that several individuals, including Ms. Behrens, had been arrested for several crimes that included rioting and aggravated assault on law enforcement officers. Ms. Sponsel informed Lt. Moore that he should make sure the arrest documents were complete, accurate and individualized to each suspect's activity and to ensure that there were no continued copy and paste issues. She also informed him that they should submit only the charges that the Phoenix PD felt were supported by probable cause. She also said to make sure that they documented and photographed as much evidence as they could and impound identified items of evidence. Later that evening, a list of those who were arrested was sent to her.

On October 18, 2020, Ms. Sponsel sent an email alerting the Initial Appearance Court coverage attorney and her chain of command that several people were being arrested and booked for rioting and other crimes. Later, Tom Van Dorn sent an email to Ms. Sponsel asking her to take care of these cases. Ms. Sponsel responded that she would take care of them and, pursuant to the MCAO policy, included the Public Information Officer Jennifer Liewer in the email. Therefore, to her knowledge, everyone on the MCAO Executive Team was aware of the arrests and the arrestees were added to the database. Most of the defendants who were charged were released, with or without bail.

On October 19-20, 2020, submittals from Phoenix Police began arriving and were officially assigned to Ms. Sponsel for charging and prosecution. Again, all of the MCAO Executive Team and her immediate chain of command were aware that she would be handling the case.

On October 20, 2020, as she began to review the case, Ms. Sponsel saw a pattern emerging that she recognized due to her training and past successful prosecutions. She saw the profile of a criminal street gang. She immediately called Phoenix Police Department Sgt. McBride and conferred with him based on his expertise in criminal street gangs. Sgt. McBride said that, in his expert opinion, criminal street gang charges were appropriate. Ms. Sponsel was also aware of other jurisdictions such as Utah that were currently using their criminal street gang charges to prosecute rioters. She notified her Bureau Chief, Sherry Leckrone, and her Division Chief, Vince Goddard, and asked them for permission to file Assisting a Criminal Street Gang charges. After hearing the facts, they both agreed that the facts met the crimes and the charges. Due to time constraints, they had to move quickly to get the case before the Grand Jury.

Over the next several days, Ms. Sponsel kept her immediate supervisors in the loop as to the status of the case. She asked her Division Chief, Vince Goddard, if Ms. Adel and Chief Deputy Ken Vick had approved the charges, and he said that they had. During this time, Ms. Sponsel was not only fully conferring and communicating with her bosses, she was fully conferring and communicating with Phoenix PD and gang experts regarding the charges.

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On October 21, 2020, Ms. Sponsel, Nick Michaud, and Det. Karl Martin, in accordance with MCAO policy, attended a meeting with the FBI Joint Terrorism Task Force and the Phoenix Police Department to talk about the continued rioting, public safety threats and the recent arrests. During the meeting Ms. Sponsel intended to bring up the potential criminal street gang charges, but before she could broach the subject, a Sargent with Phoenix Police Department independently suggested that the MCAO should consider the criminal street gang charges.

At the October 21, 2020, meeting, there were more than 30 law enforcement officers in the room, including a number of FBI and Phoenix Police Sergeants, Lieutenants, Commanders and Assistant Chiefs. No one in the meeting was opposed to the criminal street gang charges, and all agreed the charges were appropriate. Ms. Sponsel informed the group that she was on the same page and intended to file the charges based on her years of criminal street gang experience and the facts. In accordance with her practice when attending these types of meetings or in any interaction with law enforcement, Ms. Sponsel informed them that she could not give them legal advice and that they needed to talk to their legal advisors. She attends these meetings, per MCAO policy, as part of information-sharing, in order to learn about issues facing the community, and to better understand the totality of the circumstances of a case.

While conferring with the Phoenix Police Department regarding the October 17, 2020 offenses, Ms. Sponsel continued to work with her bosses to set up a formal meeting with Chief Deputy Mr. Vick and others in order to further brief them on the contemplated criminal street gang charges. Due to conflicts in schedules, however, the meeting did not occur until October 30, 2020. Prior to that, the status of the case was easily accessible by anyone in the office, including the MCAO Executive Team. On October 27, 2020, the case was presented to the Grand Jury, which returned a 16-0 true bill.

Charging rioters with criminal street gang charges was a novel approach in Maricopa County but the rioting activity and the violence against police officers taking place all over the country and this state were themselves unprecedented. The MCAO was receiving a multitude of submittals for charges that had not been filed in recent memory. One of the goals of punishment in our criminal justice system is to deter criminal behavior in order to protect the safety of Maricopa County citizens and prevent damages to our local businesses and police stations. Ms. Sponsel's role as the lead prosecutor is to ethically hold criminal offenders accountable.

Between October 20 and October 27, 2020, because this was a novel approach, Ms. Sponsel had several conversations with her Bureau Chief, Sherry Leckrone, and her Division Chief, Vince Goddard, about the charges and keeping them in the loop. She recalls having a telephone conversation with Mr. Goddard during that time in which, because this was an unprecedented approach that would likely be newsworthy, she specifically asked him whether Ms. Adel was aware of the charges.

There is no question that Ms. Adel was aware of the charges, whether from information provided to her by Ms. Sponsel through her supervisors or from other sources of that information. Moreover, it was during this time that her Bureau Chief, Ms. Leckrone, told Ms. Sponsel that, sometime between October 20 and October 27, 2020, she had attended a party at Ms. Adel's home, where she had pulled

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Ms. Adel aside to talk about the direction of the case and the novel criminal street gang charges. Ms. Adel had said nothing to give Ms. Leckrone any reason to think that the case and the charges should not go forward.<sup>1</sup>

The charges in the case were finalized and filed in the evening or the morning of on or about October 27, 2020. Prior to that, Ms. Sponsel had been asking and waiting to hear anything that would indicate the charges should not go forward.<sup>2</sup> She continued to ask her Bureau Chief and Division Chief about going forward, keeping them fully informed at all times of the status of the case and the charges that would be filed. She tried to keep as many people in the loop as she could. Everyone was, or certainly should have been, fully aware that she was charging the defendants with aggravated assault, assisting a criminal street gang and other related crimes (the "October 27, 2020 Charges").

The Grand Jury indictment had come down that same day, on October 27, 2020. After that, but before the October 30, 2020, Meeting (see below), Law Enforcement Liaison Tom Van Dorn called Ms. Sponsel, asking her about the October 27, 2020 Charges and the meeting with the Phoenix PD that had occurred on October 23, 2020. Mr. Van Dorn told Ms. Sponsel that he should have been made aware of the meeting and should be present at any meetings when Assistant Chiefs were going to be present. She explained to him that she had no idea there would be Assistant Chiefs present at the October 23, 2020, meeting where the criminal street gang charges were discussed.<sup>3</sup>

After the grand jury indictment was handed down and drew media attention, a meeting was held at the request of Chief Deputy Ken Vick on October 30, 2020 (the "October 30, 2020, Meeting"). In preparing for this meeting, Ms. Sponsel talked to Division Chief Vince Goddard about the charges. He apparently believed she was only going to charge four or five of the strongest people with gang charges. She reminded that she had never said or suggested that to him or to anyone else. It would not have made sense to charge only four or five of the defendants with gang charges due to the group dynamic of all of the defendants working together to riot on October 17, 2020. Mr. Goddard told her that it might have been a misunderstanding, but that he understood why she did not limit the charges to only four or five of the defendants. In any event, any misunderstandings or concerns there may have been were dispelled at the October 30, 2020, Meeting.

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<sup>1</sup> Ms. Sponsel's communications with Vince Goddard and Sherry Leckrone were primarily over the phone due to concerns of information being leaked to the media.

<sup>2</sup> Because she is currently on administrative leave, Ms. Sponsel cannot access her work computer or emails to give you the exact dates and times of these events. The MCAO has exclusive custody of that evidence, and we remind you of its obligation to preserve the evidence in its original native format pending any litigation that may become necessary in this matter.

<sup>3</sup> The MCAO had never previously invited its law enforcement liaison to any meetings regarding any investigations that Ms. Sponsel was ever a part of. She did not know it was Mr. Van Dorn's expectation to be invited to any investigative meeting.

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We note here that, as a 17-year veteran MCAO prosecutor, Ms. Sponsel has always presented her cases in the same manner, especially as it relates to gang charges. She had been with the MCAO for three years and had already led or co-led approximately 30 felony jury trials when she was transferred to the Gang Bureau under David Rodriguez and Division Chief Anthony Novitsky. It was then that she began to participate in complex gang investigations and present at the Grand Jury. Since starting in the Gang Bureau in 2007, she has been using the same language comparing different criminal street gangs such as the Crips, Bloods and Hell's Angles to each other and to newer criminal street gangs. She was never told that the way she was presenting at the Grand Jury was wrong or inappropriate in any way. Her supervisors never questioned any of her grand jury presentations, nor did any judge of Superior Court or the Court of Appeals or even defense attorneys when reviewing motions to remand or criminal court appeals regarding these types of comparisons. Ms. Sponsel has always made sure that she stays far away from the ethical boundary lines, whether in court or when presenting to a Grand Jury, no matter the type of case or crime.

Prior to the October 30, 2020, Meeting, the news media began to reach out to the MCAO, asking about the October 27, 2020 Charges. At that point, none of the defendants had been served with indictments, so the MCAO was concerned about how the defense was privy to the charges and who had leaked that information to the media.

The following people attended (virtually) the October 30, 2020, Meeting: Division Chief Vince Goddard, Bureau Chief Sherry Leckrone, Division Chief of Training and Appeals Ryan Green, Bureau Chief of Gangs Heather Livingston, Chief Deputy Ken Vick, MCAO Det. Karl Martin, Information Officer Jennifer Liewer, Chief of Investigations William Long, Director of Investigations Tom Van Dorn, and Ms. Sponsel. In the meeting, Mr. Goddard, Ms. Leckrone and Ms. Sponsel explained the October 27, 2020 Charges and why they were appropriate. The only person in the meeting who objected to the charges was Mr. Green. To Ms. Sponsel's knowledge, no one else objected to the charges, and no one suggested a formal incident review that she can recall. Further, no one, including Mr. Green, stated or suggested that the MCAO should dismiss any of the charges against any of the defendants.

For unknown reasons, Chief Deputy Ken Vick attended the meeting rather than Ms. Adel, but it was clear that she was fully aware, or should have been fully aware, of the course of the investigation and the October 27, 2020 Charges at all times prior to the meeting. At no time did Chief Deputy Ken Vick state that anyone had to wait for Ms. Adel's approval before moving forward.

During the October 30, 2020, Meeting, the participants talked about their concern that the media had known about the October 27, 2020 Charges. Mr. Vick and others asked Mr. Goddard, Ms. Leckrone and Ms. Sponsel to track down the defense attorneys in order to get the indictments officially served so that the MCAO could then respond to media requests for that information. The point of all of these discussions was not to dismiss any charges or slow the process down to further consult with Ms. Adel, but rather to hurry up, serve the defendants and speed the process up.

Between October 21, 2020, and February 2021, to Ms. Sponsel's knowledge, there was no further formal review of the October 27, 2020 Charges and no further discussion about them among the

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MCAO Executive Team. Ms. Sponsel nevertheless kept her immediate supervisors informed about the status of the October 27, 2020 Charges as well as the status of all of the other pending riot cases and aggravated assault cases she was handling at that time. Nick Michaud, a colleague, also continued to work his cases and co-chair cases that Ms. Sponsel had been assigned to prosecute.

On November 3, 2020, three days after the October 30, 2020 meeting called by Chief Deputy Ken Vick, Ms. Adel released a statement to the media about the case that supported the October 27, 2020 Charges and in no way disparaged Ms. Sponsel or any other prosecutor who was involved in the case. (Copy of Ms. Adel's statement as reported by an ABC 15 News article dated November 3, 2020, is attached as **Exhibit 2** to this Notice of Claim.)

On November 4, 2020, Ms. Adel fell at her home and suffered a brain bleed. She returned from medical leave to her office in February 2021. After her return, in February 2021, ABC 15 news reporter Dave Biscobing began running a series of newscasts and articles called "Politically Charged," in which he criticized and called for the dismissal of October 27, 2020 Charges as politically inappropriate, excessive and incendiary.

On or about February 8 or 9, 2020, for the first time since the October 30, 2020, Meeting, Ms. Sponsel was informed that Ms. Adel and the MCAO Executive Team wanted to be further briefed on the October 27, 2020 Charges. In a meeting held February 12, 2020 (the "February 12, 2020, Meeting"), Ms. Sponsel, Ms. Leckrone, Mr. Goddard, and MCAO-retained criminal street gang expert Clint Davis presented on the case for approximately two hours, explaining how the facts met the crimes charged. Ms. Sponsel in particular was peppered with multiple questions about what each individual defendant had specifically done. She explained how all of the charges would be proven under an accomplice liability theory that she had successfully charged and proven many times in her many years of training and experience in that kind of case with similar facts and evidence.

One of the defendants who had been charged was a man named Ryder Collins, who had been seen among the rioting group and documented as being a member of the group. Mr. Collins became a main focus of the February 12, 2020, Meeting. Ms. Sponsel explained what evidence she had against Mr. Collins at the time and why she believed that, based on the evidence, Mr. Collins was involved in the October 17, 2020, riot and other offenses and was thus properly charged. She provided them with a transcript of Mr. Collins' statements to the police denying his involvement, but demonstrated to them that the evidence of his actions was contrary to what he told the police.

After presenting the facts and evidence regarding Mr. Collins and the other defendants, Ms. Sponsel and Mr. Davis, the MCAO-retained independent criminal street gang expert, left the February 12, 2020, Meeting. Hours later, Ms. Sponsel was informed that the October 27, 2020 Charges would be dismissed as to all of the defendants despite the opinions of two separate experts, including the opinion of the independent criminal street gang expert hired and paid for by the MCAO. Ms. Sponsel and her supervisors were perplexed. She asked her supervisors not to put her name on the dismissal papers because she did not agree with that decision. She was told that refusing to do so could be an act of insubordination subject to discipline. She agreed to sign the papers, as instructed.

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Ms. Sponsel is aware that, after the February 12, 2020, Meeting, several other meetings were held without her input on other cases that she and Mr. Michaud had charged over the summer. She was told by her immediate supervisors that some of the charges would be dismissed and others would not be dismissed. Contrary to standard MCAO policies and procedures, she was never invited to or a part of these meetings giving her the opportunity to explain why the charges were brought, what the defendants did, and the evidence she relied on to charge them. In other words, Ms. Sponsel's extensive experience, expertise, and professional judgment were being scrutinized, second-guessed and criticized for the first time in her 17-year exemplary career with the MCAO by members of the Executive Team.

Soon after the October 27, 2020 Charges were dismissed, Ms. Sponsel realized that she would be Ms. Adel's scapegoat in order to blunt the criticism leveled by the news media, to absolve herself of any personal responsibility for bringing the charges and the politically damaging consequences of making or approving of that decision. Ms. Adel began a campaign borne of political self-interest to falsely blame Ms. Sponsel, and Ms. Sponsel alone, for purportedly failing to follow MCAO policies and procedures and purportedly committing professional misconduct by filing the charges without her (Ms. Adel's) review or approval.

Just after the MCAO filed a motion to dismiss the October 27, 2020 Charges, in an article dated February 12, 2021, titled "Maricopa County Attorney's Office dismisses case against protestors charged as criminal street gang," ABC 15 News reported that Ms. Adel had issued only a brief statement about the dismissal, confirming that the MCAO had filed the motion and stating that it was "re-evaluating the evidence that has been and continues to be submitted for review." (Copy of Ms. Adel's statement reported in this February 12, 2021, article is attached as **Exhibit 3** to this Notice of Claim.) She thus falsely implied that the evidence had not been submitted for review before the charges were dismissed. She also hedged on whether the charges were properly filed, saying that the "MCAO remains committed to holding those who committed criminal acts in this event responsible." (Id). From that point forward, however, as the heat turned up, things got worse, a lot worse, for Ms. Sponsel as Ms. Adel's campaign of political self-interest kicked into gear.

Just three days later, on February 15, 2021, in an article titled "Politically Charged: ABC 15 Investigates Protest Prosecutions," Ms. Adel began defending herself at Ms. Sponsel's expense, rather than telling the truth about what had occurred before the October 27, 2020 Charges had been filed. In fact, she purposely lied about it and made the following "prepared statements" to publically and falsely blame Ms. Sponsel as the rogue prosecutor who was solely responsible for filing the charges without her (Ms. Adel's) knowledge or approval in violation of MCAO policies and procedures:

*The Maricopa County Attorney's Office is admitting prosecutors failed to properly vet a controversial case that resulted in a group of protestors being charged as a criminal street gang. ...*

*Maricopa County Attorney Allister Adel said prosecutors did not follow procedures before bringing the charges and the case was not properly vetted.*

*As County Prosecutor, it is my expectation that complex and/or cases of public interest are reviewed by my leadership team at the county attorney's office prior to charging. This*

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practice includes a review of the facts and evidence by seasoned prosecutors and a robust discussion about the case in its entirety. It concludes with a determination if charges are appropriate and what those charges should be, so I can make a final charging decision .... *In this case, this practice was not followed* and at my direction, a review took place this past Friday, February 12. *I participated in the review* and ultimately decided to dismiss the charges in CR2020-139581. .... [Emphasis added.]

(Copy of this widely reported article is attached as **Exhibit 4** to this Notice of Claim.) None of that was true, of course, and, based on what we know, we believe we can easily prove that Ms. Adel made these prepared statements to the news media with actual malice.

On March 1, 2021, Ms. Sponsel, after reading these distributing untruthful press releases by Ms. Adel, sent an email to her chain of command demanding to know what policy she violated. On March 2, 2021, in furtherance of Ms. Adel's self-serving campaign, Ms. Sponsel was suddenly, and wrongfully, placed on administrative leave for purportedly violating unidentified MCAO policies and protocol presumably having something to do with the October 27, 2020 Charges. (Copy of this letter is attached as **Exhibit 5** to this Notice of Claim.) That was four months ago, and Ms. Sponsel still remains on administrative leave and to this day still has not been told what MCAO policies or protocol she had purportedly violated.

Ms. Adel then furthered her campaign and compounded the damage she had already done to Ms. Sponsel by telling the news media that Ms. Sponsel, and no one else, had been placed on administrative leave pending an investigation of her conduct. As reported by ABC15 News in an article dated March 3, 2021, titled "Lead Maricopa County prosecutor on protest cases placed on administrative leave," Ms. Adel reported, or was responsible for reporting, to ABC 15 News that Ms. Sponsel alone had been placed on administrative leave in connection with the October 27, 2020 Charges and that "no other [MCAO] employees were affected." (Copy of this news report is attached as **Exhibit 6** to this Notice of Claim.)

The statements that Ms. Adel made, or caused to be made, made to the news media about Ms. Sponsel are provably false and defamatory. (See copy of an ABC 15 News article dated July 2, 2021, is attached as **Exhibit 7** to this Notice of Claim). This text message is documented evidence that proves it. (See text message attached as **Exhibit 8** to this Notice of Claim).

Ms. Sponsel has done nothing wrong. Her pursuit of the October 27, 2020, indictments and the charges she brought pursuant to those indictments were repeatedly vetted and approved by, or at least not disapproved by, her colleagues, supervisors and indirect reports all the way to the top of the MCAO chain of command, Ms. Adel. Ms. Adel deliberately chose to protect herself and her political career by falsely accusing Ms. Sponsel of personal and professional wrongdoing and smearing her good name and reputation in the news media and implementing a procedure to terminate her based on those accusations. Ms. Sponsel's 17 years of exemplary service as an experienced, highly-regarded MCAO prosecutor and unblemished reputation in the community she serves has been destroyed at the hands of the MCAO and a Maricopa County Attorney who cares more about her own political future than Ms. Sponsel's career, reputation and well-being.

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This letter is to demand a mutually satisfactory resolution to this situation short of litigating the claims our client has or, if she is terminated, will have against MCAO and Ms. Adel.

## II. Law

### Ms. Sponsel's Defamation Claims

“One who publishes a false and defamatory communication concerning a private person ... is subject to liability if she (a) knows the statement is false and it defames the other, (b) acts in reckless disregard of these matters, or (c) acts negligently in failing to ascertain them.” *Dube v. Likins*, 216 Ariz. 406, 416-17, ¶35, 167 P.3d 93, 103-04 (App. 2007), quoting Restatement (Second) of Torts §580(B). “To be defamatory, a publication must be false and must bring the defamed person into disrepute, contempt, or ridicule, or must impeach plaintiff's honesty, integrity, virtue, or reputation.” *Turner v. Devlin*, 174 Ariz. 201, 203-04, 848 P.2d 286, 288-89 (1993). A publication that impeaches the honesty, integrity or reputation of a person is defamatory *per se* and actionable without proof of special damages, as such damages are presumed. *Peagler v. Phoenix Newspapers, Inc.*, 114 Ariz. 309, 316, 560 P.2d 1216, 1223 (1977); see *Modla v. Parker*, 17 Ariz.App. 54, 56, 495 P.2d 494, 496 (1972).

A *per se* defamatory publication includes one that tends to injure a person in his profession, trade or business. *Id.* n. 1. The defamatory content of a publication may be defamatory if it states or implies factual accusations that are false. *Sebring v. Pamintuan*, 2008 WL 2497446 at 4 (Ariz.App. 2008), citing *Burns v. Davis*, 196 Ariz. 155, 165, ¶39, 993 P.2d 1119, 1129 (App. 1999); see, e.g., *Sebring v. Pamintuan*, 2008 WL 2497446 at 4 (email was false and defamatory in that, although it did not say so, a reasonable jury could find that it was intended to, and did, create the impression that the plaintiff had threatened a doctor with a gun); see also *Yetman v. English*, 168 Ariz. 71, 81, 811 P.2d 323, 333 (1991) (statement to the effect that the plaintiff was a “communist” could be interpreted as an actual, objective and defamatory fact that he espoused and practiced communist philosophy or tactics).

There is no question that the false statements made by Maricopa County Attorney Allister Adel about Ms. Sponsel to the news, and very likely to others in the community and within MCAO itself, are *per se* defamatory and actionable. See *Dube v. Likins*, 216 Ariz. at 417-18, ¶¶ 36 & 41, 167 P.3d at 104-05 (communications between agents of the same principal is publication for defamation purposes). There is no plausible argument that they aren't.

Moreover, there is very little question that the false statements made by Ms. Adel about Ms. Sponsel were made with actual malice – a legal term of art that means with knowledge of their falsity or reckless disregard of the truth. *New York Times Co. v. Sullivan*, 376 U.S. 254, 84 S. Ct. 710, 11 L. Ed. 2d 686 (1964). Although we do not think that Ms. Sponsel is a “public figure” for purposes of the claims she makes against Ms. Adel and the MCAO, even if she were, proof of Ms. Adel's actual malice obviates the First Amendment protections provided to those who defame a public figure.

Furthermore, it beyond question that the MCAO itself may be held to be vicariously liable for the defamatory statements made Ms. Adel about Ms. Sponsel. See *Phoenix Newspapers, Inc. v. Church*, 24 Ariz.App. 287, 301, 537 P.2d 1345, 1359 (1975) (employer could be held liable for an employee's

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defamatory statements made within scope of employment pursuant to well-settled principles of agency law"); *Griego v. Arizona Dental Ass'n*, 2014 WL 5463931, at \*5, ¶ 28 (Ariz. App. Oct. 28, 2014) (to the same effect), citing *Baker ex rel. Hall Brake Supply, Inc. v. Stewart Title & Trust of Phoenix, Inc.*, 197 Ariz. 535, 540, ¶ 17, 5 P.3d 249, 254 (App.2000), and Restatement (Third) of Agency § 7.07(1) (2006).

Ms. Adel's, and thus the MCAO's, deliberately false and defamatory statement and accusations made about Ms. Sponsel have caused irreparable damage to her personal and professional reputation, to her career, and to her physical and emotional well-being, consequences that any reasonable person could expect by engaging in such actions.

#### Ms. Sponsel's False Light Invasion of Privacy Claims

The tort of false light/invasion of privacy occurs where:

One who gives publicity to a matter concerning another that places the other before the public in a false light is subject to liability to the other for invasion of his privacy, if

(1) The false light in which the other was placed would be highly offensive to a reasonable person, and

(2) The actor had knowledge of or acted in reckless disregard as to the falsity of the publicized matter and the false light in which the other would be placed.

*Godbehere v. Phoenix Newspapers, Inc.*, 162 Ariz. 335, 341, 783 P.2d 781, 787 (1989); Restatement (Second) of Torts §652E. The tort is established if the defendant "knowingly or recklessly published false information or innuendo about the plaintiff that a reasonable person would find highly offensive." *Hart v. Seven Resorts Inc.*, 190 Ariz. 272, 280, 947 P.2d 846, 854 (App. 1997). A privacy cause of action protects a person's interest in "being let alone" and compensates for "injury to the feelings of the plaintiff, the mental anguish and distress caused by the publication." *Godbehere*, 162 Ariz. at 335, 783 P.2d at 787, citing *Reed v. Real Detective Pub. Co.*, 63 Ariz. 294, 162 P.2d 133 (1945).

Based on the same facts that establish Ms. Sponsel's defamation claims against both Ms. Adela and the MCAO, we will have little trouble establishing a claim for false light/invasion of privacy against them. The public accusations made by Ms. Adel about Ms. Sponsel with actual malice are very clearly false information or innuendo that is highly offensive to a reasonable person. The damages done to Ms. Sponsel's physical and emotional well-being are no less serious and irreparable.

#### Ms. Sponsel's Intentional Interference with Contract Claims

The intentional interference with contract occurs where:

- (1) A valid contractual relationship exists between the plaintiff and a third party;
- (2) The defendant knows that the contract exists;
- (3) The defendant's intentional interference caused the third party to breach the contract;
- (4) The defendant's conduct constituted improper conduct, and

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(5) damages.

*Safeway Ins. Co., Inc. v. Guerrero*, 210 Ariz. 5, 10, ¶ 17, 106 P.3d 1020, 1025 (2005).

In *Wagenseller v. Scottsdale Mem'l Hosp.*, 147 Ariz. 370, 710 P.2d 1025 (1985), the Arizona Supreme Court held that a supervisor can be held liable for intentional interference with contract for interfering with an employee's at-will employment contract with improper motives. 47 Ariz. at 388, 710 P.2d at 1043; *see Safeway*, 210 Ariz. at 9, ¶ 13, 106 P.3d at 1024 ("We have 'long recognized' that a person who intentionally interferes with contractual relationships between other parties can be held liable under certain circumstances to a party injured by the interference.") There are several factors that courts use to determine whether particular actions are improper, including the nature of the conduct, the motive for the actions, and the interests sought to be advanced by the actor. *Wagenseller*, 47 Ariz. at 387, 710 P.2d at 1042, *quoting* Restatement (Second) of Torts § 767.

Based on the facts that we can easily prove, set forth above, we also will have little trouble establishing a claim for intentional interference with Ms. Sponsel's employment contract occurs against Ms. Adel.

#### Ms. Sponsel's Damages

The damages that Ms. Sponsel has suffered are substantial and, in many cases, irreparable. Upon proof of any one or more of the foregoing claims, she is entitled to full compensation for, *inter alia*: (1) the irreparable damage done to her career and livelihood – the false and defamatory accusations made against her will live on in the courtroom and in the arsenal of defense attorneys regardless of the truth; (2) the presumed damage damages she has incurred due to the irreparable harm done to anyone's most priceless assets, her personal privacy rights and her personal and professional reputation in the community and elsewhere; and (3) the equally devastating damage done to her emotional well-being.

Based on the provably false nature and content of the false and defamatory statements made by Ms. Adel about Ms. Sponsel to the news media and others, her intentional and wrongful interference with Ms. Sponsel's employment with the MCAO as a means to further her own political goals, and the provable self-serving motive and actual malice she has exhibited in pursuit of those goals, a jury will be asked to assess an amount of damages against the MCAO and Ms. Adel, jointly and severally, as the only means available to Ms. Sponsel and them to achieve justice in this case. We anticipate that the number will be very high.

Of course, that number will be even higher if the MCAO carries through with its threat to add insult to injury by terminating Ms. Sponsel as the result of all of this.

#### DEMAND

Demand is hereby made that the MCAO and/or Maricopa County Attorney Alister Adel pay Ms. Sponsel the total amount of \$10,000,000.00 in full and complete settlement of her claims set forth in this Notice of Claim. Your payment of this amount will resolve all claims that have accrued to date, which

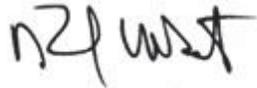
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do not include a claim for wrongful termination in the event that Ms. Sponsel's employment with the MCAO is terminated, arising out of the conduct described in this Notice of Claim.

You have 60 days to accept or reject this demand.

Sincerely,

**JABURG & WILK, P.C.**



Kraig J. Marton

Enc. Exhibit 1: Sponsel Evaluations

Exhibit 2: ABC News article dated 11/3/20

Exhibit 3: ABC News article dated 2/12/21

Exhibit 4: ABC News article dated 2/15/21

Exhibit 5: Admin Leave Letter dated 3/2/21

Exhibit 6: ABC News article dated 3/3/210

Exhibit 7: ABC News article dated 7/3/21

Exhibit 8: Text Message Screen Shot

cc: Client