

19<sup>TH</sup> JUDICIAL DISTRICT COURT  
PARISH OF EAST BATON ROUGE  
STATE OF LOUISIANA

COREY DELAHOUSSAYE	*	NUMBER C—646,126
	*	DIVISION “I”
VERSUS	*	SECTION 24
STATE OF LOUISIANA, ET AL.	*	JUDGE CALDWELL

FILED: \_\_\_\_\_  
DEPUTY CLERK

**FIRST-AMENDING AND RESTATED PETITION FOR DAMAGES**

NOW INTO COURT, through undersigned counsel, comes plaintiff Corey Delahoussaye, who respectfully files this First-Amending and Restated Petition for Damages, which entirely restates the allegations and causes of action set forth in the Petition for Damages originally filed herein on February 22, 2016:

**PLAINTIFF**

1. Corey Delahoussaye is a Louisiana resident who has reached the age of majority.

**DEFENDANTS**

2. Made defendants herein are the following:
- a. State of Louisiana, through the Office of the State Inspector General (hereinafter referred to as “Inspector General”), an entity domiciled in the Parish of East Baton Rouge, Louisiana;
  - b. Stephen B. Street, Jr., in his official capacity as the State Inspector General;
  - c. Greg Phares, a Louisiana resident who has reached the age of majority; and,
  - d. Jessica McCrary Webb, a Louisiana resident who has reached the age of majority.

## **BACKGROUND**

### **C-DEL, INC.**

3. Petitioner founded C-Del, Inc. in 1997 and was a co-owner of the company.
4. C-Del was a consulting firm that specialized in securing permits, identifying wetlands, researching titles and negotiating right of way for private and public entities.
5. Livingston Parish hired C-Del on, or about, October 27, 2009.
6. C-Del was hired by Livingston Parish to negotiate with FEMA and the Governor's Office of Homeland Security & Emergency Preparedness ("GOHSEP") to ensure repayment of funds that had been expended on Hurricane Gustav cleanup.
7. C-Del's contract with Livingston Parish was amended to broaden its scope at various times between its signing and August 2010.
8. C-Del's contractual obligations also required it to oversee certain aspects of the cleanup efforts conducted by various contractors hired by Livingston Parish.
9. Petitioner uncovered questionable work and billing practices of various contractors working on Hurricane Gustav cleanup.
10. Petitioner, as an agent of C-Del, reported his concerns to Livingston Parish, both verbally and in writing.
11. Petitioner also reported his findings to the federal government after Livingston Parish failed to address the concerns that were raised.
12. The questionable billing and work practices identified by Petitioner resulted in a dispute between Livingston Parish, its contractors, and FEMA.
13. Petitioner thereafter became a federal informant for the FBI and was later contracted with FEMA to assist in a challenge of more than \$50 million in charges submitted to FEMA by Livingston Parish.
14. The matter was ultimately decided by the United States Civilian Board of Contract Appeals in the Summer of 2014, in favor of FEMA.
15. As a result, approximately \$59 million of billings submitted on behalf of Livingston Parish related to the Hurricane Gustav clean-up were ultimately disallowed.

### **CONSEQUENCES**

16. C-Del's contract with Livingston Parish was formally terminated on, or about, September 24, 2011, but the decision to terminate had been made in the weeks prior.

17. Around November 18, 2011, the District Attorney for the 21<sup>st</sup> Judicial District, which includes Livingston Parish, announced that Petitioner was under criminal investigation in a televised interview with WAFB in Baton Rouge, Louisiana.

18. The District Attorney also reported purported wrongdoing by Petitioner and C-Del to the federal government for investigation.

19. The federal government never pursued any charges against Petitioner.

20. The District Attorney's allegations were made at the same time that Petitioner was working as a federal informant supporting in the proceeding between FEMA and Livingston Parish and its contractors.

### **INSPECTOR GENERAL**

21. The Inspector General started to investigate Petitioner sometime beginning in June of 2012.

22. The investigation was purportedly opened at the request of Mr. Chris Moody, who was serving as counsel for the Livingston Parish Council.

23. At no time, however, was C-Del or Petitioner employed or contracted by a state agency performing working on behalf of Livingston Parish.

24. Accordingly, counsel for Petitioner and C-Del inquired about the jurisdiction of the Inspector General to investigate.

25. The Inspector General responded that it had authority to investigate on the grounds that Petitioner was a contractor with GOHSEP, a state agency.

26. Petitioner, however, was not a contractor of GOHSEP.

27. On July 18, 2012 Jessica Webb issued a subpoena to URS, an Engineering firm, to which C-Del was contracted.

28. On July 17, 2013, the Inspector General applied for a search warrant in furtherance of its investigation for Mr. Delahoussaye's residence

29. As detailed *infra*, Louisiana law does not provide the Inspector General authority to obtain a search warrant.

30. Notwithstanding the full cooperation of Petitioner and C-Del, the Inspector General raided Petitioner's home with the assistance of the East Baton Rouge Sheriff's Office in the early-morning hours on July 25, 2013--eight days after the warrant was signed by a district judge in the 19<sup>th</sup> JDC.

31. The raid was conducted at 6:00 am with multiple agents bearing firearms in a home that was only occupied by Mr. and Ms. Delahoussaye and their two young children.

32. There is no objectively reasonable rationale for conducting a raid in such a fashion to execute search warrant that had been obtained over a week prior.

33. Despite a lengthy investigation, there is no evidence that Ms. Webb or Mr. Phares, who were both present for the raid, ever made any attempt to review the information seized from Petitioner's residence or to otherwise use the seized information to support the Inspector General's investigation.

34. In August and September 2013, the Inspector General sent a subpoena to Anytime Fitness seeking its records related to Petitioner from October 27, 2009 through present, despite the fact that C-Del's contract had been terminated nearly two years prior.

35. In October 2013, The Inspector General sent a subpoena seeking medical records of Petitioner from the Aesthetic Medicine & Anti-Aging Clinics of Louisiana, which application was in direct violation of Louisiana law.

36. Moreover, on information and belief, Ms. Webb was the only witness to testify before the grand jury in support of the charges that were declined against Petitioner in November 2013.

#### **CRIMINAL CHARGES**

37. The 21<sup>st</sup> JDC District Attorney sought to charge Petitioner with various crimes related to the alleged improper billing practices.

38. The charges were only possible because of the investigation conducted by the Inspector General.

39. In November 25, 2013, however, a grand jury refused to indict Petitioner regarding the alleged crimes.

40. Accordingly, on December 3, 2013, Scott M. Perrilloux, District Attorney for the 21<sup>st</sup> Judicial District Court, caused 81 Counts to be filed against Petitioner in the 21<sup>st</sup> Judicial District Court for the Parish of Livingston.

41. Counts 1 through 73 charged that Petitioner violated La. R.S. 14:133, entitled filing or maintaining false public records, and Counts 74 through 81 charged that Petitioner violated La. R.S. 14:67, for various allegations of theft.

42. Thereafter, on February 23, 2015, approximately 30 charges were dropped against Petitioner and Petitioner was charged with 55 counts of Filing False Records in violation of La. R.S. 14:133 and four counts of Theft in violation of La. R.S. 14:67.

43. A probable cause hearing was held on February 23, 2015 in the 21<sup>st</sup> JDC.

44. Ms. Webb was the only witness to testify at the hearing.

45. Ms. Webb's testimony was filled with factual errors and false representations to the Court.

46. As an example, Ms. Webb's testimony supporting Count Seven blatantly misrepresented the evidence before the Court.

Q. Let's move on to activities which occurred on 8-26-2010. Did you review documents from the Anti-Aging Clinic for services that Delahoussaye would have received on that day in Baton Rouge?

A. Yes, sir.

Q. What did it reflect?

A. The receipt reflected Vela one of six, VelaShape one area, and time-stamped on the receipt is 10:00 a.m.

Q. Did you compare that to the invoice Mr. Delahoussaye submitted for reimbursement for activities conducted on behalf of the Parish on that day?

A. I did.

Q. And what did it reveal?

A. It showed that on 8-26 from 7:00 a.m. to 4:00 p.m., he worked on IED files and information provided by PEC and AFA, worked with the Corps and GOHSEP, gathered information for Corps and GOHSEP.

Q. It would have included the 10:00 a.m. time he was in Baton Rouge receiving services at the Anti-Aging Clinic?

A. Yes, sir. The receipt also gives a timeframe for the services.

Q. What's the timeframe on that particular day?

A. On 8-26-2010, treatment time, one-hour.

47. Contrary to Ms. Webb's representation, the receipt does not provide a timeframe for the services provided.

48. Furthermore, although Petitioner's timesheet may have indicated that he worked from 7:00 a.m. to 4:00 p.m., it showed he only billed Livingston Parish for eight hours, indicating that he had an hour during that time for personal time.

49. Notwithstanding, Ms. Webb testified that Petitioner had wrongfully billed Livingston Parish for the time he allegedly spent at the medical clinic.

50. Ms. Webb similarly testified that Petitioner wrongfully billed Livingston Parish \$8,700 while playing golf; \$4,930 while he underwent cosmetic procedures; \$2,175 while he worked out at Spectrum Fitness; \$797.50 while he tanned at Anytime Fitness; and \$580 while he worked on an unrelated project for another parish.

51. These allegations were false and unsupported by the evidence that Ms. Webb claimed she reviewed.

52. Ms. Webb testified that she determined the amount of improper billings by comparing Petitioner's timesheets to various records she obtained from Greystone Country Club, Aesthetic Medicine & Anti-Aging Clinic, Spectrum Fitness, Anytime Fitness, etc.

53. Ms. Webb knew, or should have known, that her calculations and associated testimony were false.

54. Specifically, her testimony at the probable cause hearing on February 23, 2015 revealed a number of troubling assumptions and erroneous conclusions:

- a. Initially, Ms. Webb had no information to support the allegations that Petitioner actually filed any public records, a prerequisite to violating La. R.S. 14:133;
- b. Ms. Webb repeatedly testified that she reviewed Petitioner's timesheet when determining the amount of hours purportedly falsified by Petitioner;

- c. Ms. Webb, however, was reviewing Petitioner's Daily Log;
- d. As a result of basing her investigation on the wrong documents, Ms. Webb wrongfully concluded that Petitioner had billed time that he, in fact, had not actually billed;
- e. Ms. Webb wrongfully assumed that Petitioner was at the doctor's office or under general anesthesia when he was actually working;
- f. Ms. Webb's wrongfully assumed that Petitioner was going to the tanning bed when he was not, even after she interviewed management at Anytime Fitness who advised her that there was no way to determine whether anyone was actually tanning and that the fobs could not be reliably attributed to a single individual;
- g. Ms. Webb wrongfully assumed that Petitioner was playing golf when others were using his membership and she failed to make any effort to support her conclusions that Petitioner was actually playing golf as alleged.

55. The scope of Ms. Webb's errors was significant and belied actual information that she obtained during the OIG's investigation.

56. Specifically, Petitioner and his counsel had previously met with Ms. Webb and explained the nature of her wrongful assumptions and errors.

57. The information provided to Ms. Webb by Petitioner and numerous witnesses conflicted with her testimony at the probable cause hearing.

58. The information could have been easily verified if Ms. Webb had made any effort to do so.

59. Given her plain and demonstrably wrong errors, it is clear that Ms. Webb's allegations of illegal conduct were made with actual malice and with a reckless disregard for the truth.

60. As a result of Ms. Webb's defamatory testimony, the news media reported the defamatory allegations.

61. For instance, on February 25, 2015, The Advocate reported that:

Jessica Webb, a criminal investigator with the Inspector General's Office and the state's only witness Monday, said records from delaHoussaye's golf club, two gyms and a cosmetic clinic in Baton Rouge showed he was charging the parish for work while he played golf, tanned, worked out and had liposuction, Botox, hormone therapy and other cosmetic treatments.

Webb walked the court through the charges count by count, detailing the receipts, tee schedules and electronic card swipes supporting the state's case.

By Webb's tally, delaHoussaye had billed the parish \$8,700 while he played golf and drank Patron at Greystone Golf & Country Club in Denham Springs; \$4,930 while he had cosmetic procedures and hormone therapy at the Aesthetic Medicine & Anti-Aging Clinic in Baton Rouge; \$2,175 while he worked out at Spectrum Fitness; \$797.50 while he tanned at Anytime Fitness; and \$580 while he worked on an unrelated project in another parish.

62. As detailed by the foregoing, Ms. Webb's testimony was false and wrongfully accused Petitioner of falsifying public records and theft, which allegations constitute defamation *per se*.

63. At the conclusion of the hearing on February 23, 2015, the district judge found that there was no probable cause for the charges.

64. Thereafter, Petitioner filed a Motion to Suppress alleging that all of the evidence obtained by the Inspector General was obtained illegally because the agency had no authority to investigate Petitioner and C-Del, amongst other allegations.

65. A hearing was held on April 20, 2015.

66. In May 2015, the district judge granted the Motion to Suppress and ruled that the Inspector General did not have jurisdiction to investigate Petitioner.

67. The District Attorney sought a writ from the First Circuit regarding the ruling and the matter was remanded for the sole purpose of ordering the trial court for a reopened hearing on Petitioner's Motion to Suppress.

68. That hearing was held on January 14, 2016 and the trial court again suppressed the medical records obtained by the Inspector General because they were improperly obtained and stated the subpoenas that were used by the Inspector General's office failed to articulate the sufficient facts that would rise to the level of reasonable suspicion or constitute a reasonable basis to obtain these records.

69. At the conclusion of the hearing on January 14, 2016, the charges against Petitioner were again dismissed.

70. Those charges have not been re-filed.

71. Additionally, La. R.S. 49:220.25 provides that "records prepared or obtained by the inspector general in connection with investigations conducted by the inspector general shall be deemed confidential and protected from disclosure."



72. This confidentiality requirement is unqualified.

73. Not only does La. R.S. 49:220.25 deem investigation information confidential, it also makes it a “misdemeanor punishable by a fine of not more than two thousand dollars or imprisonment for not more than one year, or both, for the inspector general or any of his employees, or any other public official, corporation, or individual, to make public any such information or record.”

74. Nonetheless, in the course of C-Del’s dispute with Livingston Parish, it became evident that the Inspector General was sharing records obtained from its investigation with outside parties.

75. Specifically, during the proceedings before United States Civilian Board of Contract Appeals, the private contractors working for Livingston Parish provided the United States Government with copies of Petitioner’s private records.

76. The only source for those records was the Inspector General.

#### **LACK OF JURISDICTION**

77. La. R.S. 49:220.21(B) states that the purpose of the establishment of the Office of the State Inspector General is “to examine and investigate the management and affairs of *covered agencies*.”

78. In furtherance of that purpose, La. R.S. 49:220.24(B) specifies that:

a. The inspector general is authorized to examine and investigate the management and affairs of the covered agencies concerning waste, inefficiencies, mismanagement, misconduct, abuse, fraud, and corruption, and he may conduct all necessary investigations into such areas, including but not limited to:

- (1) Misuse of state-owned automobiles, planes, watercraft, and all other movable or immovable property.
- (2) Evidence of a pattern of excessive bills on state contracts.
- (3) Unauthorized use of leave.
- (4) Mismanagement of government operations.
- (5) Waste or abuse of things of value belonging to or used by the covered agencies.
- (6) Construction, operation, and maintenance of facilities.

79. In 2008 the Inspector General was designated a “law enforcement agency,” and was provided with limited investigative powers and privileges afforded to full-fledged law enforcement agencies.

80. The investigative powers and privileges are limited by the Inspector General’s statutorily defined purpose and functions.

81. As stated in La. R.S. 49:220.24(J), the Inspector General is “conferred all investigative powers and privileges appurtenant to a law enforcement agency under state law as necessary and in furtherance of the authority, duty, powers, and functions set forth herein.”

82. The foregoing does not authorize the Inspector General to investigate local governments like Livingston Parish.

83. Significantly, it is also not within the purpose of the Inspector General’s office, or its authority, duty, power, and function as set out in La. R.S. 49:220.24, to conduct criminal investigations or to obtain search warrants.

84. To the extent the Inspector General has any criminal investigative authority, it is limited to assisting other law enforcement agencies and cooperating with such agencies with regard to further criminal action.

85. Since C-Del and Petitioner had no contract or other relationship with a covered agency, the Inspector General had no jurisdiction to conduct its investigation.

86. Furthermore, the Inspector General has no authority to obtain search warrants even when it has jurisdiction to investigate.

87. La. R.S. 49:220.24(C)(4) provides that “when there is evidence of what may be criminal activity,” the inspector general shall report complaints to the proper federal, state, or local agency.

88. Further, La. R.S. 49:220.24 (K) requires that the referral to the appropriate law enforcement agency occur “[u]pon credible information” of such criminal activity.

89. Pursuant to La. R.S. 49:220.24(K), the Inspector General is relegated to a “back-seat” role once it determines it has credible information of criminal activity.

90. Section 49:220.24(K) provides that “[s]ubsequent to notifying the appropriate law enforcement agency, the inspector general may assist the law enforcement agency in conducting the investigation.”

91. In addition to investigation Petitioner outside of its jurisdiction, the Inspector General failed to comply with its own governing authority and Louisiana law when it investigated Petitioner.

92. La. R.S. 49:220.24(F)(2) provides that a subpoena or subpoena duces tecum “shall be issued only upon approval of a judge of the district court of the parish in which the Office of Inspector General is domiciled upon application in writing by the Inspector General. The judge shall issue a written decision within 72 hours after receipt of such application.”

93. The Inspector General did not comply with these requirements and failed to obtain a written decision from the district court authorizing the subpoenas duces tecum issued herein.

94. Furthermore, in *State v. Skinner*, 10 So. 3d 1212 (La. 2009), the Louisiana Supreme Court ruled that a warrant must be used to obtain medical records.

95. Accordingly, the Inspector General’s use of a subpoena to obtain Petitioner’s medical records was a blatant violation of Louisiana law.

96. In short, the Inspector General’s unlawful investigation led to unfounded criminal charges against Petitioner.

97. Moreover, all of the evidence obtained in support of those charges was suppressed due to the failure of the Inspector General to comply with Louisiana law.

98. At the probable cause hearing on February 23, 2015, Ms. Webb was asked whether she could tell the court of “any contract that [Petitioner] has with an executive department of [the State of Louisiana].

99. Tellingly, Ms. Webb could not identify any contract that would have provided the OIG jurisdiction over Mr. Delahoussaye.

100. Petitioner has suffered significant damages as a result of the Inspector General’s wrongful investigation.

## **CAUSES OF ACTION**

### ***CLAIM I*** **MALICIOUS PROSECUTION**

101. Petitioner re-alleges and incorporates by reference all previous allegations as if copied in their entirety herein.

102. Here, the efforts of the Inspector General led to: (a) the commencement or continuance of an original criminal or civil judicial proceeding; (b) its legal causation by the present defendants against plaintiff who was the criminal defendant in the original proceeding; (c) its bona fide termination in favor of the present plaintiff; (d) the absence of probable cause for such proceeding; (e) the presence of malice therein; and (f) damages conforming to legal standards resulting to plaintiff.

103. The criminal prosecution of Mr. Delahoussaye was supported only by the Inspector General's investigation, such that it would not have continued without the actions of the Inspector General.

104. As detailed by the foregoing, Ms. Webb's flawed investigation and her erroneous and wrongful conclusions led to the charges that were filed against Mr. Delahoussaye.

105. The charges against Mr. Delahoussaye were initially declined by a grand jury.

106. After a bill of information was subsequently filed by the District Attorney, the district judge found that the charges were not supported by probable cause.

107. As detailed by the foregoing, the nature and the multitude of errors that plagued the Inspector General's investigation and Ms. Webb's testimony reveal that her allegations of illegal conduct were made with actual malice and with a reckless disregard for the truth (e.g., that she knew, or should have known, that she was incorrect).

108. Accordingly, Defendants are liable to Petitioner for the damages he has incurred as result of their malicious prosecution of him.

***CLAIM II***  
**ABUSE OF RIGHT AND PROCESS**

109. Petitioner re-alleges and incorporates by reference all previous allegations as if copied in their entirety herein.

110. The Louisiana abuse of rights doctrine applies if one of the following conditions is met: (a) the rights were exercised exclusively for the purpose of harming another or with the predominant motive to cause harm; (b) an absence of a serious and legitimate interest that is worthy of judicial protection; (c) using the right in violation of moral rules, good faith or elementary fairness; or (d) exercising the right for a purpose other than for which it was granted. *Deus v. Allstate Ins. Co.*, 15 F.3d 506, 520 (5th Cir.1994)(quotation omitted).

111. As detailed by the factual allegations herein, the Inspector General wrongfully exercised its right to investigate Petitioner without jurisdiction to do so.

112. Moreover, given that Petitioner had no contract with a state entity, the Inspector General had no serious or legitimate interest to investigate him.

113. The Inspector General has no authority to obtain a search warrant or to conduct a criminal investigation on its own.

114. Furthermore, the Inspector General failed to comply with its own statute when obtaining a subpoena duces tecum and wrongfully used such subpoena to obtain Petitioner's medical records.

115. The Inspector General went forward with its investigation even after Petitioner raised concerns about the Inspector General's jurisdiction and authority to investigate him.

116. The Inspector General started its investigation at the request of a local authority who had political motive to harm Petitioner.

117. On information and belief, the Inspector General unlawfully shared the results of its investigation with third parties because records obtained by the Inspector General were introduced into evidence at United States Civilian Board of Contract Appeals and Petitioner's medical records were shared with members of the Livingston Parish Council.

118. Based on the facts alleged herein and the foregoing, the Inspector General's investigation constituted an abuse of right.

119. Similarly, the essential elements of an abuse of process claim are "(a) the existence of an ulterior purpose; and (b) a willful act in the use of the process not in the regular prosecution of the proceeding." *Duboue v. City of New Orleans*, 909 F.2d 129, 132 (5th Cir.1990).

120. As detailed by the foregoing, the Inspector General commenced an investigation without jurisdiction to do so and obtained a search warrant without the authority to do so.

121. These actions were taken after Petitioner raised concerns about the propriety of the Inspector General's investigation and resulted in unlawfully sharing fruits of the investigation with third parties.

122. At a minimum, based on the foregoing allegations outlined herein, Petitioner has outlined that the Inspector General has used its statutory rights in violation of moral rules, good faith or elementary fairness.

123. Accordingly, Defendants are also liable to Petitioner for the damages he has incurred as result of their abuse of right and process.

### ***CLAIM III*** **TORTIOUS VIOLATIONS OF PRIVACY**

124. Petitioner re-alleges and incorporates by reference all previous allegations as if copied in their entirety herein.

125. In the course of its investigation, the Inspector General wrongfully obtained Petitioner's medical records and shared them with members of the Livingston Parish Council.

126. The Inspector General also wrongfully accused Petitioner of tanning and undergoing medical procedures when he did not do so.

127. This information was released to paint Petitioner in false light and caused his privacy to be needlessly invaded.

128. The Inspector General's conduct was both unreasonable and it seriously interfered with Petitioner's privacy interest.

129. Accordingly, Defendants are also liable to Petitioner for the damages he has incurred as result of their abuse of right and process.

***CLAIM IV***  
**DEFAMATION**

130. Petitioner re-alleges and incorporates by reference all previous allegations as if copied in their entirety herein.

131. As detailed in Paragraphs 43 through 62 herein, Ms. Webb made false statements that wrongfully accused Petitioner of illegal acts at a hearing in the 21<sup>st</sup> Judicial District Court on February 23, 2015.

132. Such statements were republished in the media and were defamatory *per se*.

133. Notwithstanding that such words were defamatory *per se*, they were false and communicated with malice and reckless disregard for the truth.

134. Petitioner has suffered substantial injury as a result of these allegations, including damage to his reputation, and the other damages set forth herein.

135. Accordingly, Defendants are also liable to Petitioner for the damages he has incurred as a result of such defamation.

***CLAIM V***  
**GENERAL NEGLIGENCE**

136. Petitioner re-alleges and incorporates by reference all previous allegations as if copied in their entirety herein.

137. The Inspector General has a duty to conform its investigations to certain standards.

138. The Inspector is governed by the Principles and Standards for Offices of Inspector General as promulgated by the Association of Inspector Generals.

139. Although La. R.S. 47:220.24(L) may provide that the OIG “shall do all things necessary to carry out the functions set forth [in the statute],” it is understood that such functions must be carried out lawfully and competently.

140. By way of reference, the Principles and Standards for Offices of Inspector General is a 52-page document that outlines a host of quality standards and guidelines that govern operations and reporting exactly like that attempted by the Inspector General here.

141. The standards are intended to assist agencies to focus their investigations on obtaining sufficient factual evidence for use in determining whether criminal, civil, or administrative actions should be initiated against the specific parties for their actions or lack of actions.

142. Critically, the document makes clear that if the Inspector General—an investigatory agency by statute—identifies evidence of improper action or inaction, its duty is to report such findings to the appropriate prosecuting authority for further action to be taken.

143. The guidelines require that due professional care should be used in conducting investigations and in preparing accompanying reports.<sup>1</sup>

144. According to the governing standards, due professional care requires:

Standards - OIGs and their investigators should follow the Associations professional standards and comply with applicable standards of conduct.

Thoroughness - Investigations should be conducted in a diligent and complete manner, and reasonable steps should be taken to ensure that sufficient relevant evidence is collected; pertinent issues are sufficiently resolved; and appropriate criminal, civil, contractual, or administrative remedies are considered.

Legal Requirements - Investigations should be initiated, conducted, and reported in accordance with (a) all applicable laws, rules, and regulations; (b) guidelines from applicable prosecutorial authorities; and (c) internal agency policies and procedures. Investigations will be conducted with due respect for rights and privacy of those involved.

Appropriate Techniques - Methods and techniques used in each investigation should be appropriate for the circumstances and objectives.

Objectivity - Evidence should be gathered and reported in a fair, unbiased manner in an effort to determine the validity of alleged improprieties or evaluate the likelihood of violations of statutes, rules, or regulations.

Ethics - At all times the actions of the OIG investigators should conform with the high standards expected of OIG staff.

Timeliness - Investigations must be conducted in a timely manner while recognizing the individual complexities of each investigation.

Accurate and Complete Documentation - Investigative findings, conclusions, and outcomes (such as indictments, convictions, and recoveries) should be supported by adequate documentation, including investigator notes, court orders of judgment and commitment, suspension or debarment notices, settlement agreements, and other documents) in the case file.

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<sup>1</sup> See p. 26, Quality Standards for Investigators.



Coordination - Appropriate OIG staff should coordinate investigations with appropriate officials. In cases where civil or administrative actions are necessary, appropriate OIG staff should coordinate actions with prosecutors and other appropriate officials

145. As outlined in the foregoing factual allegations, Mr. Street, Mr. Phares, and Ms. Webb breached their duty to conduct the investigation of Mr. Delahoussaye with due professional care.

146. As a result of that breach, the Defendants have caused Petitioner to suffer damages he would not have otherwise suffered.

147. Accordingly, Petitioner asserts that the Defendants are also liable for his damages pursuant to La. Civil Code art. 2315.

***CLAIM VI***  
**CONSTITUTIONAL CLAIMS**

148. Petitioner re-alleges and incorporates by reference all previous allegations as if copied in their entirety herein.

149. At all times pertinent hereto, Mr. Phares and Ms. Webb were acting under color of authority within the meaning and intent of 42 U.S.C. §1983.

150. As detailed by the foregoing, Mr. Phares and Ms. Webb went forward with their investigation without jurisdiction to do so.

151. At all times hereto, Petitioner enjoyed clearly established rights to his good name, reputation, and liberty guaranteed to him under the 14<sup>th</sup> Amendment of the United States Constitution, in addition to clearly established rights to due process also guaranteed to him under the 14<sup>th</sup> Amendment of the United States Constitution.

152. As a result of the actions of Ms. Webb and Mr. Phares, Plaintiff was arrested and summonsed to appear in court and he was wrongfully deprived of his freedom also violating rights secured to him under the 4<sup>th</sup> Amendment of the United States Constitution.

153. Specifically, as outlined in the foregoing, the Inspector General is not authorized by statute to conduct its own criminal investigations, or to obtain search warrants to further its investigations.

154. As outlined herein, Ms. Webb wrongfully obtained a search warrant and subpoenas duces tecum in breach of well-established law.

155. Mr. Phares, as chief investigator, participated in and/or failed to properly supervise Ms. Webb.

156. As a result of violating well-established laws, Mr. Phares and Ms. Webb wrongfully obtained Petitioner's medical records and a multitude of computers and business records that made it impossible for C-Del and Petitioner to conduct business.

157. Notably, Mr. Phares and Ms. Webb never reviewed or used the information wrongfully seized from Petitioner's home in support of the Inspector General's purported investigation.

158. The actions of Mr. Phares and Ms. Webb caused Petitioner to lose work and wrongfully deprived him of property and his ability to perform his work, along with depriving him of his right to privacy and painting him in a false light.

159. Accordingly, the actions of Mr. Phares and Ms. Webb have impaired and deprived Petitioner of his clearly established rights, thereby making the Defendants liable to Petitioner for damages pursuant to 42 U.S.C. §1983.

160. Petitioner also asserts that Defendants herein are also liable to him for attorney's fees pursuant to 42 U.S.C. §1988.

**CLAIM VIII**  
**RESPONDEAT SUPERIOR**

161. Petitioner re-alleges and incorporates by reference all previous allegations as if copied in their entirety herein.

162. Defendants' actions were made in the course and scope of their employment and were made with actual malice towards Petitioner.

163. As the employer of these individuals, the Office of Inspector General is liable to Petitioner for the tortious actions of its employees.

164. As general rule, slander, under Louisiana law, constitutes individual tort that does not give rise to solidary liability; however, where employee makes slanderous statement within course and scope of his employment, the employer is solidarily liable.

*Manale v. City of New Orleans, Dept. of Police*, C.A.5 (La.) 1982, 673 F.2d 122.

165. Moreover, Louisiana Civil Code article 2320 provides for master-servant tort liability, also known as vicarious liability, in pertinent part as follows: “Masters and employers are answerable for the damage occasioned by their servants and overseers, in the exercise of the functions in which they are employed.

166. Inasmuch, the State of Louisiana, through the Office of Inspector General, is also liable to Petitioner for the tortious actions of its employees sued upon herein.

### **DAMAGES**

167. As a result of the foregoing offenses, Petitioner has lost income that he would have otherwise earned.

168. Moreover, Petitioner’s reputation has been tarnished as a result of the allegations surrounding his indictment and prosecution.

169. In addition, by seizing all computers, servers and equipment, C-Del was forced to cease operations due to the seizure of crucial and vital equipment necessary to sustain and support its business.

170. These damages have also impaired his ability to gain other employment and consulting opportunities that he would have otherwise obtained.

171. Petitioner has also suffered personal humiliation, embarrassment, mental anguish, anxiety, and hurt feelings and seeks all compensatory damages available to him under the law.

172. Accordingly, Petitioner avers that Defendants are liable to him for all damages that he has occurred as a result of their wrongful conduct.

### **GENERAL AVERMENTS**

173. Petitioner is seeking compensation for damages in excess of \$50,000, and, therefore, requests a jury trial pursuant to Louisiana Code of Civil Procedure Art. 1731.

**WHEREFORE**, Petitioner prays that, after due proceedings be had, there be judgment rendered herein in its favor and against Defendants, declaring the Defendants are to be liable and indebted unto Petitioner for:

- a. all damages as are just and reasonable under the circumstances,
- b. judicial interest from the date of her initial judicial demand;

- c. the award of costs and expenses to the fullest extent authorized by law; and
- d. all such other and further relief which the Court deems necessary and proper and that may be just and reasonable under the circumstances of this matter, whether in equity, or otherwise.

Respectfully submitted,

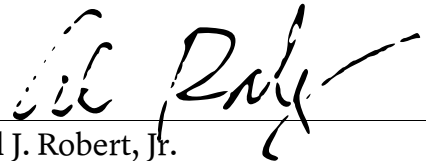


Al J. Robert, Jr., No. 29401  
LAW OFFICE OF AL J. ROBERT, JR., LLC  
757 St. Charles Avenue, Suite 301  
New Orleans, Louisiana 70130  
Tel: 504-309-4852  
Fax: 877-765-2529  
ajr@ajrobert.com

**ATTORNEY FOR PETITIONER**

**CERTIFICATE OF SERVICE**

I hereby certify that on August 22, 2016, the foregoing was served on counsel for the Inspector General via electronic mail.



Al J. Robert, Jr.