

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF INDIANA  
INDIANAPOLIS DIVISION

CAROLE POPE,	)	
Plaintiff,	)	
	)	
v.	)	No. 1:18-cv-01377-SEB-DLP
	)	
HANCOCK COUNTY, INDIANA,	)	
CITY OF GREENFIELD, INDIANA,	)	
AMANDA DEHONEY in her individual	)	
capacity;	)	
RONDA JESTER in her individual	)	
capacity;	)	
HEATHER HAMILTON in her individual	)	
capacity;	)	
JEREMY MILLER DEPUTY SHERIFF, in	)	
their individual capacities;	)	
UNKNOWN DEPUTIES in their individual	)	
capacities;	)	
CITY OF GREENFIELD HANCOCK	)	
COUNTY INDIANA ANIMAL	)	
MANAGEMENT,	)	
HANCOCK SHERIFFS DEPARTMENT,	)	
SHERIFF OF HANCOCK COUNTY,	)	
	)	
Defendants.	)	

**CASE MANAGEMENT PLAN**

**I. Parties and Representatives**

A. Plaintiff: Carole Pope

Defendants: Hancock County, Indiana  
City of Greenfield, Indiana  
Amanda Dehoney  
Ronda Jester  
Heather Hamilton  
Jeremy Miller  
Unknown Hancock County Sheriff Deputies  
City of Greenfield Hancock County Indiana Animal Management  
Hancock County Sheriff's Department  
Sheriff of Hancock County

B. Counsel for Plaintiff:

Irving Marshall Pinkus  
PINKUS & PINKUS  
7002 Graham Road Suite 100  
Indianapolis, IN 46220  
Phone: (317) 576-3743  
Fax: (317) 576-3745  
impinkus@pinkusattorneys.com

Counsel for Defendants  
Hancock County;  
Jeremy Miller;  
Unknown Hancock County  
Sheriff Deputies;  
Hancock County Sheriffs  
Department;  
Sheriff of Hancock County:

Daniel Mark Witte, 18957-49  
TRAVELERS STAFF COUNSEL  
INDIANA  
P.O. Box 64093  
St. Paul, MN 55164-0093  
Phone: (317) 818-5100  
Fax: (317) 818-5124  
dwitte@travelers.com

Counsel for Defendants  
City of Greenfield  
Ronda Jester  
Heather Hamilton  
City of Greenfield Hancock  
County Animal Management

:

Cory Christian Voight  
Mathew L. Hinkle  
COOTS HENKE & WHEELER, P.C.  
255 East Carmel Drive  
Carmel, IN 46032  
Phone: (317) 844-4693  
Fax: (317) 573-5385  
cvoight@chwlaw.com  
mhinkle@chwlaw.com

**II. Jurisdiction and Statement of Claims**

A. Plaintiff's Position:

This Court has subject matter jurisdiction over this cause pursuant to 28 U.S.C. § 1331 (federal question), 28 U.S.C. § 1343 (conspiracy to violate federal civil rights), and 28 U.S.C. § 1367 (supplemental jurisdiction).

Defendant's Position: Jurisdiction is proper in this court pursuant to 28 U.S.C. §§ 1331 and 1343 for actions brought pursuant to 42 U.S.C. §1983 and the Court has pendant jurisdiction over state law claims.

B. Plaintiff's Claims:

On July 11, 2017 Defendants unlawfully broke into Plaintiff's home pursuant to an illegal search warrant obtained in part by creating a fictitious law and in part by making several untruthful statements to the magistrate. Once inside, Defendants unlawfully searched Plaintiff's private home and barn, unlawfully seizing twelve (12) of her mastiff dogs and four (4) of her horses. Plaintiff succeeded in defeating the State's subsequent criminal case against her when the Hancock County Superior Court suppressed the fruits of the Defendant's illegal search and seizure, ruling that the warrant was not supported by probable cause and that the good faith exception did not apply. Plaintiff now brings this claim to seek redress for the Defendant's unlawful conduct. Plaintiff's claims include:

- |                    |   |
|--------------------|---|
| Count I            | violation of 42 U.S.C. § 1983<br>unlawful search of Plaintiff's home  |
| Count II           | violation of 42 U.S.C. § 1983<br>unlawful seizure of Plaintiff's person   |
| Counts III-XVIII   | violation of 42 U.S.C. § 1983<br>unlawful seizure of Plaintiff's dogs and horses  |
| Counts XIX – XXXIV | violation of 42 U.S.C. § 1985<br>conspiracy to unlawfully seize Plaintiff's dogs and horses                             |
| Counts XXXV- L     | violation of 42 U.S.C. § 1983<br>Deprivation of Due Process by unlawfully seizing Plaintiff's dogs and horses           |
| Counts LI-LXVI     | violation of 42 U.S.C. § 1985<br>Conspiracy to deprive of Due Process by unlawfully seizing Plaintiff's dogs and horses |
| Count LXVII        | False imprisonment of Plaintiff   |

Count LXVIII	Battery of Plaintiff
Count LXIX	Intentional Infliction of Emotional Distress
County LXX	Negligent Infliction of Emotional Distress
Counts LXXI-LXXXV	Conversion of Plaintiff's dogs and horses

C. Defendant's Claims or Defenses

City Defendant animal control officers responded to the residence to check the welfare of animals following a complaint that 14 dogs were being housed there. Plaintiff indicated she had 5 or 7 dogs at the house and advised that cats on the property had suffered broken legs. Animal control officers requested to enter the residence. Plaintiff denied entry. Animal control officers submitted for and obtained a judicially authorized warrant based upon probable cause to believe Plaintiff was violating an ordinance. The warrant was executed to check the welfare of animals and possibly seize them if necessary. Animals were lawfully seized. The individual defendants are entitled to qualified immunity against federal claims. The City did not maintain a custom, policy or practice causing a constitutional deprivation. The City and animal control officers are entitled to immunity from any state law claims and animal control officers may not be sued for state law claims because they were working in the course and scope of their employment. Plaintiff may not utilize the state court decision to offensively estop City Defendants from asserting any argument or defenses.

- D. The Hancock County Defendants deny their action or inaction led to any violation of state or federal law for any and all claims emerging from the seizure of animals from Plaintiff's property. The Hancock Defendants have general knowledge of the seizure of animals from Plaintiff's property on July 11, 2017, but deny they had, or exercised, any decision-making authority regarding the seizure of animals. The Hancock Defendants specifically deny Plaintiff's version of events on July 11, 2017, as pled in the Complaint, as the allegations pertain to them. Further, Plaintiff's alleged injuries and damages are either barred or reduced by her independent acts of negligence and/or intentional conduct. The Hancock County Defendants are entitled to summary judgment as to all of Plaintiff's claims against them through qualified immunity, state law immunity and/or Plaintiff's inability to properly present claims against them. The Hancock Defendants rely upon all affirmative defenses as pled in their Answer.

III. Pretrial Pleadings and Disclosures

- A. The parties shall serve their Fed. R. Civ. P. 26 initial disclosures on or before **September 7, 2018**.

- B. Plaintiff(s) shall file preliminary witness and exhibit lists on or before **September 14, 2018**.
- C. Defendant(s) shall file preliminary witness and exhibit lists on or before **September 21, 2018**.
- D. All motions for leave to amend the pleadings and/or to join additional parties shall be filed on or before **October 5, 2018**.
- E. Plaintiff(s) shall serve Defendant(s) (but not file with the Court) a statement of special damages, if any, and make a settlement demand, on or before **October 5, 2018**. Defendant(s) shall serve on the Plaintiff(s) (but not file with the Court) a response thereto within 30 days after receipt of the demand.
- F. Except where governed by paragraph (G) below, expert witness disclosure deadlines shall conform to the following schedule: Plaintiff(s) shall disclose the name, address, and vita of any expert witness, and shall serve the report required by Fed. R. Civ. P. 26(a)(2) on or before **May 3, 2019**. Defendant(s) shall disclose the name, address, and vita of any expert witness, and shall serve the report required by Fed. R. Civ. P. 26(a)(2) on or before **June 3, 2019**; or if Plaintiff has disclosed no experts, Defendant(s) shall make its expert disclosure on or before **June 3, 2019**.
- G. Notwithstanding the provisions of paragraph (F), above, if a party intends to use expert testimony in connection with a motion for summary judgment to be filed by that party, such expert disclosures must be served on opposing counsel no later than 90 days prior to the dispositive motion deadline. If such expert disclosures are served the parties shall confer within 7 days to stipulate to a date for responsive disclosures (if any) and completion of expert discovery necessary for efficient resolution of the anticipated motion for summary judgment. The parties shall make good faith efforts to avoid requesting enlargements of the dispositive motions deadline and related briefing deadlines. Any proposed modifications of the CMP deadlines or briefing schedule must be approved by the Court.
- H. Any party who wishes to limit or preclude expert testimony at trial shall file any such objections on or before **July 19, 2019**. Any party who wishes to preclude expert witness testimony at the summary judgment stage shall file any such objections with their responsive brief within the briefing schedule established by S.D. Ind. L.R. 56-1.
- I. All parties shall file and serve their final witness and exhibit lists on or before **October 4, 2019**. This list should reflect the specific potential witnesses the party may call at trial. It is not sufficient for a party to simply incorporate by reference "any witness listed in discovery" or such general statements. The list of final witnesses shall include a brief synopsis of the expected testimony.

III. E.: The parties shall submit (not file) courtesy copies of their respective demand and response at the time of service. These should be emailed to Judge Pryor at mjpryor@insd.uscourts.gov.

- J. Any party who believes that bifurcation of discovery and/or trial is appropriate with respect to any issue or claim shall notify the Court as soon as practicable.
- K. Discovery of electronically stored information (“ESI”). At this time, the parties do not believe that a substantial volume of ESI will be produced in this case. If, as the case progresses, the parties do believe that a substantial volume of ESI is likely to be produced the parties agree to confer and either enter into a written agreement concerning the production of ESI or move to amend this Case Management Plan as necessary.
1. Nature of Production of ESI. Electronic discovery shall be produced to the requesting party in a commercially reasonable manner. If a party requests documents that are stored in an electronic format, the disclosing party may provide the requesting party printed copies of the documents or may provide the requesting party copies of the documents on CD or DVD, by e-mail, or by other electronic means. If the receiving party determines in good faith that a disclosure of a document in a printed format does not adequately allow the party to review the document, the receiving party may request that an electronic copy be provided to it. If a requesting party requests the examination of any hard drives, servers, computers, voice mail systems, or other electronic devices or components, such disclosure, if appropriate, shall be made in a commercially reasonable manner.
  2. Cost and Burden of Producing Electronic Discovery. Unless the party with the burden of bearing the costs as specified below demonstrates to the Court that the cost is overly burdensome, the following presumptions apply: (1) To the extent that the parties request files or copies of documents, the parties agree that such requests shall be provided to the other party in the normal and traditional course of discovery, with the producing party bearing the cost of assembling the responses to the requests; and (2) To the extent that a party requests to examine a hard drive, server, computer, voice mail system, or other electronic device or component, the party making the request shall bear the cost of the examination and may examine the device or component at a mutually agreeable time and in a commercially reasonable manner.
  3. Unintentional Disclosure of Privileged Documents. In the event that a document protected by the attorney-client privilege, the attorney work product doctrine or other applicable privilege or protection is unintentionally produced by any party to this proceeding, the producing party may request that the document be returned. In the event that such a request is made, all parties to the litigation and their counsel shall promptly return all copies of the document in their possession, custody, or control to the producing party and shall not retain or make any copies of the document or any documents derived from such document. The producing party shall promptly identify the returned document on a privilege log. The

unintentional disclosure of a privileged or otherwise protected document shall not constitute a waiver of the privilege or protection with respect to that document or any other documents involving the same or similar subject matter.

4. Preservation of Data. The parties will make reasonable efforts to preserve all electronic data relevant to either party's claims or defenses.
5. The scope of discovery or the format of the production of ESI may be further limited or modified by Court order upon a showing of good cause or undue burden and expense. Further, depending upon the nature of the data produced, a protective order may be appropriate, as the Court may approve.

#### IV. Discovery<sup>1</sup> and Dispositive Motions

Due to the time and expense involved in conducting expert witness depositions and other discovery, as well as preparing and resolving dispositive motions, the Court requires counsel to use the CMP as an opportunity to seriously explore whether this case is appropriate for such motions (specifically including motions for summary judgment), whether expert witnesses will be needed, and how long discovery should continue. To this end, counsel must select the track set forth below that they believe best suits this case. If the parties are unable to agree on a track, the parties must: (1) state this fact in the CMP where indicated below; (2) indicate which track each counsel believes is most appropriate; and (3) provide a brief statement supporting the reasons for the track each counsel believes is most appropriate. If the parties are unable to agree on a track, the Court will pick the track it finds most appropriate, based upon the contents of the CMP or, if necessary, after receiving additional input at an initial pretrial conference.

- A. Does any party believe that this case may be appropriate for summary judgment or other dispositive motion?

Plaintiff believes this case is appropriate for summary judgment as to Defendants' liability on all counts in that the legality of Defendants intrusion into Plaintiff's home and seizure of her property has already been decided by a court of law, namely the Hancock County Superior Court 2 in State of Indiana v. Carole Pope, Cause No. 30D02-1708-CM-001602.

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<sup>1</sup> The term "completed," as used in Section IV.C, means that counsel must serve their discovery requests in sufficient time to receive responses before this deadline. Counsel may not serve discovery requests within the 30-day period before this deadline unless they seek leave of Court to serve a belated request and show good cause for the same. In such event, the proposed belated discovery request shall be filed with the motion, and the opposing party will receive it with service of the motion but need not respond to the same until such time as the Court grants the motion.

Yes. City Defendants and Hancock County Defendants may file a motion for summary judgment asserting qualified immunity and animal control officers did not violate any federal or state laws. The City and Hancock County Defendants did not maintain any policy, custom or practice causing a constitutional deprivation. City Defendants and Hancock County Defendants are entitled to all protections afforded under the Indiana Tort Claims Act.

B. On or before **March 11, 2019**, and consistent with the certification provisions of Fed. R. Civ. P. 11(b), the party with the burden of proof shall file a statement of the claims or defenses it intends to prove at trial, stating specifically the legal theories upon which the claims or defenses are based.

C. Select the track that best suits this case:

\_\_\_\_\_ Track 1: No dispositive motions are anticipated. All discovery shall be completed by \_\_\_\_\_ [no later than 16 months from Anchor Date]. [Note: Given that no dispositive motions are anticipated, the parties should consider accelerating discovery and other pretrial deadlines to the extent practicable and suggest a substantially earlier trial date (Section VI). The Court encourages a track faster than the standard track in all cases in which dispositive motions are not anticipated].

  X   Track 2: Dispositive motions are expected and shall be filed by **May 3, 2019**; non-expert witness discovery and discovery relating to liability issues shall be completed by **March 4, 2019**; expert witness discovery and discovery relating to damages shall be completed by **August 5, 2019**. All remaining discovery shall be completed by no later than **September 5, 2019**.

\_\_\_\_\_ Track 3: Dispositive motions shall be filed by \_\_\_\_\_ [not later than 13 months from the Anchor Date]; non-expert discovery shall be completed by \_\_\_\_\_; expert witness discovery shall be completed by \_\_\_\_\_. [Note: The Court provides Track 3 as an open option because it recognizes that there may be unusual cases for which special circumstances necessitate additional flexibility. However, the Court has found that Tracks 1 and 2 are appropriate in the large majority of cases, and therefore the parties must briefly state below the special circumstances justifying a departure from Tracks 1 and 2.]

Absent leave of Court, and for good cause shown, all issues raised on summary judgment under Fed. R. Civ. P. 56 must be raised by a party in a single motion.



**V. Pre-Trial/Settlement Conferences**

The Court has set an initial pre-trial conference to occur on **August 15, 2018**. The parties anticipate discussing the necessity and timing of a settlement conference at the initial pre-trial conference.

**VI. Trial Date**

The parties request a trial date in December 2019. The trial is by Jury and is anticipated to take 3 days. Counsel should indicate here the reasons that a shorter or longer track is appropriate. While all dates herein must be initially scheduled to match the presumptive trial date, if the Court agrees that a different track is appropriate, the case management order approving the CMP plan will indicate the number of months by which all or certain deadlines will be extended to match the track approved by the Court.

**VII. Referral to Magistrate Judge**

- A. **Case.** At this time, all parties do not consent to refer this matter to the currently assigned Magistrate Judge pursuant to 28 U.S.C. 636(c) and Fed. R. Civ. P. 73 for all further proceedings including trial. [This section should be marked in the affirmative only if all parties consent. Do not indicate if some parties consent and some do not. Indicating the parties' consent in this paragraph may result in this matter being referred to the currently assigned Magistrate Judge for all further proceedings, including trial. It is not necessary to file a separate consent. Should this case be reassigned to another Magistrate Judge, any attorney or party of record may object within 30 days of such reassignment. If no objection is filed, the consent will remain in effect.]
- B. **Motions.** The parties may also consent to having the assigned Magistrate Judge rule on motions ordinarily handled by the District Judge, such as motions to dismiss, for summary judgment, or for remand. If all parties consent, they should file a joint stipulation to that effect. Partial consents are subject to the approval of the presiding district judge.

**VIII. Required Pre-Trial Preparation**

- A. **TWO WEEKS BEFORE THE FINAL PRETRIAL CONFERENCE, the parties shall:**
1. File a list of trial witnesses, by name, who are actually expected to be called to testify at trial. This list may not include any witnesses not on a party's final witness list filed pursuant to Section III.I.
  2. Number in sequential order all exhibits, including graphs, charts and the like, that will be used during the trial. Provide the Court with a list of these exhibits, including a description of each exhibit and the identifying

designation. Make the original exhibits available for inspection by opposing counsel. Stipulations as to the authenticity and admissibility of exhibits are encouraged to the greatest extent possible.

3. Submit all stipulations of facts in writing to the Court. Stipulations are always encouraged so that at trial, counsel can concentrate on relevant contested facts.
4. A party who intends to offer any depositions into evidence during the party's case in chief shall prepare and file with the Court and copy to all opposing parties either:
  - a. brief written summaries of the relevant facts in the depositions that will be offered. (Because such a summary will be used in lieu of the actual deposition testimony to eliminate time reading depositions in a question and answer format, this is strongly encouraged.); or
  - b. if a summary is inappropriate, a document which lists the portions of the deposition(s), including the specific page and line numbers, that will be read, or, in the event of a video-taped deposition, the portions of the deposition that will be played, designated specifically by counter-numbers.
5. Provide all other parties and the Court with any trial briefs and motions in limine, along with all proposed jury instructions, voir dire questions, and areas of inquiry for voir dire (or, if the trial is to the Court, with proposed findings of fact and conclusions of law).
6. Notify the Court and opposing counsel of the anticipated use of any evidence presentation equipment.

**B. ONE WEEK BEFORE THE FINAL PRETRIAL CONFERENCE, the parties shall:**

1. Notify opposing counsel in writing of any objections to the proposed exhibits. If the parties desire a ruling on the objection prior to trial, a motion should be filed noting the objection and a description and designation of the exhibit, the basis of the objection, and the legal authorities supporting the objection.
2. If a party has an objection to the deposition summary or to a designated portion of a deposition that will be offered at trial, or if a party intends to offer additional portions at trial in response to the opponent's designation, and the parties desire a ruling on the objection prior to trial, the party shall submit the objections and counter summaries or designations to the Court

in writing. Any objections shall be made in the same manner as for proposed exhibits. However, in the case of objections to video-taped depositions, the objections shall be brought to the Court's immediate attention to allow adequate time for editing of the deposition prior to trial.

3. File objections to any motions in limine, proposed instructions, and voir dire questions submitted by the opposing parties.
4. Notify the Court and opposing counsel of requests for separation of witnesses at trial.

**IX. Other Matters**

Respectfully Submitted:

FOR PLAINTIFF CAROLE POPE:

/s/ I. Marshall Pinkus

Irving Marshall Pinkus  
PINKUS & PINKUS  
7002 Graham Road Suite 100  
Indianapolis, IN 46220  
Phone: (317) 576-3743  
Fax: (317) 576-3745  
impinkus@pinkusattorneys.com

FOR DEFENDANTS  
HANCOCK COUNTY  
JEREMY MILLER  
UNKNOWN HANCOCK COUNTY SHERIFF DEPUTIES  
HANCOCK COUNTY SHERIFFS DEPARTMENT  
SHERIFF OF HANCOCK COUNTY:

/s/ Daniel Mark Witte

Daniel Mark Witte, 18957-49  
TRAVELERS STAFF COUNSEL INDIANA  
P.O. Box 64093  
St. Paul, MN 55164-0093  
Phone: (317) 818-5100  
Fax: (317) 818-5124  
dwwitte@travelers.com

FOR DEFENDANTS  
CITY OF GREENFIELD  
RONDA JESTER  
HEATHER HAMILTON  
CITY OF GREENFIELD HANCOCK COUNTY ANIMAL MANAGEMENT

/s/ Cory Christian Voight

Cory Christian Voight  
Mathew L. Hinkle  
COOTS HENKE & WHEELER, P.C.  
255 East Carmel Drive  
Carmel, IN 46032  
Phone: (317) 844-4693  
Fax: (317) 573-5385  
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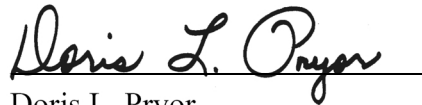
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X	PARTIES APPEARED IN PERSON/BY COUNSEL ON <u>8/15/18</u> FOR A PRETRIAL/STATUS CONFERENCE.
	APPROVED AS SUBMITTED.
X	APPROVED AS AMENDED.
	APPROVED AS AMENDED PER SEPARATE ORDER.
	APPROVED, BUT ALL OF THE FOREGOING DEADLINES ARE SHORTENED/LENGTHENED BY _____ MONTHS.
	APPROVED, BUT THE DEADLINES SET IN SECTION(S) _____ OF THE PLAN IS/ARE SHORTENED/LENGTHENED BY _____ MONTHS.
	THIS MATTER IS SET FOR TRIAL BY _____ ON _____ . FINAL PRETRIAL CONFERENCE IS SCHEDULED FOR _____ AT _____ .M., ROOM _____.
X	A SETTLEMENT/STATUS CONFERENCE IS SET IN THIS CASE FOR <del>February 4, 2019</del> AT <u>8:30 A</u> .M. COUNSEL SHALL APPEAR: <div style="text-align: center;"> <p>_____ X _____ IN PERSON IN ROOM <u>255</u>; OR</p> <p>_____ BY TELEPHONE, WITH COUNSEL FOR INITIATING THE CALL TO ALL OTHER PARTIES AND ADDING THE COURT JUDGE AT (____) _____; OR</p> <p>_____ BY TELEPHONE, WITH COUNSEL CALLING THE JUDGE'S STAFF AT (____) _____;</p> </div>
X	DISPOSITIVE MOTIONS SHALL BE FILED NO LATER THAN <u>May 3, 2019</u> . Discovery shall be completed by March 4, 2019

Upon approval, this Plan constitutes an Order of the Court. Failure to comply with an Order of the Court may result in sanctions for contempt, or as provided under Fed. R. Civ. P. 16-1(f), to and including dismissal or default.

**APPROVED AND SO ORDERED.**

Date: 8/23/2018

A handwritten signature in black ink, reading "Doris L. Pryor", written over a horizontal line.

Doris L. Pryor  
United States Magistrate Judge  
Southern District of Indiana