

IN THE UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF PENNSYLVANIA

Nadine Pellegrino and Harry Waldman
[REDACTED]

V.

TERM, 2009

United States of America,
Transportation Security Administration,
Div. of Dept. of Homeland Security,
Washington, DC.

No.: 09 5505

Jury Trial Requested

TSA TSO Nuyriah Abdul-Malik sued in her
individual capacity

Civil Action (Civil Rights Violations)

TSA STSO Laura Labbee sued in her individual capacity

TSA TSO Denice Kissinger sued in her individual capacity

John/Jane Doe TSA Aviations Security Inspector Defendants
sued in their individual capacities

John/Jane Doe TSA Official Defendants, sued
in their individual capacities

USA, Transportation Security Administration
C/O United States Attorney's Office
Eastern District of PA
615 Chestnut Street
Suite 1250
Philadelphia, PA 19106

**PLAINTIFFS' 3RD AMENDED COMPLAINT
LEAVE GRANTED UPON ORDER OF THE U.S.D.C.**

INTRODUCTION

1. Plaintiffs, filing Pro Se,^{1A} are suing for monetary damages and other relief pursuant to violations and deprivations of US Constitutional rights, liberties, and privileges (hereinafter civil rights) violations of US/PA statutes, abuses of power, authority, and processes by TSA employees. Plaintiff Pellegrino is a crimes victim of the Defendants. Plaintiff Waldman is her husband. Plaintiffs believe the TSA Defendants' actions relevant to this lawsuit clearly constitute unlawful conduct.

1A Plaintiffs are very mindful of the Judge's Order and note about brevity. The material facts associated with the claims for relief are complex. Plaintiffs believe that during Due Process Proceedings corruption within the TSA was documented and evident. The unlawful actions of TSA employees occurred over several years involving a number of individuals with corruption moving up the chain of command. Plaintiffs have tried to be as brief as they can in describing their *Nightmare* experience and sincerely wish they could state their case in two pages. With eleven claims, it has been very difficult. We know of no other way to describe it.

Plaintiffs sought every alternative known through other means other than the court.¹ Plaintiffs believe the Dept. of Justice should have been prosecuting the Defendants rather than using taxpayer funds to defend them as federal employees. Having no choice left, Plaintiffs are requesting a public accounting of the 'TSA's Defs.' unlawful misconducts and bring this lawsuit to vindicate their civil rights and to protect the public's interests.

JURISDICTION

A. Venue is properly within the USDC for the Administrative Procedures Act (APA), (P.L. 79-404) 5 U.S.C. §§ 702; The Freedom of Information Act (FOIA); the Privacy Act of 1974, 5 U.S.C. § 552a (P.L. No. 93-579); (P. L. 89-554, the Declaratory Judgment Act, 28 U.S.C. §§ 2201 and 2202: 6 U.S.C. 345 Establishment Of Officer For Civil Rights And Civil Liberties 42 U.S.C. § 2000ee1 - Privacy and Civil Liberties Officers; 28 U.S.C §1332 Diversity of Citizenship; 28 U.S.C.§1331 Federal Questions;² Violations US/PA Constitutional Amendments 4, 5, 6, and 14; 42 U.S.C. §§1983, 1985, and 1988.

B. The United States of America (USA) and its Transportation Security Administration (TSA) are appropriate defendants under the Federal Tort Claims Act (FTCA), Title 28 Section 1343.

C. Plaintiffs further invoke the supplemental jurisdiction of this Court to hear and decide claims arising under state law pursuant to 28 U.S.C. § 1367(a).

Parties

2. At all times relevant hereto, Plaintiffs hereby aver the following:

A. PLAINTIFFS, husband and wife, (hereinafter referred to as "Plaintiff," "Plaintiffs," "Pellegrino" or "Waldman") are residents of Palm Beach County, FL.

B. Plaintiffs were on their way home to FL. via the Phila. Intl. Airport, (hereinafter PIA), Phila., PA.

1 See PL EX #10. The Phila. District Atty.'s Office refused to hear anything about Plaintiffs' Complaint and sent them to the Phila. Police Dept. Airport Division who said they could do nothing about Plaintiffs' Complaint. The officer sent Plaintiffs back to the Phila. DA's Office in a circle. Plaintiffs filed an Administrative Claim #95 and included a Complaint to the TSA enumerating numerous civil rights violations and deprivation of civil rights. The TSA never contacted or spoke with Plaintiffs for ten months then denied any legal liability. Plaintiffs sought the help of their US Congressional Rep. Ron Klein requesting an investigation through his office. To Plaintiffs best knowledge, the TSA did not respond to their Cong. Reps.' specific inquiries about civil rights violations. Plaintiffs contacted the federal Office of Civil Rights, TSA's External Compliance Div. informing them that a complaint had been filed with the TSA. The latter denies ever having received a complaint from Plaintiffs.

2 The Federal Questions are Constitutional: Do TSA employees have the legal right to wilfully violate Plaintiffs' Constitutional rights to equal protection of the laws, due process of the law, protection from unreasonable search and seizures, conspiracy to fabricate crimes and falsely accuse an innocent citizen, file false reports with law enforcement officials, publicly damage and defame an innocent citizen's personal and professional reputation, falsify official federal and state records, intentionally destroy the best factual exculpatory evidence, deliberately cover-up the deliberate destruction, withhold of *Brady Materials*, fail to investigate corruption within its ranks, pervert official federal records by maligning and demonizing a TSA crimes victim to avoid recognizing and acknowledging civil liability? Do the TSA (and its employees) have the legal authority to get away with those constitutional violations without suffering any monetary penalties, disciplinary actions, declaratory or injunctive relief? To date the TSA has refused to accept responsibility/liability for the injuries and damages they have caused the Plaintiffs.

- C. Plaintiffs are experienced travelers and were ticketed 1st class passengers on a USAIRWAYS flight from Phila., PA, to Ft. Lauderdale, FL., scheduled for take off from Terminal A around 8:30 pm on 7-29-06.
 - D. Pellegrino, is a business and private consultant for over 20 years, a professional speaker, has been a paid consultant to the US government, has been very successful university teacher for 19 years.
 - E. Waldman is a business consultant, an author, a columnist, a recognized and honored and respected industry expert in his field.
 - F. Plaintiffs used air travel in the normal course of their personal and professional lives.
 - G. Plaintiffs had frequent flyer status with USAIRWAYS, were flying Platinum status (over 75K miles per year), were familiar with TSA security screenings Standard Operating Procedures (SOPs) and aviation security procedures for passengers and had experienced security screenings in many other parts of the world by 7-29-06.
3. DEFENDANTS (hereinafter Def. Defs.) are federal entities and individuals who worked for the TSA.
- A. TSA, a component agency of the US Dept. of Homeland Security (DHS) responsible for security of the nation's transportation systems, has Eastern District of PA Offices in the Phila. area that are associated with passenger travel safety at the PIA and other public transportation venues at Two International Plaza, Suite 640, Phila., PA., 19113.
 - B. Defendant TSA Transportation Security Officer (TSO) Nuyriah Abdul Malik, (hereinafter Def. Abdul Malik or Abdul Malik) was the lead Complainant and false witness for Labbee in a baseless, unsuccessful, unsubstantiated 20-month prosecution of Pellegrino, commencing on 7-29-06 and ending on 3-28-08 with Pellegrino prevailing against Abdul Malik's perjured testimony and the false charges. Def. resides at 60 W. Greenwood Ave., Lansdowne, PA 19050.
 - C. Defendant TSA Supervisor TSO((STSO) Laura Labbee (hereinafter Def. Labbee or Labbee), Badge #8442, was the 2nd Complainant and false witness for Abdul Malik, in a baseless, unsuccessful, unsubstantiated prosecution of Pellegrino, commencing on 7-29-06 and ending on 3-28-08 with Pellegrino prevailing against Labbee's perjured testimony and the false charges. Labbee resides at 901 Bath Road, Bristol, PA 19007. At <http://www.myspace.com/llkoolbreeze>, Labbee lists her address as Sewell, N.J., and her position as TSA Security Manager with employment starting in 2002 to the present.
 - D. Defendant Denice Kissinger (hereinafter Def. Kissinger or Kissinger) filed an official TSA

Incident Report Witness Summary (hereinafter IRWS) falsely alleged to have witnessed a [fictitious] assault on Labbee on 7-29-06, willingly made herself available as a false witness to the Philadelphia Police Department (PPD) and Commonwealth of PA prosecutor(s) (hereinafter Prosecutor(s)) and willingly volunteered to be a false witness at trial (3-28-08) actively participating in Labbee's prosecution of Pellegrino for roughly 20 months with Pellegrino prevailing against Kissinger's untruthful testimony as Labbee's false witness. Kissinger resides at 640 Captain Cooke Way, Chesapeake, Va, 23322.

E At all times relevant, the named Defendants (hereinafter Def. or Defs.) are federal employees acting (or purporting to be acting) under the color of law. Abdul Malik, Labbee, and Kissinger, collectively and by their individual names, performed their duties as TSOs³ or STSO⁴ of passengers and their personal belongings at the PIA, Concourse B, Phila., PA., 19153. While the named Defs. have no statutory authority as law enforcement officers, they've been given the appearances of officers, wear badges and uniforms like officers. On 7-29/30-06 the PPD and prosecutors classified the Defs. as *other law enforcement officers*. Pellegrino was charged with [baseless, groundless] crimes. Documentation exists that Pellegrino was prosecuted with official force that the Defs. were *law enforcement officers* thereby given certain statuses, powers, privileges and authorities.

F Defs. had the statutory authority to search for explosive devices and prohibited items potentially transported onto public aircraft in passengers' luggage that would jeopardize air passenger safety on 7-29-06, but did not have legal authority to violate Plaintiffs' US/PA 4th, 5th, 6th and 14th Amendment rights, liberties, and privileges or other federal/state laws (according to TSA Directives 100.4 Searches and 1100.73-5 Employee Responsibilities and Conduct and other TSA Directives as derived from statutory authorities.)

G John/Jane Doe TSA Aviation Security Inspector(s) (ASIs, or Doe ASIs) Defs were/are TSA Aviation Security Inspectors (investigators) who Plaintiffs have good reason to believe were/are part of the TSA Federal Regulatory Inspections [and Compliance] Dept. working at/around the PIA who were/are involved in, among other things, in regulatory aviation security inspections and initial and comprehensive investigations for TSA Civil Action Enforcements (CAEs) and are considered federal employees who are part of the TSA Eastern District of PA with offices located at Two International Plaza, Phila. PA.

H John/Jane Doe TSA Officials (TSAO(s) or TSAO Doe) Defs. were and are TSA Manage-

3 commonly known as screeners

4 supervisor of screeners

ment Level Officials and Legal Dept. Officials and were or are considered federal employees that are part of the TSA Eastern District of PA with offices located at Two International Plaza, Phila. PA.

I. Doe ASIs Defs and Doe TSAOs Defs. while acting within the scope of their employment under the color of law were and are considered to be “law enforcement officers” as they are support personnel for federal and state law enforcement and are considered to be acting as and are treated and characterized as “other law enforcement officers” and thereby given certain statuses, powers, privileges and authorities.

J At all times relevant and material hereto, all above TSA Defs. were supposed to be acting within the course and scope of their employment pursuant to their customs, policies, practices, ordinances, regulations, SOPs and Directives specified for the USA, the DHS, and the TSA when they overstepped the bounds of their authority and violated TSA civil rights and security policies, SOPs, Directives, US/PA laws, and Plaintiffs’ Constitutional rights, liberties, and privileges.

K The USA and TSA are sued as entities. Their agents the above named Defendants, TSA Doe ASIs and Doe TSAOs Defs. are sued in their individual capacities for their unlawful misconduct and the sum total of their unlawful actions causing intentional injuries, harms, and damages to Plaintiffs.

L. The Doe ASIs Defs. and Doe TSAOs Defs. are known to the TSA.

1. Their names are not known currently to the Plaintiffs at the time of filing.
2. Plaintiffs respectfully request being granted the ability to add their given names to the Complaint once they have been accurately identified and named through Discovery Proceedings.
3. The extent, involvement, and participation of the PIA Security Department are currently unclear at the time of filing this Complaint.
4. The extent, involvement, and participation of the City of Philadelphia Solicitor’s Office and its agents are currently unclear at the time of filing this Complaint.

M. Plaintiffs respectfully request permission to add the given names of these individuals to this lawsuit once they have been identified through Discovery Proceedings.

BACKGROUND FACTS⁵

4. Plaintiffs hereby re-aver the allegations contained in the paragraphs above as if fully set forth herein. Plaintiffs incorporate these within this section by reference as if the same were set forth at

5 This section has been reworded every word should be considered underlined.

length and as if they were set forth from the beginning to the end of this Section. At all times relevant, Plaintiffs' lawsuit arises from the Defendants' violations of federal and state laws and Amendments to the US Constitution. The Defs. were purporting to be or were acting under the color of law. Nevertheless, all of the Defs. stepped outside the bounds of their statutory authority⁶ which resulted in the deprivation of Plaintiffs' civil rights, liberties, and privileges (hereinafter civil rights).

Arrival at the PIA Terminal B TSA Security Checkpoint July 29, 2006

5. Prior to 7 p.m. Plaintiffs arrived at the checkpoint (hereinafter CKPT). Upon exiting the walk thru metal detector, a uniformed male TSA employee directed Pellegrino to stand in a public detention pen. No reason was provided to either Plaintiff.⁷ Waldman was able to pass through without detention, collect all of Plaintiffs' belongings on the conveyer belt, and repack their items removed for X-ray screening into all of their bags.⁸ Thereafter Waldman removed all of their bags from the conveyer belt, had total control of their belongings for roughly 5+ minutes, which is how long it took for any TSA Transportation Security Officer⁹ (hereinafter TSO or screener) to show up on the CKPT. According to TSA records, TSO Thos. Clemens is the employee who finally appeared to conduct a screening.

A-No-Reason-Given Detention by TSA Employee TSO Thos. Clemens the 1st Screener to Show Up on the CKPT

6. Leaving Pellegrino standing in the detention pen, without saying anything else, Clemens directed Plaintiff to point out her bags which were in Waldman's possession. Pellegrino immediately complied as directed without statement or comment. Waldman handed Clemens three bags.¹⁰ Without recognizing Waldman's existence, Clemens ignored Pellegrino, said nothing more, and walked her three items over to a search table on the CKPT. Clemens then proceeded to whack Plaintiff's bags backhandedly onto the table. With his back toward Pellegrino, he began to yank down the zipper on the larger of two carry-on bags. Plaintiff immediately requested a private search stating something to the effect "I want a private search." Pellegrino said nothing more or further to Cle-

6 This lawsuit does not arise from a lawful search/screening of Plaintiff's property.

7 It should be noted here that no TSA employee other than the male employee standing with his back to Plaintiffs was working on the exit side of the X-ray machines on the CKPT until Clemens showed up some five+ minutes after Plaintiffs had been detained without being given a reason. Clemens (in other words the TSA) had no idea which were and were not Pellegrino's bags.

8 Shortly thereafter another woman roughly the same age/race as Pellegrino (Caucasian) was directed to stand behind Plaintiff. No men were detained.

9 Commonly known as airport screener

10 As a federal employee interfacing with the public, Clemens arrived with a discourteous, disrespectful attitude—in a word—rude. Clemens also violated required TSA Standard Operating Procedures with passengers (informing them of their rights) when he failed to tell Pellegrino what he intended to do with her and her belongings prior to doing it.

mens.¹¹ Without looking at Pellegrino, Clemens proceeded to yank the zipper back to its original position. No other words were spoken by either. Clemens walked away with a more pronounced unconcealed negative attitude.¹² Pellegrino was left standing in the detention pen. Waldman waited with his bags for further processing of Pellegrino. Both conversed for several more minutes while waiting for a female screener to appear on the CKPT and complete the screening process.

A Mis-managed, Poorly Supervised, Derelict, Dysfunctional TSA Aviation Security Crew at the PIA

7. During the unexplained detention, Plaintiffs continued to observe a remarkably mis-managed, poorly supervised, understaffed (actually absent), derelict, dysfunctional security crew. No screeners were working to process passengers when or after Plaintiffs were detained. Overhead digital video surveillance cameras comprehensively distributed across the ceiling of the CKPT captured and recorded the lack of TSA workers, Plaintiffs and the other female passenger detained behind Pellegrino in the pen.¹³

The Continuous Search Officer, TSO Abdul Malik, Shows Up on the CKPT

8. Some time passed before TSA Abdul Malik showed up wearing search gloves. Without looking at or saying a word to Pellegrino, she went directly for Plaintiff's bags still lying on the table where Clemens left them.¹⁴ Plaintiff immediately requested Abdul Malik to change her gloves as

11 Pellegrino was entitled to request a private search, which to her did not mean a behind-closed-doors search; it meant a female to search her bags.

12 Clemens departed with an unconcealed, more pronounced negative attitude recognizable as disapproval, disdain, and disrespect for Plaintiffs. Plaintiffs have reason to think Clemens' unconcealed inappropriate attitude set in motion the climate for the private search as he would need to summon a female screener to complete the screening process. According to Due Process Discovery documents, Plaintiffs discovered Clemens filed and signed a falsified and fraudulent TSA Incident Report Witness Summary (IRWS) statement dated 7-29-06 specifically alleging Pellegrino made statements to him about TSA procedures which never happened. Clemens' inclusion of false and fraudulent information in his statement presented Pellegrino in a false and negative light. Significantly, Clemens failed to include in his statement the time he arrived on the CKPT, that he was not working on the CKPT when Plaintiffs arrived, failed to note that he misleadingly transferred and attributed his discourteous, disrespectful attitude/conduct onto Pellegrino. Clemens' statement failure "to note" provided a misleading and false impression he had been working on the CKPT all along when in actuality neither he nor anyone else from the TSA was performing any screening functions for more than five minutes after Plaintiffs' arrived and were detained without being given a reason. Clemens also failed to note that Waldman had total possession/control of all of Plaintiffs' bags when he finally arrived, that the derelict TSA crew lost possession and control of Plaintiffs' bags prior to his arrival. Moreover, Clemens did not mention that he failed to advise Pellegrino of her passenger rights prior to the screening process and treated Plaintiffs in a disrespectful, discourteous, and undignified manner. He did state accurately that Pellegrino requested a private search when he started the screening process.

13 No men were detained just two senior Caucasian women.

14 Taken verbatim from Abdul Malik's signed 7-29-06 TSA IRWS: "On Saturday, July 29, 2006, at approximately 1905 at terminal B I TSA Abdul Malik was the continuous search officer. There were two females in the holding area. the first females bags were in front of the holding area. I grabbed her bags and put them on the search tables. I went and got her brought her int [sic] the queue area." From Abdul Malik's Preliminary Hearing testimony 10-25-06, "Okay. There were -- I was the only female available on the CKPT, and there were two females waiting to be screened and in the holding area. I went and she was --the defendant was the first person that was in the holding area. So I grabbed her items off

she grabbed the handle of Plaintiff's bag and started to remove it from the table where Clemens left it. Nothing more than the simple request for a change of gloves was stated by Plaintiff. Within milliseconds Abdul Malik demonstrated undisguised contempt toward Pellegrino directly after a simple request for the Def. to change her search gloves (which she was required to do according to TSA SOPs.)¹⁵ Without saying a word to Pellegrino¹⁶ Abdul Malik's immediate reaction was visibly inappropriate, observably unwarranted venomous nonverbal animosity toward Plaintiff. Abdul Malik stopped all movement for several moments, shot Plaintiff a hateful, menacing glare. Then without saying a word but visibly seething, with undisguised resentment, changed her gloves making sure to physically contaminate the new set with the former.¹⁷ Thereafter without saying a word, she alone transported Plaintiff's three pieces behind an open doorway on the CKPT not far from the search table. Abdul Malik did it in two stages without saying a word to Pellegrino. Plaintiff's property and what Abdul Malik was doing behind the doorway were not visible or known to Plaintiffs. When Abdul Malik re-appeared from behind the open doorway to the search closet (hereinafter closet), she left the immediate area without saying a word as Pellegrino watched her walk away.¹⁸ Pellegrino was left to stand in the detention pen without explanation. Waldman was standing nearby still waiting without any information about the detention provided by the TSA to Plaintiffs. [According to Preliminary Hearing testimony of 10-25-06, Abdul Malik told the judge and prosecutor she perceived Plaintiff as *trouble* and wanted special treatment for her that was different from other passenger's screenings. Abdul Malik wanted her supervisor, Labbee, to witness the screening *behind-closed-doors* and Kissinger to run ETD (Explosive Test Detection) testing. Plaintiffs were told nothing about

the conveyor belt and I took them over to the screening area and I took her over to the screening area and I advised her of the screening process. I told her I was going to have to pat her down. She told me she did not want that done in public. It was embarrassing. So I told her I could give her a private screening; and she agreed to that....."

15 Pellegrino and Abdul Malik had no other interactional conduct prior to the latter appearing on the CKPT. It was the 1st time Pellegrino had ever seen Abdul Malik. There is no other basis for Abdul Malik forming such a strong biased opinion of Pellegrino unless Clemens or another TSA employee communicated something which thereby created a clearly noticeable bias against Pellegrino prior to Abdul Malik's arrival on the CKPT.

16 According to the TSA's website (at http://www.tsa.gov/travelers/customer/customer_service_procedures.shtm) a primary goal is to treat all passengers with courtesy, dignity, and respect during the security screening processes.

17 TSA's Screening Management Standard Operating Procedures at 5.6.A(3) states TSOs must: 1)Wear gloves wheneveran individual requests that they do so. Plaintiffs interpret this to mean must wear new gloves when requested to do so.

18 Abdul Malik's TSA IRWS states verbatim: "I advised STSO Frank Dilworth to contact STSO Laura Labbee to witness the screening." Her 10-25-06 Preliminary Hearing testimony verbatim: "I could tell she was going to be one of those passengers, irate passengers. That's why I wanted the supervisor present. Normally it will just be me and a witness, but I wanted my supervisor present because I felt she was going to be one of those type of people that was going to give me a hard time....." Both Pellegrino and Abdul Malik were under video surveillance during the time Pellegrino requested the TSAs screener to change her gloves.

Abdul Malik's plans for the arbitrary and discriminatory treatment requested for Pellegrino until the hearing.]

9. Abdul Malik did not re-appear back on the CKPT for another few minutes. [According to her Preliminary Hearing testimony, she wanted different treatment for Pellegrino from other passengers. She sought approval from her supervisor STSO Frank A. Dilworth (hereafter Dilworth), who apparently granted it.] When Abdul Malik returned by herself, she failed to inform Pellegrino of her passenger rights as required by TSA SOPs. She directed Pellegrino to follow her.¹⁹ Plaintiff walked behind Abdul Malik in silence into the closet. Pellegrino was directed by Abdul Malik to stand in the right corner in front of a pile of debris on the floor.

Kissinger and Labbee Appear for the 1st Time After Pellegrino Enters the Closet

10. While Pellegrino was observing the condition of the dirty and cluttered closet used for passenger screenings, the set-up of her personal belongings to be screened, Kissinger²⁰ and Labbee²¹ entered the closet after and behind her. Contrary to what the named Defs. falsely alleged in their fraudulent statements to the TSA and in intentionally perjured court testimony, this was the first time Plaintiff ever saw either Kissinger or Labbee even though she had a 360 degree view of the CKPT while detained in the pen. At no point prior to the screening in the closet did Plaintiff speak in Kissinger's or Labbee's presence or vice versa as neither were any where near Pellegrino or visible to either Plaintiff in the Commons Area of the CKPT prior Pellegrino's entrance into the closet for

19 Pellegrino and Abdul Malik had no verbal exchanges of any kind while both were in the commons area of the CKPT. Abdul Malik gave the false and misleading impression in her TSA IRWS that she offered Pellegrino a private search when no such offer was ever made, that she advised Plaintiff she had been selected for additional screening, advised Plaintiff of her passenger rights when no such information had ever been provided to Pellegrino by her. In addition, Abdul Malik fraudulently fabricated among other allegations in her IRWS that Pellegrino told her she wasn't going to be humiliated and wanted a private screening when no such statement and request were ever made by Pellegrino to Abdul Malik at any time. Abdul Malik also deliberately falsified permanent federal records by falsely alleging she advised Pellegrino: "That would not be a problem." Furthermore, Abdul Malik falsified her statement to a federal agency when she stated: "When we got into the private screening room we again advised her of the procedures" when no such passenger rights were ever provided by Abdul Malik, Labbee, or Kissinger to Pellegrino at any time prior to during or after the screening.

20 Kissinger falsified her signed TSA 7-29-06 IRWS statement intentionally creating a false light impression of Pellegrino with the following fabrication: "I was tapped out to help Nuryiah Abdul Malik with the female private screening at 1905. I walked over to the screening area and the woman was very rude. We waited for the supervisor Laura Labbee to accompany us into the private screening area." No such events ever happened. Kissinger falsified federal government records by reporting false information that never happened on her statement. Pellegrino was under overhead video surveillance cameras during the entire time prior to entering the closet alone behind Abdul Malik.

21 Def. Labbee's falsified, fraudulent, and signed 7-29/30-06 TSA IRWS states verbatim: "At 1911, STSO Frank Dilworth asked me to come to the checkpoint to witness a private screening. The female US Airways pax was being randomly screened (non-selectee) by TSA Abdul Malik and TSO Denice Kissinger when she asked for a private screening of herself and her property. I explained to the pax where we were going and what was going to happen during the screening."

the screening. Pellegrino first became aware of Kissinger's presence in the closet while feeling Kissinger breathing on her left shoulder and thereafter saw Labbee standing in the closet to Kissinger's left. Both entered without Pellegrino's knowledge.²² Waldman witnessed Kissinger and Labbee appear on the CKPT and enter the closet. The closet door was closed and the screening began. Waldman waited outside watching for the closet door to open.

The Personal Screening

11. Contrary to the named Defs.' false allegations, at no time was Pellegrino informed by any TSA employee on 7-29-06 about what screening procedures would take place prior to their taking place (sometimes referred to as passenger rights).²³ Plaintiff had not been advised prior to being behind closed doors that she was subjected to a personal as well as bag screening. The named Def. falsely alleged these screenings occurred at the same time. This did not happen. The personal proceeded the bag screening.

12. For the personal screening, Plaintiff was directed to put her arms out (at 90 degrees to her sides) and stand with her legs apart. No information was communicated to Pellegrino about what would occur during the personal screening prior to its happening. Kissinger used a wand to swab Plaintiff's top and skirt, front first, then back. Kissinger then left the closet to obtain ETD results. The footwear Plaintiff wore was never swabbed for ETD.²⁴ No physical or bulk item pat down of Pellegrino's person was ever performed by Kissinger. Kissinger did not come back into the closet to occupy extremely limited space but instead opened the closet door repeatedly from outside to encourage and hand in an extensive number of ETD swabs for extended testing of Plaintiff's property.²⁵

22 On 10-25-06 at the Preliminary Hearing before Judge James DeLeon, Phila. Common Pleas Ct., Abdul Malik's and Labbee's perjured testimony (among other fraudulent material allegations, falsely alleged "My supervisor, we took her things in there. We took her in, the supervisor and the other screener." (Abdul Malik) "I helped Nuryiah Abdul Malik bring her property into the screening area; and then we proceeded to bring her into the screening area, the defendant, and screened her in the private screening area." (Labbee)

23 TSA has established SOPs their screeners are required to provide to airline passengers commonly referred to as *passenger rights* before a search of their person and/or bags commences. In addition when Pellegrino did ask Labbee to what level of screening she was being subjected, Labbee deliberately lied to her and told Pellegrino it was an airline designated search. When Labbee was caught in the lie, she told Pellegrino she was officially detained arbitrarily by her power and authority until Labbee decided when she would be released. At this point Pellegrino notified Labbee and Abdul Malik she intended to report their abusive conduct to higher TSA authorities bypassing Phila. Officials. Thereafter Abdul Malik became more abusive in her treatment of Pellegrino's belongings with Labbee's tacit approval.

24 Airline passenger were not required to remove their shoes until after 7-29-06. At the time of the screening Plaintiff was allowed to wear her shoes through the walk-thru metal detector instead of placing them in a bin for separate X-ray screening.

25 The extent of the swabbing brings into question the named Defs.' motives as the screening had been compromised from the moment the derelict crew lost control of Pellegrino's suitcases as they came out of the X-ray machine on the conveyor belt and Waldman took possession and control of them and was able to repack the bags while Pellegrino

At No Point Was Pellegrino's Conduct Inappropriate or Out of Line

13. At no point did Pellegrino object to a screening of her person/personal belongings that complied with required TSA directives derived from US laws, policies derived from statutory authorities, and TSA's SOPs implemented for aviation safety/security. At no time did Pellegrino object to any aspect of screening that was within the bounds of TSA's statutory authority to protect aviation security. The named Defs.' conduct exceeded the bound of statutory authority to search for weapons and prohibited items on airplanes.

14. Contrary to the named Defs.' allegations as documented in their handwritten false and fabricated statements to the TSA, at no point during Plaintiffs' initial detention and screening or unlawful re-detention after the screening officially ended did Pellegrino act inappropriately, rudely, loudly, disruptively, unruly, or unlawfully.²⁶ At no time during the process did Pellegrino try to stop or interfere with the screening, touch or grab at any of her belongings, refuse to be screened, touch or strike any TSA employee with her suitcases as falsely accused in the named Defs' handwritten and signed statements to the TSA, as falsely reported to the Phila. Police, and as stated in their deliberately perjured court testimonies captured in transcripts dated 10-25-06 and 3-28-08.

Pellegrino Was Treated Arbitrarily And Discriminatively By The Named TSA Defs.

15. Plaintiffs' belongings were subjected to intentional abuse by Abdul Malik under Labbee's supervision. Deliberate damages were caused by Abdul Malik that did not resemble or comply with TSA's directives, TSA civil rights policy, or TSA's SOPs with passengers. Pellegrino was treated unfairly, with contempt, and in an undignified manner by the TSA screeners. Numerous violations of Plaintiff's passenger and constitutional rights occurred before, during, and after screening. Nevertheless, by the official end of the screening, nothing prohibited was found in Plaintiff's belongings. Labbee had no justifiable reason to continue to detain Pellegrino any longer. Labbee officially released Pellegrino after nothing was found in her belongings.

was detained in the public pen.

²⁶ Plaintiffs', TSA's named Defs', TSA employees', Phila. Police Dept. Officers' conduct were captured by multiple angle overhead digital video surveillance camera recordings for roughly 1 ½ hours that contradicted and discredited the named Defs.' false allegations, reports and complaints to the Phila. Police Dept. Plaintiffs' immediately sought copies of the video surveillance recordings as exculpatory evidence for her defense on the day Plaintiffs hired an attorney. He was advised in person, over the phone, and in writing to go after the video surveillance recordings the same day he was paid 8-2-06.

STATEMENT OF CLAIMS FOR MONETARY/OTHER RELIEF ²⁷

16. Plaintiffs hereby re-aver the allegations set forth in the paragraphs above as if fully set forth herein and incorporate them within this section by reference as if the same were set forth at length from the ¶ 16 to ¶ 119 of the Statement of Claims.

Claim I. Violations 1st, 4th and 14th Amendments Freedom of Speech/Unconstitutional Search/Seizure, Property Damage/Disposal

17. At all times relevant herein, the conduct of the named Defs. was subject to 42 U.S.C. §§1983,²⁸ 1985, and 1988, TSA Management Directives (hereinafter MD or MDs) 100.4 Searches, 1100.73-5 Employee Responsibilities And Conduct, TSA SOPs and TSA's civil rights policy related to passenger rights. The 1st Amendment of both US/PA Constitutions protect citizens' rights to speak freely without threat of retaliation of arrest. The 4th Amendment of the US/PA Constitutions protects citizens from unreasonable searches/seizures of their person and property without good reason. The 5th and 14th Amendments protect US citizens from unlawful confiscation/permanent damage to their property without due process of law. Title 42 U.S.C. §§ 1983, 1985, 1988 codifies unlawful conduct that violates federally protected civil rights of its citizens. Plaintiffs seek vindication from deprivation of their constitutional rights and liberties.

Abdul Malik Intentionally Damages Plaintiffs Property During the Bag Screening

18. According to Abdul Malik's 7-29-06 witness statement to the TSA, Plaintiff's property was screened under the supervision of Labbee at the former's specific request. Also according to Abdul Malik's and Kissinger's signed statements (same date), Kissinger was tapped out/off the X-ray machine to assist Abdul Malik with the screening of Pellegrino's personal belongings.

19. The screening occurred behind closed doors within a thin-walled partitioned cubicle [see PL EXs #3 and #6 photographs of the closet from the outside depicting no ceiling]. Pellegrino was subjected to a provocative, abusive screening by Abdul Malik that culminated in intentional and permanent damage to Plaintiff's personal property and the deliberate disposal of three items of Plaintiff's property, by either Abdul Malik or Labbee or both, without Pellegrino's permission or knowledge²⁹).

²⁷ This section has been reworded, every word should be considered underlined.

²⁸ 42 USC §1983 provides redress for violations of federally protected rights committed by persons acting under the color of law. For the purposes of this section, all TSA Defs. were acting under the color of law and all overstepped the bounds of their statutory authorities when they violated and deprived Plaintiffs of their civil rights as set forth in Plaintiffs' Statement of Claims.

²⁹ Plaintiff's missing property was discovered at the bottom of a filthy trash can in the closet while Plaintiffs were detained at the CKPT without probable cause and under false pretenses by Abdul Malik and Labbee.

20. During the screening, Plaintiff was not treated with respect, courtesy, or dignity by the named Defs. as required by TSA policy and SOPs.³⁰ Pellegrino repeatedly requested that her belongings be left out for re-packing at the end of the search. Both Abdul Malik and Labbee refused every request. Pellegrino was subjected to a provocative, unreasonable invasion of privacy during the screening (counting all Plaintiff's currency and coins, examining Pellegrino's credit, library, insurance, membership cards fronts and backs, cell phone data, reading Plaintiff's personal notes, rifling through Pellegrino's business papers), all of which had nothing whatsoever to do with a search for prohibited items on an aircraft. The provocative screening occurred while there was no indication or suspicion Pellegrino was any threat to aviation security. In addition, the named Defs. repeatedly wrote in their statements that Pellegrino was subjected to a "random search." even though Pellegrino was never told she was subjected to a "random search".³¹ Even so, Abdul Malik opened and smelled Pellegrino's cosmetics, hand sanitizer, tin of mints, pen, lipstick.³² Moreover with a mean-spirit, Abdul Malik intentionally and recklessly permanently damaged Pellegrino's personal property during the search by punching, ramming, jamming, and forcing examined items back into the tote in disrespectful ways while Labbee appeared callously indifferent to the damage Abdul Malik was causing to Plaintiff's property. When it came time to re-zip Plaintiff's rolling tote, Abdul Malik was unable to re-close the zipper. Abdul Malik used her knee and body weight to force compress Pellegrino's bag while forcibly yanking at the zipper pull which could not yield under the pressure and thereby Abdul Malik perma-

30 The only words Pellegrino spoke to Abdul Malik prior to entering the closet were about a change of gloves when Abdul Malik went directly for Pellegrino's bags that were on the search table. Pellegrino's request apparently brought about Abdul Malik's labelling her as "an irate passenger," who Abdul Malik testified she felt was "one of those types of people that was going to give her a hard time." [Emphasis added] By her own words Abdul Malik had stereotyped Pellegrino within milliseconds as "an irate passenger and a type" as the result of a request for an action the former was required to appropriately comply with and respond to with politeness and courtesy which Abdul Malik did not do. According to TSA policy and SOPs, Pellegrino was within her passenger rights to request Abdul Malik to change her gloves. Almost instantly Pellegrino had been identified and labelled "trouble" for making the request all TSA's screeners were required to comply with and respond to appropriately instead of with mean-spirited hostility and contempt as Abdul Malik did in response to Pellegrino's request. Having had no other previous interaction with Pellegrino, Abdul Malik designated Pellegrino as a "hard time." Abdul Malik's wanted and got different treatment from other passengers for Pellegrino while Pellegrino was required to be treated equal to and the same as other passengers. Pellegrino had in no way been designated as a threat to aviation security when she was designated for different treatment. Pellegrino was treated different from other passenger as a result of Abdul Malik's perceptions. Abdul Malik (African American and approx 25 yrs. old) and Pellegrino (Caucasian and 57 yrs. old at the time.)

31 Plaintiffs aver Pellegrino was never told she was subjected to a "random search". Plaintiff also aver Abdul Malik's provocative conduct was a *bullying tactic* to incite Pellegrino into violating federal screening procedures while Labbee served as her witness; however Abdul Malik was unsuccessful in getting Pellegrino to violate procedures.

32 The lid to the mints and hand sanitizer were intentionally left open by Abdul Malik and the contents were dumped and leaked into the bottom of Pellegrino's handbag. It's common knowledge humans do not possess the olfactory capabilities of trained bomb-sniffing canines.

nently damaged the zipper coil causing it come off the coil and split. Pellegrino heard the damage occur and wanted to see it. Labbee and Abdul Malik refused Pellegrino's request. Abdul Malik put the damaged tote underneath the search table and pushed it to the far back corner. The abusive screening culminated in broken eyeglasses, permanently damaged expensive gold jewelry, a permanently damaged sentimental and irreplaceable coin purse from her late father, the permanently damaged zipper on Plaintiff's tote bag, damaged cosmetic bag, hand sanitizer leaking into her handbag, mints dumped into the bottom of her handbag by Malik, etc.).³³

Pellegrino Is Threatened With Arrest By Abdul Malik For Speaking During The Screening

21. During the search Pellegrino was twice threatened with arrest by Abdul Malik for speaking about their abusive conduct.³⁴ Labbee witnessed the abuse, stood by, and did nothing to stop it — tacitly encouraging Abdul Malik's intentional property damaging abuse.

Plaintiff Is Told She Is Free To Take Her Belongs And Leave The Closet

22. After the screening officially ended Labbee had no legitimate reason to detain Pellegrino further on arbitrary grounds. Pellegrino was told by Labbee she was free to pack her things and leave. Abdul Malik refused to repack Pellegrino's footwear that had been left as a jumble on the search table. Rather than re-pack in the closet, Pellegrino chose to do so in public and removed her belongings to the table where Clemens originally started the search.³⁵

33 When Pellegrino asked Abdul Malik to be careful while handling her change purse because it was delicate, sentimental and irreplaceable, Abdul Malik defiantly pressed her thumbs against the fabric at the metal closure which permanently dislodged the fabric from beneath the metal causing permanent damage. Moreover Abdul Malik used her knee and body weight to force compress the contents of Pellegrino's tote bag when she was unable to get the zipper coils to come together to close the bag. The force Abdul Malik used dislodged the zipper pulls from heavy zipper coils thereby permanently damaging the tote. Pellegrino's eyeglasses were broken in half.

34 Abdul Malik spoke directly to Labbee twice insisting the Phila. Police be called after Pellegrino spoke about their abusive conduct.

35 After the screening officially ended, Pellegrino first took possession of her handbag. [Abdul Malik put the bag on the search table while Pellegrino was out of the closet exchanging her airline ticket with Waldman during the screening.] Pellegrino fastened her handbag around her waist. The first items Pellegrino removed from the closet were her footwear and the protective bags left on the search table that Abdul Malik refused to repack after she held each bag up in the air dropping the shoes onto the table then EDT swabbed each shoe and each bag while laughing derisively. Contrary to the named Defs' false allegations, Labbee and Abdul Malik were both physically inside the closet the entire time Pellegrino removed her belongings. Pellegrino scooped up her footwear and bags together holding them close to but away from her chest. Plaintiff walked them to just outside the closet doorway. Seeing that no one was in the immediate or near vicinity, Pellegrino tossed them directly toward the search table (where Clemens left her bags when Pellegrino requested a private search). Waldman saw Pellegrino toss her footwear from just outside the doorway and saw where his wife's footwear landed. Pellegrino's footwear touched no one and all landed directly by the table as intended. At no time did Pellegrino throw or toss shoes from inside the closet to the outside that made contact with Labbee. Pellegrino retrieved her roll-aboard carry-on from the search table in the closet without ever coming into physical contact with Labbee on the way out. Labbee was standing inside the closet when Pellegrino exited with her roll-aboard. Contrary to what the named Defs. falsely alleged, at no time was Labbee holding the door open for Pellegrino when she removed her belong-

Either Abdul Malik, Labbee or Both Permanently Disposed Of Plaintiffs' Property

23. While Pellegrino was removing her belongings from the closet to the Commons Area for repacking, either Abdul Malik or Labbee, or both, threw three items of Plaintiff's property³⁶ into the filthy trash can inside the closet without Pellegrino's knowledge or permission. The items were never retrieved by Pellegrino.³⁷

The Named Defs Acted With Callous and Reckless Indifference Subjecting Plaintiff to Damages

24. The named defendants reckless disregard for the Plaintiffs' civil rights caused Plaintiff to be subjected to arbitrary/discriminatory treatment during the search process, caused intentional damages to Plaintiffs property, caused the unjustified confiscation and permanent disposal of Plaintiffs' personal property all without due process of the law. The damages and losses Plaintiff was subjected to was the direct result of the named Defs. over-stepping the bounds of their statutory authority to search respectfully for threats to aviation security. These actions occurred while the named Defs. were acting under the color of law. The named Defs.' conduct described above constitutes an unreasonable search and seizure which came about as a result of Abdul Malik's mis-characterizing Pellegrino from the outset with discrimination. It escalated into retaliation, with a need for self-preservation and with malicious intent against Pellegrino for speaking about the named Defs.' abusive conduct and her stated intent to report their abusive conduct to higher TSA authorities. The named Defs.' actions constitutes a deprivation of and violations of Plaintiff's 1st, 4th, 5th and 14th Amendment rights and

ings from the closet, as a courtesy or otherwise. Waldman witnessed Pellegrino's removal of all her belongings. At no time was Labbee outside the closet holding the door open at any time for Pellegrino. Pellegrino returned to the closet to remove the last item to find Abdul Malik physically blocking her access to her rolling tote. After Abdul Malik had intentionally damaged contents of Pellegrino's property inside the tote as well as the heavy zipper on the outside of Pellegrino's suitcase, the Def. pushed Pellegrino's tote underneath the search table to the far back end corner. When Pellegrino returned to the closet to retrieve the last of her belongings, Abdul Malik refused to move from where she was standing to allow Pellegrino direct access to the tote. In order to remove her tote from the closet, Pellegrino had to get down on her arthritic hands and knees and crawl under the table on the filthy floor to grab hold of one of the tote's strap handles. Pellegrino had to try several times to reach the handle for fear of being kicked in the face by Abdul Malik. Once Pellegrino was able to grab hold of a strap, she pulled the bag toward her while still on her hands and knees underneath the table. Pellegrino had to back out from underneath the table, and pull the tote toward her until she could extend the retractable handle, then wheeled the bag out of the closet behind her. At no time did Pellegrino strike Abdul Malik with her tote as the bag never left the floor. At no time did the tote come into physical contact with Abdul Malik while Pellegrino was retrieving it. At no time was Abdul Malik struck on her leg or ankle by Pellegrino or her tote.

36 The items posed no threats to and were not prohibited on an airline but were regular and essential elements of Pellegrino's suitcase packing for roughly 45 years.

37 This was done without Pellegrino's knowledge or permission. However Pellegrino quickly discovered the missing property as soon as she started to repack her belongings in the Commons Area of the CKPT under comprehensive overhead video surveillance cameras that were recording Plaintiff's conduct the entire time she was removing her personal property from inside the closet.

liberties.

25. Relying on a practice, policy, or custom the TSA turned a blind eye with callous indifference to the reckless misconduct of its screeners, the named Defs.' actions demonstrated they were ready, willing and able to violate Plaintiff's 1st, 4th, 5th and 14th US/PA Amendment civil rights without good reason and without due process of law on the basis of the mis-perceptions of its screeners.

26. Plaintiffs seek vindication of their constitutional rights under 42 U.S.C. §§1983, 1985 (3), 1988. The named Defs. are responsible for the damages they caused and for the constitutional rights they violated. Plaintiffs have the right of civil action. Under the Federal Torts Claims Act, defendants USA and TSA are liable for the above described damages caused by the actions of its screeners Abdul Malik and Labbee as they were acting within the scope of their employment under the color of law for the USA and its TSA as employees given the authority to search airline passenger bags but not to intentionally damage and throw away their belongings without permission. The TSA is also liable for compensation for the time taken from Plaintiffs' lives in seeking payment for the damages.

Claim II. Malicious Prosecutions

Violations of 1st, 4th, 5th, 6th and 14th Amendments

42 U.S.C. §§1983, 1985, 1988: Deprivation of Civil Rights, Retaliation For Stated Intent To Report Abusive Conduct, Conspiracy to Deprive Civil Rights, Unconstitutional Search and Seizure, Deprivation of Equal Protection/Due Process

27. At all times relevant herein, the conduct of the named Defs. was subject to 42 U.S.C. §§1983, 1985, and 1988 and TSA MD 100.4 Searches, 1100.73-5 Employee Responsibilities And Conduct and to in-place TSA policy and Standard Operation Procedures (SOPs) on passengers' civil rights. The 1st Amendment guarantees citizens the right to speak and petition the Government for a redress of grievances. The 4th, 5th and 14th Amendment protects citizens from improper confiscation of their personal liberty without lawful reason(s) and without due process of the law. The 4th Amendment protects citizens against malicious prosecutions without probable cause.³⁸ 42 USC 1983, 1985(3), 1988 codifies unlawful conduct that deprives citizens of their constitutional rights, liberties, and privileges (hereinafter rights) and provides a right of action for vindication of those rights.

Pellegrino Informed Labbee/Abdul Malik of Intent To Report Their Abusive Conduct to Higher TSA Authorities By-passing Phila.³⁹

³⁸ A lack of probable cause exists when the circumstances are such as to satisfy a reasonable man that the accuser had no grounds for proceeding but his desire to injure the accused.

³⁹ Plaintiff was charged with making terroristic threats after informing Labbee and Abdul Malik she intended to report their conduct to higher TSA authorities. Pellegrino made a statement not a threat. Reporting abuse is not a terroristic act.

28. During the screening in the closet while Kissinger was outside, Pellegrino informed two named Defs. she intended to report their provocative and abusive conduct to TSA authorities bypassing Phila.⁴⁰ Once the screening ended, Pellegrino was free to address the government in accordance with her 1st amendment civil rights which Pellegrino intended to do.

Conspiracy to Interfere with Civil Rights — Deliberate False Allegations of Assault 42 U.S.C. §§1983 , 1985 (3): Conspiracy to Deprive Civil Rights

29. Pellegrino's rolling tote was the last belonging Pellegrino removed from the closet. As Pellegrino was walking out of the closet with her tote rolling behind her, Abdul Malik was the first to falsely accuse Pellegrino of assault. Labbee was second.⁴¹ Abdul Malik invited Labbee to join a conspiracy to falsely incriminate Plaintiff. Without hesitation Labbee joined and thereafter immediately accused Pellegrino of an assault that never happened. Both conspired to act as false witnesses for each other reassuring each other they had seen each other assaulted by Pellegrino. Thereafter Abdul Malik insisted she wanted the police called to *press charges* and have Pellegrino arrested. Both Abdul Malik and Labbee were still in the closet at the time their conspiracy was formed and both knew that no assaults ever occurred.⁴² While Labbee and Abdul Malik falsely alleged the former was outside of the closet when Pellegrino removed her belongings, Labbee was in the closet the entire time. No assaults or physical contact occurred.

Labbee Re-Detained Plaintiffs Under False Pretenses at Abdul Malik's Insistence⁴³

30. While both Labbee and Abdul Malik were still in the closet, the latter insisted the PPD was called so she could report her fabricated assault as real.⁴⁴ Plaintiff was unlawfully re-detained by Lab-

40 The Defs. have continued to allege that Pellegrino was randomly selected for additional screening; however when Pellegrino inquired about the reason for the level of search she was subjected to (provocative abuse), Labbee lied and told Pellegrino it was an airline designated search. When Labbee was caught lying to Pellegrino, Labbee informed Pellegrino she was detained for arbitrary reasons on the basis of Labbee's power and authority for whatever reason and for however long Labbee decided.

41 The named Defs. falsely alleged Labbee was first to be struck, Abdul Malik; however Pellegrino heard Abdul Malik and Labbee make the false allegations just as she was exiting the closet. **It is a material fact that Abdul Malik was first to allege assault and Labbee followed her lead and was second.**

42 In a deliberate false report to the Phila. Police on 7-29-06 Abdul Malik said she had been struck on her left calf and ankle and had minor pain [in her faked injury]. Labbee's false report to the Phila. Police (same date) notes Labbee said she was hit with the end of bag in the stomach causing her [Labbee] to fall into the door that she was holding for her [Pellegrino]. At no time did Labbee hold the door of the closet open for Pellegrino.

43 Because Plaintiffs were traveling together as man and wife, once Pellegrino was detained Waldman could not leave without her, he in essence also was detained.

44 Abdul Malik testified on 10-25-06 under cross examination that she told Labbee she wanted the police called as she and Labbee were walking out of the closet however Abdul Malik and Labbee did not leave the closet at the same time. Labbee left first while Abdul Malik stayed inside the closet and did not appear for several more minutes. What Abdul Malik actually testifies to is that she wanted the police called prior to falsely accusing Pellegrino of assault.

bee outside the closet at the search table in the Commons Area after being officially released by her while still inside the closet.⁴⁵ While Pellegrino was repacking her belongings at the search table, Labbee came out of the closet, walked toward Pellegrino at the table. Pellegrino questioned Labbee about her missing property. Labbee lied and denied any knowledge of their whereabouts directly after Pellegrino's property had been thrown in the trash can inside the closet.⁴⁶ Labbee informed Plaintiff she was re-detaining her. Labbee provided no reason.

Pellegrino Requested TSA's Official In Charge (OIC) to be Summoned to the CKPT Labbee Unlawfully Confiscated Pellegrino's Driver's Licence Under False Pretenses

31. Upon notification of the re-detention for no justifiable reason or cause, Pellegrino immediately requested TSA's OIC at the PIA be called to the CKPT. At this time Labbee confiscated Plaintiff's driver's license [giving no reason].⁴⁷ Labbee directed Pellegrino to zip up her suitcases, told Pellegrino she was not allowed to touch her belongings and not allowed to move from the table. Labbee's orders marginalized Plaintiff's ability to communicate with anyone (including Waldman) while TSA Officials, PPD Officers and USAIRWAYS Sari Salameh⁴⁸ were summoned to the CKPT.

Labbee Attempted Invasion of Pellegrino's Legally Protected Health Information Under False Pretenses by Seeking Information from Waldman Without Pellegrino's Knowledge or Permission

32. When Pellegrino did not leave the table with her belongings, Waldman walked over to her to find out what was going on. Pellegrino told Waldman she was being re-detained in violation of her civil liberties. Thereafter, Waldman went to Labbee to find out what was going on. Labbee did not tell Waldman she and Abdul Malik were falsely accusing Pellegrino of assaults and federal security screenings violations that never happened. Instead Labbee started to question Waldman about Pellegrino's legally protected private medical health information without Pellegrino's knowledge and without Pel-

45 In deliberately perjured testimony on 10-25-06 Labbee testified before Judge James De Leon and PA Commonwealth Prosecutor Liermann: "At the completion I told her that she was able to collect her belongings but that I would need to be talking with her afterwards because I wanted--she was complaining. Whenever there's a complaint, I do like to get people's --their information and do a little report. So I told her she wasn't free to go but she can collect her belongs [sic] and come out of the private screening room. At that time half of her belongings were repacked how we had repacked them because of the small area, but some of the items were still left on the table because she repeatedly said she wanted to repack her items. Prior to Labbee's false testimony Abdul Malik testified under cross-examination that Pellegrino had been officially released in the closet and was free pack her bags and leave.

46 Abdul Malik denied any knowledge under cross examination during the Preliminary Hearing on 10-25-06.

47 Labbee never returned it. Pellegrino's privacy was unlawfully invaded when NCIC checks were run against her name on false pretenses.

48 Salameh told Plaintiffs he was forbidden by the TSA from speaking with Pellegrino while Plaintiffs were detained on the CKPT.

legrino's permission. Labbee wanted to know from Waldman what medications Pellegrino was taking and wanted specific information about drugs related to mental health⁴⁹.

Kissinger Joins Conspiracy As A False Witness For Labbee's Fabricated Assault 42 U.S.C. §§1983, 1985

33. At some point after Abdul Malik and Labbee formed a conspiracy inside the closet to falsely accuse and incriminate Pellegrino, Kissinger voluntarily joined them by becoming a false witness for Labbee's fabricated assault.⁵⁰

The Named Defs. Knowingly Lied, Reported False Crimes To TSA Officials and PPDO⁵¹

34. At no time did Pellegrino commit any offense against the state/federal laws for which a re-detention at the PIA and an arrest could lawfully be made.⁵² At no time did Plaintiff assault Def. Abdul Malik or Labbee intentionally or unintentionally with or without her suitcases (and/or footwear). The named Defs.' false accusations against Pellegrino were motivated by retaliations, self-pervations and malicious intents to inflict emotional distress on Pellegrino for her stated intent to report their abusive conduct to higher TSA authorities.⁵³ The unjustified re-detention continued for roughly one hour after the search officially ended. All activity on the CKPT before, during, and after the search was captured and recorded under comprehensive digital video surveillance cameras.

TSA Records State PPD Officers Were Summoned at 19:20 Plaintiffs Do Not Know This To Be Factually Accurate

35. Dilworth's records indicate AIRWAYS (19:23) was contacted prior to notifying TSA Federal Security Manager (hereinafter FSM), Richard Rowe (hereinafter Rowe) (19:25), and TSA ASI (Inspector) Osbourne Shepherd (19:25). Dilworth's report notes Rowe appeared on the CKPT at 19:35⁵⁴ and the police appeared at 19:30.⁵⁵ Unlawful NCIC and BMV checks were run on Pellegrino

49 Labbee claims to have received a Bachelor's Degree in psychology from Temple University Philadelphia, PA, in 2001.

50 Kissinger signed a TSA witness statement dated 7-29-06 falsely allegedly she witnessed an assault on Labbee that never happened. Waldman is an eye witness that Kissinger was no where near the immediate or general vicinity of the search closet and the doorway on the CKPT where Labbee falsely alleged she was assaulted. A handwritten sticky note attached to the end of Kissinger's handwritten statement reads: "Witnessed hit of Labbee".

51 18 Pa. Cons. Stat. § 4904 Unsworn Falsification to authorities; 49 C.F.R. PART 1540.103

52 This includes any federal screening procedures as she had been falsely accused of by the named Defs.

53 Plaintiffs prevailed in a court of law on 3-28-08 at trial where Abdul Malik, the only one of the two complainants who was not barred from testifying specifically about her falsely alleged assault was a "No Show" at Pellegrino's brief trial which was unsubstantiated by the prosecution.

54 There is no clear indication ASI Osbourne Shepherd appeared on the CKPT once notified; however, the ASI probably signifies Aviation Security Inspector.

55 Dilworth noted Fadgen as badge #4116 and McColley as badge 7517.

by using her confiscated driver's license. All unjustified and unlawful checks invading Pellegrino's privacy turned up negative. While Plaintiffs were re-detained on the CKPT for roughly one (1) hour, TSA Officials and the PPDOs summoned to the CKPT stood around conversing or waiting. Waldman observed unidentified TSA Officials in conference with the named Defs. When Waldman approached to find out what was going on, Labbee told him to leave the immediate area. While Pellegrino was marginalized at the search table, and Waldman was told nothing, the named Defs.' deliberately lied to PPD law enforcement authorities knowingly and intentionally mis-representing and mis-characterizing Pellegrino in a false and negative light, fabricating actions attributed to Pellegrino that never happened, and thereby falsely incriminating Pellegrino. Abdul Malik and Labbee alleged they were assaulted while consciously knowing they were making false accusations against Pellegrino. Kissinger consciously lied when she falsely alleged she witnessed an assault that never happened while knowingly she was no where near where Labbee and Abdul Malik false alleged Labbee's fabricated assault occurred.⁵⁶ During Plaintiffs' unlawful and unjustified detention, the PPDOs either stood around waiting or talked with the TSA Officials.

Plaintiffs Repeatedly Request To Speak To TSA's PIA (OIC)

36. Plaintiffs made repeated requests to have the TSA OIC summoned to the CKPT. Labbee ignored both Plaintiffs' repeated requests.⁵⁷ No Official from the TSA purporting to be TSA's OIC or his representative ever appeared on the CKPT or spoke to Plaintiffs. Dilworth's Incident Detail Report (hereinafter IDR)⁵⁸ reflects Robert Ellis, TSA Fed. Security Director was notified as a matter of procedure. On information and belief Plaintiffs aver Labbee ignored Plaintiffs repeated requests to speak with TSA's OIC in furtherance of the named Defs. having the only word thereby intentionally depriving Plaintiffs' of their constitutional rights to know what accusations the named Defs. were making against Pellegrino and to be able to confront those false accusations.

Waldman Witnessed Abdul Malik's Adamant Insistence On Pellegrino's Arrest

⁵⁶ All three named Defs. had different versions of Labbee's fabricated assault. Abdul Malik and Labbee had different version of their fabricated assaults.

⁵⁷ Dilworth's Incident Detail Report indicates Robert Ellis, TSA Fed. Sec. Dir. (Official in Charge) was notified as a matter of procedure not because Plaintiffs' made repeated requests to communicate with him or his representative. No one purporting to be him or his representative ever showed up on the CKPT to speak with either Plaintiff on 7-29-06.

⁵⁸ Dilworth's IDR actually report actions taken on a fabricated incident as no incident actually occurred other than the unlawful misconduct of the named Defs. and TSA Officials which the TSA still fails to recognize and acknowledge.

Labbee's Agreeing To Accompany Abdul Malik To File Complaints

37. While still trying to find out why Plaintiffs were detained, Waldman witnessed Abdul Malik adamantly insist upon filing a complaint against Pellegrino. Waldman also witnessed Labbee state her intent to follow through on *pressing charges* after hearing Abdul Malik's reassurances she was making a complaint to the Phila. Police Dept. (hereinafter PPD or PPDO)⁵⁹

Pellegrino Is Invasively Frisked Inside The Closet, Handcuffed in Public Then Paraded Out as a Public Spectacle

38. Prior to Pellegrino's false arrest, Plaintiff was subjected to an unjustified humiliating, invasive frisking of her person in the closet without probable cause by a female African American PPDO who had already passed judgment on Pellegrino but would not tell Pellegrino what she was accused of having done. Thereafter Pellegrino was brought back out to the Commons Area of the CKPT and to Waldman's horror, Pellegrino's arthritic wrists are tightly handcuffed behind her back with the aim of making Plaintiff into a public spectacle for other airline passengers.⁶⁰ With an escort of two male PPDOs walking slowly in front and a female pushing Pellegrino from behind, Abdul Malik's and Labbee's crimes victim was humiliatingly railroaded out of the PIA as a public spectacle. The performance no doubt constituted the purpose of shaming their crimes victim in public. Shocked, stunned, and surprised airport passengers gawked at Pellegrino's treatment as a criminal. Waldman was visibly shaken, shocked and horrified by what he saw happen to his wife as he had no idea why she had been handcuffed and arrested and had been told nothing by TSA Officials or the PPD. Neither Plaintiff had been given a reason for Pellegrino's false arrest and unlawful imprisonments.⁶¹

While Pellegrino Is Unlawfully Locked Behind Bars For No Justifiable Reason Abdul Malik/Labbee File False Criminal Complaints With The PPD Accusing Pellegrino Of Assaults and Injuries That Never Happened⁶² **18 PA Con. Stat. 49 §4906, 4910, 4911.**

39. Plaintiff had committed no crimes or violations of federal aviation security procedures. The

59 Waldman was an eye witness to Pellegrino's removal of her belongings from the closet but was not privileged to know what Abdul Malik and Labbee were falsely accusing Pellegrino of at the time.

60 The cuffing female officer had already decided Pellegrino was guilty without having any 1st hand knowledge of what occurred on the CKPT and was accusing her while frisking her in the closet. When Pellegrino questioned her about her accusations the female officer would not tell her.

61 PPDO Fadgen was listed as the arresting officer. He never spoke to Pellegrino during the false arrest.

62 18 PA. Cons. Stat. 49 §4906 (a) (b) False Reports To PA Law Enforcement Authorities; (a) falsely incriminating another (b) fictitious reports); 18 PA Con. Stat. 49 §4910 Tampering with Physical Evidence (fabricated injuries).

named Defs. knew the complaints they made to PPD Det. Campbell were baseless, groundless, and false. While Pellegrino is illegally incarcerated twice for phony crimes, Labbee's witness statement indicates Abdul Malik, Kissinger, and she were driven to the PPD Southwest Div. Station by Airport Div. Officer Michael Browne. While Pellegrino was locked behind bars in horrific conditions⁶³, Labbee's 7-29-06 signed witness statement reflects she and Abdul Malik were interviewed by Det. Will (PPD records reflect Det. Wm. Campbell). There is no indication from Labbee's witness statement that Kissinger was interviewed by Det. Campbell; however Kissinger went to the police to take an active role as a false witness for Labbee who was an initiator of a baseless and groundless prosecution of Pellegrino motivated by malice. PPD records reflect criminal complaints were filed by Abdul Malik and Labbee against Pellegrino alleging numerous [false] accusations that mis-characterized the facts and mis-represented Pellegrino in a false negative light while the named Defs. consciously knew they were making false reports of crimes to the PPD.

**The Named Defs. Played Active Parts In The Initiation Of Criminal Proceedings
Against Plaintiff and Did So With Malice.**

40. No one from the PPD or the Phila. DA's Officer ever investigated the veracity of Abdul Malik's and Labbee's false accusations against Pellegrino at any time.⁶⁴ The resulting groundless and bogus charges were not based upon probable cause.⁶⁵ [See PL Ex. 12 Notes of Testimony 6-4-07 pp. 22 Judge Gehret/TSA leg. rep. Eckl; EX 14 Oral Motion to Dismiss Transcript 1-24-08 pp 11-12 Judge Gehret, EX 15 Trial Transcript 3-28-08 pg. 4 lines 8-13].

**Plaintiffs Were Not Allowed to Communicate
While TSA's Crimes Victim is Locked Behind Bars for No Justifiable Reason**

41. While Pellegrino was unlawfully incarcerated on the basis of the named Defs.' false accusations, Plaintiffs were denied communication with each other the entire time Pellegrino was unlawfully incarcerated. Waldman was told by an uncouth male working in the PPD Southwest Div. something to the effect of: *Go home — your wife is charged with felonies, you'll be lucky if you speak to her in 48 hours.*

63 Cockroaches crawling all over the walls and into the feces and urine blocked toilets, no food, 1/2 pint of water in roughly nineteen hours, putrid odors, blaring loud noises, rodents crawling over the floors, dead rodent lying on the floors, horrifically inhuman conditions.

64 The excuse the PPD Airport Div. provided to Plaintiffs was that their detective was on vacation the week of July 29, 2006. The same person offered no excuse for arresting officer, John Fadgen's failure to investigate and secure evidence other than that he was close to retirement.

65 The presiding judge in the prosecutions questioned the need to continue criminal proceeding on June 4, 2007, during a court ordered due process discovery hearing investigation into the final disposition of the best factual exculpatory evidence the TSA deliberately withheld from Plaintiffs during repeated due process discovery requests from 8-2-06 to 6-4-07.

The Named Defs.' False Accusations Set In Motion 10 Groundless Criminal Counts ⁶⁶ Two Baseless Prosecutions Driven by Self-Preservation, Retaliation, and Malice

42. Among numerous and sundry accusations, Abdul Malik falsely reported to PPD Det. Campbell, was that she was struck on her leg and ankle by Pellegrino's suitcase while knowing she had never been struck or touched by Plaintiff's bag. Abdul Malik also falsely reported to the PPD that she witnessed Labbee being struck in the stomach by Pellegrino's large suitcase while Labbee held the door open for Plaintiff to exit the closet while knowing she was lying to Det. Campbell.⁶⁷ Among numerous and sundry accusations, Labbee falsely reported to PPD Det. Campbell that she was holding the closet door open and gave Pellegrino plenty of room to exit while knowing she was never outside the closet when Pellegrino removed her belongings. In addition Labbee falsely alleged Pellegrino deliberately stepped to the right and hit her with the end of the bag in the stomach causing Labbee to fall into the door that she was holding open for Pellegrino while Labbee knew no such event ever happened.⁶⁸ [See PL EXs #3 and #6 Labbee photographs of the angle of the open doorway when Pellegrino existed with her belongings. Labbee a rotund woman of considerable girth on 7-29-06, testified falsely on 10-25-06 she was **one (1) foot outside the closet doorway** (emphasis added by Plaintiffs) when Labbee alleged falsely that she had been assaulted. The photos clearly depict an absence of space for Labbee to be standing one foot outside the doorway that would allow Pellegrino to exit or enter. The size of Labbee's body would have obstructed Pellegrino's ability to exit or enter.]⁶⁹ In addition Labbee falsely reported to the PPD she witnessed Abdul Malik struck with two bags inside the closet while Abdul Malik falsely alleged she had been struck by one.⁷⁰

43. Abdul Malik's, Labbee's, and Kissinger's callous indifference to knowingly and deliberately reporting false accusations to the PPD resulted in Pellegrino's false arrest and two unlawful imprisonments in horrific conditions for up to roughly 18 hours.⁷¹ Because of Abdul Malik's and Labbee's false accusations, above and beyond a false arrest and two unlawful imprisonments without

⁶⁶ The charges were not based on probable cause, they were based on maliciously motivated false accusations that were never investigated by the PPD or the Phila. DA's Office who was not aware they were missing a copy of Labbee's TSA witness statement on a scheduled trial date until it was pointed out by Plaintiff to her def. atty. and then def. atty. to the presiding judge.

⁶⁷ The closet door did not need to be held open by Labbee at any time for Pellegrino as it stayed open on its own on 7-29-06.

⁶⁸ Neither Abdul Malik nor Kissinger reported seeing Labbee fall into the door.

⁶⁹ If Labbee were standing where she falsely alleges she was standing she would have created a situation in which Pellegrino was unable to exit the closet because Labbee's body would have been blocking both egress and ingress.

⁷⁰ Abdul Malik falsely alleged she was struck by one bag. During Labbee's Preliminary Hearing testimony 10-25-06 the two bags she claimed to have seen Abdul Malik struck with on 7-29-06 for her signed statement and the police complaint were changed to one laptop bag.

⁷¹ Not counting the hour of unlawful detention at the PIA.

probable cause, ten baseless/bogus charges were lodged against Pellegrino by the PPD and the Commonwealth of PA prosecutors.⁷² All three named Defs.' reckless and malicious actions lead to two 20-month groundless/vexatious prosecutions which commenced on 7-29-06 and concluded on 3-28-08 with Plaintiffs prevailing against all charges brought by the PPD and Phila. DA's Office.⁷³

44. As a result of the named Defs. maliciously motivated conspiracy, Plaintiffs were deprived of their civil rights to equal protection of the laws. The due course of justice was impeded in violation of Plaintiff's 4th, 5th, and 14th Amendments rights and 42 U.S.C. §§ 1983 and 1985. The named Defs.'s misdeeds, while acting under the color of law, exceeded their statutory authority to protect civil aviation by screening passengers for prohibited items on an aircraft.

45. The actions of the named Defs. against Plaintiff described above were conducted pursuant to a practice, policy, or custom that turned a blind eye away from TSA's screeners abusive and unlawful conduct toward airline passengers. The named Defs. actions demonstrated callous indifference to TSA's MD Nos. 100.4 Searches and 1100.73-5 Employee Responsibilities And Conduct,⁷⁴ TSA's own civil rights policy, and Plaintiffs' Constitutional rights to be free from unjustifiable discrimination, the rights to equal treatment and protection of the laws, compelling witnesses in her favor, and rights to due process of law).

46. The named Defs. actions constituted unlawful:

- 1) discrimination and unequal treatment
- 2) conspiracy to falsely incriminate an innocent person in retaliation for Plaintiff's stated intent to report their abusive (unlawful) conduct.
- 3) unwarranted re-detention,

72 Two (baseless/bogus) felony charges for aggravated assault (where minor bodily injury was faked and no bodily injury ever occurred or was physically documented) because the PPD classified the named Defs. as "other law enforcement officers;" eight baseless/bogus misdemeanor charges for (2) reckless endangerment of a person, (2) simple assaults (2) possession of instruments of crime(rolling suitcases) and (2) making terroristic threats. All either discharged, evaporated, or acquitted for lack of evidence.

73 A Court Order dated 1-24-08 barred Labbee from testifying that she had been assaulted outside the closet. Only Abdul Malik was able to testify. The TSA and the named Defs. forced a trial. Abdul Malik was a "No Show" at the trial. Plaintiffs were never given a reason. Labbee and Kissinger showed up and voluntarily added additional false testimony and false accusations onto PA Commonwealth Court records, Labbee brazenly defied the Court's order and got it on the court record falsely alleging she had been assaulted. Labbee's defiance of Judge Thos. Gehret's court order was objected to by both the prosecutor, Phila. Asst. DA Andre Martino and Plaintiffs' def. atty., John Elbert. Judge Gehret sustained both objections. After Labbee falsely testified she was assaulted outside the closet, Kissinger, who had been sequestered during Labbee's accusations, falsely testified she witnessed Labbee being assaulted inside the closet while holding the door open with her arm. Elbert's objection was sustained by the judge. Thereafter Pellegrino was acquitted of all remaining charges with "Not Guilty" "Not Guilty" verdicts.

74 This TSA MD applies to all TSA organizational elements and all TSA employees. Authorities: A. Sections 403(2) and 423, of the Homeland Security Act of 2002. B.The Aviation and Transportation Security Act, PubL. 107-71(ATSA).

- 4) fabrication of evidence (conspired false accusations of assaults, fabricated injuries),
- 5) exercise of agency authority (malicious abuse of power, authority and process),
- 6) attempts to invade Plaintiffs' legally protected medical privacy, invasion of Plaintiff's personal privacy
- 7) false reports made to PA law enforcement authorities to bring about
- 8) two false incriminations which brought about an,
- 9) invasive search of Plaintiff's person
- 10) seizure of person (including two unlawful imprisonments)
- 11) two false criminal complaints to the PPD
- 12) two maliciously motivated 20-month vexatious prosecutions, and
- 13) abuse of the Commonwealth of PA's judicial process⁷⁵

all of which deprived Plaintiffs of their 1st, 4th, 5th, and 14th Amendment rights to equal protection, compelling witnesses in her favor, and due process of law and the liberty interests of Waldman in deprivation of the marital companionship of his wife without due process under the 5th Amendment.

47. The unlawful misconduct of the named Defs. actions caused the Plaintiffs public humiliation, public embarrassment, defamation intentional permanent and irreparable damage to Plaintiff's personal and professional reputation, intentional defamation, intentional emotional pain and turmoil, stress and distress, unnecessary costs and expenses of defending against fictitious crimes, extraordinary amounts of time lost from Plaintiffs' lives, loss of consortium, loss of earning capacity, loss of income, loss of sleep, loss of ability to concentrate, to name a few.

48. Plaintiffs seek vindication of their constitutional rights under 42 § § 1983, 1985, 1988 (a) (b) (c). The Defs. are liable for all unlawful actions directly connected to initiating two groundless prosecutions against Pellegrino while consciously knowing no probable cause whatsoever existed, by active participation from the initiations to the conclusions of maliciously motivated prosecutions that had no basis in facts, which were fueled and motivated by malicious intents to inflict emotional injuries and harm onto Plaintiff. The named Defs.' intentional actions continued until Plaintiffs were forced to trial. The lies and the defamations still continue after Pellegrino prevailed in courts of law obtaining acquittals. None of the charges had any basis in facts.

Claim III. Aiding and Abetting Malicious Prosecutions

⁷⁵ Plaintiffs was required to report to Phila. Municipal Court in PA from FL for 20 months under the orders of the court and did not gain back freedom until Plaintiffs prevailed in a court of law on 3-28-08.

Violations of 4th, 5th, 6th and 14th Amendments
Violations Of 42 U.S.C. §1983: 1985 Deprivation of Civil Rights
49 C.F.R. Part 1540.103—Civil Aviation Security Falsified Records

49. At all times relevant herein, the conduct of the Doe TSA Officials Defs. were subject to 42 U.S.C. §§1983, 1985, and 1988, to TSA's MD No. 1100.73-5 Employee Responsibilities and Conduct, ⁷⁶TSA MD 100.4 Searches, to TSA's civil rights policy related to upholding the laws and Plaintiffs' Constitutional rights, liberties, and privileges (compelling witnesses in her favor, equal protection treatment, due process of law,) and to TSA civil rights policies related to passengers rights and passenger searches. It is a violation of federal/state laws to make false entries, ⁷⁷ report false information, and to add additional fraudulent information into federal /state records for official proceedings,⁷⁸ to aid and abet false incriminations, malicious prosecutions and to deprive or violate the civil rights of US citizens.

TSA Officials/PPD Officers are Summoned to the CKPT

50. An unknown number of TSA Officials showed up at the CKPT as a result calls from the CKPT. Dilworth's Incident Detail Report (hereinafter Dilworth's IDR) [See PL EX #4] and Supplemental Form (hereinafter Dilworth's SF) reflects that TSA FSM Rowe was notified at 19:25 and showed up at 19:35. TSA AS Inspector Osbourne Shepherd was notified at 19:25. It is unclear from Dilworth's SF whether Shepherd appeared on the CKPT. John/Jane Doe TSA Official Defs. (hereinafter TSAOs, TSAO Defs. or Doe TSAOs) who were apparently summoned to oversee proceedings while Plaintiffs were re-detained without good reason or justifiable cause had a duty and responsibility according to TSA MD No. 1100.73-5 to uphold the Constitution and the laws⁷⁹. TSAO

⁷⁶ This directive applies to all TSA organizational elements and all TSA employees. Authorities: A. Sections 403(2) and 423, of the Homeland Security Act of 2002. B.The Aviation and Transportation Security Act, Pub L. 107-71 (ATSA). TSAOs had no discretion as this directive clearly states: "This directive is TSA policy and must be applied accordingly." The directive further stated: "(7)Observing and abiding by all laws, rules, regulations and other authoritative policies and guidance, written and unwritten..... (9)Reporting any known or suspected violation of law, rule, regulation, or Standard Operating Procedure (SOP) by a person to a manager in the chain of supervision and/or to the Office of Inspection (OI), whenever such violation may affect TSA operations or when it occurs in the workplace.... (6) Enforcing employee compliance with all TSA directives, policies, programs and, where applicable, DHS directives, policies and programs; timely investigation of reported non-compliance with all directives, policies, and programs; immediate and appropriate corrective action when an employee is found not to be in compliance with TSA directives, policies, programs. Policy:Employees in direct contact with the public bear a heavy responsibility, as their conduct and appearance have a significant impact on the public's attitude toward the Federal government and TSA."

⁷⁷ 18 USC 1001, 18 USC 1519

⁷⁸ The false and fraudulent records were also turned over to the Phila. DA's Office and used in official proceedings against Plaintiff as evidence of crimes that never happened.

⁷⁹ This meant that any records created and transmitted as part of an official record for the federal government were required to be factually correct (49 C.F.R. Part 1540.103) and a violation to falsify federal government records.

Defcs. were required by TSA MDs to not submit false reports of fictitious incidents into TSA's permanent records (to commit offenses against public administration)⁸⁰

PIA Installed Comprehensive Overhead Video Surveillance at Passenger CKPTs in 2004

51. A January 5, 2005, PIA news press release titled Phila. Intl. Airport Achieves 2004 Security Objectives, posted on the internet 1½ years prior to 7-29-06, clearly stated the PIA installed nearly 900 surveillance cameras with funds provided by the TSA. The news release further states the PIA "... was one of the first airports in the nation to use surveillance cameras to digitally record activity at its security checkpoints. The ability to quickly review video and assess suspected incidents has been an invaluable tool utilized extensively by both the TSA and the Philadelphia Police Department." [See PL EX # 2 ¶¶ 4-5]. On belief and information TSAOs summoned to the CKPT had unfettered access to the housing at the PIA where the video recordings mentioned in the PIA news release were quickly available.

Doe TSAOs Defcs Knew or Should Have Known Pellegrino Intended to File A Formal Complaint Against The Named Defcs. for Unlawful Conduct

52. The Doe TSAO Defcs. were callously indifferent to Plaintiffs while they were re-detained on the CKPT. They made no effort to investigate Pellegrino's stated intent to file a formal complaint against the named Defcs. for unlawful conduct during the screening, even after at least one male TSA employee wearing a white shirt purporting to be an official but who would not identify himself by name or rank was aware Pellegrino requested a formal TSA Complaint Form with the names of the three Defcs. written on it. Rather than asking Pellegrino why she wanted a formal complaint form and what brought about a request for a formal complaint form, he turned, walked away with an insensitive attitude and demeanor and never returned with the form Pellegrino requested.⁸¹ At some later time during the unwarranted re-detention, a male fitting the same description handed Waldman a white sheet of duplicated paper representing a TSA Complaint/Compliment Form with Abdul Malik's, Labbee's and Kissinger's names handwritten on the form stating something to the effect: "Your wife wanted this."⁸² [See PL. EX. 1 the handwriting on the form is believed to be Labbee's]

80 These falsified records were not only submitted to TSA Transportation Security Operations Center in VA but also submitted by the TSA to the Phila. DA's office. The falsified records were used by the Commonwealth of PA prosecutors as evidence against Pellegrino. The falsified documents submitted by the TSA were provided to the PA Commonwealth as factually correct official records thereby corrupting state level official proceedings.

81 who was marginalized at the search table by Labbee for roughly 1 hour.

82 Pellegrino never received the complaint form until after Waldman paid bail and she was released from unlawful

The Doe TSAO Defs. Failed to Interview Available Witnesses

53. At least two senior female passengers (witnesses), aside from Plaintiffs as witnesses, had been on the CKPT during relevant times. None were interviewed. Dilworth's IDR reflects no witnesses were interviewed. [See PL EX #4] The only individuals who were allowed to provide statements were TSA employees. No other witnesses' accounts including the Plaintiffs were considered by the TSAOs while Plaintiffs were re-detained without probable cause at the CKPT.

Doe TSAO Defs. Were Required To Report Incidents to TSA's Operations Center⁸³

54. On 7-29-06 Abdul Malik,⁸⁴ Labbee, Kissinger, and Clemens submitted signed TSA Incident Report Witness Summary statements for TSA's permanent records.^{85/86} The named Defs. and Clemens signed handwritten statements each containing false and fabricated allegations intended to misrepresent and mis-characterize Pellegrino in a false and negative light for crimes that never happened.

The Overhead Video Recordings Documented No Probable Cause for Arrest Existed The TSAO Defs. Failed to Review the Video Surveillance Evidence

55. From TSA records documenting the named Defs. false and fabricated allegations against Pellegrino, the video surveillance recordings were the best factual evidence⁸⁷ to determine whether any of the Defs. allegations could be verified or discredited.

TSAO Defs./PPD Fail to Review the Best Factual Evidence (Multiple Camera Angle Video Surveillance Recordings) The TSAOs Rely Solely Upon Subjective Rather Than Objective Accounts

56. By the time the PPD Officers and the Doe TSAO Defs. arrived at the CKPT, Plaintiffs had been detained for roughly 35+ minutes prior to the named Defs.' making false allegations against Pellegrino to them. The Doe TSAOs Defs. failed to properly investigate the veracity of the named Defs.' allegations by going to the recording housing and reviewing the instantly available objective surveillance recordings of what had and had not transpired. For roughly 1 hour, by choice, TSAOs incarceration.

83 49 CFR Part 1540.103 Fraud and Intentional Falsification of Records; 18 Pa. Cons. Stat. § 4904 Unsworn Falsification to Authorities

84 Abdul Malik's date stamped 7-30-06 at 12:57 pm, Labbee's illegible, Kissinger's illegible, Clemens' illegible

85 A copy of Clemens', Abdul Malik's, and Kissinger's statements were provided to Plaintiffs' def. atty. after 1-10-07 shortly before the first scheduled trial listing. Dilworth's IDR and Supplemental Report were provided to the Phila. DA's Office by a TSA mistake. According to Eckl, the TSA fully intended to withhold Dilworth's records from the Prosecutor's and Plaintiffs during Due Process Discovery Proceedings. [see PL EX #12 pg. 23 lines 2-4] Labbee's witness statement and IDR was produced under Court Order 6-4-07 by Eckl in front of the presiding judge.

86 Plaintiffs have reason to believe these were completed while Pellegrino was unlawfully locked behind bars at the PPD airport Div. lock-up.

87 Best Factual Evidence is the name the presiding judge gave to the video surveillance recordings.

Defs. and PPD Officers failed to review or investigate the key witnesses — the video surveillance evidence— in assessing the veracity of the named Defs.’ accusations against Pellegrino. The failure to investigate occurred even though the recordings from multiple camera angles for the CKPT were readily available and almost instantly accessible to corroborate/discredit named Defs.’ allegations. [See PL. EX. #2 Phila. Intl. Airport Achieves 2004 Security Objectives].

57. The TSAO Defs. failure to properly investigate the veracity of the allegations against Pellegrino when objective proof was easily accessible, readily available, and had been implemented quite frequently in the past according to PIA’s 1-5-05 news release subjected Plaintiffs to rash and unreasonable interferences with privacy and unfounded accusations of crimes. According to TSA’s MD 100.4 searches were required to meet Constitutional requirements (not violate the constitutional rights of passengers). TSA MD made it a policy that the Doe TSAO Defs. were required to uphold the law and constitutional Plaintiffs’ rights.

Doe TSAOs Defs. Failed To Do Their Jobs By Taking Proper, Appropriate Actions

58. The Doe TSAO Defs. had a duty and responsibility to properly investigate, interview, and intervene to prevent a violation of Plaintiffs’ civil rights including the creation of false witness statements, that were assigned fraudulent report codes, false reports to law enforcement officers, false arrest, unlawful imprisonments, and malicious prosecutions (and to not violate any laws).

59. Rather than interview available witnesses and review the best factual evidence (multiple camera angle video surveillance recordings), TSAOs Defs. stood at the CKPT, conversed with the named Defs. and the PPD Officers for roughly one hour and with callous indifference to Plaintiffs civil rights, never confronted the Plaintiffs about the named Defs.’ false accusations, kept Plaintiffs unlawfully detained and deliberately uninformed about the accusations being made against Pellegrino.⁸⁸

Waldman Was Horrified By Pellegrino’s False Arrest Without A Good Reason The Doe TSAO Defs. Fail To Intervene

60. Despite not being convinced any assaults occurred, the Doe TSAO Defs failed to intervene and allowed Plaintiff to be falsely arrested and ‘railroaded’ out of the CKPT in handcuffs as a public spectacle. Waldman was stunned, visibly shaken, and horrified at the sight of his wife handcuffed and pushed out of the CKPT from behind [while her arthritic wrists were tightly cuffed behind her

⁸⁸ In addition, Sari Salameh, USAIR representative was prohibited from speaking to Pellegrino during the unwarranted detention. Salameh had cleared both Plaintiffs for the flight to FL.

back] with no justifiable reason to warrant such actions. With callous indifference to Plaintiffs constitutional rights, the Doe TSAO Defs. failed to provide any information to him during 1 1/2 hours of detention on the CKPT.

61. Once Pellegrino was railroaded out of the PIA, one small statured, neatly dressed African American male TSA Official appeared to help Waldman (who was left on the CKPT with all of Plaintiffs' belongings) carry his bags to a cab stand. Waldman wanted to follow the police to find where his wife was taken since no TSA Official or PPD Officer told him anything. The TSA Official told him something to the effect — *Nothing to worry about. She'll get her wrists slapped and a misdemeanor. That'll be the end of it.* The TSA Official made the statement as though it was an everyday occurrence in Plaintiffs lives — treating Plaintiff's false arrest and unlawful imprisonments as though these events were no big deal. It was both a horrifying and a traumatic big deal for both Plaintiffs who had no personal experience with the criminal justice system. The TSA Official exhibited callous indifference to the reckless violations of Plaintiffs' civil rights and liberties.

TSAOs Report a False and Fictitious Incident to TSA's Central Operations⁸⁹

62. As a result of the named Defs.' conspiracy to falsely accuse Pellegrino of crimes that never happened (both in oral and handwritten forms), a **FALSE AND FICTITIOUS TSA INCIDENT (hereinafter FICTITIOUS INCIDENT)** record was created and assigned a Control and a Tracking Number by someone at the TSA. The **FICTITIOUS INCIDENT** was classified as Sensitive Security Information (SSI). At some point in time the **FICTITIOUS INCIDENT** was assigned a "500 Report Code" which signifies Disruptive and Unruly PAX (passenger) from a list of 24 code choices.⁹⁰ At no time was Pellegrino disruptive or unruly for so much as a fraction of a second.⁹¹ This 500 report code was capriciously and arbitrarily assigned without objective verification. The 500 the Doe TSAO Defs. had no factual evidence to assign a 500 report code to a **FICTITIOUS INCIDENT REPORT**. The 500 code was a perverted and fraudulent mis-characterization of Pellegrino that was created in the TSA's falsified records

⁸⁹ 5 U.S.C. §§ 702, 706 — Unlawful Exercise of Agency Authority; Offenses Against Public Administration; Fraudulent Report Codes Assigned to Falsified Witness Statements 49 CFR Part 1540.103 Fraud and Intentional Falsification of Records; 18 PA Con. Stat. 49 § 4911. Tampering with public records or information

⁹⁰ It is currently unknown to Plaintiffs who at the TSA made the decision to assign a 500 code on the named Defs. and Dilworth's reports. The TSAO Defs. had an alternative choice of "200 Report Code which signifies assault on TSA Employee because that is what the named Defs. falsely alleged. Some Official at the TSA chose to substitute an equally fraudulent report code to further perverted the records of a false and **FICTITIOUS INCIDENT**. Both the 500 and the 200 codes are false classifications of a fictitious incident. and are deliberate and false misrepresentations, characterizations, and distortions of Pellegrino's conduct on the CKPT as captured by the video surveillance recordings.

⁹¹ TSA's investigators who clocked a 4 hour investigation were unable to produce so much as a fraction of a second of disruptive or unruly conduct to corroborate the fraudulent 500 report code.

and mis-represented Pellegrino in a false light. The TSA to date has been unable to offer an iota of factual evidence for assigning a 500 code to the **FICTITIOUS INCIDENT REPORT**. From 1 ½ hours of multiple camera angle video surveillance recordings, the TSA was unable to produce ½²⁹th of a second (one frame of video surveillance recording) that documented and verified disruptive or unruly conduct while Pellegrino was detained on the CKPT on 7-29-06 for roughly 1½ hours. By failing to properly investigate the false allegations against Plaintiff, the Doe TSAO Defs. created a false incident record and submitted it to the TSA (a federal agency) thereby perverting and undermining the accuracy of TSA permanent records which negatively influenced future events for Plaintiffs.

Rowe's and Dilworth's Signatures Appear On The Named Defs.' Signed Falsified Witness Statements ⁹²

63. TSA FSM Rowe's signature appears below Abdul Malik's signature on her falsified witness statement, below Labbee's signature on her falsified witness statement, and below Dilworth's SF (which appears to be Dilworth's erroneous summary of the falsified witness statements). Dilworth's signature appears below Kissinger's signature on her falsified statement and below Clemens' falsified statement. All statements are dated 7-29-06. ⁹³

64. A highly censored document produced as a result of Plaintiff's FOIA 2009 request reflects that the **FICTITIOUS INCIDENT** was reported to the TSA Transportation Security Operations Center (TSOC) in VA on 7-29-06. The **FICTITIOUS INCIDENT WAS** reported as a factually correct incident for TSA's permanent records. ⁹⁴ The reporting of a **FICTITIOUS INCIDENT** and false witness statements initiated the deliberate perversion and undermining of the agencies permanent federal records the TSA generated and kept on Pellegrino on that falsely *boxed* Pellegrino in a false light.

Another Set of TSAO Defs. Provided the Named Defs. with Comfort and Counsel During the 20-months of Malicious Motivated Prosecutions of Pellegrino

65. On belief and information, Plaintiffs aver from 7-29-06 to 3-28-08, another set of Doe TSAO Defs. provided assistance and counsel to the named Defs., prepared them for false testimony at official proceedings, and accompanied them to court proceedings where with brazen recklessness

92 5 U.S.C. §§ 702, 706 — Unlawful Exercise of Agency Authority; 49 CFR Part 1540.103 Fraud and Intentional Falsification of Records; 18 PA Con. Stat. 49 § 4911. Tampering with public records or information

93 Clemens' falsified statement contains no report code nor a Control Number. Labbee IDR is dated 7-30-06.

94 The fraudulent Incident the Phila. TSAOs report to TSOC could have been prevented had the TSAO Defs. reviewed the video surveillance recordings because the recordings contradicted the false allegations made by the named Defs..

the named Defs. repeatedly lied on the witness stand with intended malice to harm Pellegrino, while Plaintiff was their crimes victim.

TSAO Defs. Deprived Plaintiffs of Civil Rights 42 U.S.C. §1983, 1985:

66. The TSAO Defs. demonstrated a wilful disregard for the truth or falsity of the named Defs. allegations. TSAOs chose not to investigate the readily available video recordings, chose not to interview available eye witnesses including the Plaintiffs, chose not to inform Plaintiffs about the named Defs.' accusations against Pellegrino, considered Pellegrino's false arrest and unlawful imprisonments "no big deal a slap on the wrist." The TSAOs in concert actions constituted abuse of TSA's power, authority, and process, a failure to prevent intentional falsification of federal and state records, two false incriminations, a false arrest, two unlawful imprisonments, and two maliciously motivated prosecutions. TSAO Defs. intentional assignment of a fraudulent report code to federal records ⁹⁵constitutes a deliberate act to aid and abet the false allegations of the named Defs. and everything that ensued. The TSAOs acted in concert and were **enablers** who willingly and substantially contributed to the named Defs. ability to initiate groundless prosecutions against Plaintiff to the extent that they should also be held liable for aiding and abetting the three named Defs.' unlawful actions against Plaintiff as set forth in Claim II. The actions of the TSAO Defs. constitute violations and deprivation of civil rights to the compulsory process of having witnesses in her favor, equal protections/treatment and due process of law.

67. The Doe TSAO Defs. misconduct caused Plaintiffs to be subjected to the same damages and injuries listed in Claim II ¶ 47. The Doe TSAO Defs.' actions were conducted pursuant to a TSA, practice, policy, or custom that turned a blind eye toward protecting Plaintiffs' constitutional rights, liberties, and privileges and demonstrated contempt for the US/PA Constitutional rights of Plaintiffs. TSAOs acted with callousness and reckless indifference to TSA's civil rights policy and MDs and to the harms, sufferings, damages and injuries their actions set in motion. TSAO Defs. actions are a direct and proximate cause of Pellegrino becoming a TSA crimes victim where Waldman has been forced to endure his wife's crimes victimization. Plaintiffs contend the Doe TSAO Defs. are

95 Which formed the basis of the Phila. DA's prosecutions of Pellegrino and perverted official PA Commonwealth proceedings.

liable for their actions. Plaintiffs seek vindication of their rights under 42 USC §§ 1983, 1985, and 1988.

**Claim IV. Aiding and Abetting Malicious Prosecutions
Deliberate Destruction of Key Witnesses (the Video Recordings)
Violations of 4th, 5th, 6th and 14th Amendments ⁹⁶**

68. At all times relevant herein, the conduct of the TSA ASI Defs. was subject to 42 U.S.C. §§1983, 1985, and 1988 and TSA's MD No. 1100.73-5 Employee Responsibilities and Conduct 5(7) and (9). Spoliation of *Brady Material* is considered a crime when it occurs during a criminal proceeding. It is a deprivation of civil rights to not disclose and turn over the video surveillance recordings to the defendant in a criminal prosecution. It is a violation of federal/state laws to tamper with witnesses and evidence, to knowingly and wilfully destroy *Brady Material*, and to conceal such actions from a defendant during criminal proceedings.

Video Recordings Were The Key Witnesses For Pellegrino's Defense

69. The overhead video surveillance recordings captured at the PIA on the evening of 7-29-06 were critically material to the issues of innocence for Pellegrino's defense and unlawful actions against Pellegrino. They were the objective and impartial key witnesses. The 4th, 5th, 6th and 14th Amendment to the Constitution grants Plaintiffs equal protection rights to **a compulsory process for obtaining witnesses in her favor during due process proceedings**. The Due Process Clause (and the Supreme Ct. ruling in *Brady vs. Maryland* 373 U.S. 83 (U.S. 1963) required the TSA ASI Defs. ⁹⁷ to take appropriate action to insure that any and all evidence, including exculpatory (sometimes hereinafter referred to as *Brady Material*), was collected and turned over to the Prosecution and the Plaintiffs. Within days of being falsely charged, Plaintiffs hired a defense atty. and immediately instructed him (in person, over the phone and in writing) to secure copies of the video surveillance recordings. [See PL EX #5 Pellegrino e-mail to R. Giuliani 8-2-06] to prepare for a proper defense.

**The Named Defs. Knowingly Reported False Federal Security Screening Violations
Initiating An Enforcement Investigation (EI) by TSA ASIs Defs. ⁹⁸**

70. At all times relevant herein, the conduct of the named Defs. was subject to 42 U.S.C. §§1983,

⁹⁶ 42 U.S.C. §§1983, 1985, U.S.C. §§ 702, 706 Unlawful Exercise of Agency Authority; 18 PA Con. Stat. §4911 Tampering with Public Records; Tampering with Physical Evidence During a Criminal Prosecution; Failure to Disclose/Deliberate Destruction of *Brady Material*.

⁹⁷ As TSA Aviation Security investigators charged with collecting and preserving evidence to be used against Pellegrino in separate criminal and civil proceedings.

⁹⁸ 49 CFR Part 1540.103 Fraud and Intentional Falsification of Records; Title 5 Sect 552 (a) Privacy Act Records Maintained on Individuals

1985, and 1988, TSA's MD No. 1100.73-5, 100.4, 49 CFR Part 1540.103 Fraud and Intentional Falsification of Records, 18 PA Con. Stat. §4911, the 4th, 5th, 6th and 14th Amendments to US/PA Constitutions. It is a violation of US/PA laws to knowingly and intentionally enter false information into federal/state records that perverts official proceedings. In addition to false accusations of fabricated and fictitious crimes, the named Defs. falsely accused Pellegrino of violating federal screening procedures. The video surveillance recordings were exculpatory evidence in establishing and verifying that no crimes and no federal screening violations occurred and that Pellegrino was also *framed* for nonexistent violations.

71. According to a highly censored FOIA record, on or about 8-2-06 a TSA lead agent clocked four (4) hours investigation time and .5 travel hours conducting an Enforcement Investigation (EI) to determine whether a CAE should be initiated against Plaintiff.⁹⁹ On 8-14-06 Pellegrino was notified by letter dated 8-7-06 from TSA Asst. Fed. Security Dir. for Regulatory Inspections, Celestine Holman, that a Civil Action Enforcement (CAE) had been initiated by the TSA against her [that falsely alleged federal screening violations and other false accusations by the named Defs].¹⁰⁰

72. Plaintiffs immediately contacted their def. atty. to contact Holman at the TSA to preserve the video surveillance recordings. A call was placed to Celestine Holman, on or about 8-14-06. The call was returned not by Holman but by her superior, Gerardo Spiro no later than 8-21-06. Plaintiffs' atty. called Holman with the distinct purpose to 1) preserve the video recordings for future subpoena, and 2) to suspend the CAE until the prosecutions concluded. Spiro was evasive about the video surveillance recordings. Spiro gave Plaintiffs' atty. the name of TSA Field Counsel, Patrice Scully, Esq.'s phone number and told him to contact her about preservation of the video recordings. Thereafter Scully was contacted and a phone message was left for her by Plaintiffs' atty. Scully did not return Plaintiffs' atty.'s call(s). When Scully failed to get back to Plaintiffs' atty., he sent a letter to Holman dated 8-25-06 (posted the same date) clearly stating a request to preserve the videos for future subpoena.

⁹⁹ A highly censored FOIA document produced by the TSA in late 2009, a lead agent [named and date censored] was assigned to the investigation. The Enforcement Investigation Report should have been produced to Plaintiffs by the TSA under Plaintiff's FOIA request but wasn't. The investigation history indicated the report was initially rejected on 9-13-06 at 09:02 sent back for reworking prior to approval on 9-18-06 at 13:29.

¹⁰⁰ The CAE carried as much as a \$10K fine.

TSA Officials Were Aware Plaintiffs Requested *Brady Material* Prior To Deliberate Destruction

73. At all times relevant, at least three TSA Officials (Celestine Holman, Gerardo Spiro, and TSA Field Counsel for East. PA, Patrice Scully, Esq. and most likely a fourth person, Scully's assistant (Asst. Field Counsel Lisa Eckl, Esq.) were aware no later than 8-21-06 that Plaintiffs were actively seeking copies of the surveillance recordings of 7-29-06 to be preserved for future subpoena.

Early Sept. 2006 Eckl Left A Voice Message For Plaintiffs Atty. Asserting No Video Recordings Exist

74. According to Eckl, there was no video surveillance of *The Incident*. Of significance, Eckl who is an attorney for the TSA is referring to a false and fictitious incident as *The Incident* rather than as an *alleged incident*. Eckl continues to refer to the *FICTITIOUS INCIDENT* as "an already proven TSA incident" up to Due Process Discover Proceedings.

TSA's Enforcement Investigators Are Charged With Fact-Finding, Collecting and Preserving Evidence For Future Official Proceedings

75. On information and belief, Plaintiffs aver the Doe TSA ASI Defs. had unfettered access to the recording housing at the PIA where the videos were stored. Contrary to TSA's Scully's 1-24-08 self-preservation attempts to lay the blame on the PIA during an Oral Motion to Dismiss,¹⁰¹ Plaintiffs aver the Doe ASI Defs. did not need to make a written request to the PIA Security Dept. to access and view the relevant video recordings [captured between 6:45 pm to 8:30 pm. at the PIA TSA CKPT Terminal B]. {See PL EX #2} Even so, a written request wasn't for permission to access the recording housing, it would have been for notification to the PIA to pull and preserve the recordings as evidence against Plaintiff for separate proceedings namely the criminal and CAE. However, **the video surveillance recordings did not support the TSA's allegations against Pellegrino in any way.** The recordings were clearly *Brady Material* for the Plaintiffs who wanted the videos secured from the day they hired a def. atty. [See PL EX #5 dated 8-2-06]. The recordings were objective exculpatory evidence required by Plaintiffs and essential to proving Pellegrino's innocence in defending against the false and fabricated accusations made by the named Defs. Abdul Malik, Labbee, and Kissinger. The video recordings also contradicted and impeached Clemens' falsified and fabricated witness statement dated 7-29-06.

101 Scully was representing the TSA's interests during Plaintiffs' Oral Motion to Dismiss/Suppress Evidence as a result of the TSA's ASIs deliberate destruction of *Brady Materials* obstructing Plaintiffs' constitutional rights to prepare a proper defense against the named Defs.' malicious accusations. The presiding judge was not persuaded by her argument because the TSA, the Prosecution, and the PIA all failed to provide him with documented evidence of where the video surveillance cameras were positioned at the CKPT.

Plaintiffs' Federally Protected Civil Rights Required Preservation of *Brady Material*

76. In-place TSA security, civil rights policy, and SOPs and US/PA Constitutional laws required the video recordings to be pulled and preserved according to Plaintiffs 4th, 5th, 6th and 14th Amendment civil rights prior to 8-29-06 (a 30-day time frame) as objective factual evidence for 1) a criminal and 2) a civil proceeding both initiated by TSA employees. A written request to the PIA Security Dept. was required as TSA SOP that TSA's investigators (ASI Defs). were required to follow according to TSA MDs. The written request notified the PIA Security Dept. to pull and preserve the video evidence but a written request was not required for TSA investigators to access the video recordings on 7-29-06, 8-2-06 or up to 8-29-06 when the video evidence was knowingly and intentionally destroyed. In violation of TSA SOPs, MDs, and policy, no one from the TSA made a written request to pull and preserve the video surveillance recordings.

TSA ASIs Defs.' Decision To Have The Recordings Destroyed Was Deliberately Withheld From Plaintiffs by TSAO Defs. in a Cover-Up Until a Court Ordered Hearing 6-4-07

77. Eckl was TSA's contact person for Plaintiffs' attorneys during due process discovery proceedings. In April, 2007, Eckl asserted to Plaintiffs' atty. in written communication dated 4-11-07 that no one (from the TSA) viewed the video surveillance recordings relevant to 7-29-06 **because there was no video evidence.**¹⁰² After counting numerous surveillance cameras in the CKPT ceiling on 7-29-06 Plaintiffs did not believe Eckl's assertions and continued to instruct their def. atty. to discover the disposition of the video recordings.¹⁰³

PIA Security Mgr./TSA Liaison, Renee Tufts, Testified at Court Ordered Hearing 6-4-07¹⁰⁴

78. Ms. Tufts, testified that TSA's investigators were required by TSA/PIA SOP to contact her office in writing so her department could pull and preserve the videos; otherwise the PIA would not know to do it. In preparation for testimony that day, Tufts researched the PIA's files for a written request from the TSA and found no written requests from the TSA. Tufts also testified the Plaintiffs were the only party seeking copies of the videos.

102 Eckl's 4-11-07 letter was in response to Plaintiffs atty.'s inquiry dated 4-2-07 into how Eckl came to the conclusion that there was no video surveillance recordings for the date in question (7-29-06), under what circumstances the video is preserved (by the TSA), the name of the official in charge of preserving them, and at who's direction video was preserved and destroyed. Eckl skirted and stone walled Plaintiffs' attorney's inquires in her written response.

103 Eckl's restriction of a response to inquiry to the closet only lead Plaintiffs to suspect existence of the video surveillance of the CKPT was not only highly likely but also clearly evident because she made no reference to any video surveillance recordings of the CKPT and Plaintiffs knew the CKPT had overhead camera installed across the ceiling. When Eckl continued stone walling inquires about video surveillance for the entire CKPT for 1½ hours of Plaintiffs' detention on 7-29-06 Plaintiffs insisted on a due process discovery hearing.

104 See PL EX #7 Court Order for PIA Dir. of Sec. to appear for testimony with video surveillance records.

79. The Tufts' testimony made it clear the TSA was solely responsible for the preservation and production of the videos as evidence but also violated SOPs and TSA policy by intentionally failing to act according established requirements. [See PL EX #12 Notes of Testimony 6-4-07 PIA Security Mgr. and TSA Liaison, Renee Tufts pp 15 and 16 lines 1-13 and pg 17 lines 18-25.]. In addition, the TSA ASI Defs. conduct was in violation of TSA's MD No. 1100.73-5 Employee Responsibilities and Conduct whereby the ASI Defs. were required by TSA directive and policy to not violate any laws.

TSA ASI Defs. Tampered with Physical Evidence in Criminal Prosecutions

80. At a Court Court Ordered hearing that followed roughly 2 months later, Eckl's rhetorical maneuvering around her 4-11-07 written position that "there was no video evidence" changed dramatically. Eckl fessed up before the presiding judge and Plaintiff ¹⁰⁵ that TSA ASI Defs. were responsible for the destruction of the videos as a result of making a considered, thought-out, deliberated decision between or among themselves to have the video surveillance evidence destroyed. Eckl also offered a reason for the TSA ASI Defs.' decision to not turn over the *Brady Material* to Plaintiffs — **the TSA investigators didn't think it was necessary in this case.** [See PL EX #12 Notes of Testimony pg. 20].

81. In light of Eckl's assertion, Plaintiffs aver the TSA ASI Defs. were using startlingly substandard investigation methods of fact finding for a federal agency charged with US aviation security. Based on Eckl's excuse, Plaintiffs aver, the Doe TSAO Defs. and/or TSA ASI Defs. failed to conduct or supervise a rigorous, legitimate investigation of the named Defs.'s accusations with deliberate indifference to the truth or falsity of the alleged criminal allegations and their (false) alleged federal security screening violations.

Plaintiffs Don't Believe TSA's Excuse for the Destruction of *Brady Material*¹⁰⁶

105 Plaintiffs point out another Eckl's reference to the FICTITIOUS INCIDENT as "The Incident" as though the named Defs. fabricated allegations that an incident had occurred had already been proven by the TSA as established fact when it was a falsely alleged incident. It is noteworthy to point out that as an officer of the court, Eckl has repeatedly referred to the named Defs.' falsely alleged incident as "The Incident".

106 49 CFR Part 1540.103 Fraud and Intentional Falsification of Records; 18 PA Con. Stat. §4911 Tampering with Public Records; PA Chap 49 Subchap. A § 4910. Tampering with Physical Evidence. Any legitimate investigation would require physically reviewing the 1½ hours of video surveillance evidence stored in the PIA recording housing and nothing less as it was the only objective evidence available. During Due Process Discovery Proceedings TSA Eckl, communicated to Plaintiffs' def. atty. that their investigators did not review the (1½ hours of multiple camera angle digital) video surveillance recordings. In over 4 years, TSA Officials Defs. have been unable to produce any substantial evidence and not one frame (1/29 of a second) of video surveillance evidence that in any way substantiated the named Defs.' false accusations of screening violations. Nor has the TSA ever been able to justify the initiation of CAE with intent to fine Pellegrino up to \$10K. Yet with reckless and callous indifference to injuries, sufferings, and damages the ASI and TSAO Defs. caused the Plaintiffs, the named Defs. and the TSA CAE Investigators unlawful actions forced the Plaintiffs into

82. Plaintiffs believe and aver the TSA investigators (ASI Defs) reviewed the video surveillance recordings during their Enforcement Investigation (EI) and once they reviewed the video evidence TSA's ASI Defs. realized the named Defs.' allegations were impeached and contradicted and that the video recordings were *Brady Material*. As such, the recordings were a liability to the TSA because they objectively documented a lack of probable cause, intentional falsification of the named Defs. witness statements, which lead to the falsification of federal/state records and official proceedings, false incrimination of Pellegrino, a false arrest, two unlawful imprisonments, and two baseless prosecutions already under way.

83. Plaintiffs assert the TSA ASI Defs. realized they needed to get rid of the evidence before Plaintiffs could obtain copies. After the intentional destruction of the video surveillance evidence, the TSA's position became "no one at the TSA looked at the video recordings because no recordings existed". Eckl's 6-4-07 testimony made it clear video recordings had existed and had been destroyed while Plaintiffs' atty. was pursuing them in a timely manner according to due process discovery proceedings.

**The Video Surveillance Recordings Were The Key Eye Witnesses
ASI Defs. Participated In A Conspiracy to Violate Plaintiffs' Federally Protected Rights To
Have *Brady Material* Intentionally Destroyed 42 U.S.C. §§1983 , 1985 (3)**

84. According to Eckl's 6-4-07 testimony, using the plural rather than singular form of investigator, more than one Doe TSA ASIs Defs. participated in the decision to destroy the video surveillance recordings.¹⁰⁷ The ASIs Defs. actions are the reason *Brady Material* was not turned over to Plaintiffs while as noted at least three and possibly four TSA Officials were aware Plaintiffs were actively seeking copies prior to their destruction. The actual destruction of the recordings were withheld from Plaintiffs for ten months.

**TSA ASI Defs. *Killed off* Plaintiffs' Key Defense Witnesses
Intended to Interfere/Influence the Outcomes of Maliciously Motived Prosecutions**

85. Plaintiffs aver there was no better witnesses compelled to testify in her favor than the video recordings, and ASI Defs. are the direct and proximate cause of their demises. Plaintiffs aver TSA's distressful, embarrassing and humiliating 20-month public prosecutions and trial with the intent to inflict emotional injury on Pellegrino, all the while knowing the TSA possessed not as much as a shred of substantial evidence that would help them to prevail at trial. The only thing TSA could bring to bear were false accusations at trial or with the CAE initiated by 8-7-06. Nevertheless, TSAO Defs. insisted upon the relentless and continued prosecutions of Plaintiff and the threat of pursuit of a CAE against Plaintiff. TSA's Officials and named Defs. failed on both as a result of being unable to substantiate any of the false accusations, the resulting groundless charges, or the alleged screening violations.

107 The decision to destroy *Brady Materials* was made by the TSA ASI Defs. between July 29 and Aug. 29, 2006.

ASIs Defs. concerted actions were intentionally undertaken:

- 1) in violations of in-place TSA civil rights and security policies, SOPs, MDs, US Constitutional Amendments 4, 5, 6 and 14, and US/PA laws relevant to tampering with evidence (PA 18 Pa.C.S. § § 4910 and 4911), and Obstruction of Agency and Official Proceedings (18 USC § 1505); Unlawful Exercise of Agency Authority (5 U.S.C. §§ 702, 706),
- 2) to protect the TSA from legal liability by *killing off* Plaintiffs' key impartial witnesses in proving Plaintiff's innocence and documenting the named Defs.' unlawful actions.
- 3) to destroy evidence of a lack of probable cause in Plaintiff's false arrest and unlawful imprisonments and maliciously motivated prosecutions initiated by the named Defs.¹⁰⁸
- 4) as active **enablers** who conspired to interfere with official proceedings and so substantially contributed to the named Defs.' ability to sustain groundless, vexations and maliciously motivated prosecutions against Plaintiff for 20 months that the Doe ASI Defs. should also be held equally liable for aiding and abetting the named Defs. as set forth in Claim II. The ASI Defs.' actions directly influenced the criminal proceedings and attempted to influence the outcome of TSA's maliciously motivated Prosecutions against Pellegrino. ASI Defs. actions are direct and proximate causes of the violations of US/PA statutes and Plaintiffs' 4th, 5th, 6th, and 14th Amendment civil rights that deprived Plaintiffs' of equal protections and treatment of the law, the ability to prepare a proper defense, and due process rights to a fair trial (42 USC 1983; 1985).

86. Plaintiffs were entitled to use the video surveillance recordings to have the baseless charges dismissed shortly after being charged. The Doe TSA ASIs Defs.' actions caused the continuation of the deprivation of Plaintiffs' civil rights. The ASI Defs.' unlawful actions subjected Plaintiffs to the damages and injuries set forth in ¶ 47.

More Than Likely a TSA Official Was Involved With the ASI Defs.

87. TSA ASI Defs. documented, deliberated decision to destroy *Brady Material* is a criminal offense. More than likely the TSA ASI Defs. intent to destroy *Brady Material* needed approval by at least one TSA Official if not more. On 1-24-08, the presiding judge agreed Plaintiffs had done everything they could to secure the best factual evidence. [See PL EXs #9 and #14 Transcript of Oral Motion to Dismiss, 1-24-08 Judge Gehret's statement "I agree" pg. 6] TSA ASIs. Defs. and TSAO Defs. who approved their actions prior to destruction further interfered, obstructed, impeded, and violated Plaintiffs' constitutional rights to a

¹⁰⁸ The deliberate destruction of the video surveillance evidence also wiped out all objective documentation of the mis-managed, poorly supervised, dysfunctional, derelict TSA security screen crew that was visibly absent from the CKPt when Plaintiffs arrived and therefore repeatedly violated Plaintiffs' passenger rights while detained on the CKPT.

compulsory process to have witnesses in her favor, equal protections and treatment enabling Plaintiffs to prepare a proper defense under Due Process of the law and the right to a fair trial. TSAO Defs. who approved the TSA ASI Defs.' actions are liable for all damages and injuries detailed in ¶ 47 in Claim II

88. The Doe ASI and TSAO Defs.' actions were conducted pursuant to a TSA practice, policy, or custom that turned a blind eye to the unlawful actions of the Defs. during a criminal proceeding that demonstrated callous indifference to TSA's own MDs, civil rights policy, and demonstrated contempt for the US Constitutions and Plaintiffs' civil rights. TSA ASI and TSAO Defs. acting in concert are liable for all actions directly related to aiding and abetting vexatious malicious prosecutions that deprived Plaintiffs' of their civil rights. Plaintiffs seek redress and vindication of their rights under 42 U.S.C. §§1983, 1985, and 1988.

**Claim V. TSAO Defs. Aiding and Abetting Malicious Prosecutions
Unlawful Cover-up of the Destruction of Best Factual Evidence
Violations of 4th, 5th, 6th, and 14th Amendments 42 USC §1983, 1985, 1988
5 U.S.C. §§ 702, 706 – Unlawful Exercise Of Agency Authority**

89. At all times relevant, the conduct of the Doe TSAO Defs. was subject to 42 U.S.C. §§1983, 1985, and 1988 and TSA's MD No. 1100.73-5, 200.7 According to the MDs, TSA employees were required to report violations of the law and civil rights to the proper authorities up the chain of command when they occurred.

The Doe TSAO Defs.' Participation in an Unlawful Cover-up during Due Process

90. On information and belief, Plaintiffs aver:

- 1) the Doe TSAO Defs. either actively participated in or eventually became aware the ASI Defs. made a conscious decision to have *Brady Material* in Pellegrino's case destroyed while Plaintiffs were actively seeking the videos to prepare a proper defense for dismissals.
- 2) the TSAO Defs. either knew of and/or participated in the cover-up.
- 3) When the TSAO Defs. became aware of the intentional destruction of the *Brady Material*, instead of reporting violations of the law and Plaintiff's civil rights to the next person higher up in the chain of command as required by TSA's MDs, the TSAO Defs. made a determination to cover-up their ASI Defs.' unlawful conduct and conceal it from Plaintiffs.¹⁰⁹

¹⁰⁹ Plaintiffs do not know when the Phila. DA's Officer was made aware other than on 6-4-07. If the Phila. DA's officer knew about it prior to 6-4-07 there is an issue of prosecutorial misconduct. This information is discoverable during Discovery Proceedings. However it is clearly evident that the Phila. DA's Office did not investigate the baseless/

**A Decision Was Made By TSAO Defs. To Cover-up *Brady Material* Destruction
Until A Court Ordered Due Process Discovery Hearing**

91. The 'TSAO Defs.' active participation in the deliberate cover-up of the destruction of *Brady Material* was intentionally withheld from Plaintiffs for ten (10) months. When Scully's asst. Eckl, (TSA's contact person for Plaintiffs' def. atty.) responded to their inquiries directly related to whereabouts and the disposition of all the video recordings, her response were comprised of distorted and slippery language. For instance, shortly after Labor Day, 2006, Eckl left a voice mail message for Plaintiffs' atty. stating something to the effect of "there was no video surveillance of *The Incident* since the search occurred in a private screening area where there are no cameras"¹¹⁰ Plaintiff' atty. was requesting copies of video surveillance recordings from multiple camera angles for the 1½ hours of detention at the PIA. Plaintiffs were not asking for video recordings of the closet only as Eckl continuously tried to restrict her responses to inquiries.¹¹¹ As Plaintiffs' attorneys continued to pursue discovery inquiries regarding the whereabouts of all the video evidence, Eckl repeatedly restricted her responses to the closet, only. Eckl asserted the video evidence did not exist while withholding why the recordings did not exist.¹¹²

**Written Communication From Eckl Stonewalled Discovery Proceedings
Prior to the Court Ordered Hearing**

92. On 2-20-07¹¹³ in response to a subpoena dated 2-18-07 served 2-20-07 by Plaintiffs' atty. on the TSA, for the video recordings, any and all interviews, witnesses and potential witnesses, Eckl's response in part was:: "To the extent you seek information related to this case, please be advised that the Philadelphia District Attorney's Office has received two TSA witness statements related to **this incident**.¹¹⁴ Also be advised that there is no videotape related to **this incident**."¹¹⁵ (bold added by Plaintiffs on the fictitious incident Eckl continues to refer to as *The* or *This Incident*).¹¹⁶ In the first

bogus charges it brought against Plaintiff.

110 It is a point of interest that an attorney who should know the difference between proven fact and allegation would refer to an *alleged incident* as *The Incident* when in actuality is was a **FALSELY ALLEGED INCIDENT**. Eckl again refers to the **FALSELY FABRICATED INCIDENT** as *The Incident* on page 20 of the Notes of Testimony on 6-4-07 when she fessed up under Court Order to the TSA ASI's thought out and discussed intentional destruction of the video surveillance recordings .

111 According to Labbee's testimony the screening in the closet lasted roughly eight minutes although this has yet to be verified.

112 To date the TSA has not provided documented evidence that an overhead video surveillance camera was not installed above the ceiling of the closet [See PL EXs #3 and #6 the closet appears to have no ceiling].

113 See PL EX 11A TSA Eckl letter 2-20-07

114 Actually 4 were turned over as well as Dilworth's documents 4 by a bungled error., but not the fifth the TSA's Claim's Mgmt. Div. employees made reference to in a 5-19-09 statement to the file.

115 This is the third paragraph of five contained in her letter.

116 The subpoena was ignored by the TSA.

paragraph of Eckl's letter dated 4-11-07¹¹⁷ to Plaintiffs' atty: "Reference is made to your letter dated April 2, 2007,¹¹⁸ and received by my office on April 9, 2007, in which you request additional information pertaining to the fact that there is no videotape of **this incident**." In the third paragraph of the same letter: "Also, please be advised that no one viewed any recording of **this incident** because there was never any recording to view. No camera is inside the private screening room at checkpoint B, and no cameras are directed at the entrance of the private screening room at B checkpoint. Therefore, there was never any camera coverage or videotape or other recording of the assault with which your client is charged."¹¹⁹

93. In each inquiry Eckl focused her responses about the recordings for the entire CKPT [where Plaintiffs were detained for the majority of the 1 ½ hours on 7-29-06] to the closet only. Eckl's responses to inquires constituted thwarting and stonewalling discovery proceedings. Eckl's stonewalling continued for ten months until Plaintiffs insisted on a Due Process Discovery Hearing.

**During the Hearing 6-4-07 Eckl Admits Video Evidence Existed
ASI Defs. Deliberated On Whether To Preserve/To Destroy *Brady Material*
TSA Officials Knew About It**

94. The video recordings proved Plaintiff's innocence. The ASI Defs.' decision to destroy *Brady Materials* should have been divulged to the PA prosecutors immediately.¹²⁰ The PA. prosecutors would have been required by law to contact Plaintiffs' def. atty. No contact was ever made to Plaintiffs' knowledge.

**Violations and Deprivations of Federally Protected Rights 42 USC §1983, 1985
Intent to Influence the Outcomes of Maliciously Motivated Prosecutions**

95. The TSAO Defs.' actions constituted deliberate intent to influence the outcomes of baseless, maliciously motivated prosecutions against Pellegrino. On information and belief, Plaintiffs aver at least one if not more TSAO Defs. were involved and made a decision with the intent to conceal a crime committed by their TSA investigators¹²¹ which thereafter constituted another crime (a cover-

117 See PL EX 11B TSA Eckl letter 2-20-07

118 See PL EX #16 Plaintiffs Atty's letter to Eckl dated 4-0-07.

119 The TSA never offered any proof at a Motion to Dismiss the baseless charges as the presiding judge required. Neither did the Prosecution or the PIA.

120 Plaintiffs were never informed about when the Phila. DA's office became aware of the destruction. Although Asst. DA. Marion Braccia, Esq. sat in silence during the Court Ordered Hearing and did not speak about the TSA's admission. To Plaintiffs' knowledge, the DA's Office never did anything after learning about the spoliation of the video evidence as the baseless prosecutions continued. At the end of the hearing when Plaintiff was instructed to leave the room, the presiding judge told Plaintiffs atty.' "I don't want your client to have a copy (meaning the transcript). Plaintiffs def. atty. responded "I am not going to give her a copy, absolutely not. I'll preserve that within the file." [See PL EX #12 pp. 27-28 Notes of Testimony 6-4-07.] Plaintiff found a copy of the transcript in the folder in the Quarter Sessions Room after acquittals when the folders were available to the public. The clerk in the Criminal Justice Center made a copy for the Plaintiff.

121 Investigators who have been given the charge of protecting aviation security for airline passengers and crews.

up). These Defs. intentionally acted to interfere and influence due process discovery proceedings, depriving Plaintiffs' of civil rights to equal protection and treatment of the law, to prepare a proper defense, and to a fair trial. The TSAO Defs.' actions violated Plaintiffs' 4th, 5th, 6th, and 14th Amendment civil rights, 5 U.S.C. §§ 702, 706 – Unlawful Exercise Of Agency Authority, as well as violations of TSA's MD No. 1100.73-5 and 200.7, violations of TSA's security and civil rights policy, SOPs. Plaintiffs aver the TSAO Defs.' conduct was reprehensible and demonstrated contempt for the Plaintiffs' federally protected civil rights. Furthermore, when questioned by the presiding judge on 6-4-07 as to whether a civil rather than a criminal proceeding was the appropriate course of action for the TSA in Plaintiff's case,¹²² Eckl insisted on continued prosecutions of Pellegrino that were clearly baseless. [See PL EX. #12 Notes of Testimony pg. 22 lines 2-6 ¹²³ and EX #15 Trial Transcript 3-28-08 Prosecutor Martino's case in chief against Pellegrino lacked coherence, substantial evidence, and defied logic.]

96. TSAO Defs.' intentional cover-up of the premeditated destruction of *Brady Materials* so substantially contributed to the named Defs.' ability to continue to pursue baseless and maliciously motivated prosecutions that these TSAO Defs. should be held liable as aiding and abetting the named Defs.' maliciously motivated conduct as set forth in Claim II. TSAO Defs.' actions subjected Plaintiffs to prolonged vexatious, unfounded prosecutions that entailed all damages and injuries to Plaintiffs as set forth in ¶ 47 Claim II as a result of maliciously motivated prosecutions. The Doe TSAO Defs.' actions were conducted pursuant to a TSA practice, policy, or custom that turned a blind eye to the unlawful misconduct of its aviation inspectors, its legal representatives, and other officials which demonstrated callous indifference to TSA's own directives, civil rights policy, SOPs and the deprivation of Plaintiffs' civil rights, sufferings and damages. Plaintiffs seek redress and vindication of their civil rights under 42 U.S.C. §§1983, 1985, and 1988 .

Claim VI. Aiding and Abetting Malicious Prosecutions
Intent To Withhold *Brady Material* During Due Process Discovery
Violations of 4th, 5th, 6th, and 14th Amendments
42 U.S.C. §§1983, 1985, and 1988 Due Process of Law
5 U.S.C. §§ 702, 706 – Unlawful Exercise Of Agency Authority

97. At all times relevant, the conduct of the TSAO Defs. was subject to 42 U.S.C. §§1983, 1985, and 1988, TSA's MDs No. 1100.73-5, 200.7 and others when they made unilateral decisions about what the TSA would and would not turn over to the Prosecution/Plaintiffs during Due Process Pro-

122 Pellegrino was being prosecuted for two cases at the same time.

123 Plaintiffs aver TSA Legal Dept. Officials were involved in facilitating and prolonging malicious prosecutions against Plaintiff.

ceedings. Plaintiffs aver Dilworth's reports were *Brady Material* to impeach the named Defs.' false accusations. Dilworth's reports were critical to proving Plaintiff's innocence particularly after the TSA ASIs deliberately destroyed the video recordings. Add to this, the TSA and the named Defs. were forcing Pellegrino to trial after it was documented that TSA agents deliberately *killed off* Pellegrino's key witnesses (the videos). Dilworth's records contained the key to discovering the **FRAUDULENT 500 REPORT CODES** assigned to TSA's **FICTITIOUS INCIDENT** reports on Pellegrino. On 6-4-07 Eckl stated the TSA's intent to withhold Dilworth's records from the Prosecution and Plaintiffs [See PL EX #8 Notes of Testimony 6-4-07 transcript pg 23]. In addition after repeated spoken/written requests for all witness statements by Plaintiffs' def. attorneys, the TSA failed to turn over Labbee's. Eckl did not produce it until the Court Ordered Hearing where the presiding judge demanded a copy be produced to both the prosecutor and Plaintiffs. A TSA FOIA document produced in late Dec., 2009, revealed the TSA's Claims Mgmt. Dept. had five (5) TSA witness statements on Pellegrino when they made their decision to deny Plaintiffs' 7-28-08 administrative claim. ¹²⁴

98. The TSAO Defs.' withholding of documents/records subject to production under discovery proceedings constitutes interference with Plaintiffs' federally protected civil rights to 1) equal protection and treatment of the laws, 2) to prepare a proper defense, 3) to due process of law, and 4) a fair trial. TSAO Defs' actions constitute violations and deprivations of Plaintiffs' 4th, 5th, 6th, and 14th civil rights. TSAO Defs.' intent to withhold/withholding discoverable *Brady Material* from Prosecutors/Plaintiffs constitutes TSAO Defs.' attempts to directly influence the outcomes of two maliciously motivated prosecutions. TSAO Defs.' actions are a direct and proximate cause of the violations and deprivations of Plaintiffs' civil rights and were conducted pursuant to a TSA practice, policy, or custom that turned a blind eye to the unlawful misconduct of its management officials. TSAO Defs.' actions demonstrated callous indifference to TSA's own directives, civil rights policy, SOPs and the deprivations of Plaintiffs' civil rights.

99. Plaintiffs aver the Doe TSAO Defs. are equally liable for all unlawful actions directly related to facilitating baseless, vexatious, maliciously motivated 20-month prosecutions, for covering-up crimes committed by the named Defs. ¹²⁵ and TSA's ASI Defs., and for their own unlawful actions to aid and assist the named Defs.' retaliatory prosecutions of Pellegrino. The TSAO Defs. subjected

124 The TSA produced four statements during due process proceedings. Altogether, those were Clemens', Abdul Malik's, Labbee's and Kissinger's. Eckl appeared at the 6-4-07 hearing with a folder several inches thick on Pellegrino. It has yet to be established precisely how many documents subjected to Due Process Discovery Proceedings the TSA intentionally withheld from Plaintiffs that were *Brady Materials*.

125 False incriminations, false reports made to law enforcement officers, false criminal complaints, false information reported on federal and state records, etc.

Plaintiffs to damages and injuries set forth in ¶ 47 Claim II. Plaintiffs seek redress and vindication of their civil rights under 42 U.S.C. §§1983, 1985, and 1988.

Claim VII.

Intentionally Falsified/Fraudulent Records on Several Levels Still Maintained by TSA

TSA Has Failed to Correct Its Records ¹²⁶

49 C.F.R. Part 1540.103 ; Privacy Act 5 U.S.C. § 552a

42 U.S.C. §§1983, 1985, and 1988

100. At all times relevant, the conduct of the TSA Defs. and all its employees was subject to 42 U.S.C. §§1983, 1985, and 1988, 49 C.F.R. Part 1540.103 ¹²⁷ all federal /state laws relevant to intentionally falsifying or tampering with official federal/state records, by making false/fictitious statements/reports to law enforcement or other government agents involved in official proceedings, by fabricating events that never happened, and by any other offenses against official federal or state proceedings with the intent to mislead or influence official proceedings or outcomes. The Privacy Act, TSA's MDs Nos. 1100.73-5 , 100.4, 200.7 and other TSA directives spell out that unlawful conduct is not tolerated at TSA.

TSA Had a Vehicle For Violations Of Plaintiffs' Civil Rights and the CAE

101. As set forth in Background Facts and previously stated claims, Clemens and the named Defs. knowingly reported and signed false statements on 7-29-06, and submitted them to the TSA to document **a fabricated and FICTITIOUS INCIDENT** based on false allegations. Each statement contained countable false and fraudulent accusations that mis-represented and mis-characterized Pellegrino in a false and negative light alleging events and crimes that never happened. Their false statements initiated two baseless criminal prosecutions and TSA CAE without probable cause. Their falsified statements were incorporated into TSA's permanent records maintained on Pellegrino since 7-29-06. As noted in Claim III the same statements were assigned fraudulent 500 Report Codes¹²⁸ by TSAO Defs. that further adulterated and perverted TSA's records on Pellegrino.¹²⁹ / ¹³⁰ Add to

126 The Federal Records Act requires accuracy in records maintained by federal agencies.

127 "This subpart applies to individuals and other persons. § 1540.103 Fraud and intentional falsification of records. No person may make, or cause to be made, any of the following:(a) Any fraudulent or intentionally false statement in any application for any security program, access medium, or identification medium, or any amendment thereto, under this subchapter.(b) Any fraudulent or intentionally false entry in any record or report that is kept, made, or used to show compliance with this subchapter, or exercise any privileges under this subchapter.(c) Any reproduction or alteration, for fraudulent purpose, of any report, record, security program, access medium, or identification medium issued under this subchapter."

128 Clemens' statement does not contain a report code or an incident #.

129 TSA FSM Rowe and Dilworth's signatures appear on the named Defs.' false and fraudulent statements and Dilworth's SF.

130 The video surveillance evidence Plaintiffs required to contradict and impeach the false statements and fraudulent report codes were deliberately destroyed by TSA's ASI Defs. in attempting to influence the outcome of the prosecu-

this, highly censored FOIA papers produced in late Dec. 2009, reflect that TSA employees [names blacked out] then further altered already false, fraudulent and adulterated records by transforming false and perverted allegations into *TSA Proven facts*.

102. To date the TSA has failed to substantiate any allegations against Pellegrino as contained in their permanent records.¹³¹ TSA's investigators had roughly 1½ hours of multiple angle overhead recordings from 7-29-06 available as evidence in their possession. TSA's inspectors had unfettered access to the most objective witnesses they needed (the video) to substantiate the named Defs.' allegations and the 500 report codes. Instead of looking at what these eye witnesses (who recorded everything) saw, TSA's investigators decided together to deliberately get rid of them (violations of federal/state spoliation laws during criminal prosecutions). To date the TSA has been unable in any way to support, substantiate, prove, or justify in any form the fraudulent *500 Report Codes*, four false witness statements,¹³² and Dilworth's SF (an erroneous compilation of the false statements). Despite documented evidence that contradicts, discredits, and impeaches TSA's falsified records on Pellegrino, nothing has been done by TSA authorities to correct its records. In addition, the TSA is still withholding falsified records from Plaintiffs FOIA \Privacy Act request. The TSA's actions have put up a roadblock to rectifying corruption.

103. 49 C.F.R. PART 1540.103 was violated by TSA Defs.' actions. TSA's records factually misrepresented and mis-characterize what actually happened at the PIA CKPT on 7-29-06. The aforementioned constitutes TSA's corrupt practice of abusing passengers civil rights and then covering up for the abuse of citizens with falsified and fraudulent records that malign, vilify, and demonize TSA's crimes victim as a means of disqualifying and invalidations their civil rights complaints. The above practices provides the TSA with a means to refuse to recognize, acknowledge, investigate, discipline or correct the unlawful misconduct of its employees. The false and fraudulent statements/reports defame, vilify and malign Pellegrino's personal/professional reputation that took a lifetime to build. The defamations affect Plaintiff's ability to earn a living. The Privacy Act 5 U.S.C. § 552a provides Plaintiffs with a civil right of action to correct the named Defs.' unlawful offenses to have TSA's perverted and adulterated records on Pellegrino corrected, removed, or expunged.¹³³

tions against Pellegrino and to destroy evidence of the TSA's flagrant failure to carry out its mission to protect aviation security.

131 One frame of video surveillance evidence amounting to 1/29th of a second.

132 The TSA states a 5th witness statement exists that was not turned over to Plaintiffs during due process proceedings.

133 Plaintiffs prevailed in a PA Court of law against the same accusations made to the PPD. The PPD, the PA State Police, the FBI, the Phila. Municipal Court, and the PA Court System in accordance with the law have removed and destroyed [expunged] records containing false allegations and false incriminations arising from the false accusations of

104. Def. TSA actions were conducted pursuant to a TSA practice, policy, or custom that has turned a blind eye toward federal agencies requirement to follow the law namely to establish, maintain accurate records and to correct falsified ones. The TSA's failure demonstrates callous indifference to federal/state laws, TSA's own MDs, TSA's own civil right policy, and Plaintiffs' privacy rights on records maintained by the federal government. Instead of taking appropriate actions, Plaintiffs aver the TSA has intentionally preserved its falsified records to deny its legal liability in the violations and deprivations of Plaintiffs' civil rights. Plaintiffs seek injunctive relief in accordance with the APA and the DJA and seeks redress and vindication of their civil rights under 42 U.S.C. §§1983, 1985, and 1988.

Claim VIII.

6 U.S.C. 345 Failure to Investigate Citizens Complaints

42 U.S.C. §§1983, 1988 Deprivation of Civil Rights

Violations of 1st, 4th, 5th, 6th and 14th Amendments

5 U.S.C. §§ 702, 706 – Unlawful Exercise Of Agency Authority

105. At all times relevant TSA's Officials charged with investigating complaints of violations and abuses of federally protected civil rights were subject to the US Constitution, its Amendments, 42 U.S.C. §§1983, 1985, and 1988; 6 U.S.C. 345 Establishment Of Officer For Civil Rights/Civil Liberties 42 U.S.C. § 2000ee1 - Privacy and Civil Liberties Officers, TSA MDs 1100.73-5 and 700.2 and TSA civil rights policies and all federal and state laws.

106. As set forth above Plaintiffs prevailed in a court of law against the unlawful misdeeds intending to inflict emotional and financial pain on Pellegrino in retaliation for her stated intent to report their abusive conduct to higher TSA authorities and against the Doe Defs' intentional attempts to interfere and influence the outcomes of official proceedings during criminal prosecutions. The Doe Defs.' conduct was documented during due process discovery proceedings. In July, 2008, Plaintiffs submitted a complaint with their Administrative claim to TSA authorities for the harms, damages and injuries suffered as a result of all Defs.' unlawful actions. Plaintiffs learned in late Dec, 2009, that TSA authorities never conducted any legitimate inquiry or investigation into the violations of Plaintiffs' federally protected civil rights, property damages, or all damages and injuries associated with defending against fictitious crimes committed by all the TSA Defs. that constituted corruption within the TSA on several levels.¹³⁴

107. Once civil rights violations were reported to the TSA, 6 USC 345 required TSA's Office of the named Defs. against Plaintiff. By Court Orders these agencies were required to expunge their permanent records in accordance with Plaintiff's legal rights.

134 The same claim and complaint were forward to the TSA by Plaintiffs' US Congressional Rep. the Honorable Ron Klein's Office.

Civil Rights and Civil Liberties to investigate. Furthermore the DHS and its agency the TSA were required to report to Congress on the number and status of reported violations.¹³⁵

108. Plaintiffs' reported serious violations of the law, civil rights violations, and corruption within the TSA. By law and directives, the documented allegations in Plaintiffs complaint required an investigation on several levels. The TSA never got in touch with Plaintiffs other than to deny their Administrative Claim 10 months after it was submitted by both Plaintiffs and their US Congressional Rep. Highly censored FOIA records reflect no investigation. However TSA's records are rife with defamation, vilification and demonizing of Pellegrino that are based on TSA's false and fraudulent records and a recommendation memo that formed the part of the basis for the TSA's Claims Mgmt. Div. decision to disqualify and invalidate Plaintiffs' complaint and deny Plaintiffs claim. In addition, Plaintiffs learned after the denial of their claim that TSA's position was it never received a civil rights complaint from the Plaintiffs.

109. Def. TSA's actions were conducted pursuant to a practice, policy, or custom that treated civil rights complaints by citizens as adversarial. With callous indifference TSA authorities turned a blind eye toward its Civil Rights and Civil Liberties Office's failure to conduct investigations required by law. By failing to properly investigate while at the same time demonizing and maligning Plaintiff, the TSA had a vehicle to deny liability in the deprivation of Plaintiffs' federally protected civil rights. Plaintiffs aver Def. TSA is liable. Plaintiffs seek redress and vindication of their civil rights under 42 U.S.C. §§1983, 1988, the Privacy Act, the DJA and the APA.

**Claim IX. Failure to Properly/Adequately Train, Control, and Supervise Its Employees' Conduct
Violations of 1st, 4th, 5th, 6th, and 14th Amendments
42 USC §1983, 1985, 1988 Deprivation of Rights**

110. At all times relevant herein, the conduct of the named Defs. was subject to 42 U.S.C. §§1983, 1985, and 1988, all federal/state laws, and TSA's MD No. 1100.73-5, 100.4, 200.7 and other directives. The treatment Plaintiffs received as set forth in the above claims reflects TSA's practices, customs, and policy to dole out punishments toward those who intend to complain about the unlawful conduct of their screeners, investigators, and management officials. Plaintiff was factually falsely arrested, unlawfully imprisoned and maliciously prosecuted as a result of her stated intent to report the unlawful misconduct of the named Defs.¹³⁶ Plaintiffs' experiences are not an anomaly. In all to many reported cases, airport screening of passengers provides a convenient opportunity to abuse passengers civil

135 A published quarterly report to Congress was also required.

136 1st Amendment violation

rights at will which is not a part of the agency's mandate to ensure aviation security. The TSA has a reputation of abusing the rights of airline passengers many who are senior citizens. The Phila. TSA has developed a national reputation.

111. The TSA has failed to properly and adequately limit their search authority to detecting weapons or explosives. The unlawful actions of the named and Doe Defs, came about as a result of callous indifference and the failure to properly recognize and acknowledge the problems and corruption that exists within the agency prior to recognizing the need to investigate. The TSA authorities failed to adequately train, control, or supervise the individual defendants in Plaintiffs' case with respect to overstepping their statutory authorities, abuse of powers, authorities, and processes, as set forth in this Statement of Claims. In July, 2008, TSA authorities were notified of civil rights violations in a complaint and did nothing other than blame the TSA's crimes victim. The above actions constitutes a deprivation of Plaintiffs' federally protected civil rights.

112. Plaintiffs aver their ordeal is an example of why the TSA should be required to recognize and acknowledge unlawful conduct and abuse of federally protected civil rights, and thereafter be required to train, control, and supervise its employees by injunctive measures so that airline passengers are not subjected to the nightmare of civil rights violations the TSA has inflicted upon the Plaintiffs. Without injunctive actions by the Court, passengers' civil rights are in continued peril. Plaintiffs seek injunctive action under the APA 5 U.S.C. §§701 - 706, Declaratory Judgement Act and redress and vindication of their federally protected civil rights under **42 USC §1983, 1985, 1988**.

Claim X.

APA, FOIA, Privacy Act¹³⁷

Failure to Produce Documents/Records in Accordance with FOIA Law Request

113. At all times relevant, the conduct of TSA's employees was subject to 42 U.S.C. §§1983, 1985, and 1988, TSA's MD No. 1100.73-5, 200.4 Searches, 700.2, and other directives, all state/federal laws, the APA, the FOIA, the Privacy Act 5 USC 552(a). Under the APA, FOIA, Privacy Act, TSA/ICE are required to produce the records Pellegrino requested so Plaintiff is able to correct all inaccurate content currently existing in TSA's records. In order to accomplish this, both agencies are required to produce all the records generated into their files.

A. The APA, FOIA and The Privacy Act provides rights of action.

B. Plaintiff followed appropriate steps/procedures for FOIA requests to the TSA and

137 The parts of this claim that have been reworded are underlined and are blue for easier identification.

ICE dated 5-28-09. TSA's acknowledgement TSA09-0575 is dated 6-5-09. ICE's 2009FOIA3885 is 6-15-09. Plaintiffs filed this lawsuit in Nov. 2009 and Amended on Dec 11, 2009 neither agency produced one record.

C. On or around 12-29-09 Plaintiffs received an envelope of papers and a letter stating the TSA had fulfilled Plaintiff's request. Upon review Plaintiffs discovered a sizeable portion of the papers produced were copies of records Plaintiffs either already had more informative versions, or were documents Plaintiffs had already submitted to the TSA either themselves or through their US Cong. Rep in FL, the Hon. Ron Klein's office. Nothing from the PA Court proceedings and the recognition of Plaintiff's acquittals on the ten bogus charges were included. Plaintiffs have good reason to believe Def. TSA has withheld documents, records, reports, etc. that should be produced under **the request** to withhold evidence of legal liability in the violation and deprivation of Plaintiffs' civil rights. Plaintiffs sent a timely letters of appeal to the TSA FOIA and ICE Units. The TSA's/ICE's responses indicated since the matter was in litigation there would be no other response from either agency regarding Plaintiff's appeal. While Def. TSA FOIA has provided some records, clearly a sizeable portion is missing. ICE has produced nothing. Plaintiffs aver TSA is withholding many records.

D. **1st example:** As already set forth Plaintiff's attorneys made repeated spoken and written requests for copies of all witness statements during **Due Process**. TSA Eckl stated in Court Ordered testimony 6-4-07 that all witness statements had been turned over. In a highly censored **FOIA** document, Plaintiffs discovered evidence a TSA employee (name blacked out) made a statement for TSA's records that s/he had been observing Plaintiff at the **CKPT** on 7-29-06. The employee's legally unchallenged and unproven allegation was that Plaintiff was "upset." This alleged witness's statement was never turned over to Plaintiffs during **Discovery Proceedings**. It was also not produced under Plaintiff's FOIA **request**.

E. **2nd example:**

(a) **the request** asked for a copy of everything TSA generated into its records. A copy of Plaintiff's FL driver's license with photo ID was uploaded into TSA files on 8/2/06.

It was not produced in **the request** response.

(b) TSA Sculy was served with a subpoena, dated 2-18-07, for production of the video recordings. A copy of the subpoena, was not produced.

(c) On 6-4-07 TSA Eckl appeared in Phila. Municipal Court with a folder several inches thick on Plaintiff. The documents produced under **the request** was less than 1/2 inch and many

produced are pages that had been supplied to the TSA by the Plaintiffs after they filed their FTCA administrative claim.

F. **3rd example:** Def. TSA is on the record on 6-4-07 admitting the reasoned and deliberate decision to destroy all of the video surveillance evidence (**best factual evidence**). A Court Order was required to get these facts out of Eckl who had previously withheld them since Sept, 2006. Court records [testimony of Renee Tufts, PIA Airport Security Mgr. and TSA Liaison] spelled out how the Doe TSA **ASIs'** actions violated already in-place TSA security policy and TSA **SOPs** at the time. [A cover up by TSA Officials Defs. of the deliberate destruction followed thereafter.] Nothing reflecting the above was produced.

1. As already set forth, Plaintiffs assert TSA's **ASIs** intentionally acted to have the **Best Evidence** destroyed to avoid TSA legal liability for the violations of Plaintiffs federally protected civil rights and because the best evidence showed a derelict, dysfunctional, poorly managed and supervised understaffed TSA security screening crew who were captured on video evidence violating aviation security functions and SOPs with passengers. Plaintiffs maintain the intentionally destroyed video surveillance evidence contradicted, discredited and impeached the false defamatory allegations and incriminating accusations made by named Defs. Nothing reflecting the above was produced.

2. The named Defs. unchallenged, unverified and un-investigated allegations and false accusations were the direct cause of Plaintiff's false arrest, unlawful imprisonment, and prosecution motivated by retaliation, self-preservation, and malice. The named Defs. acted to inflict emotional/financial pain and suffering on Plaintiff for speaking about abuse during a provocative and intentional property damaging search of her belongings and her stated intent to report their conduct to TSA authorities outside of Phila. Plaintiffs also assert the **best evidence** also objectively contradicted numerous other false allegations of defamation of Plaintiff's character. Nothing reflecting the above was produced.

3. No TSA documents, records, reports related to the 'TSA ASIs' actions were produced in **the request** response other than what Plaintiffs had already provided to TSA authorities in late July, 2008, and thereafter through Rep. Klein's office. No documents relevant to the 'TSA Officials' participation in the deliberate destruction of **best evidence** and the cover-up that followed were produced. No documents related to court proceedings were produced. Plaintiffs maintain they are entitled to TSA records that are evidence of the abuses, violations, and deprivations of Plaintiff's federally protected civil rights by the named Defs., the Doe TSA ASI Defs., the Doe TSA Officials Defs.

and other TSA employees who were involved.

G. 4th example: TSA Celestine Holman's 8-7-06 letter alleging false, unsubstantiated, legally unchallenged accusations of violations of federal security screening procedures and alleged abuse of TSA screening officers by Plaintiff was received on 8-14-06. Holman's letter noted the initiated TSA **CAE**. On or about 8-14-06 and no later than 8-21-06 the TSA was notified to put the **CAE** on hold until the ten [baseless/bogus] criminal charges were resolved. On 8-25-06 Holman was notified in writing to preserve the video surveillance recordings for future subpoena. By 3-28-08 the remaining four of ten baseless and bogus charges were acquitted. To date the TSA has not produced one whit of evidence to substantiate the initiation of the **CAE** after the **EI and the EIR**. The EIR #2006PHL0257 has not been produced under Plaintiff's FOIA request.

1. According to TSA Eckl, their investigators never viewed the video evidence. By the TSA's own words, the initiation of the CAE was based solely on legally unchallenged and unsubstantiated regurgitation of named Defs.' false allegations against Pellegrino in their falsified TSA witness statements. Plaintiffs maintain the TSA could not substantiate a CAE because the TSA never possessed any substantial evidence from the outset. Plaintiffs name appears in the EIR noted above. No information has been produced by the TSA FOIA unit as to how the TSA ASI's came to the conclusion a CAE should be initiated and a fine recommend and no further action occurring in 4 ½ years and no notification provided to Pellegrino.

2. Plaintiffs further assert there was substantial evidence that contradicted the named Defs' legally unchallenged false accusations which exposed the TSA to legal liability which was one of the reasons **the best factual evidence** was destroyed. The other was to cover up for the aviation security and screening violations that occurred on the CKPT on the evening of 7-29-06. No contradictory evidence was produced.

3. Phila. Municipal Court records of 3-28-08 document that the TSA was held responsible for failure to provide the **best factual evidence** to the Plaintiffs ¹³⁸ (who intended use the recordings to have the baseless charges dismissed directly after they were produced). TSA ASI's deliberate decision to destroy *Brady Material* deprived Plaintiffs' of their federally protected civil rights to do so. The TSA's **CAE** disintegrated when the TSA Eckl *fessed-up* on the record the culpability of their ASI's in the intentional destruction of the **best evidence** that lead to Plaintiff's eventual acquittal [on the grounds of civil rights violations by TSA and a total lack

138 The presiding judge referred to it as film. Factually the film was digitally recorded video.

of evidence that any crimes were committed.]¹³⁹ No TSA documents directly related to these events have been produced under **the request**.

H. 5th example: The TSA has failed to substantiate the recommended monetary fine [blacked out] on highly censored **FOIA** documents. Plaintiffs discovered in the records that the Enforcement Investigation and Report (**EIR**) for the **CAE** was considered by the TSA as early as 7-29-06. On 7-29-06 at 21:53, TSA determined that an **EI** would occur. The **EI** was initiated 8-2-06 at 15:14 hours. TSA lead agent [name blacked out] clocked 4 agent hours and .5 travel hours accordingly. An Investigation History of the **EIR** and a narrative is part of established TSA records as well as other investigation records. An early narrative was produced under **the request** which proved to be another regurgitation of the named Defs. legally unchallenged, unsubstantiated, false accusations with additional errors factored in [information matching Dilworth's SF Reports that contained false and fabricated allegations about the Plaintiff.] It has already been established that TSA's Officials intended to withhold Dilworth's reports from the Prosecution and Plaintiffs during **Due Process Discovery** proceedings. It was produced by a TSA blunder. On 9-13-06 the **EIR** was rejected by a TSA Official with the reason blacked out on the **FOIA** document. Part of a number in the same section was also blacked out. To date, Plaintiffs have not been notified in writing as required of the final disposition of the **CAE**. It has been over 4 ½ years. The EIR and other relevant documents related to TSA's ASI's substandard investigation of the false allegations made by the TSA against Plaintiff was not produced under **the request**. Complete records, documents and reports on this matter including why the TSA's **CAE** evaporated have not been provided in response to **the request**.

I. 6th Example: Whenever an injury occurs on the job, this needs to be documented in

139 During the trial on 3-28-08 the only witness who could testify about her fabricated assault accusations against Pellegrino was Abdul Malik. The named Def. was a "No Show" in facing cross examination after she knowingly and deliberately falsified her signed TSA 7-29-06 witness statement and repeatedly lied on the witness stand under sworn oath. Labbee was barred by Court Order dated 1-24-08 from testifying about her [falsely alleged and fabricated] assault because she originally testified it occurred outside the closet at the Preliminary Hearing 10-25-06. At trial Labbee attempted to change her past testimony from standing one foot outside the closet doorway to half way inside and half way outside the doorway. When challenged by the presiding judge, Labbee recanted to outside the doorway. Labbee also testified that "there was no physical contact inside the room." Kissinger, who had been sequestered during Labbee's testimony was unaware Labbee was forced to admit she alleged she was standing outside the closet and no assault happened inside the closet. Thereafter, Kissinger falsely testified Labbee was standing inside the closet with her arm holding the door open when she was assaulted. Kissinger's signed TSA witness statement falsely alleged she witness Labbee struck while Plaintiff walked **out** the door. A handwritten sticky note message "witnessed hit of Labbee" was included on the duplicated copy of Kissinger's 7-29-06 TSA witness statement turned over by the Phila. DA's office prior to the 1st trial listing. The DA's office was required to turn over what the TSA supplied to them so Plaintiff could prepare a proper defense. No such note was attached to the highly censored copy of Kissinger's 7-29-06 witness statement. Clearly, both Labbee and Kissinger changed their stories for trial that barred all testimony of anything occurring outside the closet by court order.

writing for TSA records. Abdul Malik and Labbee [falsely] alleged they were injured by Pellegrino on 7-29-06 which is reflected in PPD reports and court transcripts. The [fabricated] injuries were required to be documented in TSA's records. No TSA documentation of injuries to Abdul Malik and Labbee was produced under Plaintiff's FOIA request.

J. 7th example: A recommendation memo [author's name censored] was entered into TSA's permanent records on Pellegrino that was not produced in late Dec., 2009.

K. Plaintiffs aver records, documents, and reports of evidence that point to TSA's liability for violations of Plaintiffs' federally protected civil rights have not been produced under the request to avoid legal liability. A Vaughn Index is the means of determining what is being withheld and what should be produced. Plaintiff's FOIA request has not been fulfilled. Plaintiffs' appeals will not be considered by the TSA/ICE as a result of Plaintiffs' lawsuit. TSA's failure to produce all of the documents Plaintiffs are entitled to receive under the law constitutes a violation of the FOIA. Plaintiffs contend they have a right of access to the requested information under the FOIA Law and that Def. TSA is liable to produce those records to which Plaintiffs are entitled.

Claim XI. 42 Pa. Cons. Stat. § 8341 Subchapter D. Defamation

114. On 2-8-10, the Phila. Inquirer published a column by Daniel Rubin. Reference to Rubin's column appeared on the front page of the Phila. Inquirer below the fold with a photo of Plaintiff in a box titled "**Another Tale of the TSA.**" Mr. Rubin's column appeared at the top of Section B of the newspaper titled "Another Local Complaint About TSA Emerges" the subtitle: "**One tale begots others. This one also happened at Phila. International, but involved a lockup and a brief trial.**" On the right side of the article the same photo of Pellegrino as on the front page appeared with the following words underneath: "Nadine Pellegrino has filed a lawsuit in the '06 incident." Rubin's column appears to present both sides of the story in which Pellegrino's side differs dramatically from the named Defs. In a short article Rubin came nowhere near accurately presenting both sides. He chose what he wanted to include.

115. Using transcripts from the Preliminary Hearing, the Notes of Testimony, the Oral Motion to Dismiss, the Trial (Phila. Municipal Court records) as well as Plaintiffs' Amended Complaint filed with the USDC, Rubin's article provided the named Defs. false allegations and accusations about Pellegrino to the public. An uncountable number of websites picked up on the column and blogged about it inviting reader comments as did the Phila. Inquirer. While Plaintiffs' do not agree with the way Mr. Rubin's wrote his article and portions of the content purporting to be fact, Plaintiffs do not believe Mr. Rubin had any malicious intent against Pellegrino when writing it. Nevertheless, the false statements

made by Def. Nuryiah Abdul Malik and Def. Laura Labbee during their 10-25-06 testimony were made public. Plaintiffs aver both named Defs. made false statements under sworn oath knowing they were making false statements on the record that intentionally mis-characterized and mis-represented the events of 7-29-06 which placed Pellegrino in a false and negative light. their false testimony was done with the intent to inflict injury on Pellegrino with malice. As such their false statements constitute defamation.¹⁴⁰ While Plaintiffs have no count of how many individuals read Mr. Rubin's column, Plaintiffs are clear from numerous written comments by readers (who were not familiar with the material facts) jumped to conclusions and formed negative opinions about Pellegrino as a result of the named Defs. false statements printed in Rubin's column. For instance: "...screener Abdul Malik testified that Pellegrino screamed at the screeners"¹⁴¹ Abdul Malik said as Labbee held the door for Pellegrino to leave, Pellegrino swung her carry-on bag into the supervisor's stomach....Labbee said 'Did you see her just hit me?'¹⁴² Pellegrino then hit Abdul Malik in the leg with a smaller bag, the agent testified."¹⁴³ And after that, as Pellegrino flung several pairs of her sandals out of the room and toward the table, one struck Labbee in the leg. That was when the agents called the police Abdul Malik testified."¹⁴⁴

116. Abdul Malik's and Labbee's false statements as transcribed in Phila. Municipal Court records were available for the price of the transcript and available to the public when official proceeding in the cases ended. Abdul Malik and Labbee made false statements on the record that became available to the public several years later that constituted defamation of Pellegrino. The named Defs. false allegations have harmed Plaintiffs personally and professionally and have had a negative impact on Pellegrino's personal and profession reputation and ability to earn a living. Plaintiffs seek redress and vindication from Abdul Malik's and Labbee's intentionally false and defaming statements under 42 Pa. Cons. Stat. § 8341 Subchapter D. Defamation.

Summary

117. For all of the above reasons as set forth while all of the Defs. were acting under the color of law and expected to be performing their TSA duties subjected to federal/state laws, TSA MDs policies, and SOPs, instead the Defs. took it upon themselves to overstep the bounds of their authority which resulted in abusive and unlawful actions that violated and deprived the Plaintiffs of their federally pro-

140 In addition in pleadings to date the named Defs. via their defense attorneys, Asst. US Attys. Annetta Givhan and Margaret Hutchinson continue to write false assertions into the USDC Court records which have no basis in truth. Plaintiffs aver these false allegations and assertions are intended to mis-represent and mis-characterize Pellegrino in a false and negative light of defamation

141 Pellegrino never raised her voice at any time while on the CKPT

142 Labbee did not hold the door open for Pellegrino for one moment. Labbee was not outside the closet when Pellegrino removed her bags. Labbee was never touched by Pellegrino's suitcase. Abdul Malik never saw Pellegrino swing her carry-on into Labbee's stomach.

143 Abdul Malik was never hit in the leg with Pellegrino's bag as Abdul Malik falsely testified.

144 None of what Abdul Malik and Labbee testified to in court that Rubin printed in his column ever happened.

tected civil rights and caused damages and injuries.

118. **As a result**, Plaintiffs have claims for relief against the USA, the TSA, Def. Abdul Malik, Def. Labbee, Def. Kissinger, John/Jane Doe TSA ASIs Defendants, and John/Jane Doe TSA Officials Defs. These defendants acted with recklessness, callous indifference to or disregard for the rights of Plaintiffs that is repulsive to a reasonable person. Plaintiffs are requesting compensatory damages from the USA, DHS, TSA and compensatory and punitive damages from the named and Doe Defendants.

DAMAGES AND INJURIES

119. A partial list of damages and injuries have been set forth in Paragraph 47 page 25 of Plaintiffs Statement of Claims above. Damages and injuries continue to accumulate.

PRAYER FOR RELIEF

WHEREFORE, Plaintiffs respectfully request that the Court enter a judgment including:

- (a) Compensatory damages in an amount to be determined at trial;
- (b) Punitive damages in an amount to be determined at trial;
- (c) Reasonable attorneys' fees and costs of suit;
- (d) Prejudgment interest and delay damages
- (e) Declaratory and injunctive relief where appropriate
- (f) An such other relief as the Court deems appropriate and just that would reasonably and properly compensate Plaintiffs for damages and injuries in an amount in excess of Fifty Thousand (\$50,000.00) Dollars for each of their claims where applicable.

Plaintiffs request a jury trial on all issues so triable.

Respectfully submitted,

Nadine Pellegrino

Harry Waldman

Date: December 20, 2010