



2. This Court has jurisdiction over this action pursuant to 28 U.S.C. §§ 1331, 1343 and 1367.

3. Venue is proper in this judicial district under 28 U.S.C. § 1391(b) because all defendants reside in this State and all or some of the defendants reside in this judicial district, and because a substantial part of the events or omissions giving rise to the claim occurred in this judicial district.

### THE PARTIES

4. Plaintiff Melinda Deiter (“Ms. Deiter”), is an adult individual residing in Shavertown, Luzerne County, Pennsylvania.

5. Plaintiff John Deiter (“Mr. Deiter”) is the father of Melinda Deiter. Mr. Deiter is a resident of Wilkes-Barre, Luzerne County, Pennsylvania.

6. Defendant City of Wilkes-Barre (“Wilkes-Barre” or the “City”) is a city located in Luzerne County, Pennsylvania

7. Defendant Frank Kratz (“Mr. Kratz”), is a Building Code Official employed by Wilkes-Barre. Upon information and belief, Mr. Kratz is the highest building code official within Wilkes-Barre. Mr. Kratz maintains an office in city hall in Wilkes-Barre.

## THE FACTS

### The Property at 54 and 54 ½ Marlborough Avenue, Wilkes-Barre

8. In September, 2015, Ms. Deiter paid \$8,478.14 in back taxes on a home located at 54 and 54 ½ Marlborough Avenue, in Wilkes-Barre, and took title from her father, Mr. Deiter.

9. As real property, the property at 54 and 54 ½ Marlborough Avenue was unique. Once destroyed, the property can never be replaced.

10. Mr. Deiter continued to live in the house. All of Mr. Deiter's possessions he had acquired over a lifetime were in the house.

11. Ms. Deiter contracted with a roofing contractor to replace the roof and with a general contractor to replace the front porch. Ms. Deiter had the interior of the home evaluated for remodeling. Ms. Deiter purchased materials for the remodeling project, and hired workers for the interior remodeling.

### The November 15, 2015 Fire

12. On Sunday November 15, 2015, one of the workers Ms. Deiter had hired returned from a store where he had purchased piping and other

materials for the house. The worker discovered that there was a fire on the back porch of the house.

13. The fire department was called and extinguished the fire. 14. There was damage to one side of the house, although that damage was repairable.

15. There was no visible damage to the other side of the house.

#### Ms. Deiter's November 17, 2015 Inspection of the House

16. On Tuesday November 17, 2015, Ms. Deiter went to the house. There were no signs to prevent entry. The only people present were from the gas company. Ms. Deiter asked one of them if there was any problem with her going into the house. The worker said he was just there to do his work, so he did not know. Ms. Deiter went inside the house.

17. In the 54 ½ side of the house, there was no damage at all. Everything was completely intact.

18. In the 54 side of the house, an informal estimate of the cost to repair the damage was that it would cost approximately \$5,000.

Ms. Deiter's November 18, 2015 Contacts With Defendant Kratz

19. Three days after the fire, on Wednesday November 18, 2015, at about 8:45 a.m., Ms. Deiter telephoned Mr. Kratz and left him a message. Mr. Kratz returned the call at about 9:30 a.m.

20. Ms. Deiter asked Mr. Kratz if she and her father, Mr. Deiter, could return to the house.

21. Mr. Kratz told Ms. Deiter that the house was being demolished as they were speaking.

22. Ms. Deiter said she did not understand why the house was being demolished. Only one side was damaged, and it was easily repairable; there was no damage at all to the other side.

23. Ms. Deiter begged Mr. Kratz to have the demolition stopped. She told Mr. Kratz that all of their belongings were in the house, including her father's medicines. She said the house was going to be repaired.

24. Ms. Deiter asked why Mr. Kratz had not called her to inform her of his plan to have the house demolished. Mr. Kratz responded that he did not have Ms. Deiter's phone number. Ms. Deiter said the fire chief and

police officer had her phone number to which Mr. Kratz responded that it is too late now.

Wilkes-Barre City and Mr. Kratz Are Each Directly Responsible For the Demolition of Ms. Deiter's Property and Destruction of Plaintiffs' Property Without Notice or Due Process of any Kind

25. Wilkes-Barre City has demolished numerous properties within its boundaries.

26. Wilkes-Barre City's policy or custom is that notice to a property owner is not necessary prior to demolishing a property, regardless of the existence or non-existence of any danger from a structure.

27. Wilkes-Barre City contracted with a company to demolish Ms. Deiter's property.

28. Wilkes-Barre City did not provide notice or any other due process to Ms. Deiter or to Mr. Deiter, whose possessions were inside the property.

29. Mr. Kratz had full and final authority within Wilkes-Barre City to order demolition of property.

30. Mr. Kratz ordered the demolition of the property.

31. Mr. Kratz is responsible for plaintiffs' losses because he was personally involved in the decision to destroy plaintiffs' property without notice or other due process procedures.

COUNT ONE  
(42 U.S.C. § 1983)

32. Paragraphs 1 through 31, above, are fully incorporated by reference.

33. At all relevant times, defendants Wilkes-Barre and Kratz acted under color of state law.

34. Defendant Wilkes-Barre City, through its policies and customs and through the acts of its authorized employees and contractors, destroyed plaintiffs' property.

35. Defendants did not provide plaintiffs' with notice, an opportunity to be heard, or any other procedure to contest the destruction of their property.

36. Defendants thus deprived plaintiffs of their property without due process of law, in violation of the Fourteenth Amendment to the United States Constitution.

37. Kratz's conduct was recklessly indifferent to plaintiffs' constitutional rights and therefore warrants the imposition of punitive damages.

COUNT TWO  
(42 U.S.C. § 1983)

38. Paragraphs 1 through 37, above, are fully incorporated by reference.

39. Defendants' conduct discussed above constituted an unreasonable seizure of plaintiffs' real and personal property.

40. Such seizure of property was without a warrant or exception to the requirement of a warrant.

41. Defendants' seizure of plaintiffs' property was thus in violation of the Fourth Amendment to the United States Constitution.

42. Kratz's conduct was recklessly indifferent to plaintiffs' constitutional rights and therefore warrants the imposition of punitive damages.



COUNT THREE  
(Conversion)

43. Paragraphs 1 through 42, above, are fully incorporated by reference.

44. By their conduct discussed above, defendants converted plaintiffs' property.

WHEREFORE, plaintiffs demand judgment as follows:

- A. An amount to be determined at trial, including punitive damages against defendant Kratz only, plus interest;
- B. For Plaintiffs' attorneys' fees pursuant to 42 U.S.C. §1988;
- C. For costs and disbursements incurred in this action; and
- D. Any such other relief as the Court may deem just and proper.

Respectfully submitted,

DYLLER LAW FIRM

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Jury Demand

Plaintiffs demand a trial by jury on all issues.