

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF FLORIDA
FORT LAUDERDALE DIVISION**

CASE NO.:

SFR SERVICES L.L.C.
and RICKY MCGRAW,

Plaintiffs,

v.

TOWER HILL INSURANCE GROUP, LLC,
TOWER HILL PRIME INSURANCE COMPANY,
ZINOBER, DIANA & MONTEVERDE, P.A.,
MICHAEL MONTEVERDE, CARL NEMETH,
GLEN CLASEN, and REBECCA PRINCE-SWIFT,

Defendants.

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COMPLAINT

Plaintiffs, Ricky McGraw (“R. McGraw”) and SFR Services L.L.C. (“SFR” and collectively, “Plaintiffs”), by their undersigned counsel, sue Defendants, Tower Hill Insurance Group, LLC (“THIG”), Tower Hill Prime Insurance Company (“TH Prime” and together with “THIG”, “Tower Hill”), Zinober, Diana & Monteverde, P.A. (“Zinober”), Michael Monteverde (“Monteverde”), Carl Nemeth (“Nemeth”), Glen Clasen (“Clasen”), and Rebecca Prince-Swift (“Swift” and collectively “Defendants”), and allege:

INTRODUCTION

1. This is a case involving a coordinated and calculated effort by Tower Hill, Zinober, Monteverde, Nemeth, Clasen, Swift, and the Florida Department of Financial Services (“DFS”) to cause R. McGraw – the owner of SFR and a licensed general contractor – to be criminally prosecuted for a fraudulent insurance claim and grand theft in connection with the Rookery Pointe Homeowners Association (“Rookery Pointe”) Hurricane Irma insurance matter.

2. To be clear and contrary to Swift’s probable cause affidavit, R. McGraw (a) did not have any personal involvement with determining the Rookery Pointe permit valuations; (b) did not sign the AOB with Rookery Pointe; (c) did not hire any subcontractors; (d) did not pay any subcontractors; (e) did not have any involvement with the creation or submission of estimates to Tower Hill; (f) did not negotiate the claim with Tower Hill; and (g) most significantly, did not collect any funds personally from Tower Hill. The entire probable cause affidavit was essentially a conflation of SFR and R. McGraw, wrongfully treating both the same when, in reality, this is simply not the case and insufficient grounds to establish probable cause as a matter of law.

3. The players are as follows: TH Prime was the insurance carrier; THIG is the managing general agent for TH Prime since the carrier does not have any employees; Zinober was Tower Hill's counsel in all matters regarding SFR; Monteverde is an equity partner at Zinober; Nemeth leads THIG's Special Investigations Unit (SIU) regarding suspected insurance fraud; Clasen is a Lieutenant with DFS' Bureau of Insurance Fraud; Swift is a Detective with DFS' Bureau of Insurance Fraud; and Patrick Clinton ("Clinton") was a Detective with DFS' Bureau of Insurance Fraud. Rookery Pointe's insurance claim submitted to Tower Hill Prime was assigned Claim No. CLM0009297 (the "Rookery Pointe Claim").

4. Against this backdrop was the incessant effort by Tower Hill, Zinober, Monteverde, Nemeth, Clasen, Swift, and DFS to use a civil-RICO action lacking in merit and pending in Martin County, Florida as a discovery tool to aid in the criminal prosecution of R. McGraw and the destruction of SFR. The civil case was styled *Tower Hill Signature Insurance Company et al. v. SFR et al.*, Case No. 2020000409CA (the "State Court Action").

5. Critically, R. McGraw's criminal prosecution stemmed from 2 related DFS investigations involving the same Rookery Pointe Claim. The first investigation was initiated in 2021 by Tower Hill, who reported the purported fraud to DFS. During the first investigation, Tower Hill, Nemeth, Zinober, Monteverde, and DFS (including Det. Patrick Clinton and Lt. Glen Clasen) compiled and presented extensive documents to the State Attorneys' Office for Lee County regarding the Rookery Pointe Claim.

Significantly, the 2021 investigation concluded with a finding that Tower Hill's dispute with SFR was civil in nature and did not constitute a crime.

6. Among the documents reviewed by Tower Hill, Nemeth, Zinober, Monteverde, and DFS (including Det. Patrick Clinton and Lt. Glen Clasen) regarding the 2021 Rookery Pointe investigation were SFR's estimate for approximately \$414,000 (which was subsequently decreased), the permit application for about \$233,000, and a spreadsheet listing \$79,000 as the invoice from Castilla Roofing (SFR's subcontractor). Additionally, the estimates included multiple trades other than roofing items. Swift also participated in the 2021 investigation. The goal for them was to collaborate together and act in concert to criminally prosecute R. McGraw, and to destroy SFR's business.

7. Upon information and belief, Defendants possessed and concealed material estimates prior to initiating and causing criminal charges to be brought against R. McGraw. One was from an appraiser related to the appraisal of the Rookery Pointe Claim, and another was prepared by AAP Claims. Both were both higher than the estimate submitted by SFR regarding the Rookery Pointe matter. A third estimate was prepared by Catastrophe Response Unit (CRU), and it was "in line" with SFR's estimate. Upon information and belief, Defendants concealed and conveniently omitted these estimates from consideration regarding the below criminal investigations in an effort to charge and criminally prosecute R. McGraw.

8. The head attorney of the Economic Crimes Unit and the State Attorneys' Office Investigator determined in 2021 that probable cause did not exist and there was "no criminal violation" regarding the Rookery Pointe Claim. The State Attorneys'

Office reasoned that the matter was a simple pricing dispute – a disparity between SFR’s estimate and its subcontractor’s pricing that could be handled through the civil court system. Thereafter, DFS closed the matter.

9. Tower Hill, Nemeth, Zinober, Monteverde, and Clasen were collectively determined to cause R. McGraw to be criminally prosecuted for the Rookery Pointe Claim, and they would not give up on the endeavor. Around 2 years later and upon information and belief, Clasen initiated a 2023 DFS investigation regarding the Rookery Pointe Claim with the assistance of Tower Hill, Nemeth, Zinober, and Monteverde.

10. The alleged fraud tip was apparently submitted by Clasen listing a Rookery Pointe homeowner (Joe Namath) as the front person for the complaint. Significantly, Joe Namath later testified that he never initiated an investigation with DFS and DFS was not authorized to use his name at all.

11. Clasen assigned the 2023 Rookery Pointe investigation to Swift. Critically, he did not inform her about the specifics of the 2021 investigation or that the State Attorneys’ Office concluded no crime occurred. The only alleged pricing dispute difference was that Defendants obtained a \$99,000 invoice from Castilla Roofing and Swift used a Proof of Loss for approximately \$314,000.

12. All other facts remained the same from the 2021 DFS investigation that concluded in a finding by the State Attorneys’ Office of no probable cause and no crime committed. Most importantly, the purported pricing discrepancy that was the subject of the 2023 investigation was significantly less than the alleged pricing disparity from the 2021 investigation that culminated in a case closure due to the finding that no criminal violation occurred.

13. Tower Hill, Zinober, Monteverde, Nemeth, Clasen, and Swift all participated and encouraged the State Attorneys' Office to prosecute R. McGraw in 2023 to further their goal of ousting R. McGraw from the industry, and destroying SFR's business.

14. In fact, it appears the decision to investigate and cause R. McGraw to be criminally prosecuted in 2023 was also motivated by high-ranking DFS personnel. In fact, when R. McGraw was arrested, then CFO of DFS, Jimmy Patronis, issued a press release stating the following:

Press Release

Contact our Office of Communications
Communications@MyFloridaCFO.com | 850.413.2842

CFO Patronis Announces Arrest of Lee County Contractor in \$214,000 Fraud Scheme

12/4/2023

For Immediate Release: Monday, December 4, 2023

Contact: Office of Communications, Communications@MyFloridaCFO.com, 850.413.2842

CFO Patronis Announces Arrest of Lee County Contractor in \$214,000 Fraud Scheme

LEE COUNTY, Fla. – Today, Chief Financial Officer (CFO) Jimmy Patronis announced the arrest of independent contractor Ricky McGraw, owner of SFR Services (SFR), for his alleged involvement in intentionally inflating and overbilling a roof replacement claim to defraud Tower Hill Insurance Company (Tower Hill) out of more than \$214,000. McGraw was booked into Lee County jail on charges of Insurance Fraud and Grand Theft, both first-degree felonies.

CFO Jimmy Patronis said, "We have seen time and time again the incredible lengths that bad actors will go to make a buck off a storm victim. This adjuster allegedly colluded with a roofing company to overinflate a roof's replacement cost to pocket more than \$214,000 in insurance proceeds. This type of fraud scheme is especially despicable, as it's a significant driver in rising premium costs impacting every single policyholder in our state. When Florida policyholders open their homeowner's insurance renewal notices and see outrageous increases, they have guys like this to thank, and this is a perfect example of the kind of scum that try to come between you and your insurance claim to enrich themselves. I appreciate our dedicated insurance fraud detectives for their diligence in this case and the Lee County State Attorney's Office for bringing this fraudster to justice. Throughout the country, there are good insurance companies and bad ones; there are good insurance adjusters and bad ones. We will continue to hold the bad actors accountable to Floridians and do everything we can to keep policyholders first."

15. In fact, Nemeth and Swift specifically discussed the political climate as justification for the criminal charges that were ultimately filed against R. McGraw. The criminal prosecution lasted over 2 years and occurred during a time period (2023-2026) where SFR's revenue and profits plummeted, thereby resulting in the destruction of SFR's business. Several vendors and referral sources informed SFR that due to R. McGraw's criminal prosecution, the parties could not participate in business together.

16. Extensive discovery occurred in the criminal case where many witnesses gave conflicting testimony or recanted prior statements altogether. Swift even testified that she was aware of the 2021 investigation involving the same Rookery Pointe Claim. Yet, she omitted the findings from that inquiry in her affidavit in support of R. McGraw's prosecution. Notably, the 2021 investigation concluded no probable cause existed and no crime occurred. Indeed, Clasen reviewed and notarized Swift's 2023 probable cause affidavit that was prepared with information supplied by Tower Hill, Zinober, Monteverde, Nemeth, and Clasen.

17. Tower Hill, Zinober, Monteverde, Nemeth, as well as DFS (acting through Swift and Clasen) chose to concoct a false set of allegations and charges against R. McGraw. At all times, these parties knew the allegations and charges were false, especially given the conclusions reached in the 2021 Rookery Pointe investigation. Their goal was to persuade the State Attorneys' Office to prosecute R. McGraw. Upon information and belief, the State Attorneys' Office was not aware Tower Hill, Zinober, Monteverde, Nemeth, as well as Swift and Clasen, knew at all times the purported facts and charges against R. McGraw were false.

18. Despite the collapse of the 2021 Rookery Pointe investigation, Tower Hill, Zinober, Monteverde, Nemeth, Swift, and Clasen were incessant on continuing to push a false narrative. Despite the prior failures, they nonetheless continued to collaborate and act in concert to successfully persuade the State Attorneys' Office to file charges against R. McGraw for serious felony crimes. In total, R. McGraw faced up to 60 years in prison despite not committing any crime. The criminal charges were orchestrated by Tower Hill, Zinober, Monteverde, Nemeth, as well as DFS (acting through Swift and Clasen), and were based on false facts. To be sure, the criminal case should never have been filed in the first place because no probable cause ever existed.

19. DFS' 2023 investigation that led to R. McGraw's arrest and the filing of criminal charges was substantially assisted by Tower Hill, Zinober, Monteverde, Nemeth, Clasen, and Swift. The arrest and prosecution deprived R. McGraw of his liberty. These events were also financially detrimental to R. McGraw's reputation in the roofing industry, and ultimately destroyed SFR's business.

20. To be sure, R. McGraw was arrested, taken into police custody, detained, and jailed based on the above alleged crimes. R. McGraw also had to pay a bond and incurred attorneys' fees during this endeavor. Tower Hill, Zinober, Monteverde, Nemeth, Swift, and Clasen all collaborated and acted with an evil intent or callous or reckless indifference to federally protected rights, which can also be inferred based on the alleged conduct.

21. During the utterly fallacious 2023 investigation, it is evident that DFS failed to properly supervise Swift and Clasen and was at least negligent in the 2023 R. McGraw investigation.

22. Part of the duties of DFS (including Swift and Clasen) are to investigate potential instances of insurance fraud and to refer such cases to the Office of the State Attorney for the applicable county for review and prosecution. Instead of targeting individuals that are engaging in insurance fraud, Swift and Clasen, with the substantial assistance of Tower Hill, Zinober, Monteverde, and Nemeth, caused DFS to focus significant resources on R. McGraw, individually, to falsely accuse him of participating in an insurance fraud scheme regarding the Rookery Pointe Claim. DFS also let Swift and Clasen run amok regarding the R. McGraw 2023 Rookery Pointe investigation, which was itself tortious.

23. Tower Hill, Zinober, Monteverde, Nemeth, and DFS (through Swift and Clasen) constantly and rather obsessively relayed information to the prosecuting authorities regarding R. McGraw's criminal case even though they gave contradictory testimony throughout the criminal proceedings, and several witnesses recanted their testimony. After R. McGraw's criminal prosecution lasted over 2 years and destroyed Plaintiffs' business, the State dismissed and abandoned the criminal case 1 week prior to trial citing a lack of evidence. *See **Exhibit 1***.

24. The criminal case should never have been filed in the first place and resulted in a final termination on the merits because the State learned no evidence existed to support the continued prosecution of the matter.

25. DFS was at least negligent in its investigation and failure to properly supervise its personnel. Tower Hill, Zinober, Monteverde, Nemeth, Swift, and Clasen are liable to R. McGraw and SFR for malicious prosecution and conspiracy to commit malicious prosecution. Due to the wrongful conduct, R. McGraw incurred substantial damages, which include the attorneys' fees he incurred and paid to defend himself and the lost income derived from SFR. Additionally, SFR incurred substantial damages because the criminal case destroyed SFR's business.

26. DFS can be properly added to this action after six months has passed since R. McGraw and SFR sent the Pre-Suit Notice of Claim Pursuant to Florida Statute 768.28 (the "Notice") to DFS in connection with this action. *See* FLA. STAT. § 768.28.

27. The Notices were delivered to DFS on July 27, 2026, and therefore, DFS cannot be joined in this action until January 27, 2027 (the expiration of six-months after delivery).

PARTIES

28. At all times material hereto, Plaintiff SFR was and is a Florida limited liability company duly registered and authorized to do business throughout the State of Florida, with its principal address located in Martin County, Florida. SFR has one member, Ricky McGraw, a resident and domiciliary of Puerto Rico. Ricky McGraw's domicile is in Dorado, Puerto Rico because he has a true, fixed permanent home, and principal establishment in Puerto Rico and to which he intends to return whenever he is absent from it.

29. Plaintiff R. McGraw is a resident and domiciliary of Puerto Rico and his domicile is in Dorado, Puerto Rico. R. McGraw has a true, fixed permanent home, and principal establishment in Puerto Rico and to which he intends to return whenever he is absent from it.

30. Defendant THIG is a Florida limited liability company with its principal place of business in Alachua County, Florida. The Members of THIG are (i) Tower Hill Insurance Group II, Inc. (“THIGII”), a Florida corporation with its principal place of business in Alachua County, Florida; (ii) RRV U.S. Holdings, LLC (“RRV”), a Bermuda company with no members domiciled in Puerto Rico; (iii) Alachua Capital Corporation, a Florida corporation with its principal place of business in Alachua County, Florida; and (iv) ICS Software Acquisition, Inc., a Florida corporation with its principal place of business in Alachua County, Florida.

31. Defendant TH Prime is a Florida corporation with its principal place of business located in Alachua County, Florida. TH Prime has no employees and at all times acts and acted (regarding the conduct at issue in this lawsuit) through THIG, its Managing General Agent.

32. Defendant Zinober is a Florida incorporated professional association – a Florida profit corporation in and pursuant to Florida law – with its principal place of business in St. Petersburg, Florida, which is located in Pinellas County, Florida. Zinober has offices in Tampa, Florida and Fort Lauderdale, Florida as well. None of the shareholders are domiciled in Puerto Rico. A substantial part of the conduct

asserted herein arose from Zinober's Fort Lauderdale, Florida office. Thus, for the above reasons, Zinober is a citizen of Florida.

33. Defendant Monteverde is an individual and a Florida resident and domiciliary, who is domiciled in Broward County, Florida and is otherwise *sui juris*.

34. Defendant Nemeth is an individual and a Florida resident and domiciliary, who is domiciled in Alachua County, Florida and is otherwise *sui juris*.

35. Defendant Clasen is an individual and a Florida resident and domiciliary, who is domiciled in Lee County, Florida and is otherwise *sui juris*.

36. Defendant Swift is an individual and a Florida resident and domiciliary, who is domiciled in Lee County, Florida and is otherwise *sui juris*.

JURISDICTION AND VENUE

37. This Court has subject matter jurisdiction under 28 U.S.C. §1331 since this case is a civil action arising under the Constitution, laws, or treaties of the United States.

38. This Court also has subject matter jurisdiction over all claims asserted herein pursuant to 28 U.S.C. § 1332, because the matter in controversy exceeds the sum of \$75,000.00, exclusive of interest and costs, and is between citizens of different States. Due to the wrongful conduct committed by Defendants, Defendants business was destroyed, which generated tens of millions of dollars a year in revenue and profits.

39. In addition, this Court has subject matter jurisdiction over the common law claims asserted herein pursuant to 28 U.S.C. §1367(a), because those claims are so related to the claims arising under the law of the United States that they form part of the same case or controversy.

40. This Court is a proper venue for this action under 28 U.S.C. §1391(b)(1)-(2) because at least one Defendant resides in this District, and a substantial part of the acts and omissions giving rise to this dispute occurred within this judicial district and division.

41. All applicable conditions precedent to the filing of this lawsuit have been performed, waived, excused, or satisfied.

42. Plaintiffs retained the undersigned counsel to represent their interests in connection with the above-captioned case, and are obligated to pay undersigned counsel reasonable attorneys' fees and costs for services rendered.

GENERAL ALLEGATIONS

A. The Underlying Hurricane Irma Insurance Dispute.

43. In 2020, the Rookery Pointe assigned the benefits to its insurance claim to SFR concerning Hurricane Irma roof damage and related items. SFR's submitted an estimate to Tower Hill for approximately \$414,000 for roofing work and other trades. Castilla Roofing (SFR's subcontractor), submitted a permit application for about \$233,000. The matter proceeded to appraisal and subsequent litigation.

B. The 2021 DFS Investigation Resulting in a Lack of Probable Cause and No Crime Regarding Rookery Pointe.

44. Upon information and belief, Defendants possessed material estimates prior to initiating and causing criminal charges to be brought against R. McGraw. One was from an appraiser related to the appraisal of the claim, and another was prepared by AAP Claims. Both were both higher than the estimate submitted by SFR regarding the Rookery Pointe matter. A third estimate was prepared by Catastrophe Response Unit (CRU), and it was “in line” with SFR’s estimate.

45. Upon information and belief, Defendants concealed and conveniently omitted these estimates from consideration regarding the below criminal investigations in an effort to charge and criminally prosecute R. McGraw. Below is the timeline related to 2021 DFS investigation and its conclusion. Clinton, Clasen, and Swift all participated in the 2021 Rookery investigation with Zinober, Monteverde, Tower Hill, and Nemeth.

- **November 16, 2019** – Lisa Miller e-mailed Clasen about their discussing concerning an effort to put R. McGraw out of business. A copy of this e-mail is attached hereto as **Exhibit 2. This is before Tower Hill filed the parallel State Court Action.**

- **December 2, 2019** – Tower Hill’s SIU Department is providing information to DFS about potential criminal referrals regarding SFR. A copy of this report is attached hereto as **Exhibit 3. This is before Tower Hill filed the parallel State**

Court Action. Significantly, Zinober was the law firm of record representing the Plaintiffs, and Monteverde was lead counsel.

- **February 14, 2020** – Tower Hill’s SIU Department is sharing information with DFS about its forthcoming civil RICO lawsuit against SFR. A copy of this report is attached hereto as **Exhibit 4. *This is before Tower Hill filed the parallel State Court Action.***

- **June 5, 2020** – Tower Hill’s SIU Department provided documents to DFS related to Tower Hill’s civil RICO case against SFR. A copy of this report is attached hereto as **Exhibit 5. *This is after Tower Hill filed the parallel State Court Action.***

- **September 4, 2020** – Carl Nemeth e-mails DFS a copy of the State Court Action and acknowledges the State Court Action is being used as a discovery device to further Tower Hill’s objective to persuade the State to prosecute R. McGraw. A copy of the e-mail as attached hereto as **Exhibit 6. *This is after Tower Hill filed the parallel State Court Action.***

- **November 10, 2020** – Tower Hill’s SIU Department is providing claims information to DFS regarding certain matters it believes demonstrate SFR engaged in fraudulent activities. A copy of this report is attached hereto as **Exhibit 7. *This is after Tower Hill filed the parallel State Court Action.***

- **November 11, 2020** – Nemeth e-mailed Clinton (and copied Abernathy, who was another Tower Hill SIU employee) to provide documents the Tower Hill obtained through discovery in the State Court action in an effort to prosecute R. McGraw criminally. A copy of this e-mail is attached hereto as **Exhibit 8. This is after Tower Hill filed the parallel State Court Action.**

- **December 1, 2020** – Nemeth e-mailed DFS again about documents the Tower Hill obtained through discovery in the State Court action in an effort to prosecute R. McGraw criminally. A copy of this e-mail is attached hereto as **Exhibit 9. This is after Tower Hill filed the parallel State Court Action.**

- **December 4, 2020** – Tower Hill’s SIU Department is sharing information with DFS regarding certain allegedly inflated claims at issue in this case. A copy of this report is attached hereto as **Exhibit 10. This is after Tower Hill filed the parallel State Court Action.**

- **January 11, 2021** – A virtual meeting occurred between DFS, Personnel from Tower Hill’s SIU Department, SIU Investigator Kyle Abernathy and SIU Director Nemeth, and Zinober to discuss allegedly “inflated claims” submitted to Tower Hill by SFR, and the **“[n]eed [for] 10-12 claims showing egregious inflation for insurance fraud, RICO, racketeering, and organized schemes to defraud.”** A copy of this report is attached hereto as **Exhibit 11. Critically, this meeting occurred after Tower Hill filed the parallel State Court Action.**

- **January 26, 2021** – Nemeth e-mailed DFS, including Clasen and Clinton, and attached a copy of the State Court Action, presumably in an effort to persuade DFS to refer the matter to the applicable criminal prosecuting authorities. A copy of this e-mail is attached hereto as **Exhibit 12. Critically, this meeting occurred after Tower Hill filed the parallel State Court Action.**

- **February 5, 2021** – Tower Hill, its SIU Department, Michael Monteverde (counsel from Zinober) and DFS discuss 233 claims that were allegedly inflated and fraudulent. A copy of this report is attached hereto as **Exhibit 13. Significantly, this occurred after Tower Hill filed the parallel State Court Action.**

- **April 29, 2021** – Tower Hill is continuing to coordinate their efforts with DFS regarding “the specific fraud actions necessary to support the inflated and egregious costs submitted by SFR.” A copy of this report is attached hereto as **Exhibit 14.** At this time, Tower Hill was investigating 233 allegedly “fraudulent” claims and a virtual meeting was scheduled between Tower Hill, Zinober, Monteverde, and DFS. **This is after Tower Hill filed the parallel State Court Action.**

- **May 7, 2021** – Tower Hill’s SIU Department, its counsel, and DFS have a virtual meeting to discuss “17 claims that all similarly and closely portrayed SFR’s ongoing course of business actions to submit exorbitant invoices/costs to the carrier while using litigation to leverage their position against Tower Hill Insurance.” Critically, during this meeting, **Tower Hill “produced a PowerPoint presentation [to DFS] outlining their findings and concerns with the 17 claims that were identified as ‘most**

egregious and similar of the 250 claims . . . that had been reviewed.” A copy of this report is attached hereto as **Exhibit 15**. Rookery Point was one of the claims. A copy of the PowerPoint Presentation is attached hereto as **Exhibit 16**. Tower Hill’s letter to DFS identifying the purportedly “fraudulent” claims is attached hereto as **Exhibit 17**. *This occurred after Tower Hill filed the parallel State Court Action.*

- **May 11, 2021** – Nemeth e-mailed Clinton about making a presentation to the State Attorneys’ Office about prosecuting R. McGraw criminally. A copy of this e-mail is attached hereto as **Exhibit 18**. *This occurred after Tower Hill filed the parallel State Court Action.*

- **June 8, 2021** – Nemeth e-mailed DFS, including Clasen and Clinton regarding working together to build upon the racketeering case against SFR (and R. McGraw). A copy of this e-mail is attached hereto as **Exhibit 19**. *This occurred after Tower Hill filed the parallel State Court Action.*

- **July 22, 2021** – Nemeth e-mailed Clinton about coordinating their efforts to vet and substitute claims that were part of the State Court Action. A copy of this e-mail is attached hereto as **Exhibit 20**. *This occurred after Tower Hill filed the parallel State Court Action.*

- **August 6, 2021** – Tower Hill’s SIU Department shared significant information “for the (17) claims” with DFS. A copy of this report is attached as **Exhibit 21**. *This is after Tower Hill filed the parallel State Court Action.*

- **October 7, 2021** – DFS met with the State Attorneys’ Office (“SAO”) regarding the above mentioned 17 allegedly “fraudulent” claims (significantly less than the purported 250 claims). The SAO concluded there was no evidence of any criminal conduct and that the alleged inflated estimates submitted by SFR simply involved a civil matter between SFR and Tower Hill. Critically, Tower Hill then sought an audience with the SAO regarding “their complaint” and “had additional information regarding separate claims unrelated to the 17 noted for issues with billing for services not rendered. A copy of this letter and accompanying report is attached hereto as **Exhibit 22. This is after Tower Hill filed the parallel State Court Action.**

- **October 12, 2021** – Clinton e-mailed Nemeth about a meeting DFS had with the head attorney for Economic Crimes at the State Attorneys’ Office regarding whether a criminal case was viable against R. McGraw regarding, among other claims, the Rookery matter. **At the conclusion of the meeting, the State Attorneys’ Office concluded there was a lack of probable cause.** A copy of this e-mail is attached hereto as **Exhibit 23. This is after Tower Hill filed the parallel State Court Action.**

C. Defendants Did Not Relent in their Efforts to Cause R. McGraw to be Criminally Prosecuted Regarding Rookery Pointe.

46. Nemeth spearheaded this effort on behalf of the Tower Hill, and was relentless in his efforts with Clasen and Swift, a Detective and Investigator with DFS, respectively. Swift was particularly “eager” to prosecute R. McGraw.

47. As demonstrated above, Tower Hill and Zinober (included Monteverde) coordinated their efforts with DFS.

48. Moreover, Tower Hill's SIU Department (i.e., Nemeth) was the point-person as it related to the exchange of information and meetings between DFS, Tower Hill, and Zinober. Indeed, as noted above, Tower Hill and Zinober were using the State Court Action as a discovery tool to feed information to DFS in an effort to criminally prosecute R. McGraw. On at least one occasion, Nemeth and Tower Hill requested DFS to "delete" evidence e-mailed to DFS. Below is a brief timeline of events that illustrates these points.

- **October 18, 2021** – Dissatisfied with the October 12, 2021 response from DFS and the State Attorneys' Office, Nemeth e-mailed the Assistant State Attorney directly, copying DFS, Monteverde, and other Tower Hill personnel about pursuing SFR/R. McGraw criminally. A copy of this e-mail is attached hereto as **Exhibit 24**. ***This is after Tower Hill filed the parallel State Court Action.*** Despite R. McGraw being cleared from any criminal misconduct regarding Rookery Pointe, Tower Hill, Nemeth, Zinober, Monteverde, and DFS officials continued to strategize how to cause R. McGraw to be criminally prosecuted. This is confirmed through the billing records of Zinober and Monteverde, which detail strategy sessions, calls with detectives, preparation for meetings with DFS and e-mails with Swift.

- **November 20-December 14, 2021** – Carl Nemeth and DFS exchanged e-mails about coordinating their efforts with Florida’s statewide prosecutor regarding SFR and R. McGraw. A copy of this e-mail is attached hereto as **Exhibit 25. *This is after Tower Hill filed the parallel State Court Action.*** Interestingly, Nemeth and Clasen are members of a task force and Nemeth tried to recruit Swift to the task force as well.

- **Around August 19-20, and September 14, 2022** - Swift and Monteverde participated in communications regarding strategy on how to create a criminal case which was evidence in Zinober’s billing records produced by DFS. ***This is after Tower Hill filed the parallel State Court Action.***

- **November 17, 2022** – Carl Nemeth sent an e-mail to DFS, including Swift, about leveraging witnesses in the State Court Action for use in a potential criminal case. A copy of this e-mail is attached hereto as **Exhibit 26. *This is after This is after Tower Hill filed the parallel State Court Action.***

- **January 13, 2023** – Nemeth and Swift exchanged e-mails with the Florida statewide prosecutor’s office regarding criminally prosecuting R. McGraw. A copy of this e-mail is attached hereto as **Exhibit 27. *This is after This is after Tower Hill filed the parallel State Court Action.***

- **July 24, 2023 – August 2, 2023** – Nemeth and Swift requested and exchanged information with Monteverde about criminally prosecuting R. McGraw. A copy of this e-mail is attached hereto as **Exhibit 28. *This is after Tower Hill filed the parallel State Court Action.***

- **August 3, 2023** – Carl Nemeth e-mailed Swift about interfering with Plaintiffs’ banking activities in an effort to thwart their business. Subsequently, Plaintiffs’ were debanked at JP Morgan Chase, a bank where Plaintiffs conducted their business for years. A copy of this e-mail is attached hereto as **Exhibit 29. This is after Tower Hill filed the parallel State Court Action.**

- **Around November 13, 2023**, a criminal case was filed by the State of Florida against R. McGraw in Lee County, Florida. This occurred during the prosecution of the State Court Action based on the collective efforts coordinated by Nemeth, Tower Hill, Zinober, Monteverde, Clasen, and Swift. The goal was to destroy Plaintiffs’ business through civil and criminal litigation. Shockingly, after the warrants for R. McGraw’s arrest were issued, Swift threatened to extradite R. McGraw from Puerto Rico using the U.S. Marshals and for this to occur in front of his family. Swift engaged in such egregious conduct when R. McGraw’s counsel was handling a voluntary surrender so he could begin his defense in an orderly manner. A copy of the criminal information, capias, and the probable cause affidavit is attached hereto as **Composite Exhibit 30. This is after Tower Hill filed the parallel State Court Action.**

- **November 17, 2023** – Clasen sends an e-mail to the office that handles contractor licensure issues for the State of Florida to inquire whether R. McGraw’s licensed could be suspended based on unproven criminal allegations before an arrest even occurs. A copy of this e-mail is attached hereto as **Exhibit 31. This is after Tower Hill filed the parallel State Court Action.**

- **December 4, 2023** – Nemeth e-mailed Swift requesting a copy of her probable cause affidavit for the Rookery case so Nemeth could try and research other claims to refer for criminal prosecution. A copy of this e-mail is attached hereto as **Exhibit 32. This is after Tower Hill filed the parallel State Court Action.**

- **January 25-26, 2024** – Swift exchanged e-mails with Nemeth about estimates prepared by CRU and acknowledged that CRU prepared an estimate that was “more in line with what [SFR] was claiming on the SPOL. Moreover (i) Swift, Tower Hill, Zinober, Monteverde, and Nemeth knew about this CRU estimate (ii) the CRU estimate was exculpatory for R. McGraw’s criminal case; and (iii) Defendants concealed this fact from the State at all times until it was uncovered by R. McGraw in discovery from the State. A copy of these emails are attached hereto as **Exhibit 33. This is after Tower Hill filed the parallel State Court Action.**

49. For example, on **February 20, 2024**, during the pendency of the State Court Action and the criminal case, Nemeth e-mailed Swift stating he had new SFR files for her to review so they could coordinate their efforts on the civil and criminal case. A copy of this e-mail is attached hereto as **Exhibit 34. This is after Tower Hill filed the parallel State Court Action.**

50. Throughout the pendency of the criminal case, Zinober often injected itself on behalf of the Tower Hill Insurance Collective in various court filings, objecting to R. McGraw’s efforts to request and use documents in their possession in the defense of his case. The Judge in the criminal case made comments during at least one hearing

that the practice was most atypical. As such, Zinober was not only involved in the State Court Action as counsel of record for Tower Hill, but the law firm, on behalf of Tower Hill, also frequently objected to R. McGraw's discovery efforts in the criminal case.

51. The goal was for the criminal case to remain pending for years thereby ensuring Plaintiffs' business demise due to the ongoing matters on the civil and criminal litigation fronts. For example, the Tower Hill Insurance Collective and Zinober filed at least 10 motions for protective order and/or objections to subpoenas related to discovery served by R. McGraw to aid in his defense of the criminal case. R. McGraw's discovery targeted exculpatory evidence that was not in the possession of the State. Yet, Tower Hill and Zinober continuously sought to prevent McGraw from discovering the information necessary to his defense. One of the starkest examples of Zinober's conduct is an exchange Zinober had with the Judge in the criminal case, which is below:

MR. ZINOBER: If he's only going on waiver, Judge, then it really narrows it.

THE COURT: Well, if it's a work product fact document and it's exculpatory, can we agree Mr. McGraw is going to get it?

MR. ZINOBER: No.

THE COURT: Okay. Well, I think he does. If it's exculpatory, that's a huge need.

MR. ZINOBER: I understand.

52. During discovery in the criminal case, R. McGraw learned that Clinton copied the entire 2021 investigative file – including spreadsheets, PowerPoints, Tower Hill data, and the disposition memo – onto a CD and turned it over to DFS. Conveniently, the CD was later lost or destroyed by DFS. Clasen and the State stipulated to its disappearance.

53. Additionally, during discovery in the criminal case, R. McGraw learned that Defendants possessed material estimates prior to initiating and causing criminal charges to be brought against R. McGraw. One was from an appraiser related to the appraisal of the claim, and another was prepared by AAP Claims. Both were both higher than the estimate submitted by SFR regarding the Rookery Pointe matter. A third estimate was prepared by CRU, and it was “in line” with SFR’s estimate.

54. Upon information and belief, Defendants concealed and conveniently omitted these estimates from consideration regarding Swift’s probable cause affidavit in an effort to charge and criminally prosecute R. McGraw.

55. Tower Hill, Nemeth, Zinober, Monteverde, Clasen, and Swift all pushed a false narrative that Plaintiffs’ business was criminal in nature. Together, they persuaded the Office of the State Attorney for Lee County to prosecute R. McGraw for felony crimes. In total, R. McGraw faced decades in prison for crimes he did not commit, that were orchestrated by the Tower Hill, Zinober, Monteverde, Nemeth, Clasen, and Swift (among others), and were based on false facts.

56. In reality, the factual bases for the felony criminal charges all stemmed from egregiously faulty investigations. These investigations were nothing more than a

house of cards waiting to collapse, which ultimately occurred through conflicting deposition testimony and recanting previously sworn statements.

57. It appeared material witnesses and investigators, including Nemeth, Clasen, and Swift, fabricated facts in investigative reports and in other communications with other parties, and intentionally misled the prosecuting attorney(s) into believing R. McGraw committed felony crimes.

58. The criminal case should never have been filed. In fact, Swift's probable cause affidavit was based on multiple falsehoods. Prior to R. McGraw being charged with serious crimes, both Nemeth and Swift knew neither SFR nor R. McGraw received any money from THIG or any Tower Hill-related insurance carrier. The Rookery Pointe Homeowners Association received the funds from Tower Hill. As part of the criminal case, material witnesses testified as follows:

- **Clinton** – he was the Detective that led the 2021 investigation and, together with the State Attorneys' Office, concluded there was no probable cause and R. McGraw did not commit any crime regarding the Rookery Pointe Claim. Moreover, Clinton testified that there is nothing improper or criminal for a general contractor to charge more to a customer than what its subcontractor charges to complete the work. Clinton had the same information Swift and Clasen possessed in 2023 because it was the same claim. Clinton also testified that he reviewed Castilla Roofing's invoice regarding the amount it billed SFR for the Rookery Pointe work. He also emphasized it was highly unusual for the matter to be reopened in 2023. Neither Swift nor Clasen contacted Clinton about his work regarding the 2021 investigation and Clinton learned

for the first time during his deposition in the criminal case that R. McGraw was under criminal prosecution regarding the very same Rookery Pointe Claim Clinton and the State Attorneys' Office determined did not involve any criminal misconduct.

- **Clasen** – Clasen was the Lieutenant-supervisor over Clinton and Swift and participated in both the 2021 and 2023 criminal investigations regarding R. McGraw and Rookery Pointe. Clasen admitted the 2021 investigation concluded no criminal conduct occurred. He did not tell Swift the same claim was presented in 2021 and closed as a civil dispute between Tower Hill and SFR. Likewise, he did not disclose or discuss with Swift the State Attorneys' Office conclusions that no probable cause existed in 2021 regarding R. McGraw's alleged criminal violations. Clasen also testified the rationale for prosecuting R. McGraw regarding the 2023 investigation was the same basis as in 2021 regarding Rookery Pointe – an alleged pricing dispute the State Attorney's Office already concluded was not criminal at all.

- **Swift** – Swift was the Detective that presided over the 2023 investigation regarding R. McGraw and Rookery Pointe. Yet, Swift also partially participated in the 2021 investigation because she assisted Clinton with obtaining the Rookery Pointe permit information. Swift testified that Clasen informed her regarding the 2021 meeting with Clinton, Tower Hill, and the State Attorneys' Office, but she did not delve into the 2021 investigation at all or any of the work completed by Clinton and the State Attorneys' Office. Furthermore, she did not have any recollection of any e-mails from R. McGraw to Tower Hill requesting payment for the Rookery Pointe Claim. Swift

also testified there was no evidence R. McGraw drafted, prepared, or provided any specific estimate to Tower Hill.

59. Additionally, the alleged complainant, Joe Namath (a Rookery Pointe resident), testified that he never filed a complaint and had no evidence of any misconduct by R. McGraw. Moreover, R. McGraw did not actually sign or authorize the Proof of Loss that Swift used to support her alleged probable cause affidavit. Contrary to Swift's affidavit, R. McGraw (a) did not have any personal involvement with determining the Rookery Pointe permit valuations; (b) did not sign the AOB with Rookery Pointe; (c) did not hire any subcontractors; (d) did not pay any subcontractors; (e) did not have any involvement with the creation or submission of estimates to Tower Hill; (f) did not negotiate the claim with Tower Hill; and (g) most significantly, he did not collect any funds personally from Tower Hill.

60. The entire probable cause affidavit was essentially a conflation of SFR and R. McGraw, wrongfully treating both the same when, in reality, this is simply not the case and insufficient grounds to establish probable cause as a matter of law. Swift even testified about this wrongful conclusion. The Judge in the criminal case emphasized this point. Furthermore, Nemeth testified in the criminal case that his alleged restitution affidavit was false and not based on accurate records.

61. Interestingly, on October 10, 2025, Nemeth was deposed in the State Court Action, and questioned about Rookery. He testified as follows:

Q. And to your knowledge has Mr. -- has Ricky McGraw ever actually prepared an estimate that was submitted to Tower Hill?

A. I have no idea.

Q. Do you know if Ricky McGraw directly negotiated with any of the insurance adjusters at Tower Hill regarding any of the claims at issue in this case?

A. I do not know that, no.

Q. What investigation did you personally participate in as it relates to Rookery? That's all I want to know.

A. Am I good to answer or no?

MR. ZINOBER: Go ahead to a limited extent. I'm not going to let you go into the whole Rookery case all over again. So I don't know if you have any involvement.

THE WITNESS: I had no involvement with the investigation into Rookery. I thought -- isn't that what you asked if I had --

MR. ALPER: Yeah.

THE WITNESS: No, no, I didn't do any investigation into Rookery, no. I can tell you the basis for Rookery and why he was arrested for insurance fraud.

Q. Okay. Do you know if Ricky McGraw has ever personally taken money from Tower Hill that he wasn't otherwise entitled to?

A. Say that again.

Q. Do you know if Ricky McGraw has in any way taken money from Tower Hill that he was otherwise not entitled to?

A. Not to my knowledge, no.

Nemeth's testimony regarding his participation in the Rookery Pointe criminal investigations was obviously false. Additionally, Nemeth testified that Monteverde was crucially involved with the alleged DFS criminal investigation into R. McGraw because Nemeth, on behalf of THIG, hired him to participate. In Nemeth's words, Monteverde was "the expert witness" regarding the criminal case and "was a valuable witness." In the criminal case, Nemeth also testified that Monteverde attended the DFS meetings because he was the "subject matter expert".

62. The underlying criminal case discussed above was pending in Lee County, Florida for years. Shortly before trial, Monteverde and Zinober e-mailed the prosecuting attorney in an attempt to explain how they interpreted the evidence against R. McGraw. A copy of this e-mail sent on **January 22, 2026** is attached hereto as **Exhibit 35**. The purpose of this e-mail was to keep the prosecution focused on the case. Yet, around 1 week prior to trial, the State of Florida filed a Notice of *Nolle Prosequi* to abandon and dismiss the action. Afterwards, public statements on behalf of DFS and the Office of the State Attorney were made that the case was dismissed "due to a lack of evidence," even though the State filed traverses in the criminal case that it would be able to prove the alleged crimes. A copy of an article discussing the abandonment of the criminal case is attached hereto as **Exhibit 36**.

63. The lack of evidence was due to the fact the State's witnesses, including Nemeth, Clasen, and Swift, did not have any direct, first-hand knowledge regarding what R. McGraw personally did that allegedly constituted a crime. Numerous deponents testified that they never met or spoke to R. McGraw, and had no knowledge

of any documents authored by R. McGraw and submitted to Tower Hill regarding the Rookery Pointe Claim.

64. Significantly, the prosecution of R. McGraw should never have occurred in the first place. In fact, it appears the entire criminal case has been expunged from the Lee County Clerk of Court's records. Due to the pendency of the criminal case for years, the matter caused R. McGraw emotional distress, loss of substantial income, and other related damages, including the irreparable destruction of R. McGraw's business, SFR.

D. The Criminal Case Based on False Facts Was Highly Publicized.

65. Numerous news outlets posted information regarding the criminal case, which was disseminated to SFR's vendors and referral sources. Due to the high-profile nature of the case, SFR's business was destroyed. SFR's business contacts refused to work with SFR due to the filing and continued prosecution of the criminal case, which lasted over 2 years before it was dismissed and abandoned due to a lack of evidence.

E. R. McGraw and SFR Incurred Significant Damages Due to the Filing and Prosecution of the Criminal Case that Was Based on False Facts and a Careless Investigation.

66. Due to the criminal case, R. McGraw incurred significant attorneys' fees to exonerate himself and endured significant emotional and physical distress.

67. Additionally, the false charges and corresponding criminal matter irreparably destroyed R. McGraw's private company, SFR, which was a highly profitable business well before the filing of the criminal case. Thus, R. McGraw and

SFR suffered lost profits and damages stemming from the complete financial destruction of SFR as a company.

68. This case seeks to hold Defendants accountable for their malicious conduct that no other reasonable person under the circumstances would have ever pursued. This case also seeks to hold DFS liable for negligence.

CLAIMS FOR RELIEF

COUNT I – 42 U.S.C. §1983 VIOLATION – MALICIOUS PROSECUTION RELATED TO THE CRIMINAL PROSECUTION (AGAINST CLASEN AND SWIFT)

69. Plaintiffs reallege the allegations contained in Paragraphs 1-68 above, as if set forth fully herein.

70. This is an action against Clasen and Swift for violation of 42 U.S.C. §1983 (“Section 1983”) for malicious prosecution related to the criminal case. At all times, Clasen and Swift collaborated and acted in concert regarding the initiation of criminal charges against R. McGraw, which caused R. McGraw to be criminally prosecuted for the Rookery Pointe Claim.

71. The nature of this claim involves a violation of the Fourth Amendment to the United States Constitution and is a valid constitutional tort pursuant to Section 1983.

72. There exists a federal right to be free from malicious prosecution, which is a depiction of the right to be free from an unlawful seizure that is a material part of the prosecution. To be sure, R. McGraw was arrested, taken into police custody, detained, and jailed based on the above alleged crimes.

73. At all times, Clasen, Swift, and their DFS colleagues knew the allegations against R. McGraw and the charges were false because they were based on a 2023 investigation that was false. The 2021 investigation regarding the Rookery Pointe Claim involved the same facts. Clinton and the State Attorneys' Office concluded in the 2021 investigation that there was no probable cause and no crime.

74. Yet, Clasen and Swift ignored the 2021 investigations as well as the corresponding findings, and elected to proceed anyway to cause R. McGraw to be criminally prosecuted for the Rookery Pointe Claim. The goal of Clasen and Swift, individually, and on behalf of DFS, was for the Office of the State Attorney to prosecute R. McGraw and to destroy SFR's business. The Office of the State Attorney knew or should have known the 2023 criminal matter was based on false facts because it concluded the matter was not criminal in 2021. Yet, Clasen, Swift, and DFS let the Office of the State Attorney prosecute R. McGraw anyway.

75. As part of the commencement of the criminal case, R. McGraw was unlawfully and forcibly restrained in violation of the Fourth Amendment, and his injuries due to the seizure naturally flowed from the commencement and continuation of the criminal proceeding for a significant period of time.

76. Clasen and Swift, at all times relevant to the criminal case, were Law Enforcement Detectives with the Florida Department of Financial Services, Bureau of Insurance Fraud, and, upon information and belief, are employed by the State of Florida.

77. Clasen and Swift acted towards R. McGraw under the color of the Florida Statutes, ordinances, customs, and usage of the State of Florida, specifically, investigating alleged violations of the Florida Statutes concerning insurance fraud. As detailed herein, they pursued a false investigation on behalf of DFS.

78. With regard to the criminal case, Clasen and Swift acted in the capacity as Law Enforcement Detectives with the Florida Department of Financial Services, Bureau of Insurance Fraud, with full permission by the State of Florida to perform their job functions.

79. Clasen and Swift furnished material information, including the DFS probable cause affidavit related to the criminal case to the Office of the State Attorney. The affidavit improperly influenced its decision to prosecute R. McGraw regarding the criminal case, especially since the 2021 Rookery Pointe investigation concluding with findings of no probable cause and no crime. As a result, Clasen and Swift were a legal cause of the criminal prosecution against R. McGraw, who was the defendant in the underlying criminal action.

80. The State filed its Notice of *Nolle Prosequi* in the criminal proceeding. The totality of the circumstances set forth above indicated that the criminal case amounted to a dismissal on the merits. Therefore, the dismissal constituted a bone-fide termination of the criminal case in favor of R. McGraw.

81. The filing and continued prosecution of the criminal case lacked probable cause. Critically, the case had no reasonable prospect of success at its inception and after discovery revealed it was based on false facts.

82. At all stages of the proceedings, probable cause did not exist to maintain the criminal case because the factual bases for the alleged crimes committed were false and not based on any credible evidence.

83. Further investigation was necessary before Clasen, Swift, and their DFS colleagues, acting on behalf of DFS, furnished material information, including the probable cause affidavit related to the criminal case, to the Office of the State Attorney. Clasen, Swift, and their DFS colleagues, acting on behalf of DFS, caused the Office of the State Attorney to commence a criminal proceeding based on false facts that could equally be explained innocently.

84. A reasonable Law Enforcement Detective with the Florida Department of Financial Services, Bureau of Insurance Fraud, would not regard the investigation related to the criminal case as tenable if the true facts were revealed. This conclusion is inescapable, especially given the 2021 investigation regarding the same Rookery Point Claim concluded with a finding of no probable cause and no crime committed. Alternatively or additionally, Clasen and Swift unreasonably neglected to investigate the facts before improperly influencing the decision of the Office of the State Attorney to prosecute the criminal case. Thus, actions by Clasen and Swift were not in good faith and for a legally justifiable reason.

85. As set forth in great detail above, the conduct by Clasen and Swift were for improper purposes and without substantial justification.

86. Clasen and Swift acted with actual and legal malice.

87. R. McGraw and SFR have been damaged as a direct and proximate result of malicious conduct committed by Clasen and Swift related to the criminal case. R. McGraw had to pay substantial attorneys' fees to defend the meritless criminal proceeding, and his roofing company, SFR, was financially destroyed. R. McGraw and he also incurred significant emotional and physical distress from the criminal case.

WHEREFORE, Plaintiffs, R. McGraw and SFR, respectfully request that this Court enter a judgment against Defendants, Clasen and Swift, jointly and severally, for the above compensatory and consequential damages, lost earning capacity, punitive damages based on the evil intent or callous or reckless indifference to federally protected rights, prejudgment interest, costs, attorneys' fees pursuant to 42 U.S.C. §1988(b), and such other and further relief that this Honorable Court may deem just and proper, including, but not limited to, the remedies set forth in Section 284.30 et seq. of the Florida Statutes, as applicable.

COUNT II – MALICIOUS PROSECUTION
RELATED TO THE CRIMINAL PROSECUTION
(AGAINST ALL DEFENDANTS)

88. Plaintiffs reallege the allegations contained in Paragraphs 1-68 above, as if set forth fully herein.

89. This is an action against all Defendants for malicious prosecution.

90. Tower Hill, Zinober, Monteverde, Nemeth, Clasen, and Swift all collaborated together and acted in concert regarding the 2023 Rookery Pointe investigation to improperly influence and cause R. McGraw to be criminally prosecuted.

91. Tower Hill, Zinober, Monteverde, Nemeth, Clasen, and Swift all continued to communicate with the State Attorneys' Office after the 2021 investigation resulted in a finding of no probable cause and no crime. Collectively, and as explained in great detail above, the Defendants were incessant in ensuring R. McGraw was prosecuted for the Rookery Pointe Claim and destroying SFR's business.

92. The above facts detail the manner and method of Defendants' coordination to cause R. McGraw to be criminally prosecuted and to cause the financial destruction of SFR's business. The criminal case lasted about 2 years. As a result, Defendants were the legal cause of the action against R. McGraw, who was the Defendant in the criminal case.

93. The State filed its Notice of *Nolle Prosequi* in the criminal proceeding, and did so citing a lack of evidence. The totality of the circumstances set forth above indicated that the criminal case amounted to a bona-fide termination and a dismissal on the merits. There was no probable cause for Defendants to initiate the 2023 investigation and ultimately cause and improperly influence the State Attorneys' Office to criminally prosecute R. McGraw. Critically, the action had no reasonable prospect of success.

94. In fact, at all stages of the proceedings, probable cause did not exist to maintain the criminal case because alleged crimes and the facts to support the alleged criminal misconduct, were false. Defendants knew the facts were false too.

95. Further investigation was necessary before Tower Hill, Zinober, Monteverde, Nemeth, Clasen, and Swift improperly influenced and caused R. McGraw to be criminally prosecuted based on information all the Defendants compiled collaboratively and discussed together, and provided to the State Attorneys' Office.

96. The above information gathered during the 2023 investigation was based on facts that could equally be explained innocently, especially since the 2021 investigation involving the same Rookery Pointe Claim concluding with a finding of no probable cause and no crime.

97. A reasonable professional in positions like that of Defendants would not regard the criminal case as tenable and/or Tower Hill, Zinober, Monteverde, Nemeth, Clasen, and Swift, all collaborated together and acted in concert, to improperly influence and cause R. McGraw to be criminally prosecuted based on information all the Defendants compiled and discussed together, and provided to the State Attorneys' Office.

98. Thus, the information gathered together by the Defendants and provided to the State Attorneys' Office, including the probable cause affidavit that was based on information supplied by Tower Hill, Zinober, Monteverde, Nemeth, Clasen, and Swift was not done in good faith and for a legally justifiable reason.

99. As set forth in great detail above, the criminal case was filed based on false facts supplied by Tower Hill, Zinober, Monteverde, Nemeth, Clasen, and Swift, collaborating together and acting in concert, and was commenced without substantial justification. Defendants' goal was to rid R. McGraw from the industry and to financially destroy SFR's business.

100. The false facts supplied by Tower Hill, Zinober, Monteverde, Nemeth, Clasen, and Swift, collaborating together and acting in concert, was done with actual and legal malice.

101. R. McGraw and SFR have been damaged as a direct and proximate result of malicious conduct committed by Defendants related to the criminal case. R. McGraw had to pay substantial attorneys' fees to defend the meritless criminal proceeding, and his roofing company, SFR, was financially destroyed. R. McGraw and he also incurred significant emotional and physical distress from the criminal case.

WHEREFORE, Plaintiffs SFR and R. McGraw respectfully request that this Court enter a judgment against Defendants Tower Hill, Zinober, Monteverde, Nemeth, Clasen, and Swift, jointly and severally, for the above compensatory and consequential damages, punitive damages, prejudgment interest, costs, and such other and further relief that this Honorable Court may deem just and proper.

COUNT III – CONSPIRACY TO COMMIT MALICIOUS PROSECUTION
RELATED TO THE CRIMINAL PROSECUTION
(AGAINST ALL DEFENDANTS)

102. Plaintiffs reallege the allegations contained in Paragraphs 1-68 above, as if set forth fully herein.

103. This is an action against all Defendants for conspiracy to commit malicious prosecution.

104. Based on the intricate timeline and facts set forth above, Tower Hill, Zinober, Monteverde, Nemeth, Clasen, and Swift all agreed to a course of action and to fabricate an alleged 2023 criminal violation regarding the Rookery Pointe Claim even though the results of the 2021 investigation concluded in a finding of no probable cause and no crime by Clinton and the State Attorneys' Office.

105. The overt acts involved (i) submitting false information to the State Attorneys' Office regarding the Rookery Pointe Claim for a second time; and (ii) and concealing all of the facts developed in the 2021 investigation (that resulted in a finding of no probable cause and no crime). The goal was for R. McGraw to be criminally prosecuted for the same insurance claim and to ensure the financial destruction of SFR's business.

106. Tower Hill, Zinober, Monteverde, Nemeth, Clasen, and Swift all collaborated together and acted in concert regarding the 2023 Rookery Pointe investigation to improperly influence the State Attorneys' Office and cause R. McGraw to be criminally prosecuted.

107. Tower Hill, Zinober, Monteverde, Nemeth, Clasen, and Swift all continued to communicate with the State Attorneys' Office after the 2021 investigation resulted in a finding of no probable cause and no crime. Collectively, and as explained in great detail above, the Defendants were incessant in ensuring R. McGraw was prosecuted for the Rookery Pointe Claim and destroying SFR's business.

108. The above facts detail the manner and method of Defendants' coordination to cause R. McGraw to be criminally prosecuted and to cause the financial destruction of SFR's business. The criminal case lasted about 2 years. As a result, Defendants were the legal cause of the action against R. McGraw, who was the Defendant in the criminal case.

109. The State filed its Notice of *Nolle Prosequi* in the criminal proceeding, and did so citing a lack of evidence. The totality of the circumstances set forth above indicated that the criminal case amounted to a bona-fide termination and a dismissal on the merits.

110. There was no probable cause for Defendants to initiate the 2023 investigation and ultimately cause and improperly influence the State Attorneys' Office to criminally prosecute R. McGraw. Critically, the action had no reasonable prospect of success.

111. In fact, at all stages of the proceedings, probable cause did not exist to maintain the criminal case because alleged crimes and the facts to support the alleged criminal misconduct, were false. Defendants knew the facts were false too.

112. Further investigation was necessary before Tower Hill, Zinober, Monteverde, Nemeth, Clasen, and Swift improperly influenced and caused R. McGraw to be criminally prosecuted based on information all the Defendants compiled and discussed together, and provided to the State Attorneys' Office.

113. The above information gathered during the 2023 investigation was based on facts that could equally be explained innocently, especially since the 2021 investigation involving the same Rookery Pointe Claim concluding with a finding of no probable cause and no crime.

114. A reasonable professional in positions like that of Defendants would not regard the criminal case as tenable and/or Tower Hill, Zinober, Monteverde, Nemeth, Clasen, and Swift, collaborating together and acting in concert, improperly influenced and caused R. McGraw to be criminally prosecuted based on information all the Defendants compiled and discussed together, and provided to the State Attorneys' Office.

115. Thus, the information gathered together by the Defendants and provided to the State Attorneys' Office, including the probable cause affidavit that was based on information supplied by Tower Hill, Zinober, Monteverde, Nemeth, Clasen, and Swift was not done in good faith and for a legally justifiable reason.

116. As set forth in great detail above, the criminal case was filed based on false facts supplied by Tower Hill, Zinober, Monteverde, Nemeth, Clasen, and Swift, collaborating together and acting in concert, and was commenced without substantial justification. Defendants' goal was to rid R. McGraw from the industry and to financially destroy SFR's business.

117. The false facts supplied by Tower Hill, Zinober, Monteverde, Nemeth, Clasen, and Swift, collaborating together and acting in concert, was done with actual and legal malice.

118. R. McGraw and SFR have been damaged as a direct and proximate result of malicious conduct committed by Defendants related to the criminal case. R. McGraw had to pay substantial attorneys' fees to defend the meritless criminal proceeding, and his roofing company, SFR, was financially destroyed. R. McGraw and he also incurred significant emotional and physical distress from the criminal case.

WHEREFORE, Plaintiffs SFR and R. McGraw respectfully request that this Court enter a judgment against Defendants Tower Hill, Zinober, Monteverde, Nemeth, Clasen, and Swift, jointly and severally, for the above compensatory and consequential damages, punitive damages, prejudgment interest, costs, and such other and further relief that this Honorable Court may deem just and proper.

DEMAND FOR JURY TRIAL

Plaintiffs demand a trial by jury on all claims so triable, including pursuant to the Seventh Amendment of the United States Constitution.

Dated: September 15, 2026

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