

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF COLORADO

Civil Action No. 1:15-cv-00166-WJM-NYW

TAMMY FISHER

Plaintiff,

v.

BRIAN KOOPMAN, Detective in the Loveland, Colorado Police Department in his official and individual capacity;  
LUKE HECKER, Chief of Loveland Police Department, in his official and individual capacity,

Defendants.

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**SCHEDULING ORDER**

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**1. DATE OF CONFERENCE  
AND APPEARANCES OF COUNSEL AND *PRO SE* PARTIES**

The Scheduling Conference is currently set for April 8, 2015 at 2:30 p.m. before Magistrate Judge Nina Y. Wang, Courtroom C-205, Byron G. Rogers United States Courthouse, Denver, Colorado.

Parties and Counsel are as follows:

**Attorney for Plaintiff Tammy Fisher**

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**Attorneys for Defendants Brian Koopman & Luke Hecker**

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**2. STATEMENT OF JURISDICTION**

Plaintiff alleges this action arises under the Constitution and Laws of the United States and is brought pursuant to Title 42 U.S.C. § 1983. Jurisdiction therefore would be conferred on this Court pursuant to Title 28 U.S.C. § 1331, assuming a cognizable federal claim exists. Plaintiff also alleges that jurisdiction supporting Plaintiffs' claim for attorneys fees is conferred by Title 42 U.S.C. § 1988.

Venue is proper in the District Court of Colorado pursuant to Title 28 U.S.C. §1331. All of the alleged events contained herein involving Plaintiff occurred within the State of Colorado.

This case was removed to this Court pursuant to Title 28 U.S.C. § 1331, 1441 and 1446, and F.R.C.P. 81(c).

**3. STATEMENT OF CLAIMS AND DEFENSES**

**a. Plaintiff:**

Plaintiff makes a number of claims against the Defendants, to include a single claim under Title 42 U.S.C. § 1983. The balances of Plaintiff's claims are based on

Colorado state law. Plaintiff makes her federal claim under § 1983 asserting a procedural violation of her constitutional rights under the Fourteenth Amendment to the U.S. Constitution. The federal claim and the balance of her state tort claims are based on an invalid criminal investigation initiated by Detective Brian Koopman of the Loveland, Colorado Police Department. Koopman acted without probable cause and submitted an affidavit containing false statements thereby depriving Plaintiff of her right to due process. Koopman's conduct was reckless, malicious and unprofessional and done with full knowledge of the consequences. Koopman acknowledged to fellow officers that he felt Plaintiff would suffer damages and that he did not believe Plaintiff committed the acts he alleged. This lawless conduct of Koopman caused Plaintiff to suffer damages.

Plaintiff also alleges that Defendant Luke Hecker, as the Chief of Police of the Loveland Police Department, failed to adequately train and supervise Koopman and was negligent in hiring, retaining and supervising Koopman. Hecker was aware of the unprofessional and illegal conduct of Koopman in that Koopman has been involved in similar illegal conduct, both before and after this incident.

**b. Defendants:**

The Defendants deny the allegations and claims contained in Plaintiff's complaint. The Defendants aver that the law enforcement actions taken were reasonable, appropriate and in compliance with the law. The Defendants aver that Plaintiff was never charged with a crime because, although the District Attorney's office believed probable cause existed, the statute of limitation had run. The Defendants further aver that Plaintiff has not and cannot prove the claims alleged and that some of her claims are inappropriately duplicative.

The Defendants further assert the following Affirmation Defenses:

1. Some or all of Plaintiff's claims fail to state a claim upon which relief can be granted against Defendants.
2. Defendants, sued in their individual capacity, are entitled to qualified immunity.
3. Plaintiff's claims based upon state law are barred and/or governed by the Colorado Governmental Immunity ACT, C.R.S. §24-101, *et seq.*
4. Plaintiff may lack standing to make some or all of her claims.
5. To the extent applicable, Defendants acted with probable cause and/or articulable, reasonable suspicion, as applicable.
6. Defendants acted on the advice of a prosecuting attorney.
7. Defendants exercised their legal rights in a permissible manner.
8. Any statements made by Defendants were true or substantially true.
9. Statements made by Defendants are protected by various privileges including, but not limited to, common interest, communications to persons who may act in the public interest, and communication by a police officer required or permitted in the performance of his official duties.
10. To the extent that common law negligence claims are being made against one or both Defendants, the Defendants assert the defenses of comparative negligence and/or assumptions of the risk pursuant to statute.
11. Plaintiff may have failed to mitigate her damages, if any she has, as required by law.
12. Defendants exercised their rights under the First Amendment.
13. Some of Plaintiffs claims may be barred by the applicable statute of limitations.

#### **4. UNDISPUTED FACTS**

The following facts are undisputed:

1. The Eighth Judicial District Attorney's office claims to have not pursued a charge of second degree official misconduct against Plaintiff solely because of statute of limitation issues.
2. Plaintiff had contact with Stan and Lisa Romanek beginning in 2012.
3. Plaintiff took a case report from Mr. Romanek in June, 2012.
4. Plaintiff exchanged text messages with Lisa Romanek on or about March 27 and 28, 2013.
5. Plaintiff and Lisa Romanek exchanged text messages on or about April 3, 2013.
6. Plaintiff and her husband ate dinner with Stan and Lisa Romanek on or about April 3<sup>rd</sup> or 4th, 2013.
7. Lisa Romanek advised law enforcement that Plaintiff relayed information to Mrs. Romanek regarding an investigation into her husband, Stan Romanek.
8. Plaintiff voluntarily resigned her employment with the City of Loveland on or about October, 2012.

#### **5. COMPUTATION OF DAMAGES**

##### **Plaintiff:**

Plaintiff claims appropriate compensatory damages, including but not limited to, emotional distress, loss of reputation, humiliation, and pain and suffering on all claims allowed by law in an amount to be determined at trial. Plaintiff further claims all economic losses on all claims also allowed by law; punitive damages as allowed by law

as determined at trial; attorney fees and all allowable costs of this action and any other relief this court may deem just and proper.

Plaintiff will submit an updated computation of damages no later than April 24, 2015.

**Defendants:**

Defendants do not currently seek damages, but do reserve the right to seek attorney fees and cost.

**6. REPORT OF PRECONFERENCE DISCOVERY AND MEETING UNDER  
FED.R.CIV.P. 26(f)**

a. The parties conducted a meeting pursuant to Fed. R. Civ. P. 26(f) on March 13, 2015 for purposes of this scheduling order.

b. Participants were:

**Attorney for Plaintiff:**

Randall R. Meyers

**Attorney for Defendants Brian Koopman & Luke Hecker:**

Marni Nathan Kloster

c. The Parties do not propose any changes in the timing or requirement of Disclosures pursuant to Rule 26(a)(1).

d. The parties propose that disclosures pursuant to Rule 26(a)(1) be exchanged on or before March 30, 2015.

e. The parties do not agree, at this time, to conduct any informal discovery, including joint interviews with potential witnesses, exchange of documents, and joint meetings with clients to discuss settlement. The parties are amenable to further discussion if deemed appropriate.

f. There has been no discussion regarding reducing litigation or discovery costs,

other than the parties agreeing to use unified exhibit numbering system at deposition.

- g. The Parties do not believe the claims will involve extensive electronically stored information.
- h. The Parties agree to explore settlement, as appropriate.

## **7. CONSENT**

All parties have not consented to the exercise of jurisdiction of a magistrate judge.

## **8. DISCOVERY LIMITATIONS**

- a. Modifications that any party proposes to the presumptive numbers of depositions or interrogatories contained in the Federal Rules:

~~No modifications are requested. The parties are willing to comply with the presumptive number~~Each party is permitted to serve up to twenty-five (25) interrogatories, including discrete subparts. Each party may take up to ten (10) deposition, inclusive of testifying experts.

- b. Limitations that any party proposes on the length of depositions:

The length of each deposition for any individual shall be limited to one day of 7 hours.

- c. Limitations that any party proposes on the number of requests for production and/or requests for admission:

Each party may propound 25 requests for production and 25 requests for admission to each opposing party, exclusive of requests for admission directly solely to authentication of documents.

- d. Other Planning or Discovery Orders

None.

## **9. CASE PLAN AND SCHEDULE**

- a. Deadline for Joinder of Parties and Amendment of Pleadings: May 22, 2015.
- b. Discovery Cut-Off: ~~The Parties propose discovery conclude on October 9, 2015.~~

c. Dispositive Motion Deadline: November 23, 2015.

d. Expert Witness Disclosure:

1. Plaintiff may call experts in any of the following fields: police practice and procedures, investigative tactics, accounting and/or economics, medical and/or mental health and digital Forensics.

Defendant may call experts in any of the following fields: police practice and procedures, investigative tactics, accounting and/or economics, medical and/or mental health and digital Forensics.

2. The Parties agree to limit the number of testifying experts to three (3) each.

3. The parties shall designate all experts and provide opposing counsel and any pro se parties with all information specified in Fed. R.Civ. P. 26 (a) on or before August 11, 2015.

4. The parties shall designate all rebuttal experts and provide opposing counsel and any pro se parties with all information specified in Fed. R.Civ. P. 26(a) on or before September 11, 2015.

e. Deposition Schedule: TBD

f. ~~The parties propose submission of written interrogatories any time prior to 33 45 days before the discovery cut-off date.~~

g. The parties propose submission of requests for production and admissions any time prior to ~~33~~ 45 days before the discovery cut-off date.

## **10. DATES FOR FURTHER CONFERENCES**

a. Status conferences will be held in this case at the following dates and times:

b. A final pretrial conference will be held in this case on February 25, 2016 at 11:00 o'clock a.m. A Final Pretrial Order shall be prepared by the parties and submitted to the

court no later than seven (7) days before the final pretrial conference.

#### **11. OTHER SCHEDULING MATTERS**

a. Identify those discovery or scheduling issues, if any, on which counsel after good faith effort, were unable to reach an agreement.

None.

b. Anticipated length of trial and whether trial is to the court or jury:

The parties anticipate that the jury trial in this case will take 5 days of trial time to complete.

c. Identify pretrial proceedings, if any, that the parties believe may be more efficiently or economically conducted in the District Court's facility at 212 N. Wahsatch Street, Colorado Springs Colorado 80903-3476; Wayne Aspinall U.S. Courthouse/Federal Building, 402 Rood Avenue, grand Junction, Colorado, 81501-2520; or the U.S. Courthouse/Federal Building, 103 Sheppard Drive, Durango, Colorado 81303-3439.

There are no pretrial proceedings that the parties believe may be more efficiently or economically conducted in a District Court facility outside of Denver, Colorado.

#### **12. NOTICE TO COUNSEL AND PRO SE PARTIES**

The parties filing motions for extensions of time or continuances must comply with D.C.COLO.LCivR 6.1(d) by submitting proof that a copy of the motion has been served upon the moving attorney's client, all attorneys of record, and all *pro se* parties.

Counsel will be expected to be familiar and to comply with the Pretrial and Trial Procedures or Practice Standards established by the judicial officer presiding over the trial of the case.

With respect to discovery disputes, parties must comply with D.C.COLO.LCivR7.1(a).

Counsel and unrepresented parties are reminded that any change of contact information must be reported and filed with the courts pursuant to the applicable local rule.

**13. AMENDMENTS TO SCHEDULING ORDER**

The scheduling order may be altered or amended only upon a showing of good cause.

DATED this 8<sup>th</sup> day of April, 2015.

BY THE COURT:

s/ Nina Y. Wang

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United States Magistrate Judge

**APPROVED:**

**Attorney for Plaintiff Tammy Fisher**

s/ Randy Meyers

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