**UNITED STATES DISTRICT COURT**

**DISTRICT OF MAINE**

 MICHAEL A DOYLE )

 )

 Plaintiff, )

 )

v. )

 )

 ANN MAKSYMOWICZ, in her personal and ) COMPLAINT

 Professional capacities )

CHARLES RUMMSEY, in his personal and )

 Professional capacities, Chief of Police )

 JONANTHAN SAHRBECK, ESQ. in his )

 Personal and professional capacities )

 TYLER McGINLEY, in her personal and )

 Professional capacities )

 )

 Defendants )

**COMPLAINT & DEMAND FOR JURY TRIAL**

NOW COMES Plaintiff Michael Doyle and hereby complains against Defendants

Ann Maksymowicz, member MSAD #51 Cumberland Chief of Police, Charles Rumsey, Tyler McGinley, former Chair of MSAD #51 School Board (Cumberland and N. Yarmouth schools) and Jonathan Sahrbeck, Esq. former Cumberland County District Attorney as follows: The Defendants as a group and individually combined forces to form a conspiracy against Plaintiff to deny him protection under the First, and Fourteenth Amendment. That being Freedom of Speech and Freedom of the Press, and Equal Protection Under the Law.

**THE PARTIES**

1. Plaintiff Michael Doyle is an individual residing in the City of Portsmouth, State of New Hampshire.
2. Defendants Ann Maksymowicz (hereafter referred to as Ann to save time) and Tyler McGinley were or are, Current School Board Members and Chief Rumsey are individuals who, upon information and belief, reside in the County of Cumberland and State of Maine. At all times relevant to this Complaint, Defendants Ann was employed by MSAD #51, and Rumsey by the Town of Cumberland.
3. Named Defendant, Sahrbeck is a resident of Cape Elizabeth, Maine from most recent reports.

**JURISDICTION & VENUE**

1. Venue is proper in this court because the Plaintiff was a reporter in Maine when this cause of action occurred, and because Defendants are all individuals or government units residing in or organized and/or incorporated in the State of Maine. This court has personal jurisdiction over the Defendants because they are individuals or government units residing, organized and/or incorporated in the State of Maine.
2. This Court has original subject matter jurisdiction over this case pursuant to 28 U.S.C Sec 1331 because this case arises under 42 U.S.C. Sec 1983 and the First, Fourth, Fifth, and Fourteenth Amendments of the United States Constitution.
3. There are no other pending state court proceeding relating to any of the factual and/or legal claims asserted in this Complaint.

**APPLICABLE LAW:**

Precisely because litigation and public criticism are essential to holding government accountable, that SCOTUS “has frequently reaffirmed that speech on public issues occupies the highest rung on the ‘hierarchy of First Amendment values,’ and is entitled to special protection.” *Connick v. Meyers,* 461 U.S. 138, 145 (1983) (quoting *NAACP v. Claiborne Hardware,* 458 U.S. 886, 913 (1982)) This is particularly true where, as here, the expression comes from a private citizen.

Relying on this principle, SCOTUS has explained that “[s]uch speech cannot be restricted simply because it is upsetting.” *Snyder v. Phelps*, 562 U.S. 443 458 (2011). It is a “bedrock principle underlying the First Amendment” that “the government may not prohibit the expression of an idea simply because society finds the idea itself offensive or disagreeable*.” Texas v. Johnson,* 491 U.S. 397, 414 (1989). Even less can it suppress expressions on the ground that the expression is upsetting, offensive, or disagreeable *to government officials.* “[D]ebate on public issues should be uninhibited, robust, and wide-open,” and “it may well include vehement, caustic, and sometimes unpleasantly sharp attacks on government and public officials.” *N.Y. Times Co.* 376 U.S. at 270. SCOTUS long ago repudiated the doctrine of seditious libel in favor of a ‘“theory of our Constitution,’ which values free speech as essential to, not subject to the vicissitudes of, our political system.” *Bd. Of Cty. Comm’rs v Umbehr,* 518 U.S. 668, 681 (1986) (quoting *Abrams v. United States,* 250 U.S. 616, 630 (1919) Holmes, J., dissenting)). The First Amendment forbids the government from abusing its power to arrest to retaliate against protected activity.

**FACTUAL BACKGROUND**

1. On February 22, 2022, at 1:29 pm EST, Plaintiff was wrongfully served with a summons for Harassment of Defendant Ann at the Cumberland Police Station in the Cumberland Town Hall, located at 290 Tuttle Road in Cumberland, ME 04021
2. Plaintiff was charged under 17-A M.R.S. Sec. 506-A. This false charge contravenes protection under the First Amendment of the United States Constitution clause *“to petition the Government for a redress of grievances”.* Plaintiff was at all times during the period of May 2020 until the current date responding to conduct and posts to social media and more particularly this May 2022, to lies by omission during testimony at a legislative Committee on L.D. 1939 by Defendant Ann. Specifically, Ann stole the Plaintiff’s sign format opposing her reelection and converted it to a sign supporting her reelection. Her testimony falsely implied that someone was threating to steal something from her lawn and destroy it. Plaintiff had merely stated that, *“I predict that something of Ann’s will be stolen and destroyed so that she can’t get it back. The question will be, how long after the item is stolen, like she stole my sign format, before she knows it’s missing.”*
3. Plaintiff was insulted by Defendant Ann’s conduct at a School Board Meeting in 2020. Plaintiff used his public forum time to lead the Pledge of Allegiance to honor all the men and women serving all over the world to protect our rights to Free Speech. Defendant Ann chose to remain seated, which is her right to do so. However, Plaintiff served in the Army Reserve for six years as a 11B20 (infantry instructor on the fire and movement range at Fort Dix, N.J.) and found her irreverent behavior to be both insulting and conspicuously offensive in a public setting.

Placing the repercussions of Ann’s act in its proper context, many of those trainees left Fort Dix to go to Maguire Air Force Base next to Fort Dix, on their way to Vietnam, where they were killed while fighting the Communist Viet Cong. Plaintiff took grievous note of that conduct and referred to Defendant as an A-Hole at a Cumberland Town Council Meeting, while stating that he would fight to the death to protect her right to protest in such a conspicuously offensive manner by sitting at the table, but that he would also continue to call her out on doing that type of thing in the future. (A petition of grievances) At that same Meeting Defendant stated, *“She didn’t want to live in a community where people could walk around and say anything they wanted to say.”* Plaintiff commented that she might be happier living in a communist country where people aren’t allowed to say anything that they want to say. Defendant has constantly posted on social media and confabulates words as the same thing as violence, followed by the idiotic phrase “full stop”. **In many ways this case mirrors the *Lozman v. Riviera Beach, FL* decision by SCOTUS a few years ago.**

1. Plaintiff has never been on the property of Defendant Ann and has only been on the public portion of Tuttle Road in front of her property, when he took a photo of his sign which opposed her reelection. Plaintiff has never followed Ann to her car and never threatened her at any time.
2. Plaintiff was given a criminal trespass warning for placing a sign on the school fence near where a sign posted supporting the school board had been hanging for nearly two weeks. A 14th Amendment Violation. Plaintiff then went to a school board meeting to report on its activity on the site [www.falmouthtoday.me](http://www.falmouthtoday.me) and was immediately arrested and yanked by his left arm towards the door while handcuffed. This caused a cardiac episode and Atrial Fibrillation where the Plaintiff’s pulse soared to 195 and was rushed to the Maine Medical Center where he was bailed out at the Emergency room area for $360 and another $150 for towing his car from the school lot. He was confined to bay A-11 for the next 21 hours where numerous blood tests were taken to see if another heart attack was coming or in progress. Plaintiff had a stent installed at Maine Med on February 14, 2019, and the concern was the yanking around by Sgt. Jake LaChance might have caused Plaintiff to die. That 21 hours was billed to Plaintiff for $11,860 while in the custody of the Cumberland Police Department and/or Cumberland County Jail which are responsible, one for causing the medical crisis and the other responsible for the health and care of a prisoner.
3. Following these misconducts by Defendants a series of complaints were lodged against Plaintiff by Defendant Ann resulting in Plaintiff being fingerprinted at the Cumberland P.D. twice and a third notice hand delivered by Chief Rumsey barring Plaintiff, a reporter, from the School grounds and School Board meetings from May 2022 to May 2023 without any context or legal reasons to do so. It was subsequently withdrawn by the Chief and cancelled by email. A violation of the 1st Amendment using the arrest power of the government to inhibit the freedom of speech and freedom of the press. This is expressly forbidden by the decisions of SCOTUS.

**COUNT I**

***Violation of Plaintiff’s 4th Amendment Rights Unreasonable Seizure---November 2017* Claim for Relief Under 42 U.S.C. Sec 1983 and under the 4th Amendment to the U.S. Constitution**

**(Against All Defendants)**

1. Plaintiff repeats and restates the allegations in paragraphs 1-12 as if fully set forth herein.
2. At all times relevant to this Complaint, Defendants Ann, Rumsey, and Town of Cumberland, MSAD # 51 and members of the School Board itself, the Town Council and its members were persons within the meaning of 42 U.S.C. Sec. 1983.
3. At all times relevant to this Complaint, Plaintiff was a citizen of the United States within the meaning of 42 U.S.C. Sec 1983.
4. A claim under 42 U.S.C. §1983 requires the Plaintiff to show the deprivation of a federally protected right by a person acting under the color of state law. See 42 U.S.C. § 1983; see also *Camilo-Robles v. Hoyos,* 151 F.3d 1, 5 (1st Cir. 1988). If the right was clearly established, the Defendant should reasonably have known of the right. *Rodriguez v. Comas*, 888 F.2d 899, 901 (1st Cir.1989).
5. Although the United States Supreme Court has previously held that government officials performing discretionary functions are generally shielded from civil damages so long as their conduct “does not violate clearly established statutory or constitutional rights of which a reasonable person would have known.” *Harlow v. Fitzgerald,* 457 U.S. 800, 818, 102 S. Ct 2727, 73 L. Ed. 2d 396 (1982) Here, Defendant Rumsey has violated that legal standard because the Fourth Amendment to the United States Constitution requires that a Police Officer has exigent circumstance, with a reasonable suspicion under the circumstances to believe that a crime has been committed. In simple fact, Defendant Chief Rumsey should have known that the First Amendment protected Plaintiff’s rights to respond to conduct and postings of Defendant Ann. He was present at various meetings from the onset of this conflict between Plaintiff and Defendant Ann and knew full well that he was given an unlawful directive to cite the Plaintiff but did so anyway. (see *United States v. Maguire,* 918 F.2d 254, 258 (1st Cir. 1990) (quoting *Illinois v. Gates,* 462 U.S. 213, 235, 103 S.Ct 2317, 2330, 76. L.Ed.2d 527 (1983)). *Rivera v. Murphy,* 979 F.2d 259, 263 (1st Cir. 1992).
6. Consequently, the Court herein “…must initially determine whether the Plaintiff has alleged the deprivation of an actual constitutional right at all, and if so, thereafter proceed to determine whether that right was clearly established at the time of the alleged violation.’” *Wilson v. Layne,* 526 U.S. 603, 609, 119 S. Ct. 1692, 1697 (1999) (quoting *Conn v. Gabbert,* 526 U.S. 286, 290, 119 S. Ct. 1292, 1295, 143 L. Ed. 2d 399 (1999)). *DeLeon v. Little,* 981 F. Supp. 728, 737 D. Conn. 1997). If the right was clearly established, “the defendant should reasonably have known of the right.” *Rodriguez v. Comas,* 888 F.2d 899, 901 (1st Cir. 1989). Second, the Court must “examine the defendant’s conduct, to establish whether objectively it was reasonable for him to believe that his actions did not violate a ‘clearly established’ right.”
7. The legal standard currently followed by both Federal and Maine Courts requires probable cause**:**

Furthermore, and under prevailing Maine law, a summons is only lawful if it was supported by probable cause. [following *Beck v.Ohio,* 379 U.S. 89, 91, 85 S. Ct. 223, 13 L. Ed. 2d 142 (1964) (stating that a summons is constitutionally valid when at the moment of summons, the facts and circumstances within the officer's knowledge are sufficient to warrant a prudent person in believing that an offense has been committed.)].

1. However, “a summons … must stand upon firmer ground than mere suspicion”); see *Rivera v. Murphy*, 979 F.2d 259 (1st Cir. 1992) (US District Court held that no qualified immunity exists where officer lacked probable cause to arrest.) Chief Rumsey is entitled to immunity if a reasonable officer could have believed that probable cause existed to summons Plaintiff. This is not a stringent test; “[t]he qualified immunity standard ‘gives ample room for mistaken judgements’ by protecting ‘all but plainly incompetent or those who knowingly violate the law.’” *Hunter,* 502 U.S. at \_\_\_\_, 112 S. Ct at 537 quoting *Malley,* 475 U.S. 343, 341, 106 S.Ct at 1097, (1096). The officers are therefore entitled to qualified immunity “so long as the presence of probable cause is at least arguable.” *Ricci v. Urso,* 974 F.2d 5, 7 (1st Cir. 1992); *Prokey,* 942 F.2d 67, 72 (1st Cir. 1991); *Floyd v. Farrell*, 765 F.2d 1, 5 (1st Cir. 1985)
2. Essentially the law was clearly established regarding Plaintiff’s right to be free from summons for harassment absent probable cause when the events of this case took place. Consequently, the Court must determine whether a reasonable officer could have believed that his conduct was lawful “in light of the specific context of the case.” *Saucier,* 533 U.S. 194, 201.
3. Quintessentially then, the qualified immunity inquiry for the Court in this case is whether a reasonable police officer with the information known to him/her could have reasonably believed that he/she had probable cause to summons Plaintiff Doyle for harassment. [See *Fletcher v. Town of Clinton,* 196 F. 3d 41, 53 (1st Cir. 1999).] *Bordanaro v. McLeod,* 871 F.2d 1151, 1156 (1st Cir.), *cert denied, City of Everett, Mass. V. Bordanaro,* 493 U.S. 820, 110 S.Ct 75, 107 L. Ed.2d 42 (1989) (citing *Oklahoma City v. Tuttle,* 471 U.S. 808, 819, 105 S.Ct. 2427, 2434, 85 L.Ed.2d 791 (1985)). *McDermott v. Town of Windham,* 204 F.Supp. 2d 54, 68 (D. Me. 2002)
4. Defendant Rumsey had been present at the Town Council meeting and other meetings where this matter was discussed from its onset and had clearly and personally observed that Plaintiff was merely attempting to exercise his Constitutionally protected legal right to Freedom of Speech and Freedom of the Press but summons him anyway. Rumsey knew or should have known that the “sheet sign” on the school fence under the 14th Amendment had established that fence as a public bulletin board where any sign could be placed, not just those supporting the Superintendent’s employers.
5. Other Maine Courts within Cumberland County have previously ruled that, “Although an officer is not required to follow every lead to determine that a suspect may be innocent before making a probable cause determination, an officer must have more than reasonable suspicion of criminal activity. [See, e.g. *Borlawsky v. Town of Windham,* 115 F. Supp. 2d 27, 29-30 (D. Me. 2000) (citing *United States v. Bonilla Romero,* 836 F. 2d 39, 46 (1st Cir. 1987)]
6. “Although officers are permitted to make mistakes, they must have a reasonable basis upon which to deprive a person of his or her liberty. For this summons of the Plaintiff to be considered lawful, this Court must find that a reasonable officer, faced with the information available to Rumsey would not have done further investigation before summoning Plaintiff. [quoting *Patricia McDermott v Town of Windham*, Civil No. 01-253-P-C, Judge Gene Carter presiding.]
7. THEREFORE, under Maine’s corresponding statute and its prevailing case law, Defendant Rumsey wrongfully summoned the Plaintiff for attempting to peacefully utilize his rights under the First Amendment.

**COUNT II**

**Violation of Plaintiff’s Rights 5th and 14th Amendment Rights**

**Deprivation of Liberty Without Due Process**

**Claim for Relief Under 42 U.S.C. Sec. 1983**

**(Against All Defendants)**

1. Plaintiff repeats and restates the allegations in paragraphs 1-26 as if fully set forth herein.
2. At all times relevant to this Complaint, Defendants were persons within the meaning of 42 U.S.C. Sec. 1983.
3. At all times relevant to this Complaint, Plaintiff was a citizen of the United States within the meaning of 42 U.S.C. Sec 1983.

 Since the law was clearly established regarding the Plaintiff’s right to be free from summons for harassment absent probable cause when the events of this case took place, the Court must herein determine whether a reasonable officer could have believed that his conduct was lawful “in light of the specific context of the case.” See *Saucier,* 533 U.S. 194, 201. Consequently, the qualified immunity inquiry in this case is whether a reasonable police officer with the information known to Defendant Rumsey [who had personally witnessed these events from their onset and who clearly knew that peacefully stating a grievance in a public forum constituted no crime] could have reasonably believed that he/she had probable cause to summons the Plaintiff for Harassment. See *Fletcher v. Town of Clinton,* 196 F. 3d 41, 53 (1st Cir. 1999). Referring to *Whitney v. California* J.Brandeis and J. Holmes concurring stated that to justify an arrest there had to be, “That the necessity which is essential to a valid restriction does not exist unless speech would produce, or is intended to produce, a clear and imminent danger of substantive evil which the State constitutionally may seek to prevent has been settled.” See *Schenck v. United States,* 249 U.S. 47, 52. Further in that decision referring to the Founders of the United States, *“They believe that freedom to think as you will and to speak as you think are means indispensable to the discovery and spread of political truth;…that the greatest menaces to freedom is an inert people; that public discussion is a political duty; and that this should be a fundamental principle of the American government.”* This case was cited in the MCLU (Maine Civil Liberties Union) letter to the Falmouth Town Council in 2012 when the Council sought to restrict content-based comments at the Falmouth Council Meetings through proposed rules changes.

 In order to succeed under Section 1983 on a theory of municipal liability, the Plaintiff must show: (1) a municipal custom or policy, and (2) that the custom or policy was “the cause of and the moving force behind the deprivation of constitutional rights.” *Bordanaro v. McLeod,* 871 F.2d 1151, 1156 (1st Cir.), cert. denied, *City of Everett, Mass. v. Bordanaro*, 493 U.S. 820, 110 S. Ct. 75, 107 L. Ed. 2d 42 (1989) (citing *Oklahoma City v. Tuttle,* 471 U.S. 808, 819, 105 S. Ct. 2427, 2434, 85 L. Ed. 2d 791 (1985)).

1. Moreover, A municipality can be held liable, for example, “if its police chief is a policymaker and acquiesces in a police custom or policy as to which he has actual or constructive knowledge.” *Kinan v. City of Brockton,* 876 F.2d 1029,
2. Consequently, the Defendant municipality of Cumberland is legally liable if it failed to train its police officers in the investigation of harassment claims. Furthermore, “Where an allegation against a municipality “involves a failure to train, the Plaintiff must put forth evidence of a failure to train that amount to deliberate indifference to the rights of persons with whom the police come into contact.” see *Fletcher,* 196 F.3d at 55. “To demonstrate deliberate indifference a Plaintiff must show (1) a grave risk of harm, (2) the Defendant’s actual or constructive knowledge of that risk, and (3) his failure to take easily available measures to address the risk.” *Camilo-Robles,* 151 F. 3d at 7. The Town of Cumberland Police culture is to flaunt numerous Court decisions barring content-based rules on public comments.
3. Absent any evidence to the contrary, the evidence herein demonstrates that the Town of Cumberland failed to provide training to its police officers, generally, on the elements and recent changes in Maine law regarding harassment, which may easily explain why its Police officer, namely Chief Charles Rumsey, wrongfully summons the Plaintiff. An example of the failure to train was Rumsey’s attempt to amend that FOAA law of Maine when Plaintiff sought a request, Plaintiff was confronted with a form to fill out to request the information. Such a form requirement is not in the FOAA law of Maine and is illegal on its face.
4. Lastly, because Police Chief Charles Rumsey was responsible for promulgating policies for the Cumberland Police Department, his own actions and omissions in that regard are at issue in this litigation.
5. Historically, although supervisors cannot be held liable under Section 1983 solely on a respondeat superior theory, liability may be based on the supervisor’s own acts or omissions. See *Seekamp v. Michaud,* 109 F.3d 802, 808 (1st Cir. 1997); *Monell v. Dept. of Social Services,* 436 U.S. 658, 694-95 & n. 58, 98 S. Ct. 2018, 56 L. Ed. 2d 611 (1978). A supervisor “may be liable under Section 1983 if he formulates a policy or engages in a practice that leads to a civil rights violation committed by another.” *Camilo-Robles v. Hoyos*, 151 F.3d 1, 6-7 (1st Cir. 1998); *City of Canton v. Harris*, 489 U.S. 378, 388-89, 109 S. Ct. 1197, 103 L. Ed. 2d 412 (1989). If liability of a supervisor is based on unwritten or informal policies, it must “result from a deliberate choice to follow a course of action.” Rumsey’s failure to ascertain Plaintiff’s medical condition at age 73 before he turned Sgt. LaChance loose on the Plaintiff to drag him out of a School Board meeting, was lucky this complaint did not include a charge of manslaughter.
6. *Britton v. Maloney,* 901 F.Supp. 444, 449 (D. Mass. 1995) (citing *Pembaur v. City of Cincinnati*, 475 U.S. 469, 480, 106 S. Ct. 1292, 89 L. Ed. 2d 452 (1986)). Supervisory liability may also arise “if there exists a known history of widespread abuse sufficient to alert a supervisor to ongoing violations*.” Maldonado-Denis v. Castillo-Rodriguez,* 23 F.3d 576, 582 (1st Cir. 1994). An example of widespread abuse by Defendant Chief Charles Rumsey is the lack of law enforcement when a sign of Plaintiff’s was illegally removed from a school fence (violation of the 1st, 5th, and 14th Amendments) and stolen from Plaintiff by the school custodian under the supervision of a Cumberland police officer.
7. Wherefore, the aforementioned Defendants and the Town of Cumberland are jointly and severally liable for their various violations committed against the Plaintiff.

 **COUNT III**

***Intentional Infliction of Emotional Distress***

**Claim for Relief Under 42 U.S.C. Sec 1983**

**(Against All Defendants)**

1. Plaintiff repeats and restates the allegations in paragraphs 1-42 as if fully set forth herein.
2. At all times relevant to this Complaint, Defendants were persons within the meaning of 42 U.S.C. Sec.1983.
3. At all times relevant to this Complaint, Plaintiff was a citizen of the United States within the meaning of 42 U.S.C. Sec 1983.
4. Under prevailing Maine law, the tort theories of intentional and negligent infliction of emotional distress both “require proof of severe emotional distress.” see *Holland v. Sebunya*, 759 A.2d 205, 212 (Me. 2000). “Serious emotional distress exists where a reasonable person normally constituted, would be unable to adequately cope with the mental stress engendered by the circumstances of the event.” Id. (citing *Town of Stonington v. Galilean Gospel Temple,* 722 A.2d 1269, 1272). Plaintiff having survived two heart attacks was extremely stressed by Sgt. LaChance rough handling, pulse shooting up 195, and the ambulance ride to Maine Med. Plaintiff during all of that, the dragging from the meeting, the ambulance ride, sitting in a wheelchair in the ER while being guarded by a Cumberland Police Officer, the 21 hours in A-11 bay, the unknown number of blood tests, and constantly fearful that he might die at any minute due to the extreme gross misconduct of the Defendants.
5. Here, the Plaintiff is a well-respected and widely read news editor [with over five million hits to his news site online in 2021] (approaching ten million total hits from inception at this date) who lived in the community of Falmouth, Maine. During a School Board meeting Plaintiff was handcuffed and roughly manhandled out of the building causing the Plaintiff to experience a cardiac event which forced a trip to Maine Medical Center Emergency Room, rather than to the county jail.
6. Although most people would experience severe emotional distress at being wrongfully arrested, handcuffed and then taken to the Cumberland County Jail for booking, Plaintiff’s high profile in his community subjected him to more stress than the “ordinarily sensitive person” would “be able to adequately cope with concerning the mental stress engendered” by that action. Essentially, the long-term effect of such a controversial incarceration would be the predictable loss of friendships, romantic consortium and family relations. The emotional distress was heightened by the Defendant Rumsey total disregard that the Plaintiff age, 73 with a stent in his heart, was kept in the Emergency Room for the next 21 hours. During those 21 hours Plaintiff kept thinking that at any moment from the time he was grabbed by LaChance, he could have fallen to the floor or pavement broken a hip, struck his head and bled out in his skull due to the blood thinner he was on, or had a massive heart attack like the one at Maine Med where his troponin was 1.19 instead of the normal .01. Plaintiff is fortunate that such depraved indifference by Defendant Rumsey did not end in the death of the Plaintiff.

**COUNT IV**

**Malicious Prosecution**

**Claim for Relief Under 42 U.S.C. Sec. 1983**

**(Against All Defendants)**

1. Plaintiff repeats and restates the allegations in paragraphs 1-48 as if fully set forth herein.
2. At all times relevant to this Complaint, Defendants were persons within the meaning of 42 U.S.C. Sec. 1983.
3. At all times relevant to this Complaint, Defendants were persons within the meaning of 42 U.S.C. Sec. 1983.
4. Under Maine’s current law, a claim for malicious prosecution requires that criminal prosecution have been initiated: 1) with malice and 2) without probable cause and that 3) the prosecution have ended favorably to the accused. [see *Nadeau v. State of Maine*, 395 A.2d 107, 116 (Me. 1978) and see also: *Sebunya,* 759 A.2d at 212-13.] In the *Lozman v Riviera Beach, FL*, case it was established that being found not guilty in the underlying case was not required.

Malice would be the basis for the False Summons due to Plaintiff’s numerous articles on [www.falmouthtoday.me](http://www.falmouthtoday.me) detailing misconduct by Defendant Ann and other members of the MSAD #51 School Board to include Defendant Ann, and Chief Rumsey. The Maine Law Court has further determined that express “[m]alice exists where the defendant’s tortious conduct is motivated by ill will toward the Plaintiff” or where “deliberate conduct by the Defendant . . . is so outrageous that malice toward a person injured as a result of that conduct can be implied.” *Tuttle v. Raymond*, 494 A.2d 1353, 1361 (Me. 1985) (internal citations omitted).

1. In the case at bench, Defendant Ann displayed malice toward the Plaintiff because she knew that the Plaintiff was opposing her reelection by pointing out her Socialist and Communist ideals online and on signs around town.
2. Given the foregoing facts and the totality of the circumstances herein, it would be in keeping with the ethical dictates of fairness and of public policy for the Court to render a decision which favors the Plaintiff.

**DAMAGES**:

1. “Under federal law, punitive damages are available in a §1983 action upon a jury finding that Defendants acted with ‘reckless or callous disregard for the plaintiff’s rights [or an] intentional violation [ ] of federal law.’” *Comfort v. Town of Pittsfield*, 924 F. Supp. 1219, 1238 (D. Me. 1996) citing *Smith v. Wade,* 461 U.S. 30, 51, 103 S. Ct. 1625, 1637, 75 L. Ed. 2d 632 (1983); see also *Davet v. Maccarone*, 973 F. 2d 22, 27 (1st Cir. 1992).
2. Under Maine law, punitive damages are available upon a finding that a defendant acted with malice. See *Tuttle,* 494 A. 2d at 1361
3. Here, the aforementioned Defendants recklessly conspired to arbitrarily and maliciously deprive the Plaintiff (whom they knew was a member of the media community and as such enjoyed heightened legal protections) of his Constitutionally protected legal right to Freedom of Speech and Freedom of the Press. The Defendants’ reckless disregard for protection afforded to Plaintiff under the First Amendment requires substantial financial penalties to dissuade other officials throughout the State of Maine from the same misconduct.
4. Consequently, the Plaintiff is legally entitled to punitive damages under both state and federal law.

WHEREFORE: Plaintiff respectfully moves this court, pursuant to Sec. 1983 for an affirmative injunction which will hereafter order the Defendants to cease their malicious prosecution and harassment of the Plaintiff, and the Plaintiff further requests that this Court to award him compensatory and punitive monetary damages for the aforementioned injuries, along with any and all other relief which this Court deems to be equitable, just, and proper, and that attachments on all real property of Defendants be filed with the Register of Deeds in anticipation of a judgment for the Plaintiff, and any legal fees incurred by Plaintiff.

Respectfully submitted,

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MICHAEL DOYLE; Plaintiff March 20, 2023

PMB 329

1465 Woodbury Ave.

Portsmouth, NH 03801

207.766.6644

**PROOF OF SERVICE**

I hereby affirm under oath and under the penalty of perjury according to the laws of Maine that on this same day of filing, I’ve delivered a copy in hand to the known law firms that the Defendants use for these types of violations. Alyssa Tibbets, Esq., Jensen Baird, 10 Free St. Portland, ME 04101 and William Stockmeyer, Esq., Drummond Woodsum, 84 Marginal Way, Portland, ME 04101

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MICHAEL DOYLE; Plaintiff March 20, 2023

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