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10 **IN THE UNITED STATES DISTRICT COURT**
11
12 **FOR THE DISTRICT OF ARIZONA**

13 **Prairie Farms, L.L.C, Claude Seth Cooke,
14 Patrick Pipkin, and Andrew Chatwin**

15 **No. 3:16-cv-08232-DLR**

16 **Plaintiffs,**

17 **v.**

18 **AMENDED COMPLAINT
(JURY TRIAL REQUESTED)**

19 **Town of Colorado City, an Arizona
20 municipality, City of Hildale, a Utah
21 municipality, Hildale/Colorado City
22 Marshal's Office, Corporation of the
23 Presiding Bishop of the Fundamentalist
24 Church of Latter Day Saints, a Utah
25 Corporation, Kenneth Brendel, in his
26 official capacity; Jerry Darger, in his
official capacity; Curtis Cooke, in his
official capacity; D. Barlow, in his official
capacity.**

27 **Defendants.**

28 **INTRODUCTION**

29 This case is a civil rights action which is brought by Plaintiffs pursuant to 42 U.S.C.
30 §§1983 and 1985 and provisions of the United States Constitution. Its purpose is to remedy
31 Defendants' discriminatory and unlawful actions against Plaintiffs for illegal arrest, excessive
32 force, unlawful police practices and discrimination in denying the plaintiffs essential city

1 services. Defendant Corporation of the Presiding Bishop of the Fundamentalist Church of
2 Latter Day Saints is sued, along with other defendants, pursuant to 42 U.S.C. §§1983 and 1985
3 for conspiracy to commit the substantive violations alleged herein with the other defendants.
4

5 JURISDICTION AND VENUE

6 1. This Court has jurisdiction of this matter pursuant to 28 U.S.C. §1331.
7
8 2. This Court is an appropriate venue for this cause of action pursuant to this cause
9 of action pursuant to 28 U.S.C. §§1331(b)(2). The actions complained of took place in this
10 judicial district; evidence and records relevant to the allegations are maintained in this judicial
11 district; individual plaintiffs were illegally arrested, illegally detained, illegally prosecuted and
12 discriminated against otherwise.

13 PARTIES

14 3. **Plaintiff Prairie Farms, LLC**, (“Farm”) is a limited liability company formed
15 under the laws of the State of Utah which was, at all times relevant hereto, the lessee of
16 commercial property at 65 E. Cooke Street, Colorado City, Arizona from which it intended to
17 conduct business. Prairie Farms is, and was at all times relevant hereto, registered to do
18 business in Arizona.
19

20 4. **Plaintiff Claude Seth Cooke** (“Cooke”) is, and was at all times relevant hereto,
21 the sole member of Prairie Farms, LLC.
22

1 5. At times relevant hereto, **Plaintiff Patrick Pipkin** (“Pipkin”) was a member of a
2 joint venture with Prairie Farms, LLC, to develop the property at 65 E. Cooke Street, Colorado
3 City, Arizona (“the zoo”)¹with Prairie Farms, LLC as a commercial venture.

4 6. In October, 2015, **Plaintiff Andrew Chatwin** (“Chatwin”) was a guest/business
5 invitee of the joint venture between Prairie Farms, LLC and had a business interest in the zoo
6 property.

7 7. **Defendant Town Of Colorado City** (“CC”) is a municipality in the State of
8 Arizona.

9 8. **Defendant City Of Hildale** (“Hildale”) is a municipality in the State of Utah.

10 9. **Defendant Hildale/Colorado City Marshal’s Office** (“CCMO”) is a duly
11 authorized law enforcement agency with jurisdiction in Colorado City, Arizona and Hildale,
12 Utah, by virtue of an intergovernmental agreement between those two cities.

13 10. **Defendant Kenneth Brendel** is, and was at all times relevant hereto, the duly
14 appointed city attorney for the Town of Colorado City. He is sued in his official capacity. In his
15 capacity as city attorney for Colorado City, he has advised, during relevant times at issue the
16 CCMO and other agencies of Colorado City on legal procedures for dealing with vandalism,
17 trespass, evictions and a wide variety of appropriate and inappropriate responses of Colorado
18 City and the CCMO to claims of vandalism, property destruction, trespass and other legal
19 issues.

¹ The property is commonly referred to by residents of Colorado City and Hildale because the property had been previously a zoo.

11. **Defendants Jerry Darger, Curtis Cooke, Sam Johnson and D. Barlow** were, at all times relevant hereto, employees of the CCMO and law enforcement officers.

12. Defendant Corporation of the Presiding Bishop of the Fundamentalist Church of Latter Day Saints (“Bishop”) is a Utah corporation.

13. In each of the actions alleged hereunder, defendants acted under color of state law but for defendant Bishop which, through its words and deeds, engaged as a third party in a conspiracy with those acting under color of state law to cause the plaintiffs harm.

14. At all relevant times hereto, Colorado City and the Hildale/Colorado City marshal's office was under the direct control of the FLDS Church.

15. Each defendant qualifies as a “person” pursuant to 28 U.S.C.

16. At all relevant times hereto, the defendants, and each of them, knew that the plaintiffs were not of the FLDS faith.

FACTS

A. The UEP Trust

17. The United Effort Plan Trust (UEP) is a charitable and religious trust under Utah state law. The Trust was founded upon the tenets of the FLDS faith, by which members are expected to “consecrate” their real and personal property to the Bishop. The Trust was established to hold and manage all such consecrated properties in the Town of Colorado City, Arizona and Hildale City, Utah.

18. Defendant Corporation of the Presiding Bishop of the Fundamentalist Church of Latter Day Saints is, and was at all times relevant hereto, a corporation registered under the laws of the State of Utah for the purpose of conducting business and furthering the goals of

1 FLDS. The registered agent of the corporation is Nephi S. Jeffs and the registered officer of the
2 corporation is Warren Steed Jeffs, the self-appointed prophet of the FLDS church presently
3 incarcerated in Texas.

4 19. Pursuant to Orders of the Third Judicial District Court of Salt Lake County in
5 case No. 053900848, dated May 27, 2005; May 31, 2005; June 6, 2005; June 16, 2005; June 22,
6 2005; September 2, 2005; and October 25, 2006, Bruce Wisan was appointed to serve as a
7 special fiduciary of the Trust and to manage, lease or rent the property of the Trust as such
8 action is deemed reasonable, prudent and/or necessary in the discretion of the Fiduciary. UEP,
9 both before and after Wisan's appointment as special fiduciary, is, and has been, the largest
10 land owner in Hildale and Colorado City.

11 20. Prior to Wisan's appointment, all of the real property owned by UEP was
12 controlled exclusively by the FLDS church under the direction and control of its Prophet,
13 Warren Jeffs.

14 21. Upon the orders of the Third Judicial District Court appointing Bruce Wisan as
15 the Special Fiduciary of UEP, FLDS control of the UEP properties in Colorado City and
16 Hildale reverted to control by the Utah courts.

17 22. Since the UEP Trust was put under the control and direction of the Court with its
18 appointment of the special fiduciary, Colorado City and Hildale, in concert with the FLDS
19 church, has actively conspired to discriminate against residents and businesses within the cities
20 in a variety of contexts in order to drive non-FLDS adherents out of the cities.

21 23. Both through the statements of the prophet, Warren Jeffs, and the practices
22 adopted by the cities, these defendants have actively discriminated in favor of members of the

1 FLDS church and against non-FLDS persons and businesses which have requested but not been
2 given equal treatment under the law.

3 24. In this connection, the defendants have regularly, in the course of conducting the
4 businesses of the cities, acted in violation of the constitutional rights of non-FLDS adherents by
5 depriving such residences and businesses of essential city services, conducting illegal arrests,
6 and refusing to investigate crimes committed by FLDS adherents against the UEP Trust,
7 residents of the cities, and commercial businesses owned or leased from the Trust by non-FLDS
8 adherents.

9 25. In various court actions in federal court, juries and judges have assessed damages
10 and various injunctions against Colorado City and Hildale, forbidding them from various forms
11 of discrimination against non-FLDS persons in the future. Millions of dollars have been
12 assessed against the cities for their active discrimination in various forms ever since the Trust
13 has been taken over by the Third District Court and its appointed special fiduciary, Bruce
14 Wisan.

15 26. Since the orders of the Third Judicial District Court aforementioned, the FLDS
16 church, the cities, the marshal's office and the named individual defendants in this case have
17 conspired to discriminate against non-believers of FLDS by denying them essential city
18 services, harassing and intimidating them in the conduct of city affairs, and in illegally arresting
19 and prosecuting those residents who are not of the FLDS faith.

20 27. As a principal instrument of religious control, FLDS has, and continues to, dictate
21 policies of the cities of the Town of Colorado City and Hildale City. Virtually all of the
22 administrative offices of both cities, including the mayors, city managers, town councils, and
23

1 the marshal's office of the cities are chosen and handpicked by the Prophet Warren Jeffs and
2 the FLDS church.

3 28. In so discriminating, the church has conspired with city officials to illegally arrest
4 and prosecute non-members of the FLDS faith, while at the same time turning a blind eye to
5 open and notorious violations of the law, including trespass, vandalism and illegal marriages by
6 FLDS members.

7 29. By their words and actions, the defendants, and each of them, have willfully and
8 maliciously ignored violations of the law by FLDS members against UEP and non-members....

9 **B. The events of October, 2015 re: 65 E. Cooke Street, Colorado City, Arizona.**

10 30. On October 13, 2015, Isaac Wyler, an authorized agent of the United Effort Plan
11 Trust called the Hildale/Colorado City marshal's office to report damage to the property at 65
12 E. Cooke Avenue, Colorado City, Arizona.

13 31. The property was owned by the United Effort Plan Trust.

14 32. At that time, the United Effort Plan Trust had executed a valid lease on the
15 property at 65 E. Cooke Avenue with Prairie Farms, L.L.C. which was in a joint venture with
16 Patrick Pipkin to develop the property for commercial purposes.

17 33. Pursuant to the lease between Prairie Farms, L.L.C. and the UEP Trust, on
18 October 13, 2015, Wyler, Patrick Pipkin, Andrew Chatwin and Claude Seth Cooke had legal
19 rights to occupy the property at 65 E. Cooke Avenue.

20 34. Pursuant to the report of Isaac Wyler, Officer D. Barlow arrived at the scene to
21 find Patrick Pipkin, Isaac Wyler and Andrew Chatwin on the property.

1 35. Upon arriving at the property, Officer Barlow informed the group that he had
2 spoken to Chief Jerry Darger about Isaac Wyler's report of damage to the property earlier in the
3 day.

4 36. He informed the group that Chad Johnson was the legal occupant of the property
5 and that, without Johnson's permission, neither Wyler, Pipkin, Chatwin or Cooke had the right
6 to be on the property without the express permission of Chad Johnson.

7 37. On October 13, 2015, Chad Johnson had no legal claim to occupy the property at
8 65 E. Cooke Avenue. At all relevant times hereto, he was a mere squatter, a trespasser, and
9 should have had no right to dictate the rights of others to occupy the property at 65 E. Cooke
10 Avenue.

11 38. Based on conversations with other Hildale/Colorado City marshal's office
12 personnel, including Chief Jerry Darger and Officer J. Barlow, Officer D. Barlow contacted
13 Chad Johnson. Johnson indicated that he had given "guest status" to Patrick Pipkin but would
14 like Wyler and Chatwin to leave the property.

15 39. While Johnson was on the phone with Officer D. Barlow of CCMO, Officer
16 Portillo of the Mohave County Sheriff's Office arrived on the scene.

17 40. In discussions with CCMO officers, including D. Barlow, Mohave County
18 Sheriff's Office personnel advised that Wyler, Chatwin, Cooke and Pipkin had a legal right to
19 occupy the zoo property and that the property was commercial, not residential.

20 41. Shortly thereafter, Chief Jerry Darger of CCMO arrived on the scene. Darger
21 advised Wyler, Pipkin and Chatwin that he had contacted his city attorney, Ken Brendel, who

1 advised the marshal's office that Johnson had sole rights to the entire property until he was
2 properly evicted.

3 42. This advice was clearly contrary to the law of the State of Arizona as Chad
4 Johnson was a mere squatter, with no legal rights to the property.
5

6 43. Chief Darger advised Wyler, Pipkin and Chatwin that they had no legal right to
7 remain on the property and, if they did so, they would be arrested.
8

9 44. Mohave County sheriff's personnel again advised CCMO including Chief Darger
10 and D. Barlow that the property was commercial, that Wyler, Pipkin and Chatwin had a legal
11 right to be on the property, and that any arrests of Wyler, Chatwin or Pipkin would be illegal.
12

13 45. Wyler then left the property.
14

15 46. Pipkin and Chatwin insisted that they had a legal right to be on the property,
16 which was recognized by the sheriff's office, and they would not leave the property.
17

18 47. Pipkin and Chatwin were thereafter arrested by CCMO personnel and taken into
19 custody.
20

21 48. In the course of dealing with plaintiff Patrick Pipkin, and ordering him off of the
22 property, Chief Jerry Darger of CCMO deliberately and maliciously shoved plaintiff Patrick
23 Pipkin.
24

25 49. Pipkin and Chatwin were subsequently charged with first degree trespass by
26 CCMO, pursuant to A.R.S. §13-1504, First Degree Trespass.
27

28 50. The arrests of Chatwin and Pipkin and the charges made against them were
29 illegal, in clear violation of Arizona law and were clearly discriminatory.
30

1 51. The actions of CCMO in ordering Claude Seth Cooke and others off the property
2 were illegal and in clear violation of Arizona law and discriminatory.

3 52. On October 14, 2015, plaintiffs Chatwin and Pipkin appeared in court and were
4 released on their own recognizance.
5

6 53. On October 17, 2015, plaintiffs Patrick Pipkin and Andrew Chatwin returned to
7 the property at 65 E. Cooke Avenue in an attempt to conduct commercial business on the
8 property.
9

10 54. On October 17, 2015, Prairie Farms, L.L.C. held a valid, legal lease on the
11 property. Thereafter, Claude Seth Cooke arrived on the property and informed Officer Curtis
12 Cooke of CCMO that he had a valid lease on the property with the UEP Trust.
13

14 55. Officer Cooke demanded that Pipkin, Cooke and Chatwin leave the property, as
15 Chad Johnson was the legal occupant of the property and did not want them there.
16

17 56. On October 17, 2015, Chad Johnson had no legal rights to the property and was a
18 mere squatter and a trespasser.
19

20 57. After refusing to leave the property, Patrick Pipkin and Andrew Chatwin were
21 arrested by marshal's office personnel and charged with violating A.R.S. §13-1504(a)(2)
(Trespassing in a Fenced Residential Yard).
22

23 58. Upon their appearance in court on these charges, plaintiffs were further restrained
24 until each could post a \$3,500.00 bond. Additionally, each were ordered not to return to the
25 property at 65 E. Cooke Street until their cases were resolved in court.
26

27 59. As a result of the arrests of the plaintiffs aforementioned and their inability to
28 return to the property at 65 E. Cooke Street, the plaintiffs suffered personal monetary damages.
29

1 Prairie Farms, L.L.C., suffered commercial damage for its inability to use the property leased to
2 them by the land owner, UEP.

3 60. On information and belief, it is alleged that CCMO never followed through with
4 reports of vandalism to the property by others.
5

6 61. Despite clear evidence of trespass by Chad Johnson and others who were illegally
7 conducting an herb farm business on the zoo property, CCMO took no legal action against
8 them.
9

10 **B. Discrimination in providing essential city services.**

11 62. In October, 2015, plaintiffs attempted to get water and garbage services
12 connected to the zoo property.
13

14 63. Upon speaking to officials at the Colorado City utilities office, plaintiffs were
15 told that they had to pay an additional \$500.00 deposit to get water and garbage services
16 connected because the property was commercial, not residential.
17

18 64. Plaintiffs paid the initial \$500.00 deposit and were approved for water and
19 garbage services to be connected.
20

21 65. After paying the initial deposit, plaintiffs were told by Colorado City that such
22 services would not be connected because they did not have permission of the prior registrant of
23 these services.
24

25 66. The prior registrant of the services was Fred Jessop, who had been deceased for a
26 number of years.
26

1 67. Eventually, plaintiffs received written communication from a lawyer representing
2 Hildale/Colorado City's utilities that the services could not be reinstated unless the lessee of the
3 property went to court to receive a court order.

4 68. The \$500.00 deposit was never returned to plaintiffs.

5 69. Finally, in March, 2016, after five months without water or garbage collection,
6 after a jury verdict finding systematic discrimination by Colorado City and Hildale in servicing
7 non-FLDS personnel, water and garbage collection services were reinstated on the property.
8 The city, upon the restoration of such services, continued to classify the property as commercial
9 and retained the deposit required of commercial properties.

10 12 **C. Continued discriminatory action against Pipkin and Chatwin.**

11 14 70. Plaintiffs Chatwin and Pipkin were eventually released from custody.

12 15 71. Charges against them were eventually dismissed upon motion of the attorney for
13 Colorado City. The charges were dismissed on January 26, 2016 for the stated reason that "the
14 investigation is continuing, but there is insufficient evidence to secure a conviction."

15 19 72. As a result of their illegal arrests and detentions, plaintiffs Chatwin and Pipkin
16 were forced to hire an attorney and were under continued discrimination by Colorado City for
17 over three months based on the failure of Colorado City to recognize the clearly established law
18 that they had a legal right to be on the property on the dates in question.

19 24 73. All acts alleged herein as constitutional violations were because of a policy,
20 practice or procedure of the defendants to discriminate against non-member of the FLDS
21 Church.

74. This policy, procedure or practice has been promulgated, practiced and approved by Defendants Brendel, CCMO, Colorado City, Hildale, and other individual named defendants in conspiracy with the Bishop in this case.

CAUSES OF ACTION

COUNT I.

Constitutional and Civil Rights pursuant to 42 U.S.C. §§1983, 1985

Violation of Constitutional Rights pursuant to First Amendment, Fourth Amendment,

Fourteenth Amendment

75. Allegations contained in preceding paragraphs are incorporated by reference.

76. The arrests, incarceration, and refusal to allow plaintiffs to return to the property violate the Fourth Amendment protections against unreasonable searches and seizures of the plaintiffs and the due process clause of the Fourteenth Amendment.

77. Additionally, the actions of Colorado City aforementioned willfully and deliberately discriminated against the plaintiffs in violation of their First Amendment rights to freedom of religion and the due process clause of the Fourteenth Amendment.

78. As a direct and proximate result of the defendants' violations of plaintiffs' constitutional rights, the plaintiffs have suffered severe and substantial damages. These damages, for Prairie Farms, L.L.C. and Patrick Pipkin include the loss of business opportunities for refusal to allow them to develop the property and to physically occupy the property under which they were lessees. They were also not permitted on the property, which resulted in substantial to the property as a result of a large flood.

79. For all plaintiffs, they suffered severe and substantial damages from lost business opportunities, litigation expenses including attorney's fees, loss of reputation, humiliation, embarrassment, inconvenience, mental and emotional anguish and distress and other compensatory damages in an amount to be determined by a jury and the court.

COUNT II

Conspiracy pursuant to 28 U.S.C. §§1983 and 1985

80. Allegations contained in preceding paragraphs are incorporated by reference.

81. The violations of plaintiffs' constitutional rights under the First, Fourth and Fourteenth Amendments to the U.S. Constitution are the direct and proximate result of a conspiracy between the FLDS church (Bishop) and the remaining defendants to punish, discriminate against and attempt to drive out of Colorado City and Hildale persons who were not believers in the FLDS faith.

Prayer for relief.

WHEREFORE, plaintiffs request judgment against the defendants as follows:

(1) For appropriate compensatory damages in an amount to be determined at trial;

(2) For punitive damages against Bishop for malicious conduct;

(3) For appropriate equitable relief against all defendants as allowed by the Civil
Act of 1871, 42 U.S.C. §1983, including the enjoining and permanent restraining of
violations and direction to the defendants to take such affirmative action as is necessary to
ce that the effects of unconstitutional and unlawful practices described herein are
ated and do not continue to affect plaintiffs or others;

1 (4) For an award of reasonable attorney's fees and costs expended by these plaintiffs
2 in this litigation pursuant to the Civil Rights Act of 1871, 42 U.S.C. §1988; and

3 (5) For such other and further relief as the Court deems reasonable.

4 **PLAINTIFFS REQUEST TRIAL BY JURY ON ALL ISSUES SO TRIABLE.**

5
6 Respectfully submitted this 31st day of October, 2016
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8 WILLIAM G. WALKER, P.C.
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10 /s/ William G. Walker
11 Attorney for Plaintiffs
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