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Wayne Township Tax Collector, and Mayor of
Wayne Township
Our File No. 11636.9000

UNITED STATES DISTRICT COURT
DISTRICT OF NEW JERSEY

BASILIS N. STEPHANATOS,

Plaintiff,

vs.

WAYNE TOWNSHIP, AMERICAN TAX
FUNDING, LLC, WAYNE TOWNSHIP
TAX COLLECTOR, MAYOR OF WAYNE
TOWNSHIP, indiv. ROBERT DEL
VECCHIO, Individually, OFFICER
RONALD LUCAS, Individual,
OFFICER V. D'AGOSTINO,
Individually, PASSAIC COUNTY,
JOHN DOES 1-30,

Defendants.

Civil Action No.: 2:12-cv-
01793-FSH-PS

Civil Action

**CERTIFICATION OF PAUL MARGIOTTA
IN SUPPORT OF MOTION TO DISMISS**

I, PAUL MARGIOTTA, do hereby certify as follows:

1. I am the Township Clerk for the Township of Wayne ("the Township") and I make this Certification in support of the Defendants' Motion to Dismiss Plaintiff's Complaint in the above referenced matter.

2. As the Township Clerk I serve as the custodian of records for the Township.

3. I have conducted a diligent search of the records in the Township Clerk's Office and found that, to the best of my knowledge, the Township was never served with a Notice of Tort Claim by Plaintiff at any time.

4. I hereby certify that the foregoing statements made by me are true. I am aware that if any of the foregoing statements made by me are willfully false, I am subject to punishment.

A handwritten signature in black ink, appearing to read 'Paul Margiotta', written over a horizontal line.

PAUL MARGIOTTA

Dated: 7-25-12

UNITED STATES DISTRICT COURT
DISTRICT OF NEW JERSEY

Emailed: 4/2/12
Permit
Quarles
McKinnitt
Bellet
File: Litigation (Var it)

BASILIS N. STEPHANATOS,
Plaintiff

V.

SUMMONS IN A CIVIL CASE

WAYNE TOWNSHIP, ET AL.,
Defendant

CASE NUMBER: 2:12-CV-01793-FSH-PS

TO: *(Name and address of Defendant):*

Clerk, Wayne Township
Municipal Bldg.
475 Valley Road
Wayne, NJ 07470

12 APR -2 PM 1:08
TOWNSHIP OF WAYNE
RECEIVED

A lawsuit has been filed against you.

Within 21 days after service of this summons on you (not counting the day you received it) — or 60 days if you are the United States or a United States Agency, or an office or employee of the United States described in Fed. R. civ. P. 12 (a)(2) or (3) — you must serve on the plaintiff an answer to the attached complaint or a motion under rule 12 of the Federal Rules of Civil Procedure. The answer or motion must be served on the plaintiff or plaintiff's attorney, whose name and address are:

If you fail to respond, judgment by default will be entered against you for the relief demanded in the complaint. You also must file your answer or motion with the court.

WILLIAM T. WALSH

CLERK

LEROY DUNBAR

(By) DEPUTY CLERK



ISSUED ON 2012-03-27 16:29:17.0, Clerk
USDC NJD

Basilis N. Stephanatos, PhD, JD
Plaintiff, Pro Se
P.O. Box 0520
Tenafly, NJ 07670-0520
Ph.: (973) 897-8162
Fax: (973) 810-0440
Email: bstephanatos@gmail.com

TOWNSHIP OF WAYNE
RECEIVED
12 APR -2 PM 1:08

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW JERSEY

BASILIS N. STEPHANATOS,

Plaintiff, Pro Se

v.

WAYNE TOWNSHIP,
AMERICAN TAX FUNDING, LLC.,
WAYNE TOWNSHIP TAX COLLECTOR,
MAYOR OF WAYNE TOWNSHIP, indiv.
ROBERT DEL VECCHIO, individually
OFFICER RONALD LUCAS, individual
OFFICER V. D'AGOSTINO, individually,
PASSAIC COUNTY,
JOHN DOES 1-30

Defendants.

)
)
)
)
)
) **Civil Action No. 02:12-cv-01793-FSH-PS**
)
)

) FOR DAMAGES FOR VIOLATION
) OF CIVIL RIGHTS UNDER 42 U.S.C.
) SECTION 1983; CONSPIRACY
) UNDER 42 U.S.C. SECTION 1983;
) CONSPIRACY UNDER 42 U.S.C.
) 1985; 42 U.S.C. 1986;
) NONFEASANCE IN OFFICE
) STATE LAW DAMAGES (DEFAMATION,
) NEGLIGENCE, INTENTIONAL
) INFLECTION OF EMOTIONAL
) DISTRESS, PAIN AND
) SUFFERING, CONVERSION)
)

CIVIL ACTION COMPLAINT FOR COMPENSATORY AND PUNITIVE DAMAGES

AND FOR DECLARATORY AND INJUNCTIVE RELIEF

PARTIES

1. Plaintiff, Basilis N. Stephanatos ("Plaintiff" or "Dr. Stephanatos"), a natural person, is a homeowner and taxpayer resided at 687 Indian Road, Wayne, New Jersey, 07470. Dr. Stephanatos owned a residential real estate property located at the 687

Indian Road address since 1995. Dr. Stephanatos is a U.S. Citizen and holds a PhD in Engineering and a J.D. His current address is: P.O. Box 0520, Tenafly, New Jersey 07670-0520. His phone number is: (973) 897-8162 and his fax number is: (973) 810-0440.

2. The Plaintiff in this action has standing because his homestead property rights, his due process rights, his equal protection rights, and his just compensation rights have been violated by the above-named defendants; the plaintiff also has standing because he is a local resident and taxpayer; finally, the Plaintiff has standing because several additional federally-guaranteed and state-constitution guaranteed fundamental civil rights (such as the right not to be subjected to unreasonable searches and seizures) have been violated and/or infringed by the above-named and unnamed defendants.

3. Defendant American Tax Funding, LLC ("ATF") is a private entity organized under the laws of the State of Florida. Its principal business address is listed as being at 345 Jupiter Lakes Boulevard, in Jupiter, Florida 33458-7100. Its phone number is (561) 842-2955 and the listed fax number is (561) 842-2946. The lawyer (also a defendant in this action for committing fraud, defamation, conspiracy and other offenses against Plaintiff) for this entity is Robert A. Del Vecchio, Esq., 405 Lafayette Avenue, P.O. Box 561, Hawthorne, New Jersey 07507, Phone (973) 423-9035, fax: (973) 423-9036. ATF may have recently changed its name to ATF Real Property, LLC or other similar name. ATF purchased the illegal liens levied onto Plaintiff's homestead property. ATF and Del Vecchio also hired the Passaic County Sheriff to act as an agent for the enforcement of a void and/or voidable court order.

4. Defendant Township of Wayne, New Jersey ("Wayne Township") is a public entity and a municipal organization existing and operating under the laws of the State of New Jersey, whose principal business address is 475 Valley Road, Wayne, Passaic County, New Jersey, 07470, Phone: 973-694-1900, ext. 3218. At all relevant times hereinafter mentioned, elected and appointed officials identified in this Complaint were, and are, operating under color of state law. Defendant Christopher P. Vergano is the mayor of Wayne Township and was fully aware of the actions of Del Vecchio and ATF and failed to act to prevent the violation of the constitutional rights of Plaintiff.

5. Defendant Wayne Township Tax Collector ("Tax Collector") is the tax collector of the Defendant Township whose principal business address is 475 Valley Road, Wayne, Passaic County, New Jersey, 07470, Phone: 973-694-1900. At all relevant times hereinafter mentioned, elected and appointed officials identified in this Complaint were, and are, operating under color of state law.

6. Defendant Passaic County (the "County") is a political and geographic subdivision of the State of New Jersey, organized under state law. The County oversees the operations of the Passaic County Sheriff's Department. Under applicable federal and state law, the County is responsible for the conduct of its governmental subdivisions, including the Passaic County Sheriff's Department. Its contact information is: Passaic County Administration Building, 401 Grand Street, Paterson, NJ 07505, Phone (973) 881-4466, Fax (973) 881-4072.

7. Defendant Passaic County Sheriff's Department ("Sheriff" or "Sheriff's Department") is the employer of defendants Lucas and D'Agostino. Its address is: Office of the Passaic County Sheriff, Legal Correspondence Unit, 435 Hamburg

Turnpike, Wayne, NJ 07470, Phone: (973) 389-5900. The Sheriff used excessive and /or unlawful force against the Plaintiff, violated the New Jersey's clearly established Castle Doctrine¹ wherein the Sheriff is not allowed to enter dwellings without search warrant, and a number of other offenses. Officers Lucas and D'Agostino belong to the Civil Process Server division of the Sheriff's Department, located in Wayne, New Jersey and committed the crimes of peering and defiant trespassing; they also committed perjury and filed false reports and charges wherein they claimed that they were acting as law enforcement officers when in fact they were serving documents and acting as agents for the ATF and Del Vecchio; these criminal actions led to the illegal search, unreasonable seizure, false arrest, imprisonment and prosecution of Plaintiff and the destruction of his property.

8. At all relevant times hereinafter mentioned, elected and appointed officials identified in this Complaint were, and are, operating under color of state law.

¹ From earliest days, the common law drastically limited the authority of law officers to break the door of a house (Miller v. United States, 357 U.S. 301 (1958)) to effect an arrest. Judge Prettyman's opinion for the Court of Appeals in Accarino v. United States, 85 U.S. App. D.C. 394, 179 F.2d 456, discusses comprehensively the development of the law. See also the exhaustive article, Wilgus, Arrest Without a Warrant, 22 Mich. L. Rev. 541, 673, 798 (1924). Such action invades the precious interest of privacy summed up in the ancient adage that a man's house is his castle. As early as the 13th Year-book of Edward IV (1461-1483), at folio 9, there is a recorded holding that it was unlawful for the sheriff to break the doors of a man's house to arrest him in a civil suit in debt or trespass, for the arrest was then only for the private interest of a party. Remarks attributed to William Pitt, Earl of Chatham, on the occasion of debate in Parliament on the searches incident to the enforcement of an excise on cider, eloquently expressed the principle:

"The poorest man may in his cottage bid defiance to all the forces of the Crown. It may be frail; its roof may shake; the wind may blow through it; the storm may enter; the rain may enter; but the King of England cannot enter - all his force dares not cross the threshold of the ruined tenement!". See "The Oxford Dictionary of Quotations" (2d ed. 1953), 379. In Hansard, Parliamentary History of England (1813), vol. 15, column 1307, under the proceedings in the Commons on the cider tax in March, 1763, we find: "Mr. Pitt spoke against this measure, particularly against the dangerous precedent of admitting the officers of excise into private houses. Every man's house was his castle, he said."

9. Defendants John Does 1-30 are other named or unnamed defendants whose culpability will be further developed as this matter proceeds through the discovery phase.

INTRODUCTION

1. Plaintiff in this lawsuit is a U.S. Citizen who was residing at 687 Indian Road in the Township of Wayne, Passaic County, New Jersey continuously since May 1995. Plaintiff brings this suit against each and all defendants in both their individual and official capacities on behalf of himself for compensatory and punitive damages and for declaratory and injunctive relief (preliminary and permanent thereafter) to remedy wrongs committed against him by the above-named defendants whereby the defendants, acting under color of state law, deprived him of his federal and state constitutional rights. As far as the municipal and county defendants are concerned, the deprivation of Plaintiff's federal rights was attributable to the enforcement of a municipal or county custom or policy wherein they assess unlawful state school tax levies and/or liens onto homeowners' properties without providing just compensation or without procedural and/or substantive due process and then they use the color of the New Jersey Tax Sale Law to force the payment of such illegal school tax levies or liens by threatening the sale of the homeowners properties unless the homeowners pay these unlawful tax levies. As is noted below under par. 10, the above actions of the municipal and county defendants have been criminalized by the state legislature (see N.J.S.A. 2C:30-2-Official Deprivation of Civil Rights and N.J.S.A. 2C:20-3-Theft by Unlawful Taking). Plaintiff has been pleading with the defendants for many years to stop their unlawful acts of levying illegal (unequal and/or uncompensated) state school tax taxes

without any procedural or substantive due process, and to stop using the color of state law to enforce such illegal levies and liens. The defendants have refused to comply with Plaintiff's demands, intentionally, knowingly and purposefully violating, among other rights, his procedural and substantive due process rights, his just compensation rights, his equal protection rights and his rights to be free and independent to enjoy his lawfully acquired homestead property.

2. The Fifth Amendment to the United States Constitution provides that "private property shall not be taken for public use without just compensation." U.S. Const. amend. V. The language of the Fifth Amendment "**prohibits** both uncompensated takings **and takings for a private purpose.**" *Samaad v. City of Dallas*, 940 F.2d 925, 936 (5th Cir. 1991). These prohibitions against governmental takings apply to state and local governments through the Fourteenth Amendment. *Kelo v. City of New London*, 545 U.S. 469, 472 n.1 (2005). The New Jersey Constitution similarly provides that: "[p]rivate property shall not be taken for public use without just compensation." N.J. Const. art. I, § 20. The New Jersey Supreme Court has declared that the protection afforded by the New Jersey Constitution is "coextensive" with the protections afforded under the United States Constitution. *Mansoldo v. State*, 187 N.J. 50, 58, 898 A.2d 1018 (2006); *Pheasant Bridge Corp. v. Twp. of Warren*, 777 A.2d 334, 343 (N.J. 2001). Here, **the defendants in fact took Plaintiff's property for a private purpose**, which is strictly prohibited by both the federal and state constitutions-**this fact alone provides proof of a substantive due process violation.**

3. The fact that the defendants purposefully took Plaintiff's property for strictly private purpose, in direct violation of the federal and state constitutions, provides

irrefutable evidence of the intentional deprivation of Plaintiff's rights and the deliberate violation of the federal and state constitutions. These actions also prove beyond any doubt the intentional, deliberate, willful, purposeful and perhaps criminal actions of these defendants.

4. In addition, it is a custom or policy of the municipal and county defendants to refuse to provide just compensation for the levying of these illegal state school taxes and/or liens and/or to refuse the equal protection of the laws by levying grossly unequal school taxes onto homeowners' properties without any due process and/or without any just compensation. The municipal and county defendants claim that it is their policy or custom not to provide any just compensation to anyone for the levying of such unequal school taxes, and they have taken it upon themselves to raise such school taxes by taxing the homeowners, without having the constitutional authority to do so because according to the New Jersey Constitution "The Legislature shall provide for the maintenance and support of a thorough and efficient system of free public schools for the instruction of all the children in the State between the ages of five and eighteen years" (N.J. Const., Art. VIII, Section IV, par. 1).

5. In addition, the municipal and county defendants have the custom of levying billions of dollars in pre-school programs (i.e., for funding of children programs that are less than five years in age), notwithstanding the fact no such authority has been granted to them by the state constitution and against the consent of millions of homeowners, including against the consent of the Plaintiff. Again, as with the regular school tax levies, no procedural and substantive due process is provided for such unlawful pre-school tax levies; Plaintiff filed petitions with various state courts, but all the

courts said that “nothing has been taken” and refused to vacate the unlawful school tax levies and liens. Plaintiff has exhausted all remedies provided under state law; however, it should be noted that the state school budget is controlled by the New Jersey Supreme Court (NJSC), that, in direct opposition and against the consent of millions of homeowners, have been authorizing the levying of discriminatory school tax levies and liens onto homeowners homestead properties. The NJSC has justified such actions so that they provide “equal protection” to twenty one school districts, by forcing the state to tax Plaintiff’s wages to also pay for the state school taxes of these twenty one districts. These unconstitutional actions by the NJSC have drawn the ire of many legislators, because the NJSC has exceeded its constitutional authority and has been performing the job of a judge and a legislature at the same time. As the Court can see, Plaintiff had the odds stacked against him, as he was facing a corrupt and self-dealing NJSC who had instructed the lower courts to refuse to honor the constitutional rights of the homeowners. Plaintiff was completely denied equal protection, just compensation and other federally-protected civil rights, including procedural and substantive due process.

6. The New Jersey court opined in *Robinson v. Cahill*, 118 N. J. Superior Court 223, 287 A. 2d 187 (L. 1972), that “Public education cannot be financed by a method that makes a pupil’s education depend on wealth of his ... neighbors as distinguished from wealth of all taxpayers of the same class throughout the state”. Furthermore, the judge wrote “. New Jersey system of financing public education ...denies equal protection rights guaranteed by the New Jersey and Federal Constitutions since it discriminates against...taxpayers by imposing unequal burdens for

a common state purpose". (emphasis added). Thus, the taxation system is presumptively violative of the equal protection rights of the Plaintiff.

7. The municipal and county defendants then use the color of the New Jersey Tax law, including the unlawful acts of the state judiciary, to blackmail the homeowners into the paying of such illegal levies and/or liens. The municipal defendants sell these unlawful and illegal school tax levies to defendants such as ATF and Del Vecchio, who in turn use the New Jersey's legal system to foreclose on the homestead properties of homeowners who refuse to pay such illegal and discriminatory levies and/or liens with an 18 percent interest rate. The defendants are able to foreclose on such illegal liens and levies because they rely on the opinion of the New Jersey judiciary who claim that no just compensation must be provided to homeowners for such illegal, grossly unequal and discriminatory school tax levies and liens. The same practice is used by the municipal and county defendants to levy unlawful taxes onto Plaintiff's homestead property, and demand payment by threatening the sale of his homestead property using the color of state law (the Tax Sale Law) unless he pays these unlawful and discriminatory levies.

8. Specifically, the above-named defendants levied unlawful levies onto his homestead property without providing just compensation, intentionally denied the equal protection of the laws, intentionally denied procedural and substantive due process, unreasonably and unlawfully seized his homestead property in violation of federal and state constitutional law, used excessive force and unlawfully seized and damaged his business and personal property without adequate notice or other requisite procedural and/or substantive due process and without just compensation, and falsely and

unlawfully seized and imprisoned Plaintiff's person, in violation of the Fourth, Fifth and Fourteenth Amendments to the United States Constitution.

9. The above-named defendants intentionally and purposely violated a number of Plaintiff's federally and state protected rights, including the right to equal protection of the laws without regard to race, national origin, handicap or color, as well as the right to equal protection of the laws as is embedded in the New Jersey Constitution, Art. I, par. 7 of state constitution, Article I, par 20 of state constitution, and Article I, par. 1 of state constitution, including the uniformity clause of the state constitution and the equal protection guarantee embedded in the New Jersey state constitution. They also denied the equal protection of the laws, as is guaranteed by the Fifth Amendment to the Federal Constitution as it became available to the state under the 14th Amendment. Plaintiff also seeks damages for loss of business and wage income, pain and suffering, conversion of private property, failure to train, illegal entry into dwelling, damage to personal property, damage to business goodwill, defamation, wrongful or malicious prosecution, intentional infliction of emotional distress, trespass, costs and attorneys' fees. The damages inflicted against Plaintiff by the above-named and unnamed defendants are into the many millions of dollars.

10. Finally, but not least, the above defendants have violated a number of criminal laws of the State of New Jersey, including "official deprivation of civil rights" (N.J.S.A. 2C:30-2). This crime is committed if a public official (including judges), or a person purporting to be a public official, knowingly commits an unlawful act with the purpose to intimidate or discriminate against another person because of race, color, gender, ethnicity, handicap, religion or sexual orientation, and (1) subjects that person

to unlawful arrest, detention, including, but not limited to motor vehicle investigative stops, search, seizure, dispossession, assessment, lien or other infringement of personal or property rights; or (2) denies or impedes that person in the lawful exercise or enjoyment of any right, privilege, power or immunity. They have also committed Theft by Unlawful Taking in violation of statute N.J.S.A. 2C:20-3. The New Jersey law has also criminalized the peering into dwelling places, a crime that has been committed by the county defendants. See 2C:18-3. *Unlicensed entry of structures; defiant trespasser; peering into dwelling places*. The New Jersey law has criminalized the so called "defiant trespasser (See 2C:18-3). This crime was also committed by the county defendants, acting as agent for ATF and Del Vecchio. The purposeful commission of criminal acts against the Plaintiff is proof of the intentional, purposeful and willful acts of the defendants to violate Plaintiff's fundamental civil rights, such as equal protection, just compensation, right to enjoy his property from unlawful interference, right to be free from unreasonable searches and seizures, etc.

11. Here, the Plaintiff will establish that the defendants acted intentionally or deliberately and they caused deprivation of life, liberty and property of the Plaintiff. The damages inflicted upon the Plaintiff are into the many millions of dollars.

Plaintiff will prove at trial that the actions of the defendants shocked the conscience and he is asking for punitive damages be assessed against the defendants. To shock the conscience, the complained of behavior must be coupled with allegations of corruption, self-dealing, unconstitutional "taking," ethnic bias, or interference with otherwise constitutionally protected activity. *Eichenlaub v. Twp. Of Indiana*, 385 F.3d at 286 (3rd Cri. 2004) (citing *Olech*, 528 U.S. at 565-66). Here, the facts will show that

above-named defendants willfully and intentionally interfered with Plaintiff's well-established constitutional rights, including the right to privacy, the right not to be subjected to unreasonable searches and seizures, the right to obtain just compensation prior to the taking of his homestead and other property, the right to be secure into his own home, the right to the equal protection of the laws, the right to procedural and substantive due process, the right to defend his property, the right to be free and independent, etc. and stole his homestead property under the gun point and delivered it to ATF – a proof of excessive force, self-dealing, corruption and unconstitutional taking.

JURISDICTION AND VENUE

Plaintiff brings this action to redress the official deprivation of his rights protected by the Fourth, Fifth, and Fourteenth Amendments to the United States Constitution, as well as the equivalent clauses of the New Jersey Constitution and is brought pursuant to 42 U.S.C. Sections §§1983, 1985 and 1986 under which statute the above rights are enforceable.

This Court has jurisdiction over this federal civil rights action pursuant to 28 U.S.C. §1331(federal question)² and §1343(a)(1), (3), and (4) (civil rights and elective franchise). This Court has jurisdiction pursuant to 28 U.S.C. §§2201(creation of remedy) and 2202 (further relief) to declare the rights of the parties and to grant all further relief found necessary and proper. This Court has supplemental jurisdiction over Plaintiffs' claims under the New Jersey Constitution pursuant to 28 U.S.C. §1367(a).

² The district courts shall have original jurisdiction of all civil actions arising under the Constitution, laws, or treaties of the United States.

Plaintiff's claims arose in Passaic County, New Jersey, all the events giving rise to Plaintiff's claims occurred in this judicial district, all the defendants reside in Passaic County, New Jersey and/or perform business in Passaic County, New Jersey, and, therefore, venue properly lies within the District of New Jersey pursuant to 28 U.S.C. §1391(b)(2).

Plaintiff also notes that the *Rooker-Feldman* doctrine does not apply in this case. Under the *Rooker-Feldman* doctrine, lower federal courts lack subject-matter jurisdiction when, after state proceedings have ended, a losing party in state court files suit in federal court complaining of an injury caused by the state-court judgment and seeking review and rejection of that judgment. *Rooker-Feldman* also applies to bar federal claims that are "inextricably intertwined" with a state-court judgment, except where the plaintiff lacked a reasonable opportunity to present those claims in state court.

Here, the Plaintiff sought all along to regain the legal title to the property, as he always had a possessory title to the property, but the lower courts never addressed his constitutional issues and the validity of the tax liens. There has been no court opinion issued by any lower court, further proving that the lower courts never heard his arguments – the Court should note that the lower court actions were deliberate, as they never intended to hear Plaintiff's arguments and they always believed that the defendants never had to provide just compensation for the illegal school tax levies. That is unfortunately the situation in New Jersey and Plaintiff is urging the federal courts for intervention so that Plaintiff is allowed to return to his homestead. Thus, even if the lower courts of New Jersey had heard the arguments of Plaintiff, they would have still violated both the federal and state constitutional rights of the Plaintiff, as the lower

courts are in control of the state school and local budgets and have been acting as legislators without the consent of the homeowners and even the state legislature. In fact their policies and opinions do not represent the public policy of the state legislature.

In addition, Plaintiff has identified numerous other injuries separate from the tax deed judgment. Plaintiff does allege, for example, that the tax deed and the unreasonable search and seizure of his business, homestead and other property violated his federal and/or state constitutional rights. Thus, the Plaintiff's injury was caused by – and its federal due-process claim arose directly out of – other injuries not pertaining simply to the tax deed judgment.

Outrageous Conduct. N.J.S.A. 59:3-14 provides that: "Nothing in this act shall exonerate a public employee from liability if it is established that his conduct was outside the scope of his employment or constituted a crime, actual fraud, actual malice or willful misconduct." Here, the public employees are accused of committing peering through Plaintiff's window which is a criminal act; they also committed conspiracy to violate the civil rights of Plaintiff, actually implemented acts of conspiracy, committed perjury and prepared false reports; these activities all criminal activities under federal and New Jersey law. Thus, Plaintiff is entitled to recover damages against the county employees in their individual capacity and these claims are not barred. "Nothing in this act shall exonerate a public employee from the full measure of recovery applicable to a person in the private sector if it is established that his conduct was outside the scope of his employment or constituted a crime, actual fraud, actual malice or willful misconduct."

EXHAUSTION OF ADMINISTRATIVE REMEDIES

Plaintiff has fulfilled the requirements of the New Jersey Tort Claims Act³, requiring litigants to exhaust available administrative remedies prior to filing suit under 42 U.S.C. §1983 alleging violations of his constitutional rights. Plaintiff had filed numerous complaints against the municipal and county and private defendants and they are well aware of the allegations of constitutional right violation of Plaintiff, including the tort claims for personal and property damages and they have been notified for his

³ In 1972 the New Jersey Legislature passed the Tort Claims Act ("Act"), N.J.S.A. 59:1-1, et. seq., which created a statutory scheme for claims to be brought against public entities. No such action may be brought unless it is in accord with the procedure established under the Act. N.J.S.A. 59:8-3.

The Act establishes a 90-day period from the time the claim accrues for a plaintiff to file a notice of claim. N.J.S.A. 59:8-8. N.J.S.A. 59:8-8 provides:

A claim relating to a cause of action for death or for injury or damage to person or to property shall be presented as provided in this chapter not later than the ninetieth day after accrual of the cause of action. After the expiration of six months from the date notice of claim is received, the claimant may file suit in an appropriate court of law. The claimant shall be forever barred from recovering against a public entity or public employee if:

a. He failed to file his claim with the public entity within 90 days of accrual of the claim except as otherwise provided in section 59:8-9 [.]

The purpose of the 90-day limit is to "compel a claimant to expose his intention and information early in the process in order to permit the public entity to undertake an investigation while witnesses are available and the facts are fresh." Lutz v. Township of Gloucester, 153 N.J. Super. 461, 466 (App. Div. 1977).

N.J.S.A. 59:8-9 provides for the filing of a late notice of claim. Originally, it provided a plaintiff had to show "sufficient reasons" for failure to file within the 90-day period to be granted permission to file a late notice of claim. However, this section was amended in 1994, to read:

A claimant who fails to file notice of his claim within 90 days as provided in section 59:8-8 of this act, may, in the discretion of a judge of the Superior Court, be permitted to file such notice at any time within one year after the accrual of his claim provided that the public entity or the public employee has not been substantially prejudiced thereby.

intention to file this instant suit in federal court for several years now. Despite these notices to the defendants, they have continued with their unlawful acts for many years, as this represents their custom or policy or pattern of conduct.

Plaintiff also used the New Jersey court processes to obtain relief, but no pre- or post-deprivation procedures are available to address the illegal actions of the defendants. As indicated above, the New Jersey judiciary is in charge of the state and local school budgets, levying at will unequal and discriminatory homestead tax levies onto Plaintiffs property; no person would expect that Plaintiff would get a fair trial in New Jersey courts. In fact, the New Jersey courts refused to hear Plaintiffs constitutional claims, issuing orders without having jurisdiction over his person or property, forcefully taking a private homestead property and delivering it to a private group of individuals in direct violation of the federal and state constitution, and despite Plaintiff's continuous pleas to stop these illegal and unconstitutional takings. Several legislators urged the courts to stop these unlawful acts, including Senator Kevin O'Toole who referred a number of times the matter to the NJ Attorney General office.

FEDERAL AND STATE CONSTITUTIONAL RIGHTS THAT WERE VIOLATED
BY THE DEFENDANTS

1. Plaintiff has the federal rights (a) to be free from unreasonable property seizures under the Fourth Amendment to the United States Constitution; (b) to receive adequate notice, other procedural due process and substantive due process protections whenever the Wayne Township or its agents or assigns deprive him of his real estate, business and/or personal property, as guaranteed by the Fourteenth Amendment to the United States Constitution; and (c) the right to be compensated when the Wayne

Township takes their homestead, business and personal property for public use or private use, as guaranteed by the Fifth Amendment to the United States Constitution, made available to the states through the Fourteenth Amendment to the United States Constitution. The Fifth Amendment to the United States Constitution provides that "private property shall not be taken for public use without just compensation." U.S. Const. amend. V. The language of the Fifth Amendment "**prohibits** both uncompensated takings **and takings for a private purpose.**" *Samaad v. City of Dallas*, 940 F.2d 925, 936 (5th Cir. 1991). Here, **the defendants in fact took Plaintiff's homestead property for a private purpose**, which is strictly prohibited by both the federal and state constitutions. Here, the defendants purposefully took Plaintiff's \$690,000 property for strictly private purpose, in direct violation of the federal and state constitutions, claiming that he refused to pay \$20,000 in state school taxes- a claim that Plaintiff denies. Thus, the intentional deprivation of Plaintiff's rights⁴ and the deliberate violation of the federal and state constitutions prove beyond any doubt of the criminal actions of these defendants. These prohibitions against governmental takings apply to

⁴ As was noted earlier, Plaintiff alleges that the defendants have committed against him the crime of official deprivation of civil rights (N.J.S.A. 2C:30-2). This crime is committed if a public official (including judges), or a person purporting to be a public official, knowingly commits an unlawful act with the purpose to intimidate or discriminate against another person because of **race, color**, gender, **ethnicity, handicap**, religion or sexual orientation, and (1) subjects that person to unlawful arrest, detention, including, but not limited to motor vehicle investigative stops, search, seizure, dispossession, assessment, lien or other infringement of personal or property rights; or (2) denies or impedes that person in the lawful exercise or enjoyment of any right, privilege, power or immunity. A petition has been submitted to the U.S. Supreme Court, asking as to whether the lower court judges can be sued for civil damages.

state and local governments through the Fourteenth Amendment. *Kelo v. City of New London*, 545 U.S. 469, 472 n.1 (2005).

The following rights, privileges and immunities under the New Jersey State Constitution are implicated in this suit, and they have been either intentionally violated or intentionally infringed by the defendants:

New Jersey Constitution, ARTICLE I

RIGHTS AND PRIVILEGES

Par. 1. All persons are by nature free and independent, and have certain natural and unalienable rights, among which are those of enjoying and defending life and liberty, of acquiring, possessing, and protecting property, and of pursuing and obtaining safety and happiness.

Par. 5. No person shall be denied the enjoyment of any civil or military right, nor be discriminated against in the exercise of any civil or military right,

Par. 7. The right of the people to be secure in their persons, houses, papers, and effects, against unreasonable searches and seizures, shall not be violated;

Par. 13. No person shall be imprisoned for debt in any action, or on any judgment founded upon contract, ...

Par. 20. Private property shall not be taken for public use without just compensation. Individuals or private corporations shall not be authorized to take private property for public use without just compensation first made to the owners.

Par. 21. This enumeration of rights and privileges shall not be construed to impair or deny others retained by the people.

Regarding the validity of the state school tax levies and liens placed onto Plaintiff's property, the following provisions of the New Jersey Constitution apply:

Article VIII, Section IV, paragraph 1: The Legislature shall provide for the maintenance and support of a thorough and efficient system of free public schools for the instruction of all the children in the State between the ages of five and eighteen years.

Article VIII, Section IV, paragraph 3: The Legislature may, within reasonable limitations as to distance to be prescribed, provide for the transportation of children within the ages of five to eighteen years inclusive to and from any school.

Article VIII, Section I, paragraph 7 of the New Jersey Constitution states that "No tax shall be levied on personal incomes of individuals, estates and trusts of this State unless the entire net receipts therefrom shall be received into the treasury, placed in a perpetual fund and be annually appropriated, pursuant to formulas established from time to time by the Legislature, to the several counties, municipalities and school districts of this State exclusively for the purpose of reducing or offsetting property taxes". Plaintiff believes that the tax on his personal income (about \$2,000 per year) is not appropriated to the Wayne School District to off-set or reduce Plaintiff's property taxes.

Of course the federal and state constitutions PROHIBIT THE TAKING OF PRIVATE HOMESTEAD PROPERTY FOR A PRIVATE USE. Plaintiff moves for an

order and judgment, directing the U.S. Marshal to immediately seize the 687 Indian Road, Wayne, New Jersey property and deliver its possession to the Plaintiff.

The key question of law is of course as to whether Plaintiff was legally obligated to pay twice as much in state school taxes than the average homeowner for equally valuated property⁵. Another key question of law is whether the taking was for a private purpose⁶, i.e., to benefit defendants ATF and Del Vecchio, a conduct that is strictly prohibited by the federal and state constitutions⁷. Finally, another key legal question is whether the seizure of Plaintiff's property and person was unreasonable.

Plaintiff has no children and does not use the state school resources. The defendants assessed Plaintiff's homestead property with twice as much state school taxes than the average homeowner FOR EQUALLY VALUATED PROPERTY. One key question of law is of course as to whether Plaintiff was legally obligated to pay twice as much in state school taxes than the average homeowner; if Plaintiff was not legally obligated to pay twice as much in state school taxes, then what his fair share, if any was. Even so, the defendants had no constitutional authority to take Plaintiff's property and give it to ATF and Del Vecchio, as such conduct is strictly prohibited by the federal and state constitutions' substantive due process clause and the Fifth Amendment to the federal constitution⁸.

⁵ The answer to this question is obviously no;

⁶ The answer to this question is obviously yes;

⁷ Plaintiff believes that the New Jersey courts do not give a damn about constitution and property rights of citizens; their actions prove my point.

1. ⁸ In *Loan Ass'n v. Topeka*, 20 Wall. 655, 663, Mr. Justice Miller, delivering the judgment of the U.S. Supreme Court, after observing that there were private rights in every free government

Common questions of fact and law regarding the municipal defendants include the following:

(a) Whether the Wayne Township has a policy, practice or custom of levying unlawful state school taxes onto people's homestead property without due process; (b) Whether the Wayne Township has a policy, practice or custom of seizing and/or destroying people's property without adequate procedural and/or substantive due process protections; (c) Whether the Wayne Township has a policy, practice or custom of taking people's property for public use without just compensation; (d) Whether the Wayne Township's policy, practice or custom of seizing property is an unreasonable, warrantless property seizure under the Fourth Amendment to the U. S. Constitution; (e) Whether the procedural due process protections provided under the Wayne Township's policy, practice or custom of seizing and/or destroying people's property satisfies Fourteenth Amendment due process requirements; and (f) whether the Wayne Township's policy, practice or custom of taking people's property for public use without just compensation violates the Takings Clause of the Fifth Amendment to the U. S. Constitution as it was made available to the states under the 14th Amendment.

beyond the control of the state, and that a government, by whatever name it was called, under which the property of citizens was at the absolute disposition and unlimited control of any depository of power, was, after all, but a despotism, said: **'The theory of our governments, state and national, is opposed to the deposit of unlimited power anywhere. The executive, the legislative, and the judicial branches of these governments are all of limited and defined powers.** There are limitations on such power, which grow out of the essential nature of all free governments, **implied reservations of individual rights,** without which the social compact could not exist, and which are respected by all governments entitled to the name.' No court, he said, would **hesitate to adjudge void any statute declaring that 'the homestead now owned by A. should no longer be his, but should henceforth be the property of B.'** In accordance with these principles it was held in that case that the property of the citizen could not be taken under the power of taxation to promote private objects... See, also, *Cole v. La Grange*, 113 U.S. 1, 5 Sup. Ct. 416. (The general grant of legislative power in the constitution of a state does not enable the legislature, in the exercise either of the right of eminent domain or of the right of taxation, to take private property, without the owner's consent, for any but a public object.

Regarding the county defendants, common questions of fact and law include the following:

- (a) Whether Lucas and D'Agostino intentionally falsified their reports and committed perjury to justify their unlawful entry onto Plaintiff's dwelling; (b) Whether the Sheriff provided adequate training to these Civil Process Servers, to avoid the peering and the unlawful trespassing; (c) Whether Lucas and D'Agostino falsified their complaints alleging that they were acting in their law enforcement capacity, when in fact they were acting as judicial employees and/or agents for ATF and Del Vecchio. (d) Whether Lucas and D'Agostino intentionally violated the Castle Doctrine, including New Jersey's Self-Defense Act⁹. (e) Whether the defendants constructively entered Plaintiff's dwelling without a warrant; (f) whether

⁹ *The [New Jersey] Legislature finds and declares that:*

a. It is proper for law-abiding people to protect themselves, their families and others from intruders and attackers without fear of prosecution or civil action for acting in defense of their own well-being and the well-being of others.

b. The "Castle Doctrine" is a long-standing American legal concept arising from English Common Law that provides that one's abode is a special area in which one enjoys certain protections and immunities, that one is not obligated to retreat before defending oneself against attack, and that one may do so without fear of prosecution.

c. Article I of the New Jersey Constitution guarantees the citizens of this State the rights "of enjoying and defending life and liberty, of acquiring, possessing, and protecting property, and of pursuing and obtaining safety and happiness."

d. The Second Amendment to the United States Constitution affords the people of this nation the right to keep and bear arms.

e. All who reside in and all who visit this State have a right to expect to be unmolested and safe within their homes, residences and vehicles.

f. No person should be required, as a point of law, to surrender their personal safety or well-being to the unlawful actions of a criminal, nor to needlessly retreat in the face of intrusion or attack.

g. It is, therefore, altogether fitting and proper, and within the public interest, to ensure that law-abiding people are justified in protecting themselves, their families and others from intruders and attackers, and that they may do so without fear of prosecution or civil action.

Source: Preamble to the New Jersey Self-Defense Act, an act concerning the protection of persons and property, amending N.J.S.2C:3-4 and N.J.S.2C:3-6, introduced in the assembly and the senate for the 2010 session.

defendants performed an illegal search of Plaintiff's property and whether they used excessive force.

The municipal defendants and their agent's conduct may fairly be said to shock the contemporary conscience, because it is involving corruption or self-dealing, or interference with an otherwise constitutionally protected activity at Plaintiff's dwelling.

Plaintiff also alleges that the disparate treatment of Plaintiff's property has resulted in a private pecuniary gain of ATF and Del Vecchio and is found to "shock the conscience," and therefore Plaintiff states a claim for a substantive due process violation. The mayor and the board of education resented Plaintiff for protesting the unlawful school tax levies and liens onto his homestead property. Thus, Plaintiff alleges that they decided to assert their authority to hinder or prevent Plaintiff from exercising his rights to own, protect and defend property, as well as his right to be free and independent, as they are guaranteed under the New Jersey Constitution, Article I, par. 1. The defendants' abuse of authority for their own private gain or the gain of a private individual or private entity (ATF) sufficiently "shocked the conscience" to state a viable substantive due process claim. Similarly, the involved municipal officers are alleged to have undertaken an illegal property taking in order to benefit their own legal assets, i.e., their children (the law recognizes the children as being the legal asset of their parents).

All the claims herein arise under Wayne Township's and their agents seizure and destruction of his business and personal property without warrant, procedural and/or substantive due process or just compensation – that give rise to the Plaintiff's claims.

FACTS

1. Plaintiff owned in fee simple and possessed real homestead property located at 687 Indian Road in the town of Wayne in the County of Passaic and State of New Jersey, and described as follows: Tax 21 and Block. 4503 on the Official Map of the Township of Wayne. Plaintiff was residing in the residence continuously since 1995 and had fully paid the mortgage on the property.

2. Since 1996, Plaintiff was operating a small business in the premises. The business was an S-Corporation named Metropolitan Environmental Services, PC. The corporation was later converted into a sole proprietorship under the name Metropolitan Environmental Services. Plaintiff's business goodwill and business property has been significantly damaged by the actions of the defendants. The loss of business equipment and business goodwill exceeds several million dollars, as will be proved at trial.

3. Mr. Stephanatos bought the residential property using his wages that have been already been taxed by the state of New Jersey to help pay for the public schools (i.e., Mr. Stephanatos' wages were levied by the state the Gross Income Tax that ranges between 1.5 and 4 percent of the entire wages of the worker). According to a constitutional amendment approved by the citizens, the gross income taxes were supposed to be used to reduce the property taxes of the homeowners. However, these wage taxes were used to pay for the direct benefit of other property owners and specifically the homeowners of the twenty one or so school districts who pay less than 6 percent of the public school taxes; by contrast, Plaintiff was forced to pay, against his will and consent, 90 percent of the public school taxes and his wage taxes were never used to reduce his property taxes.

4. The State of New Jersey department of education asked Wayne Township and all taxing districts in the state to raise school taxes based on 93 cents per \$100 dollars of assessed valuation, in compliance with the State Constitution's uniformity clause (Article VIII, Section I, par. 1(a)).

5. Wayne Township, in violation of the State Constitution's uniformity clause (Article VIII, Section I, par. 1(a)), and equal protection clause implied in Article I, par. 1, and without any constitutional authority or statutory authority to do so, has been levying Mr. Stephanatos' homestead property with unequal and non-uniform state school taxes that exceed the statewide school tax by 133.7 percentage points, using a rate of 217.3 cents per \$100 dollars. These actions were based on a custom or policy of Wayne Township to collect the full amount required for the operation of the state school taxes, without reasonably requiring from the state of New Jersey to pay their fair share of such school operations.

6. In addition, Wayne Township has been levying Plaintiff's homestead property with 20 percent more in school taxes to fund special programs that are not part of the basic educational curriculum required by the New Jersey Department of Education. These additional levies are legally considered "special assessments" requiring that just compensation be provided to the property owner upon which these levies are placed. Wayne Township failed and/or refused to provide just compensation to the Plaintiff for such unlawful levies.

7. Wayne Township has a custom or practice where they would levy unlawful tax levies onto homeowner properties without consideration as to whether a service or property value increase is provided to the homeowner. For example, Wayne Township

has a practice of permitting individuals to build homes in floodplains so that they collect property taxes. When the Wayne Township has to respond to flood events, they charge the homeowners of the entire township for the flood response costs, instead of charging the floodplain homeowners for these services.

8. The unlawful acts of Wayne Township employees are evidenced by the number of illegal activities committed by its employees. For example, in September 2009, the former Township Attorney Mark J. Semeraro resigned after being arrested and charged with violating a restraining order. In September 2011, Jerry Bello resigned from the township Environmental Commission after it was discovered that he had been appointed to the board despite his criminal record. Bello had been convicted in 1994 of extorting \$2,000 from a small-business owner who applied for a loan from Paterson's Economic Development Corporation. Defendant Vergano was aware or should have been aware of the felony convictions of Bello and he, in fact, re-appointed Bello to the Environmental Commission.

9. Homeowners in Wayne Township have been protesting the levying of the excessive public school taxes for many years. They have also been protesting the levying of excessive county taxes. The various mayors of Wayne Township, including the current Mayor Vergano, have been claiming that they have been protesting the levying of these excessive county taxes, but no real relief has ever been provided. If the Wayne homeowners refuse to pay these excessive levies, then Wayne Township has the policy or custom of selling the resulting liens to private investors, such as ATF who in turn apply to the New Jersey courts to foreclose on the property rights of the homeowners. No due process has ever been provided to challenge these tax levies

and the local, county and state governments levy whatever taxes they want at will onto the homeowner properties. These practices have resulted into forcing the Plaintiff to pay twice as much in public school taxes than the average state homeowner for equally valuated property. The same can be said of the county taxes, but Plaintiff has been paying these taxes until the federal courts rule of the validity of the state school taxes.

10. Again, the only hearing afforded under state law is the assessment of the value of the real estate property. No hearing is afforded under the state law for challenging the validity and/or constitutionality of the taxes levied after the value of the homestead property has been determined. In addition, it is the opinion of much of the New Jersey judiciary that no just compensation needs to be provided to the homeowners for whatever taxes they levy onto people's homestead properties. Thus, the odds were stacked against Plaintiff in his effort to determine the legality of the levies imposed onto his residence. Since no actual taking is occurring by the imposition of the levies or liens alone, no court would act to eliminate these levies or liens. The only time Plaintiff had a legal claim against these defendants was if his property had actually been taken and the defendants refused to provide compensation – which is exactly what they did and this is the subject of this lawsuit. Of course, the defendants in deciding to enforce the illegal levies or liens violated a number of other constitutional rights of the Plaintiff, such as: the right not to be subjected to unreasonable searches and seizures, the rights to be free and independent, the right to enjoy his property, the New Jersey constitutional guarantee not to be incarcerated for a debt, etc.

11. The New Jersey Department of Education had determined that a tax rate of 93 cents per \$100 dollars would be appropriate based on the taxable property of Wayne Township.

12. The Township of Wayne and the Wayne Public Schools Board of Education failed to procure from the state of New Jersey the fair share to run the public school system. The state has been providing almost no state funds to pay for the Wayne Public Schools education adequacy budget that consists of more than \$140 million dollars.

13. The state provides 94 percent of the public school budgets of the 21 so called Abbott school districts that include several million homeowners; furthermore, on average, the state provides at least 50 percent of the public school funding for the majority of the homeowners, except Wayne Township and several other towns.

14. As a result of the custom or policy of Wayne Township not to successfully seek the proper funding for the public schools, the Wayne homeowners have been forced to pay against their consent grossly unequal amounts of taxes to fund the public school system. This is a result of the policy or custom of Wayne Township, where they aggressively try to collect all the school taxes, while most other townships do not pursue such policies or customs but instead demand the proper funding from the state of New Jersey because under the state constitution (Article VIII, Section IV, par. 1): "The Legislature shall provide for the maintenance and support of a thorough and efficient system of free public schools for the instruction of all the children in the State between the ages of five and eighteen years." This is the authority upon which the defendants relied to disturb Plaintiff's property rights. Since the Legislature has not ordered the

sale of Plaintiff's property rights, everybody acting under an authority that has not been expressly granted by the people, has usurped legislative authority. All orders, judgments, assessments, levies and liens by persons that do not hold legislative authority are void as a matter of law.

15. Mr. Stephanatos has been paying the excess taxes between 1995 and 2005, although he was informing the Wayne Township that there is no nexus between him and the school tax as he never used the school system, does not have any children and he will never use the school system and that the violation of the uniformity and equal protection clauses of the state constitution makes the levied tax illegal and unconstitutional.

16. Furthermore, Mr. Stephanatos continued to indicate to the municipal defendants that the school tax is a state tax and that it violates the state uniformity clause and the equal protection rights of the Plaintiff.

17. The right to own property is guaranteed by the state constitution (Article I, Section 1¹⁰). Only a compensatory tax can be levied onto Mr. Stephanatos' homestead property. Both the Federal and State Constitutions Require Just Compensation for such takings. This is an unalienable right held by Mr. Stephanatos. No tax can be levied onto Mr. Stephanatos' property unless full compensation is provided. This is the opinion of the U.S. federal Court and the New Jersey Supreme Court.

10

ARTICLE I
RIGHTS AND PRIVILEGES

1. All persons are by nature free and independent, and have certain natural and unalienable rights, among which are those of enjoying and defending life and liberty, of acquiring, possessing, and protecting property, and of pursuing and obtaining safety and happiness.

18. Plaintiff never used the state school system; he came to New Jersey in 1995 when he was 37 years old and he never made any personal use of the school system; he bought the home using money that have already been taxed by New Jersey, the federal government or other jurisdictions and he was not consenting to any further taxation without just compensation being provided.

19. No services were provided to Plaintiff's property commensurate with the levying of the state school taxes.

20. In 2005, Plaintiff stopped paying about fifty percent of the state school taxes, after he had determined that the assessed school taxes are twice as much as the statewide average state school taxes.

21. The municipal defendants then sold the levies of the excess state school taxes to American Tax Funding, LLC (ATF).

22. In 2009, ATF proceeded to foreclose Plaintiff's real property rights on the basis of not payment of \$20,000 in unpaid state school taxes from 2005 to 2009.

23. Plaintiff continued to protest to the municipal defendants and the New Jersey courts that this is an unreasonable seizure in violation of Plaintiff's 4th Amendment rights not to be subjected to unreasonable searches and seizures. Plaintiff also demanded just compensation which was denied or deemed denied. Plaintiff also indicated to the court that they have no constitutional authority to take a homestead property and give it to the private party for the direct benefit of that party. This is a substantive due process violation.

24. Of course, the New Jersey courts are in control of the state school budgets and they have been acting as legislators for many years now, against the

consent of the homeowners and despite the protests by many legislators. The courts refused to uphold the constitutional rights of the Plaintiff.

25. The eviction court orders were signed by a judge (Mary Jacobson-Mercer County) who had no territorial jurisdiction over the property or the Plaintiff and refused to perform a hearing on the validity of her orders; and her orders are thus null and void ab initio.

26. Plaintiff requested the Sheriff's eviction from the above premises, be postponed, or voided, so that the complaints and appeals be adjudicated and to allow Plaintiff to file an emergency appeal or suit with the federal courts. These requests were also denied. The Sheriff's officers interfered with Plaintiff's possessory and privacy interests.

27. They defendants seized Plaintiff's person and person valued at \$690,000 for a mere \$20,000 in illegal school taxes; defendants also damaged irreparably the business of Plaintiff and injured his reputation. The current estimate of the damages that the defendants caused the Plaintiff exceeds \$10 million dollars in compensatory damages and \$100,000,000.00 in punitive damages.

PRIOR ACTION IN THE U.S. DISTRICT COURT TO STOP THE UNLAWFUL
LEVYING OF MR. STEPHANATOS' HOMESTEAD PROPERTY WITH ILLEGAL
STATE SCHOOL TAXES

28. In 2004, after all demands by Mr. Stephanatos against the defendants to stop the unlawful levying of unequal and discriminatory school taxes onto his residential had failed, Mr. Stephanatos initiated a legal action in the federal district court to order the Tax Assessor to stop assessing his property with unequal and illegal school taxes.

The state and the local governments were put on notice via this action that Mr. Stephanatos considers the school taxes illegal and unconstitutional and that either the taxes are reduced or eliminated from his property. The federal action (former Judge Bessler) dismissed the action for lack of jurisdiction, as no taking had actually occurred. The defendants were and should have been on notice regarding the illegal levying of Mr. Stephanatos' property.

29. On or about August 2005, Mr. Stephanatos received a refund notification from the state of New Jersey where they stated that the Homestead Property Tax Refund was about \$1,200 and that amount would be applied towards the municipal taxes.

30. On or about 2 September 2005, Mr. Stephanatos received a tax sale notification from the Tax Collector of Wayne Township for \$803.38.

31. On or about 4 September 2005, Mr. Stephanatos sent a letter to the Tax Collector disputing the tax liability. He indicated that he will file a refund suit in the Tax Court and asked the Tax Collector for a refund of his taxes.

32. In September 2005, following the refusal by Wayne Township to either refund the excess taxes or reduce the amount of taxes levied onto Mr. Stephanatos' homestead property, he initiated a suit in the New Jersey tax court to obtain a refund of the 1995-2005 past school taxes that were paid to the Wayne Township and were in violation of the uniformity clause of the state constitution.

33. The tax court said that since Mr. Stephanatos voluntarily paid the taxes, he had lost any refund rights despite the fact that the taxes may have violated some of his constitutional rights (due process, just compensation, equal protection) and in

violation of the uniformity clause of the state constitution. The tax court also said that it has no equity powers and the suit should have been filed in the Superior Court of New Jersey.

34. Based on the hearing held in the tax court, Mr. Stephanatos realized that he should not have paid the disputed taxes because by paying the taxes he had possibly lost the right to a refund, despite the fact that the taxes were unconstitutional and illegal.

35. As a result, following September 2006 stopped paying Wayne Township the illegal and unconstitutional school taxes that exceeded the statewide school taxes by 233 percent. Mr. Stephanatos paid only school taxes based on the 93 cents per \$100 dollars of valuation. Mr. Stephanatos also retained his right to ask for just compensation, equal protection, due process and to maintain his right to own property as that right is guaranteed by Article I, par. 1 of the New Jersey Constitution.

36. Wayne Township, not authorized to do so by the state of New Jersey, allegedly sold the excess taxes to an entity called American Tax Funding, Inc. in a tax sale in late 2006. Mr. Stephanatos immediately protested to the Wayne Township tax collector when he saw the "tax sale notice". Despite Mr. Stephanatos protests that he does not own any additional tax because of the violation of the uniformity, just compensation and equal protection clauses, Wayne Township did publish the tax sale for \$800 or so in the local newspaper, embarrassing Mr. Stephanatos to his neighbors.

37. During the following years, Mr. Stephanatos continued to pay to the Township the municipal and county taxes, but refused to pay the state school taxes that were in excess of the 93 cents per \$100 statewide tax assessment authorized by the

state of New Jersey. He essentially paid about 50 percent of the state school taxes to comply with the statewide average state school taxes paid by the average homeowner.

38. Allegedly, Wayne Township continued to sell the excess taxes to American Tax Funding. There have been no "tax sale notices" sent to Mr. Stephanatos and it appears that none of the statutory tax sale procedures have been followed by the Wayne Township tax collector.

39. In December 2008, Mr. received a letter from American Tax Funding, Inc.' attorney, one Robert A. Del Vecchio, of Hawthorne, New Jersey. This individual claimed that American Tax Funding has paid to Wayne Township the excess state school taxes and demanded payment by Mr. Stephanatos to Wayne Township a huge sum of money which he refused to substantiate. Mr. Stephanatos immediately denied the validity of the alleged school tax debt and asked again for a detailed accounting of the alleged debt, including a detailed breakdown of the goods and/or services that ATF or Wayne Township has provided to Mr. Stephanatos and for which the Township is asking for compensation. Again, Del Vecchio, ATF and Wayne Township failed to comply with the request/demand by Mr. Stephanatos.

40. Del Vecchio threatened with foreclosure of Mr. Stephanatos' homestead property, if Mr. Stephanatos did not pay the unsubstantiated amount to Wayne Township. I asked as to why would I have to pay the money to Wayne Township instead to ATF, if ATF claims to holds the rights to a valid tax debt; Del Vecchio again provided no response to Mr. Stephanatos' questions and again threatened Mr. Stephanatos' with foreclosure of his home if Mr. Stephanatos refuses to succumb to the threats.

41. At the same time (i.e., December 2008), Mr. Stephanatos realized that Wayne Township may have sold the illegal and/or invalid tax debt to ATF who had placed a lien on Mr. Stephanatos' homestead property. Mr. Stephanatos realized it at that time only because he applied for a home equity line of credit and the lender brought it to Mr. Stephanatos' attention. As a result of the illegal and/or invalid lien, Mr. Stephanatos has incurred pecuniary and non-pecuniary damages.

42. On December 26, 2008, Mr. Stephanatos sent a fax to Del Vecchio demanding that the lien be released from Mr. Stephanatos' home, otherwise there will be severe consequences for the failure to do so (Mr. Stephanatos used different language to make his demand, but the end result is that Del Vecchio got the point that Mr. Stephanatos will vigorously defend his property and his other constitutional rights and that Del Vecchio, ATF and Wayne Township Collector be prepared to face the consequences of their illegal activities).

43. In March 2009, Mr. Stephanatos received a foreclosure claim from ATF, claiming that it has a right to title to Mr. Stephanatos' homestead property in Wayne, New Jersey by not paying the illegal tax levy. It is significant to note that Del Vecchio wrote in his foreclosure claim that ATF had paid all municipal taxes to Wayne Township. This was a willful misrepresentation, because the only taxes in dispute were the state school taxes that are in violation of the uniformity clause, the equal protection and the just compensation of the state constitution. Del Vecchio also failed to provide any evidence to substantiate any of his claims contained in his complaint.

44. On March 30, Mr. Stephanatos filed a 37-page answer disputing the validity of the claims asserted by Del Vecchio, disputing the validity of the tax lien and tax levy, and raising a number of defenses including, but not limited to the following

- a. Violation of the equal protection clause of the state constitution;
- b. Violation of the uniformity clause of the state constitution;
- c. Violation of the just compensation clause of the state constitution;
- d. Violation of the property rights guaranteed by Article I, Section 1 of the state constitution;
- e. Violation of the Due Process and equal protection clauses of the 14th Amendment to the federal constitution;
- f. Mr. Stephanatos also alleged discrimination in the levying of district school taxes;
- g. Mr. Stephanatos also alleged that the proper procedures for levying the tax, filling a lien, selling the lien to ATF, filing of the notices, etc. had not been followed by the Wayne Township and/or ATF.
- h. Finally, Mr. Stephanatos alleged that no meaningful opportunity to challenge item-by-item the district school taxes had been provided to him prior to the collection of the district school taxes.

45. On May 1, 2009, Mr. Stephanatos received a letter from Judge Margaret McVeigh, Superior Court of New Jersey, Paterson, New Jersey, notifying the parties

that a case management conference will be held on May 26, 2009 to discuss the discovery issues.

46. On May 5, 2009, Mr. Stephanatos sent a letter to Judge McVeigh, providing proof of the illegal and unconstitutional levying of state taxes onto Mr. Stephanatos' homestead property (as was alleged earlier, Wayne Township without being authorized to do so by the Governor or the state of New Jersey, levied onto Mr. Stephanatos' homestead property state taxes that exceed the statewide tax rate by 233.7 percent and this is in violation of the state constitution's uniformity clause)

47. On May 15, 2009, Mr. Stephanatos received a motion to strike Mr. Stephanatos' answer. The motion was filed by Del Vecchio and alleged that the basis of the motion was that all defenses raised by Mr. Stephanatos had been adjudicated in the tax refund suit filed by Mr. Stephanatos in 2006 in the tax court. Del Vecchio provided no detail as to what claims were adjudicated by the tax court, whether the tax court had any authority to adjudicate the claims and the issues, what was the basis of the tax court decision, and whether Mr. Stephanatos' legal issues had any bearing on the tax court refund suit decision.

48. As was explained earlier, the tax court said that it has no equitable powers, it only deals with assessments of real estate taxes, it has no statutory authority over real property refund suits and considered Mr. Stephanatos' real property refund claim as untimely. The tax court did not address any of the constitutional claims of Mr. Stephanatos, including the violation of the uniformity clause of the state compensation and the due process clauses of the federal and state constitutions; also, the taking and

just compensation claims could not have been ripe for adjudication during the assessment phase, as such claims can only be raised only during the collection phase.

49. Del Vecchio asked the court to issue an order striking Mr. Stephanatos' answer and requested that no hearings be held as all issues have been adjudicated by the tax court. Based on the above factual background, Del Vecchio has lied to Judge McVeigh in an attempt to violate Mr. Stephanatos' property rights and civil rights.

50. On 12 June 2009, Judge McVeigh issued an order staying the homestead property foreclosure proceedings so that Mr. Stephanatos has the opportunity to file a Complaint in Lieu of Prerogative Writs with the Law Division, Passaic County, New Jersey (i.e., this instant complaint), asking for injunctive and declaratory relief, cancellation of the tax sale and tax sale certificate, and any other relief that the court deems to be just and proper.

51. Therefore, in 2009, I filed a Complaint in Lieu of Prerogative Writs (L-2672-09) after granted leave by Judge McVeigh on the F-9241-09. The WBOE defaulted initially. Later, the WBOE filed a motion to remove the default which the then judge Riva granted. While we were on discovery, I again realized that the proper party is the WBOE and perhaps the State; Wayne Township should not have been the party to the suit.

52. Without properly serving me, Wayne Township apparently filed a motion to dismiss the L-2672 complaint. Plaintiff did not file a response to that motion, as he was not served and he had no notice of the motion.

53. Apparently, Judge Riva granted the motion to dismiss, without performing a hearing on the new constitutional issues Plaintiff raised in the L-2672-09 complaint, including all the procedural issues I raised regarding the tax sale certificates. Plaintiff continued with the discovery of the facts necessary for the adjudication of my claims and I am ready to present them to court. But Judge McVeigh now says that all issues have been adjudicated – this is not true, as no hearing has been held and I did not present my case to a court of law.

54. In summary, Plaintiff's procedural due process rights have been violated, because no meaningful hearing was ever held to address the illegal public school levies;

55. Even more important, Plaintiff's substantive due process rights have been violated, because the courts issued orders transferring title of Plaintiff's homestead property for the pecuniary benefit of a private entity, ATF. This is prohibited under Article I, Section 20 of the state constitution. Between 2010 and June 28, 2011, Plaintiff urged the state courts NUMEROUS TIMES to vacate such unconditional orders, but they refused to do so. These courts never issued an opinion or never held any meaningful hearing. In particular, one judge (Margaret McVeigh) said that Plaintiff had an accent, and that "the New Jersey property tax system is much different than the federal property system", she also said that Plaintiff should get a lawyer; when Plaintiff told McVeigh that he was following legal opinions and that both the federal and state constitutions require just compensations for the public taking and that no private entity is supposed to be benefited from such takings, she said "who is the lawyer who told you

these things?" I then filed a motion to remove that judge from the case, but she did not disqualify herself, stating that the motion papers were not properly served.

56. It is important to note that the current New Jersey judges opinions are that the state and local governments can levy taxes at will, no matter how unequal, and without having to provide just compensation. As the Court can see, Plaintiff's procedural and substantive due process rights were intentionally violated by a corrupt New Jersey Judiciary, because they refused to hear his constitutional claims and refused to obey the federal and state constitutions that prohibit the taking of private property for private benefit – thus, a substantive due process claim is asserted on that basis alone. The intentional violation of Plaintiff's federally protected rights is obvious. As the U.S. Supreme Court has ruled in *Londoner v. Denver*, 210 U.S. 373 (1908): *"The legislature may prescribe a form of procedure to be observed in the taking of private property for public use, but it is not due process of law if provision be not made for compensation. Notice to the owner to appear in some judicial tribunal and show cause why his property shall not be taken for public use without compensation would be a mockery of justice."*

57. Plaintiff needs to note again that the New Jersey Legislature has repeatedly attacked these decisions by the NJSC and the lower New Jersey courts, demanding that a more equitable school tax funding system be created; but to no avail – thus, the corrupt New Jersey courts have intentionally violated Mr. Stephanatos property rights and caused him to suffer several million dollars in damages, for a mere \$20,000 in public school taxes that he did not owe in the first place.

58. Plaintiff also notes that the Rooker-Feldman doctrine does not apply in this case. Under the *Rooker-Feldman* doctrine, lower federal courts lack subject-matter jurisdiction when, after state proceedings have ended, a losing party in state court files suit in federal court complaining of an injury caused by the state-court judgment and seeking review and rejection of that judgment. *Rooker-Feldman* also applies to bar federal claims that are "inextricably intertwined" with a state-court judgment, except where the plaintiff lacked a reasonable opportunity to present those claims in state court. Here, the Plaintiff sought all along to regain the legal title to the property, as he always had a possessory title to the property, but the lower courts never addressed his constitutional issues and the validity of the tax liens. There has been no court opinion issued by any lower court, further proving that the lower courts never heard his arguments – the Court should know by now that the lower court actions were deliberate, as they never intended to hear Plaintiff's arguments and they always believed that the defendants never had to provide just compensation for the illegal school tax levies. Thus, even if the lower had heard the arguments of Plaintiff, they would have still violated both the federal and state constitutional rights of the Plaintiff, as the lower courts are in control of the state school and local budgets and have been acting as legislators without the consent of the homeowners.

59. In addition, Plaintiff has identified numerous other injuries separate from the tax deed judgment. Plaintiff does allege, for example, that the tax deed and the seizure of his business, homestead and other property violated his state or federal constitutional rights. Thus, the Plaintiff's injury was caused by – and its federal due-

process claim arose directly out of – other injuries not pertaining simply to the tax deed judgment.

60. Between 2005 and 2011, Plaintiff filed complaints with the governor, the senators (e.g., Senator Kevin O'Toole) and the Attorney General who all promised to intervene; Plaintiff therefore, applied for a stay of the unconstitutional and illegal lower court orders, pending emergency appeals with the legislature, the governor's office and the federal courts. Plaintiff also filed a suit in the Law Division to Vacate the Tax Deed. That suit could be heard only if Plaintiff still had possessory title to his property. However, through the fraudulent actions of ATF and Del Vecchio, the defendants seized my dwelling, my business, my personal property, using excessive force and under gun point, causing me several million dollar in damages. Thus, the county defendants knowingly interfered with Plaintiff's legal rights, in addition to violating the Fourth Amendment rights against unreasonable searches and seizures and in addition to the numerous torts against the Plaintiff.

FACTS ASSOCIATED WITH THE TAX COLLECTOR

61. On or about 26 September 2005, Mr. Stephanatos sent a second letter (see Exhibit B) to the Tax Collector indicating that he considers the school taxes illegal and that the demanded tax is also illegal. Mr. Stephanatos' letter provided evidence that the school taxes violate the equal protection guarantee of the federal and state constitutions. Mr. Stephanatos also asserted his right to ask for compensation for the taxes and since no such compensation is provided, no school tax is due and such levy must be released from his land.

62. Nevertheless, Mr. Stephanatos enclosed a check for \$883.38 to pay for the tax sale notice, stating that the payment is made under duress and that he will file a suit to recover the illegal taxes.

63. Mr. Stephanatos indicated to the Tax Collector that by applying the Homestead property tax refund, there will be no liability for the year 2003. The Tax Collector failed to provide the requested accounting to Mr. Stephanatos to ascertain the validity of his calculations. Later (i.e., on 2 October 2005) he said to Mr. Stephanatos that he had applied the tax refund to an earlier year, but he did not specify what year.

64. Mr. Stephanatos indicated to the Tax Collector that he disputes the school taxes and that he is asking to postpone the tax sale until the tax court adjudicates the refund case. The Tax Collector refused to do so and allegedly sold the alleged taxes in a tax sale on 27 September 2005.

65. On or about 1 October 2005, the Tax Collector wrote a letter to Mr. Stephanatos stating that he will not accept the check for \$883.38 and that he wanted additional interest and a certified check because he had sold the tax sale certificate.

66. Mr. Stephanatos went to the Tax Collector's office on 2 October 2005 and he hand-delivered the check and the letter (see Exhibit B), indicating that the Tax Collector's behavior is illegal. The Tax Collector refused to accept the personal check from Mr. Stephanatos for \$883.38.

67. As of 28 May 2009, Mr. Stephanatos has no record of any tax sale certificate to ascertain as to which legal entity issued the tax certificate, i.e., was it a municipal tax sale certificate, a district school tax sale certificate or a county tax sale certificate. Also, Mr. Stephanatos does not know what is stated in the tax sale

certificate and it is important that I receive a copy to be able to examine its authenticity and conformance with all the applicable statutory rules. As Mr. Stephanatos has plead, he has paid all municipal charges and no municipal tax was due. For the tax year in question (2003), Mr. Stephanatos had paid \$7,000 in property taxes which was almost \$3,000 more than the statewide average taxes.

68. Mr. Stephanatos denied the existence of any valid or constitutional taxes or lien. Mr. Stephanatos has paid all municipal taxes and charges. The only dispute is with the amount of State School taxes-these are State Taxes and not municipal taxes. Mr. Stephanatos claims that conditions precedent to the bringing of the suit has not been performed.

69. It is my understanding that the tax collector is no longer employed by Wayne Township. The job ad placed in the newspapers by Wayne Township reads in relevant part: *"Seeking an experienced individual with excellent managerial skills and the ability to interact with the public and staff. ... The ability to be flexible, open minded and multi-task is a must."*

70. Again, no hearing was ever held by any New Jersey court to address the procedural violations cited above.

FACTS ASSOCIATED WITH THE MUNICIPAL DEFENDANTS

71. The State of New Jersey is taxing Plaintiff's gross income to partly fund the public school system. Same defendant also takes an additional portion of Plaintiff's personal property by charging Plaintiff a seven percent sales tax to pay for the public school system.

72. The Defendant Wayne Public Schools Board of Education has been aware that Plaintiff has never used the public school system and has no children in the public school system. Same Defendant is responsible for levying or establishing and proposing the amount of levy onto the Plaintiff's property. Same Defendant is currently holding Plaintiff's property and is refusing to return said property to Plaintiff upon demand by the Plaintiff to do so.

73. All Defendants have been constantly taking Plaintiff's property for public use; Plaintiff's property has been taken since 1995 and used for public purposes; no just compensation has ever been provided to the Plaintiff by any of the Defendants.

74. Amount of property taken by the Defendants substantially exceeds the property taken from the majority of the New Jersey and Passaic County Residents for same value property – this is the partly result of the failure of Wayne Township to secure the fair share funding from the state of New Jersey.

75. The State of New Jersey and Wayne Township have not provided an opportunity for the Plaintiff to challenge the taking of his property for public school purposes.

76. The student's parents receive a great benefit in both monetary value and education; the Plaintiff is being deprived of his property at no benefit whatsoever. Plaintiff's property is being taken by the Defendants (particularly the Board of Education) to pay for the transportation costs for students that clearly have nothing to do with education.

77. The Wayne Township School Board is charging the Plaintiff even with the student transportation costs, and pre-schooling costs (ages of less than five years old that the state constitution does not require to be provided for by the state) among other items. Clearly, the Wayne Township School Board is charging the Plaintiff at will for whatever item chooses and forces the Plaintiff to pay an extraordinary amount using as basis the value of his homestead property no matter whether the Plaintiff has received or receiving any compensation or service for his property and no matter that Mr. Stephanatos' property has been bought by his wages that have been already been taxed by the state to pay for public schools.

78. Defendants were provided with many opportunities to either reduce or eliminate the taxation of Plaintiff's property for public school purposes.

79. In recognition of the unequal school property taxes in New Jersey, in March 1999 the state legislature enacted the "New Jersey School Assessment Valuation Exemption Relief and Homestead Property Tax Rebate Act" (NJ SAVER and Homestead Rebate Act) amending and supplementing P.L.1990, c.61 (C.54:4-8.57 et seq.), amending P.L.1981, c.239 and P.L.1997, c.348, and making an appropriation that constituted the largest property tax relief program ever provided by the State of New Jersey.

80. The senate bill made reference of an average state school tax of \$1,800 for the year 1999. By contract, the Wayne School Board of Education levied almost \$3,600 in school taxes onto Mr. Stephanatos' homestead property.

81. In addition, the Board failed to secure the requisite fair funding from the state of New Jersey, extracting the unequal and discriminatory taxes through the illegal, unfair and unconstitutional procedures described herein.

FACTS RELEVANT TO THE VALIDITY OF THE MUNICIPAL TAX LIEN

82. This factual background raises important question as to what entity placed a lien on Mr. Stephanatos' property. Was it a municipal tax lien, a district school tax lien or a county tax lien? These are three separate and distinct entities that levied three separate and distinct taxes onto Mr. Stephanatos' property. Mr. Stephanatos has a right to find out as to who decided to sell Mr. Stephanatos' property. Did the district school authorize the Tax Collector to sell Mr. Stephanatos' property? These important questions have not been answered by the defendants.

83. Mr. Stephanatos has paid all the municipal charges, assessments and taxes and he only disputed the amount and legality of the district school taxes which are not municipal taxes – the district school taxes are state taxes and a state tax sale must be held and a state tax sale certificate must be issued which was not done in this instant case. The 1918 Act does not provide for the tax sale by the municipality of a district school tax or a county tax as these legal entities are subdivisions of the state. An examination of the Tax Sales Act of the 1918 indicates that the act makes a clear distinction between a State Tax and a Local Tax. The municipal tax was considered a local tax.

84. The School Taxes are State Taxes and not Municipal Taxes. The book entitled Tax Laws of the State of New Jersey, Compilation of the Statutes relating to the

Assessment and Collection of Taxes, Cases and Annotations , Trenton, NJ, State Gazette Publishing Co., Revision 1918 states in page 60 the following:

85. *Nature of School Taxes – The Taxes required to be raised by the general school law for the support of the free public schools of the State are State taxes for the use of the State. Society, &c., v. Paterson, 89 N.J.L. 208, reversing 88 N.J.L. 123*

86. Therefore, if a municipal tax lien was placed on Mr. Stephanatos' property, that lien may have been illegal and null and void as no municipal taxes were due because Mr. Stephanatos only refused to pay a portion of the State School Taxes.

Other Jurisdictions have also held that the School Tax is a State Tax – the Taxing District is the Entire State

87. Without burdening this court with the law at this stage of the lawsuit, I will only mention a couple of critical cases that have addressed the issue of the school and county taxes. In Claremont School District, et al v. Governor, et al., (142 N.H. 462, 703 A.2d 1353, 123 Ed. Law Rep. 233) the Supreme Court, Brock, C.J., of New Hampshire held that:

88. *(1) property tax levied to fund education is a state tax, and, thus, taxing district is entire state; (2) system of financing public education through school taxes assessed in school districts was disproportionate and unreasonable within meaning of constitutional provision requiring proportional and reasonable tax assessments;*

89. *Determining the character of a tax as local or State requires an initial inquiry into its purpose.*

90. *In order ... that the tax should be proportional ... it is required that the rate shall be the same throughout the *469 taxing district;-that is, if the tax is for the general purposes of the state, the rate should be the same throughout the state; if for the county, it should be uniform throughout the county;-and the requisite of proportion, or equality and justice, can be answered in no other way. State v. U.S. & C. Express Co., 60 N.H. 219, 243 (1880) (Stanley, J.) (emphasis added). We find the purpose of the school tax to be overwhelmingly a State purpose and dispositive of the issue of the character of the tax.*

91. The Supreme Court of Florida., in *STATE ex rel. CLARK v. HENDERSON et al.*, April 21, 1939., Rehearing Denied May 15, 1939., En Banc., State ex rel. Clark v. Henderson, 188 So. 351, 352 (Fla. 1939) reached the same conclusion as the Supreme Court of New Hampshire when it said that the school district tax is ancillary to county school tax provided by the Florida Constitution and is of the same nature as special tax for public free schools provided by Constitution,is a "tax" in aid of uniform system of public free schools, F.S.A.Const. art. 10, § 7; F.S.A. art. 12, §§ 6, 8, 10., 137 Fla. 666, 188 So. 351. As a state tax, it must be taxed using uniform rates throughout the state.

92. The New Jersey court also agreed with the above opinions when he opined in *Robinson v. Cahill*, 118 N. J. Superior Court 223, 287 A. 2d 187 (L. 1972), ". *Public education cannot be financed by a method that makes a pupil's education depend on wealth of his ... neighbors as distinguished from wealth of all taxpayers of the same class throughout the state*". Furthermore, the judge wrote ". New Jersey system of financing public education ...denies equal protection rights guaranteed by the

New Jersey and Federal Constitutions since it discriminates against...taxpayers by imposing unequal burdens for a common state purpose". (emphasis added).

93. The Ohio Supreme Court in 1997 also ruled the school funding mechanism unconstitutional and singled out as a problem the heavy reliance on local property taxes to fund schools.(*DeRolph v. State*, 79 Oh.St.3d 297, 1997)

94. The Municipality Raised Many Millions more in School Taxes than was requested by the State for State School Purposes. The Municipality had Neither the Authority nor the Approval from the State to Sell Mr. Stephanatos' Property for these Additional "State School" Taxes

95. This is another extremely important point to make: Wayne Township has been raising ten to twenty million dollars more in school taxes than is requested by the state. This is the reason the state of New Jersey does not provide much state aid to the local school district. These taxes are considered special assessments and require that a benefit is conferred on the homeowner. No such benefit has been conferred on Mr. Stephanatos. Therefore, the local district has been levying 20 percent additional school taxes onto Mr. Stephanatos' property without having any authorization from the state to do so and without any request from the state to do so and against the consent, willingness or ability of Mr. Stephanatos to pay for such excess and special assessments that require just compensation.

96. In conclusion, the tax sale certificate was invalid because no state school tax was owed by Mr. Stephanatos to the state of New Jersey, the Wayne Township or the School District.

INVALIDITY OF THE TAX DEED

97. Defendants claimed a lien or interest in and to the property adverse to Plaintiff under a certain tax deed for the property delivered to Defendant by *Judge Mary Jacobson* of *Mercer County*, State of New Jersey, on *13 May 2011*, and recorded in the office of the *Passaic County* Recording Officer. Said judge had no personam jurisdiction over the Plaintiff; said judge had no jurisdiction over the said homestead property; Plaintiff did not attend any proceedings in front of Judge Jacobson and properly challenged the jurisdiction and authority of said judge; Judge Jacobson never addressed Plaintiff's jurisdictional challenge and never addressed Plaintiff's constitutional rights and never heard any of the Plaintiff's defenses in violation of Plaintiff's procedural and substantive due process.

98. Plaintiff has no children; he neither used nor receive service from the public school system; he have no need of the public education system;

99. Plaintiff have never used the public school system of the state of New Jersey and he never intent of using it;

100. Defendants had no estate to the property, or any part of the property and had no possessory title to the homestead property.

101. Plaintiff maintained possessory title to the property until the events of June 28, 2011 as they are detailed herein;

102. Defendant's claim under the tax deed clouded Plaintiff's title to the property, depreciated the market value of the property, and prevented the Plaintiff from enjoying the use of the property as its owner.

103. The school property taxes are state taxes for the support of the schools; as such, they must be pass the equal protection and uniformity clause requirements of the state constitution;

104. Mr. Stephanatos has paid all the municipal charges, assessments and taxes and he only disputed the amount and legality of the district school taxes which are not municipal taxes – the district school taxes are state taxes and a state tax sale must be held and a state tax sale certificate must be issued which was not done in this instant case. The 1918 Act does not provide for the tax sale by the municipality of a district school tax or a county tax as these legal entities are subdivisions of the state. An examination of the Tax Sales Act of the 1918 indicates that the act makes a clear distinction between a State Tax and a Local Tax. The municipal tax was considered a local tax.

105. The New Jersey Constitution requires that all state taxes to be uniform across the entire state. However, Plaintiff's homestead property has been assessed twice as much as equally valuated property due to excessive assessments being forced on the residents of Wayne Township by the municipal defendant as a result of a custom or policy. The municipal defendant could very easily have requested additional funding from the state of New Jersey, but they refused or failed to do so. Only after they confiscated Plaintiff's property did they request additional funding from the State which was granted two weeks after the news of Plaintiff's eviction became public.

106. In contrast, the city of Paterson homeowners pay only 6 percent in school property taxes, while the municipal defendants assessed Plaintiff's residence with 90 percent of the state school taxes. This is highly unequal taxation and in violation of the

equal protection guarantee embedded in the state constitution. In addition it violates the just compensation and taking clauses, because Plaintiff receives no special benefits from such state school tax levies. Certainly Plaintiff does not receive any special benefits to the point to justify the double the average homeowner school tax levies.

107. In addition, the personal income tax of Plaintiff is not being used to reduce Plaintiff's property taxes; instead the money are being used to pay for the school taxes of neighboring towns; this is direct violation of the constitutional provision approved by the homeowners requiring the income taxes to be used only for the reduction of the property taxes.

108. Furthermore, the federal government taxes Plaintiff's wages and sends about 6 percent of these taxes to the city of Paterson and other cities where blacks and/or Hispanics reside; these takings constitute double and triple taxation, providing no commensurate benefit to the Plaintiff.

109. Since the residents of Paterson are mostly blacks and Hispanics, Plaintiff believes that his homestead property has been over assessed on the basis of his color and/or race or national origin;

110. Therefore, if a municipal tax lien was placed on Mr. Stephanatos' property, that lien may have been illegal and null and void as no municipal taxes were due because Mr. Stephanatos only refused to pay a portion of the State School Taxes and no municipal taxes were involved;

111. Should a portion of the state school taxes be considered a "special assessment", then these taxes are special assessment requiring just compensation to be paid to the property owner. Since Plaintiff did not receive any compensation (since

all the benefits are provided to the children in terms of books, food, athletic events, teaching, etc.), then these extraction of these special assessments was a taking in violation of NJ Const., Art. I, par. 20 and the Taking Clause to the federal constitution as it was made available to the states under the 14th Amendment.

- In addition to the property taxes, the Municipality and the State can raise taxes through the following legal means:

- Public utility property tax;
- Sales taxes;
- Use taxes;
- Lodging taxes;
- Real estate transfer taxes;
- Motor vehicle license taxes;
- Alcoholic taxes
- Personal income taxes;
- Motor vehicle license taxes;
- Motor vehicle fuel taxes
- Rents;
- Fees;
- Assessments;
- Federal grants;

- Charge tuition for the school services;
- Corporate taxes
- Corporate income taxes
- Numerous other taxes.

It is very clear that the state and local governing bodies have an extremely large source of revenues that can be used to perform local services; these sources of taxes are pretty legal and thus, there is no need and no basis to violate Plaintiff's Civil Rights by selling his private property for public use without just compensation and without due process; and certainly they should not violating his substantive due process rights by failing to provide a remedy to appeal the assessment of levy for public school purposes.

112. The tax sale certificate was issued under municipal law to recover municipal taxes; here, the only issue is state taxes; the state should have initiated collection actions under state collection statutes and it failed to do so; as a result, the tax sale certificate is invalid;

113. Plaintiff was being forced to pay, UNDER THE THREAT OF BEING EVICTED FROM MY HOME, TWICE as much in school taxes, for equal valuated property; Plaintiff demanded equal protection from Wayne Township, the Wayne School Board, the State of New Jersey, but all his requests for equal protection were in effect denied;

114. On the other hand, under Equal Protection, the New Jersey Supreme Court ordered the State to raise funds to pay for the free education of children at millions of homes; as a result, millions of homeowners pay very little state school tax;

for example, homeowners in Paterson, NJ pay less than 5 percent in state school taxes; in contrast, Plaintiff was forced to pay 90 percent of the state school taxes, without receiving any compensation for such unequal levies;

115. The New Jersey Supreme Court has ruled that *"In respect of special assessments, exaction from owner of private property of cost of public improvement in substantial excess of special benefits accruing to him is, to extent of such excess, taking, under guise of taxation, of private property for public use without compensation. U.S.C.A. Const.Amend. 5; N.J.S.A. Const. Art. 1, par. 20."* *Roc-Jersey Associates, et al. v. TOWN OF MORRISTOWN*, 158 N.J. 581

116. Relying on such decisions, Plaintiff refused to pay the obviously discriminating taxes that exceed the statewide average based on equal valuation.

117. Plaintiff paid a little more than half the state school taxes they charged onto his property;

118. Since the school tax consists mostly of teaching and transportation services, these services are meant to benefit the individual children. Thus, although the school tax is an ad valorem tax, it is not based on the increase of value in the real estate property (it has been well established that the schools do not increase the value of the properties) and it is simply a cost of the service provided to the individual children.

119. Thus, the tax sale law has been used recover costs of the local government that have incurred to service a certain person, a certain business or a certain commercial property (such as cleaning of the roads, etc.). Here however, Plaintiff has no children and has not placed any burden on the local municipality. Thus, it defines logic and common sense as to why the defendants decided to attach Plaintiff

and cause him millions of dollars in damages, when in fact he has not burdened the defendants with any school services. Again, Plaintiff has paid all municipal and county taxes, and half of the state school taxes – he only demanded equal protection, so that he pays the same amount in public school taxes as the average homeowner at equally valuated property. The above should only prove Plaintiff's point that the actions of the defendants were deliberate and intentional, purposely causing economic and non-economic damage to the Plaintiff amounting to many millions of dollars as is enumerated in the damages section.

120. However, since Plaintiff has no children, the municipal defendants did not provide any special benefits or other services onto his property through their public school service; in contrast, the defendants provide significant services to other homeowners, to the tune of \$18,000 or so per child. The child is considered the legal asset of the parent. Thus provision of such school services and transportation services to the people with children, is a direct benefit to such homeowners. On the other hand, Plaintiff receives no such benefit and as result “the *exaction from owner of private property of cost of public improvement in substantial excess of special benefits accruing to him is, to extent of such excess, taking, under guise of taxation, of private property for public use without compensation.* U.S.C.A. Const.Amend. 5; N.J.S.A. Const. Art. 1, par. 20.” *Roc-Jersey Associates, et al. v. TOWN OF MORRISTOWN*, 158 N.J. 581.

121. Therefore, Plaintiff has clearly established that the defendants have exacted from him significant amounts of private property without providing just compensation.

122. The defendants have the burden of proving that there is no other way to recover the taxes; they have failed to do so AND THEY HAVE BEEN REFUSING TO DO SO. This provides proof of the unreasonableness of the seizure of Plaintiff's homestead property;

123. The taxes can be raised by charging tuition or other fees on the parents of the children; what you are attempting to do is neither rational nor legal;

124. The state provides about \$700/pupil for the support of the Wayne Township schools;

125. The state provides almost \$17,000/pupil for the schools in Paterson;

126. The state gave \$326,000,000 to the public schools in Paterson in 2010 (and similar amounts for past and present years); see Exhibit B; the state gave just \$5,000,000 to the Wayne Schools, or \$700/student.

127. Then, the state is forcing the Plaintiff under the threat of taking over his home to pay for the difference in school funding;

128. There is wide difference in the taxes that the state charges on the homeowners; I am being ordered to pay twice as much in school property taxes;

129. Substantive due process requires that there is a compensation for the taking of private property for public use; however, the state judges have been claiming that the state does not have to provide compensation; these opinions of the state judges are unfortunately the root cause of the problem, as they have usurped and exceeded their constitutional authority by claiming all kinds of absurd stuff, including the refusal to obey the property law that has been developed for several hundred years now.

130. Plaintiff continued to urge almost on a daily basis the state courts to obey the U.S. Supreme Court decisions; however, they failed to obey the universal property laws, such as the ones reported below that represent the law of the land:

131. *In Loan Ass'n v. Topeka*, 20 Wall. 655, 663, Mr. Justice Miller, delivering the judgment of this court, after observing that there were private rights in every free government beyond the control of the state, and that a government, by whatever name it was called, under which the property of citizens was at the absolute disposition and unlimited control of any depository of power, was, after all, but a despotism, said: **'The theory of our governments, state and national, is opposed to the deposit of unlimited power anywhere. The executive, the legislative, and the judicial branches of these governments are all of limited and defined powers. There are limitations on such power, which grow out of the essential nature of all free governments, implied reservations of individual rights, without which the social compact could not exist, and which are respected by all governments entitled to the name.'** No court, he said, would **hesitate to adjudge void any statute declaring that 'the homestead now owned by A. should no longer be his, but should henceforth be the property of B.'** In accordance with these principles it was held in that case that the property of the citizen could not be taken under the power of taxation to promote private objects, and, therefore, that a statute authorizing a town to issue its bonds in aid of a manufacturing enterprise of individuals was void because the object was a private, not a public, one. See, also, *Cole v. La Grange*, 113 U.S. 1, 5 Sup. Ct. 416. (The general grant of legislative power in the constitution of a state does not enable the legislature, in the exercise either of the right of eminent domain or of the right of

taxation, to take private property, without the owner's consent, for any but a public object.

132. The really sad fact is that the legislatures have been begging the NJ Supreme Court to stop the taxation of homeowner's property because the tax base cannot afford such expenditures.

133. For example, in March 2012, the NJSC issued funding orders for certain school programs. In response, the current Governor Mr. Chris Christie again cited school financing as the chief example of a liberal court run amok, which he vowed to remedy by choosing more conservative justices. Answering questions at a public forum in Cherry Hill, N.J., he said, "I'm going to appoint people who I believe understand their job, which is to interpret the law and not make law from the bench."

134. Earlier, in a news conference at the State House, the governor said, "I believe that this decision represents everything that's wrong with how Trenton has historically operated and everything that I'm here to fight to change." He said the Supreme Court "should not be dictating how taxpayer dollars are spent and prioritizing certain programs over others."

135. The defendants, Wayne Township and Board of Education admitted that they do not provide any compensation for the taking of my property and this is in direct **violation** of the following State Constitutional provisions:

136. *Article I, Sec. 20. Private property shall not be taken for public use without just compensation.*

137. *Article I, Sec. 20. Individuals or private corporations shall not be authorized to take private property for public use without just compensation first made to the owners.*

138. I urged the NJ judges to read the following NJ Supreme Court decision where it discusses the special assessments or taxes levied onto properties.

139. *Supreme Court of New Jersey. 158 N.J. 581, 731 A.2d 1, 2ND ROC-JERSEY ASSOCIATES, 3rd Roc-Jersey Associates, 4th Roc-Jersey Associates and 5th Roc-Jersey Associates, Plaintiffs-Appellants, and Shav Associates, Plaintiff-Intervenor-Appellant, v. TOWN OF MORRISTOWN, a Municipal Corporation, and Morristown Partners, Inc., Defendants-Respondents, and Director, Division of Local Government Services, Intervenor-Respondent.*

140. The local school tax is considered a special assessment and just compensation is required. The NJ Supreme Court said the following:

141. *"Core of definition of special assessment that makes imposition special assessment rather than general tax is not that benefit necessarily or primarily consists of physical improvements that are permanent in nature and are local in that they are adherent to or identified with specific individual properties that are directly and tangibly benefitted thereby, rather special assessment is used to provide combination of services and improvements that are intended and designed to benefit particular properties and demonstrably enhance the value and/or use or function of properties that are subject to special assessment." Ibid.*

142. *"The benefit can be measured by increased market value or by the overall economic effect of the improvement." Ibid.*

143. The court also said that *"Valid special assessment must be as nearly as may be in proportion to benefit received, and not in "substantial excess" of special benefits to land." Ibid.*

144. *"Finally, the court said that "In respect of special assessments, exaction from owner of private property of cost of public improvement in substantial excess of special benefits accruing to him is, to extent of such excess, taking, under guise of taxation, of private property for public use without compensation. U.S.C.A. Const.Amend. 5; N.J.S.A. Const. Art. 1, par. 20." Ibid.*

145. THE STATE LEGISLATURE HAS RECOGNIZED THAT PROPERTY TAXES ARE UNEQUAL THROUGHOUT THE STATE. In recognition of the unequal school property taxes in New Jersey, in March 1999 the state legislature enacted the "New Jersey School Assessment Valuation Exemption Relief and Homestead Property Tax Rebate Act" (NJ SAVER and Homestead Rebate Act) amending and supplementing P.L.1990, c.61 (C.54:4-8.57 et seq.), amending P.L.1981, c.239 and P.L.1997, c.348, and making an appropriation that constituted the largest property tax relief program ever provided by the State of New Jersey.

146. The senate bill made reference of an average state school tax of \$1,800 for the year 1999. By contract, the Wayne School Board of Education levied almost \$3,600 in school taxes onto Mr. Stephanatos' homestead property.

147. The intent of the State Legislature was to exempt a certain amount of homestead property from school taxation.

148. In recognition of the unequal school property taxes in New Jersey, several assemblymen introduced ASSEMBLY CONCURRENT RESOLUTION No. 68, STATE OF NEW JERSEY, 212th LEGISLATURE, for the 2006 Session. Therein, the resolution explained that school property taxes are unequal and regressive and made recommendations to abolish the homestead school tax and instead raise the revenues via state revenues. The document can be found at <http://www.njleg.state.nj.us/bills/BillsByKeyword.asp>.

149. In addition, in A CONCURRENT RESOLUTION proposing to amend Article VIII, 2 Section 1 of the Constitution of the State of New Jersey, it is stated that The Legislature shall annually appropriate and the State shall annually pay, to each resident of this State who has paid property taxes for the tax year on a homestead that is owned as such, a refund of that portion of that property tax that is levied for local school purposes for the delivery of core curriculum content standards. This resolution can be found at <http://www.njleg.state.nj.us/bills/BillView.asp>, in the bills for the 2006-2007 season.

150. These bills and resolutions of the State Legislature further prove that the legislature is responsible for providing for the support of the public schools and not me.

151. These resolutions also prove that the Wayne Board of Education should have gone to the State Legislature and ask for school support funding to cover for the \$3,000 per year that I am refusing to pay.

152. The legislative bills state that the towns will have to raise the funds needed to fund educational expenses beyond the core curriculum. These local taxes

are then “special assessments”, for which the local board of education must provide just compensation.

153. The state constitution only says that the legislature shall provide for the education of children of ages 5-18; it does not say that the I am obligated to pay for pre-school programs or for problematic children- the parents must pay for the expenses of their children;

154. In every other jurisdiction of the United States, a tax sale is void, if it includes an illegal item of any considerable amount; Plaintiff continued to provide to the defendants the legal opinions of state and federal courts, but in no avail:

155. For example, the following Michigan courts have ruled so: A tax sale of lands for a sum which includes an illegal item of any considerable amount is void. *Lacey v. Davis*, 4 Mich 140; *Case v. Dean*, 16 Mich. 12; *Edwards v. Taliafero*, 34 Mich. 18; *Hammontree v. Lott*, 40 Mich. 195; where a road tax in excess of the amount authorized by law forms part of the taxes for which a tax sale is made, it renders such sale invalid. *Silsbee v. Stockle*, 44 Mich. 561. Here, no law has authorized the public school taxes onto Plaintiff's homestead property. The current taxation system is simply based on the ability to pay and it is a revenue raising procedure. There is no constitutional authority for the defendants to act the way they acted. There is no constitutional authority to levy taxes for pre-school programs (children less than 5 years in age) onto Plaintiff's property and no constitutional authority has been granted to the defendants to exceed the basic curriculum spending mandated by the state by twenty percent or so and to refuse to provide just compensation for such additional taxes.

156. Plaintiff also continuing providing defendants with the relevant U.S. Supreme Court decisions, since such decisions represent the law of the land. For example, the U.S. Supreme Court in *Hale v. Henkel*, 201 U.S. 43 (1906) has said that Plaintiff's rights are such as existed by the law of the land long antecedent to the organization of the state, and can only be taken from him by due process of law, and in accordance with the Constitution. The U.S. Supreme Court has said that Plaintiff owes nothing to the public so long as he does not trespass upon their rights.

157. The U.S. Supreme Court in *Hale v. Henkel*, 201 U.S. 43 (1906) defined the distinction between natural persons and corporations as it pertains to 5th Amendment protections within the U.S. of America Constitution.

158. *"...we are of the opinion that there is a clear distinction in this particular between an individual and a corporation. The individual may stand upon his constitutional rights as a citizen. He is entitled to carry on his private business in his own way. His power to contract is unlimited. He owes no duty to the state or to his neighbors to divulge his business, or to open his doors to an investigation. He owes no such duty to the state, since he receives nothing therefrom, beyond the protection of his life and property. His rights are such as existed by the law of the land long antecedent to the organization of the state, and can only be taken from him by due process of law, and in accordance with the Constitution. He owes nothing to the public so long as he does not trespass upon their rights."*

159. This frequently cited 5th Amendment Case decided by the U.S. Supreme Court, clearly supports Plaintiff's position that he owed nothing to the state and the local government other than the charges for the protection of his life and property (and other

charges such as water, lighting, etc.). This case discussed the Fifth Amendment rights of the individual, but equal logic can be applied for upholding my other constitutional rights. It is against the U.S. Supreme Court decisions and in violation of the Takings Clause to the State Constitution (Art. I, par. 20) for the defendants to claim that they can take Plaintiff's property without his consent, without providing any compensation, in violation of the uniformity clause of the state constitution and in violation of my equal protection rights. Plaintiff plead with the defendants even on June 28, 2011 to obey these U.S. Supreme Court rulings, but they refused to do so. Plaintiff demanded an urgent oral hearing with McVeigh on June 28, 2011 so that he puts on record the refusal of these individuals to obey the US Supreme Court decisions. During the oral hearing Plaintiff told the defendants that the federal and state constitution prohibits the uncompensated taking and that no private homestead property can be taken and provided to a private entity for the direct entity of that private entity. Again these individuals refused to obey the constitutions and the US Supreme Court interpreting these decisions. These facts provided additional proof of the deliberate and egregious nature of the actions of the defendants. As a result of their refusals to obey the constitution and the US Supreme Court decisions, they forced Plaintiff out of his home under the gun point and caused Plaintiff over ten millions of dollars in actual compensatory damages.

160. Despite these such strong legal precedents and despite the fact that such benefits or services are NOT provided to the Plaintiff because he has no children and does not want or need any public schools, the Defendants decided to seize Plaintiff's

homestead property without providing any additional compensation for the non-payment of a mere \$3,000 in state school taxes from 2005 to 2011.

161. Apparently, the judges McVeigh and Jacobson claimed that they have no jurisdiction to hear my claims and that the Law Division should have heard these constitutional claims; I told them that the law division judge Riva did not held a hearing and he has since retired; Judge McVeigh responded that 'I do not care; file a suit with the new Law Division judge'; Plaintiff then filed a "Suit to Vacate the Tax Deed" with the Law Division, Passaic County, docket number L-2973-11. This suit can be filed to remove illegal tax deeds when Plaintiff a possessory title to the property; Plaintiff has been maintaining possessory title to the homestead property since 1995;

162. However, because Plaintiff was forced under gun point from his residence, Plaintiff lost the possessory title to his residence. As a result, the Law Division judge did not hear the Complaint to remove the Tax Deed lawsuit (L-2973-11). By their actions, the Passaic county defendants interfered with the legal and possessory rights of Plaintiff, causing him to lose his property and incur damages;

163. Judge McVeigh however, refused to stay the tax foreclosure proceedings so that the Complaint to Remove the Tax Deed was adjudicated; Judge McVeigh said that Mr. Stephanatos, all your constitutional rights have been addressed". Of course the court should note that NONE of PLAINTIFF'S CONSTITUTIONAL RIGHTS HAVE EVER BEEN ADDRESSED. Plaintiff hereby asserts that he has made a clear showing of violation of his procedural and substantive due process rights; the New Jersey courts basically continued to give the runaround to Plaintiff, fully intentioned in refusing to uphold his constitutional rights (equal protection, just compensation, not to be subjected

to unreasonable seizure, etc.)¹¹. This is a mockery of justice (completely characteristic of the New Jersey that unfortunately have the lowest reputation in the nation (at least

¹¹ Plaintiff accused the two state judges (Margaret McVeigh of Passaic County, NJ and Mary Jacobson of Mercer County, NJ) that they have committed against him the crime of official deprivation of civil rights (N.J.S.A. 2C:30-2). This crime is committed if a public official (including judges), or a person purporting to be a public official, knowingly commits an unlawful act with the purpose to intimidate or discriminate against another person because of race, color, gender, ethnicity, handicap, religion or sexual orientation, and (1) subjects that person to unlawful arrest, detention, including, but not limited to motor vehicle investigative stops, search, seizure, dispossession, assessment, lien or other infringement of personal or property rights; or (2) denies or impedes that person in the lawful exercise or enjoyment of any right, privilege, power or immunity.

The two state judges have intentionally and deliberately violated the New Jersey State Constitution because they issued orders evicting Plaintiff from my residence, without having the constitutional authority to do so, in fact Jacobson had no jurisdiction over the Plaintiff's person and no jurisdiction of his homestead property, and in direct violation of Article I, par 20 of the State Constitution. The actions of these two judges have resulted in the violation of the following rights or privileges guaranteed by the state and federal constitutions:

- Due process violations;
- Denial of Equal Protection
- Unreasonable seizure;
- Unreasonable search;
- Violation of the takings clause;
- Illegal arrest;
- Illegal imprisonment; among other civil rights violations

As a result, Plaintiff suffered economic and non-economic irreparable losses.

Unfortunately, the state Supreme Court has been acting as a legislator and ordering the raising of the property taxes, without the consent of the homeowners. This was not clear to Plaintiff at that time; later, several New Jersey Senators and representatives told him that the NJSC is in charge of the school budgets and they have pretty much raising the taxes at will without consideration of equality issues or just compensation issues.

I also charged the named "judges" McVeigh and Jacobson for Theft by Unlawful Taking in violation of statute N.J.S.A. 2C:20-3.

this what the law professors told me and unfortunately this is my first-hand experience). As a result, this Court should find that Plaintiff's procedural and substantive due process rights have been violated by the defendants.

DAMAGES CAUSED BY THE DEFENDANTS

164. The value of Plaintiff's homestead property was about \$650,000 at the peak of the real estate in 2007; the defendants confiscated his homestead property under gun point for a mere \$21,000 in public school taxes that they claim that he owed but that Plaintiff claims that he does not owe; this fact establishes a violation of Plaintiff's rights not be subjected to unreasonable seizures, as well as a taking without just compensation; the defendants have stolen from the Plaintiff almost \$660,000 in a homestead property for a small amount of grossly unequal and discriminatory public school taxes; in addition, the defendants stole Plaintiff's property under gun point and gave it to a private entity (ATF); this action is strictly prohibited by the federal and state constitution as a government body cannot give a homestead property to another person; the taking must be for public use and just compensation must be provided. Here, not only just compensation was not provided, but Plaintiff's homestead property and business were destroyed for a strictly private benefit. The U.S. Supreme Court has already ruled on the illegality of these actions. Plaintiff continued to urge the defendants to obey the U.S. Supreme Court rulings but they refused to do so. Plaintiff also urged

These two Superior Court judges (Judge Margaret McVeigh-Passaic County and Judge Jacobson-Mercer County) for issuing orders without the constitutional authority to do so, refusing to obey the New Jersey Constitution and the U.S. Constitution and for intentionally and deliberately violating my legal rights guaranteed by both the federal and state constitutions.

the lower courts to uphold his constitutional rights and to obey the U.S. Supreme Court rulings, but they also refused. McVeigh said to the Plaintiff "here in New Jersey we have a different property law". I continued to urge them almost on a weekly basis that they have no constitutional authority to levy the unequal and discriminatory taxes and they cannot take private property for private use and they cannot take private property without just compensation, but the defendants refused to listen. They provided no justification for their actions other than saying that they can act that way because the New Jersey Tax Sale Law says they can do.

165. However, the damages do not stop there; they also destroyed Plaintiff's home-based business, causing an additional \$3,000,000-\$10,000,000 loss in actual business, including good will, as Plaintiff's business was growing and has since the assault on his person and property by the defendants been reduced significantly;

166. Defendant's actions also damaged Plaintiff's reputation due to falsehoods spread by Robert Del Vecchio, Lucas and the Sheriff's Department; the defamation losses amount to several million dollars;

167. The Defendant's actions also damaged Plaintiff's business property, including computers, pumps, rental equipment, sampling equipment, ladders, hoses, and other items; the current value of the business property loss is at least \$200,000;

168. The Defendant's actions also damaged Plaintiff's personal property; the current estimate of the losses are \$100,000;

169. The Defendant's actions also caused the death of Plaintiff's beloved pet; his pet cat was very sensitive to handling by other people, got depressed while it was

placed in the animal shelter, lost half of its body weight and end up dying as a result of the actions of the defendants;

170. The Defendant's actions also caused emotional and traumatic damages to the Plaintiff; he suffered pain (which continues to this day) in his left middle figure due to injections of drugs he received while at the Paterson prison on June 28, 2011 and his left figure has feels as it is paralyzed at certain times, physical, mental suffering, discomfort, distress, and disability. These damages were endured by the Plaintiff as a consequence of the defendant's conduct.

171. THE STATE LEGISLATURE HAS RECOGNIZED THAT PROPERTY TAXES ARE UNEQUAL THROUGHOUT THE STATE

172. In recognition of the unequal school property taxes in New Jersey, in March 1999 the state legislature enacted the "New Jersey School Assessment Valuation Exemption Relief and Homestead Property Tax Rebate Act" (NJ SAVER and Homestead Rebate Act) amending and supplementing P.L.1990, c.61 (C.54:4-8.57 et seq.), amending P.L.1981, c.239 and P.L.1997, c.348, and making an appropriation that constituted the largest property tax relief program ever provided by the State of New Jersey.

173. The senate bill made reference of an average state school tax of \$1,800 for the year 1999. By contract, the Wayne School Board of Education levied almost \$3,600 in school taxes onto Mr. Stephanatos' homestead property, WITHOUT EVEN PROVIDING ANY COMPENSATION SINCE PLAINTIFF HAS NO CHILDREN.

174. The intent of the State Legislature was to exempt a certain amount of homestead property from school taxation.

175. In fact, two weeks after the seizure of his residence, the State of New Jersey authorized two million dollars in additional aid to the Wayne Township Public Schools. This proves that the defendants could have very easily obtained the funding they were asking by inquiring with the legislature. Therefore, their actions cannot possibly pass the strict scrutiny test.

176. The legislative bills state that the towns will have to raise the funds needed to fund educational expenses beyond the core curriculum. These local taxes are then “special assessments”, for which the local board of education must provide just compensation.

FACTS ASSOCIATED WITH THE ILLEGAL SEARCH, ILLEGAL ENTRY AND
OTHER OFFENSES COMMITTED BY THE COUNTY DEFENDANTS AND THEIR
EMPLOYEES

177. Despite the numerous appeals and suits pending, the defendants decided to seize Plaintiff's property based on the unconstitutional orders of Jacobson (a judge who had neither personam nor res jurisdiction and who refused to address Plaintiff's constitutional issues by refusing to holding a hearing);

178. As was stated earlier, I had requested the assistance of the state authorities (Senator Kevin O'Toole, Governor Christie and Attorney General) who had all promised to look into the matter. Mr. O'Toole had told Plaintiff (through his secretary) that the actions of the defendants appear to be unconstitutional and he had requested himself several times that the Attorney General intervenes.

179. Plaintiff had also send letters to the Sheriff that there is a business on the premises (Metropolitan Environmental Services) that is a tenant and should be left undisturbed as New Jersey law does not remove tenants from the premises.

180. The sheriff did acknowledge in writing that they do not evict tenants.

181. Plaintiff had placed a large business sign onto his front door, clearly announcing the presence of business in the premises. This provided notice to the defendants that there was a business activity in the premises.

182. Plaintiff continued to state to the Sheriff that there are appeals and lawsuits pending and that the actions of ATF and Del Vecchio and McVeigh/Jacobson are unconstitutional. Thus, the county defendants were placed on notice regarding the unconstitutionality and illegality of the defendant's actions.

183. On June 28, 2011 and at about 8:55 am, I heard the door bell and I went to see who it was. I waited two minutes or so prior going towards the door; this is the typical procedure I follow that time of the day, as I typically get visits from the delivery companies or equipment/lab supplies vendors. Since I did not hear a second ring at the door, I thought that whoever was there had left. I was in the process of moving personal items from my office to the basement of my dwelling/place of business.

184. When I turned around the foyer to see was at the door step, I saw one individual who was peering inside my dwelling/place of business through a side door window. This individual appear to be holding a gun in his one hand and papers on his other. I was startled to see the individual looking inside my dwelling through that side window and brandishing a gun, as I had blocked access to the outside of that area by two planters and I had placed a 5' 9" pet play tower in front of that window at the inside

of my dwelling. Later I realized that this individual was a deputy (defendant Lucas) with the Passaic County Sheriff's office. Peering is a criminal offense in the state of New Jersey. Defendant Lucas was not privileged to peer through Plaintiff's window and was allowed to enter that part of Plaintiff's dwelling. The porch area is consider part of the dwelling of Plaintiff, in accordance with the law of the State of New Jersey.

185. Apparently, the deputy rung the door bell and, when nobody showed up for two minutes or so, he then bypassed two large planters located at the right side of the porch. I had intentionally placed the two planters in front of the side window located in the front porch, to prevent people from looking inside the home from that window. I had also placed a business sign in the front door, making it impossible for anyone to be able to see inside my home/place of business by just standing in front of the door. I had also placed the white pet tower in front of the side door window, to further obstruct the inside viewing on my dwelling/place of business. It is obvious that the deputy could not observe the interior of my dwelling/place of business by standing in front of the door. Therefore, he moved to the side window, bypassing the two big planters. However, he was not able to see inside the dwelling because the inside view was obstructed by the white pet tower. He then proceeded to place his face as close to the glass of the side door window to be able to see inside my dwelling. I believe that he placed his face flush with the side window. He had also positioned his body to the far right of the front window, because that was the only area where he could stand and be able to see inside my dwelling by placing his face flush or within one (1) inch as close to the window since the planters were blocking the access to the window. This is a place where the public is not permitted to go and an area that I intentionally obstructed from the public view. My

privacy expectations were that no person would look inside my dwelling/place of business through that side window in the manner that was conducted by the deputy.

186. I never pointed any gun to the deputy and I never said anything to him. These two deputies also testified that they never said anything to me and that I never said anything to them. Thus, no threats were ever made to these two defendants. They simply walked away from the front door because it was locked. (D'Agostino had also drawn his weapon while he was standing in the sidewalk, causing Plaintiff to fear for his life). The whole incident lasted two seconds or so. After that, I immediately went to my office and start making phone calls to the judge's chambers, the senator O'Toole offices, the governor's offices, the attorney general offices, and I even called the Wayne police (see attached phone log). I also continued to do my business by talking to clients, working on reports/invoices and sending emails.

187. While on the phone talking to the governor's and senator's office, I saw Passaic County Sheriff SWAT team members pointing guns at me through the windows from all around my dwelling. I told the SWAT team on the phone that this is excessive force and that I could not believe what was happening. They also blocked my driveway entrance with an armored vehicle, making it impossible for me to leave. Thus, based on the sharp-shooters aiming at me at all times, the armored vehicle blocking my driveway and the blocking of several blocks of the neighborhood to traffic, the county defendants performed a constructive warrantless entry into my dwelling and committed a seizure of my person without probable cause and without a search warrant or an arrest warrant. The law prohibits the arrest of a person inside his home without a valid arrest warrant.

188. Since Lucas and D'Agostino were asked by ATF and Del Vecchio to serve papers, they were acting as agents for ATF and Del Vecchio and they were not acting as agents for the county or the state.

189. In fact, the web pages of the Passaic County sheriff states that in civil matters, the sheriff is acting as the agent for the plaintiff. "The Sheriff's duties are to act as the agent for the Plaintiff."

http://www.pcsheriff.org/index.php?option=com_content&view=article&id=24&Itemid=16

5.

190. The Seventh Circuit has decided that where a county or municipal officer, such as a sheriff, are acting as agents of the state, liability does not extend to the county or municipality, but is attributed to the state. *Scott v. O'Grady*, 975 F.2d 366. As a corollary, when the sheriff acts as an agent for the plaintiff in a civil matter, then the liability for the acts of the sheriff and/or its employees is attributed to the plaintiff.

191. However, these two individuals (Lucas and D'Agostino) filed a complaint against the Plaintiff, alleging that were acting as law enforcement agents (i.e., that they were acting as agents for the state). Initially, these two individuals filed charges under section 2C:12-1b(4) and later they changed their charges to fall under 2C:12-1b(9). At this time, Plaintiff does not know if somebody else asked these two defendants to change their charges, perhaps the county defendants did. Only the discovery of the matter will reveal as to who filed these wrongful charges against Plaintiff.

192. These wrongful charges caused significant economic and non-economic damage to the Plaintiff.

193. To justify their wrongful actions, these sheriff's deputies (Officer Lucas and Officer D'Agostino) told to a state grand jury that Plaintiff's front door was open and that they were able to see him pointing a gun at them through the glass storm door. As I indicated above, I had the front door and all other doors (including the garage door) closed and locked with a deadbolt. I had placed a business sign in the front door so that the sheriff can see that there is a business tenant in the premises and that could not proceed with the eviction. If I left the door open, the sign could not be seen.

194. It makes no sense that I would keep the front door open for the sheriff to come in, when in fact I did not want anybody to come inside my home while the appeals were pending in the appellate courts and there was lawsuit in the Law Division to vacate the tax deed. These two deputies are obviously lying to cover their criminal activities and I asked the internal affairs department of the Sheriff to investigate these allegations. My lawyers have stated to me that it makes no sense that I would leave the front door open so that these two deputies see me holding a gun and then close the door, when in fact I was trying to prevent anyone from entering the residence.

195. In addition, I have irrefutable evidence (email and phone logs) showing that I was either on the computer doing business work or calling the state officials right at the time that these sheriff's deputies claim that they saw me through an open front door. Thus Plaintiff has an irrefutable alibi to refute the false statements of these two defendants.

196. Another reason that the front doors were both closed is the following: I have window-mounted air conditioning units. I would take the air conditioning units off the window around mid-September and I would install them around Memorial Day (end

of May). When I install the air conditioning units, then I keep all the doors and the windows closed, so that I do not lose energy.

197. While in the sheriff's transport vehicle, D'Agostino told Lucas ("I think we did the right thing"; and "I know Judge Reddin; he will back me up"). Plaintiff overheard these statements while he was inside the transport vehicle and while D'Agostino was talking to Lucas as they were standing outside the car.

198. Plaintiff filed a criminal complaint against these two defendants with the US Attorney General's Office and the NJ AG office and the Sheriff's office. Plaintiff attached his proofs to the 40-page complaint. The proofs indicate that Dr. Stephanatos was at his computer at his back business office at the time (at 8:50 AM) that Mr. Lucas claims saw him through an open door. In fact, Dr. Stephanatos was on the computer for several hours as the attached proofs indicate. Yet these two "honest" deputies claimed that somehow Dr. Stephanatos left his front door open and this is how they were able to see him standing there, without saying anything to them. Dr. Stephanatos, in fact had locked each and every door, including the garage doors with deadbolts. He had even locked his car inside his garage! This way, he had hoped that he would be able to file emergency relief requests with the federal courts, but the defendants forcibly interfered with Mr. Stephanatos' legal rights.

199. Furthermore, it is not possible that these two individuals simply walked away from the door without saying anything to me, without announcing that they were law enforcement officers and without me saying anything to them (as they have testified); they were both armed and prejudiced against me (based on the testimony by Lucas) and it makes no sense that they simply walked away; the only way this could

have happened is if the doors were both locked (i.e., both the storm and the main wooden door).

200. Please note that Lucas and D'Agostino are partners. They drove in the same car during that day. Thus, it makes not much sense that Lucas would go behind my front bushes (the yews and the rhododendrons), while D'Agostino would go towards his sheriff car. This scenario is only likely if Lucas was located in front of the side door window and at the very edge of it (this is where I saw him standing, having his face on the glass window and looking inside the home).

201. Very important: my bushes (yews/rhododendrons) were made of some very hard wood. It is very difficult to go behind them without being scratched. Lucas in fact stated to his partner and two other officers that he was scratched by the woods. This proves that Lucas was standing at the inaccessible to the public window and was peering inside Mr. Stephanatos' residence – this is a criminal act under New Jersey law and an illegal act under federal law.

202. Furthermore, Lucas and D'Agostino testified/wrote that they split in two different directions. Lucas went towards the "woods" (he meant the bushes located before Dr. Stephanatos' residence), while D'Agostino went towards the sheriff cars parked at the top of the driveway. This can only happen if Lucas was standing at the edge of the porch at the side door window and from there he went behind the bushes (the "woods") located in the front of the home. That was the only route he had available, because the two planters were in his way and he could not go back towards the door easily. This proves my allegation that Lucas was standing at the very edge of the porch and by the side door window, peering inside the home. D'Agostino was

standing in the walkway, and from there he walked towards the sheriff cars at the top of the driveway.

203. If both of them were standing in front of the door, there is no reason for them to take different routes.

204. After I read the reports and the depositions of D'Agostino and Lucas, I have reconstructed the chain of events as follows:

205. I have been on my computer at the back office (located at the back of the property, about 30 feet from the entrance – I cannot hear or see anything that is happening at the front of the home- that is why I always have the doors closed shut with deadbolts) at all times. See attached electronic file listing the emails and phone calls I made during that day. I am on the computer at the time they rang the doorbell.

206. At 8:50 am, Lucas and D'Agostino arrive at the front door. Lucas wrote in his report that based on the presence of two cars in my driveway, he knew that there were people inside the dwelling. Lucas proceeds to the front door and rings the doorbell. D'Agostino remains at the walkway, just in front of the porch. They do not wear law enforcement uniforms and they do not identify themselves as law enforcement. At the time the door bell rung, I am on my computer at the back office. I do not know who it is and I am waiting the vendor to come and pick up the instrument.

207. I wait two minutes or so before I go to the door. This is what I always do when the bell rings- I never go to the front door immediately.

208. Since I did not show up at the door, D' Agostino says to Lucas that he saw movement of the curtains at the left side window (see the report of Lucas; D' Agostino

also said in his testimony that he saw movement in a left-side window and he told Lucas)– this is the left-side bedroom window that D’Agostino can see because he is standing on the sidewalk, in front of the porch.

209. Then, Lucas, still standing in front of the door for two minutes, decides to look inside the residence by going into the side window, although he knows that is prohibited conduct and he knows that there are people inside the dwelling (he admitted that fact). See attached photo, showing the side window where Lucas was peering. He bypassed the two planters and placed his face in the window so that he can see inside. This is a warrantless search. This is when he saw me coming around the foyer as I was moving stuff to the basement.

210. Lucas then left by walking behind the bushes located in the front of the residence; D’Agostino walked towards the sheriff’s cars located at the top of my driveway. Neither individual said anything to me; they never said that they were law enforcement officers and they never announced their presence as law enforcement and never asked me to do anything else. They have testified to that. They simply walked away. I understand that they are in fact considered “judicial employees” under the state constitution as they operate as aides to the court. There is other legislation that states that the Sheriff’s Officers are not judicial employees. The Passaic County’s Sheriff webpages indicate that “The Sheriff’s duties are to act as the agent for the Plaintiff”. In the book entitled the “Duties and Liabilities of the Sheriffs”, by Ottis Allen, 1845, page 143, it is stated that “The sheriff is considered the pro hac vice agent of the Plaintiff” – for only this occasion. Thus, according to long-established law, the sheriff’s officers were acting as the agent for the Plaintiff and not as law enforcement officers.

211. In addition, New Jersey law states that the officers cannot act as law enforcement officers when they deal with civil matters. "...police officers shall have the power to serve and execute process issuing out of the courts having local criminal jurisdiction in the municipality and shall have the powers of a constable in all matters other than in civil causes arising in such courts". N.J.S.A. 40A:14-152. Therefore, it is a question of law as what is the status of the civil process servers; it is clear however, that they were not acting as law enforcement officers, but as agents for the Plaintiff. As such, they filed wrongful charges against the Plaintiff, causing him financial loss (bail money), wrongful arrest, imprisonment, pain and suffering, loss of income, defamation, etc.

212. No standard procedures governing evictions were followed by Lucas and D'Agostino, either as failure to be properly trained by the sheriff or by negligence/reckless conduct on their part. Lucas and D'Agostino did not "Knock and Announce" their identity, they did not state their purpose and they did not demand entry into the residence. Since Plaintiff never intended to allow anyone entry to his dwelling because of the fraudulent conduct of Del Vecchio and ATF and the clearly unconstitutional, unreasonable and unjust orders by a court that had either personal nor in rem jurisdiction over the Plaintiff, the sheriff's officers had no right or authority to enter into his dwelling or attempt to enter into his dwelling. When there is no answer by the dwelling occupant, it is not the sheriff's responsibility to gain entrance. Typically a locksmith opens the doors. Here, however, there was no locksmith present and neither Del Vecchio nor ATF were present or any of their agents. Lucas then decided to perform an illegal search into Plaintiff's dwelling, brandishing a gun

213. Under the New Jersey Castle Doctrine, the sheriff or its employees have no right or authority to force entry nor do they have right to climb through windows to gain entrance into the residence and the Plaintiff has the right to refuse to allow them to enter his dwelling (the dwelling includes the porch area, in accordance with New Jersey law). If the plaintiff/agent cannot gain entry into the residence, the eviction will have to be rescheduled and reposted. This is the typical procedure followed in New Jersey and many other jurisdictions, including California. Here, Lucas and D'Agostino took it upon themselves to force the Plaintiff out of his dwelling by committing criminal acts (peering through windows is a criminal act in New Jersey), committing assault (drawing their weapons without being provoked), fabricating evidence, making false statements and committing perjury.

214. New Jersey has in effect the Castle Doctrine. As early as the 13th Year-book of Edward IV (1461-1483), at folio 9, there is a recorded holding that it was unlawful for the sheriff to break the doors of a man's house to arrest him in a civil suit in debt or trespass, for the arrest was then only for the private interest of a party. Remarks attributed to William Pitt¹², Earl of Chatham, on the occasion of debate in Parliament on the searches incident to the enforcement of an excise on cider, eloquently expressed the principle:

"The poorest man may in his cottage bid defiance to all the forces of the Crown. It may be frail; its roof may shake; the wind may blow through it; the storm may enter;

¹² The Oxford Dictionary of Quotations (2d ed. 1953), 379. In Hansard, Parliamentary History of England (1813), vol. 15, column 1307, under the proceedings in the Commons on the cider tax in March, 1763, we find: "Mr. Pitt spoke against this measure, particularly against the dangerous precedent of admitting the officers of excise into private houses. Every man's house was his castle, he said."

the rain may enter; but the King of England cannot enter - all his force dares not cross the threshold of the ruined tenement!"

215. The Passaic county defendants had no authority to either search Plaintiff's home or enter his home or even perform law enforcement duties while at Plaintiff's property.

216. Yet, these defendants filed wrongful statements that somehow they were operating as law enforcement officers and that they assaulted as being law enforcement officers in their performance of their law enforcement duties; in fact, these two defendants were peering through Plaintiff's window and were in fact committing a criminal act in violation of statute 2C:18-3. *Unlicensed entry of structures; defiant trespasser; peering into dwelling places; defenses*. Also, the New Jersey law has criminalized the so called "defiant trespasser (See 2C:18-3). Plaintiff had provided repeated communications to the police, the courts and the American Tax Funding lawyer that he will consider anybody who enters his property without permission a trespasser. Defendant Del Vecchio knew at all times that the order he received from the Mercer County court was null and void ab initio due to the lack of personal and subject matter jurisdiction and the res was not located in Mercer County but in Passaic County. Plaintiff had objected to the jurisdiction of the Mercer County judge.

217. Defendant Del Vecchio also knew at all times that the court did not have the authority to transfer title of a homestead property from a private person to another private person; Del Vecchio also knew that the court that issued the order had neither personal nor res jurisdiction and as a matter of law its orders were null and void ab initio. Yet, Del Vecchio falsely indicated to Lucas and D'Agostino that the court order

was valid and that Plaintiff was refusing to pay taxes; in truth, Plaintiff was only asking for equal protection of the laws, as is guaranteed by both the federal and state constitutions.

218. Del Vecchio also spread false claims that somehow Plaintiff was dangerous and that he had threatened him; Del Vecchio never told Lucas that it was him who had threatened to take Plaintiff's home unless he pays the taxes with 18 percent interest.

219. Del Vecchio was aware that Plaintiff was operating a small business in his premises; he had received a number of emails and faxes from Mr. Stephanatos' business, clearly showing his address as being the same as his residence. The sheriff's defendants were also actually notified by the Plaintiff that there is business in the premises that is not the subject of the eviction. The sheriff's defendants responded back and said that they do not evict tenants – yet, they did just that, in violation of New Jersey law.

220. The result of these false statements by Del Vecchio to Lucas and D'Agostino turned them against the Plaintiff and perhaps forced them to perform the criminal activities that they are accused of: trespassing, peering, false reporting, perjury, misrepresentations, defamation, etc.

221. These wrongful acts, caused the illegal arrest, illegal imprisonment of the Plaintiff, along with all the subsequent damages to Plaintiff's property and wellbeing, including the death of his beloved pet.

222. The fourth amendment protects Plaintiff's, Privacy interests; Possessory interests; Liberty interests (he was not free to leave and there was a constructive entry of his home by these Passaic county defendants without an arrest warrant).

223. All three interests are implicated here, and not just privacy interests.

224. Sheriff's actions, taken at the ATF and Del Vecchio behest, deprived Plaintiff of valuable property in violation of his Fourth, Fifth and Fourteenth Amendment rights. Plaintiff also lost possessory title to his property due to the actions of the sheriff's defendants.

225. Wayne Township officials did not give plaintiff either written or verbal notice that they would be seizing and destroying their business and/or personal property.

226. ATF and/or the Sheriff did not have a warrant or probable cause to seize Plaintiffs' business property; furthermore the real property warrant was void as a matter of law because it had been issued by a court having no jurisdiction over Plaintiff or his property and in direct violation of the just compensation clause, the taking clause and many other constitutional rights of the Plaintiff, including the procedural and substantive due process rights. In fact, Plaintiff had already notified the Sheriff that the court orders were void and/or there were many appeals and suits pending. The Sheriff responded by writing they "do not evict tenants". Thus Plaintiff expected that his business property will remain intact.

227. Wayne Township officials and employees and their agents did not compensate Plaintiff for the seized property.

228. The defendant's actions in June 28, 2011 deprived Plaintiff of valuable property in violation of his Fourth, Fifth and Fourteenth Amendment rights.

229. Upon information and belief, the same defendants have conducted other property seizures, without any due process of law, where they have seized the property without providing just compensation.

230. Upon information and belief, the Wayne Township does not have a policy to compensate homeowners for the fair market value of levied state school taxes.

231. Plaintiff has been irreparably harmed due to the actions of the defendants, as has been detailed herein.

The damages caused by the defendants exceed several million dollars, as follows:

- 232. Damage to personal and business property - \$250,000;
- 233. Conversion of rental equipment - \$230,000;
- 234. Illegal arrest and illegal imprisonment - \$240,000;
- 235. Illegal entry into the residence (constructive entry) - \$40,000;
- 236. Illegal search - \$500,000;
- 237. Unreasonable seizure (homestead loss) - \$690,000;
- 238. Damage to business goodwill - \$5,000,000;
- 239. Defamation - \$5,000,000;
- 240. Use of Excessive Force - \$100,000;
- 241. Loss of beloved pet, including pain and suffering for the loss of the pet - \$100,000

242. Pain and suffering - \$5,000,000;
243. Punitive damages (at 10 times the compensatory damages) - \$100,000,000.
244. Preliminary total damages exceed \$120,000,000.00
245. Following the unlawful seizure of Plaintiff's homestead property, business and personal belongings, defendant's moved Plaintiff property into a storage unit. During the process of moving and storing the property of Plaintiff, most of them were damaged and/or destroyed, facilitated by the hot summer weather and the lack of care.
246. Between July and October, 2011, Plaintiff informed the movers and the defendants of his damaged property;
247. Plaintiff also informed the defendants that much of his business and personal property (especially the one stored in his basement) was missing; some items (e.g., a commercial ladder) were recovered, but several items have not been recovered to date;
248. One very expensive item (a monitoring instrument that was used for his business) has not been returned by the Passaic County defendants; in addition, the Passaic County defendants have not issued a indemnification letter, indemnifying Plaintiff for the seized instrument and for its rental value;
249. Plaintiff filed a claim for property damages with the defendants on July 24, 2011.
250. Plaintiff continued to contact the defendants asking for the missing, lost or damaged property for several months. Plaintiff requested the defendant Del Vecchio to get access to his stolen homestead to find some expensive missing

pumps, but Del Vecchio denied access stating that there are no pumps inside the dwelling.

251. Plaintiff filed a police report for property damage and lost or stolen items in October 2011. That police report was sent to defendant Del Vecchio.

CAUSES OF ACTION

1. Defendant's pattern, practice and/or policy of seizing homeowner's property without providing just compensation (essentially blackmailing the homeowner's into paying the exorbitant state school taxes) and without due process (the mockery of justice that Plaintiff has been subjected to by the New Jersey courts cannot be possibly called due process) constitutes an unreasonable seizure that violates Plaintiff's rights under the Fourth Amendment to the United States Constitution, as applied to the states by the Fourteenth Amendment to the United States Constitution, and U.S.C. §1983.

2. Defendant's pattern, practice and/or policy of seizing and destroying Plaintiff's business property without reasonable notice, without an opportunity to contest the seizure and without an opportunity an opportunity to retrieve the property constitutes a deprivation of property without due process of law, which violates plaintiffs' procedural due process rights guaranteed by the Fourteenth Amendment to the United States Constitution and 42 U.S.C. §1983.

3. Defendant's pattern, practice and/or policy of seizing Plaintiff's residential, personal and business property without just compensation constitutes a taking of private property for public use, which violates plaintiffs' rights under the takings clause of the

Fifth Amendment to the United States Constitution, as applied to the states by the Fourteenth Amendment to the United States Constitution, and 42 U.S.C. §1983.

4. Defendant's pattern, practice and/or policy of seizing Plaintiff's residential, personal and business property without just compensation constitutes a taking of private property for private use, which violates plaintiffs' rights under the takings clause of the Fifth Amendment to the United States Constitution, as applied to the states by the Fourteenth Amendment to the United States Constitution, a violation of New Jersey Constitution Article I, par. 20, and is actionable under 42 U.S.C. §§1983, 1985 and 1986.

COUNT ONE

VIOLATION OF THE 5TH AMENDMENT TO THE FEDERAL CONSTITUTION (TAKING CLAUSE) AND ARTICLE I, PAR. 20 OF THE STATE CONSTITUTION

1. Plaintiff repeats, reiterates, and realleges each and every allegation set forth in paragraphs 1 through 251 of the Statement of Facts as if the same were set forth at length herein.

2. The extraction of the unlawful tax liens, the tax deed and the subsequent eviction of Plaintiff from his homestead property violates Article I, par. 20 of the New Jersey Constitution and the 5th Amendment to the federal constitution that states that no public property shall be taken for public use without just compensation. That the tax assessment, the tax deed and the subsequent eviction violates Article I, Section 20 of the New Jersey Constitution and the 5th Amendment to the federal constitution that state that no public property shall be taken for private use. That the tax assessment, the

tax deed and the subsequent eviction violates Article I, par. 20 of the New Jersey Constitution states that no private entities shall be authorized to take private property for public use without just compensation is first made to the property owners.

WHEREFORE, Plaintiff seeks judgment against Defendants as follows:

- a. Declaring the tax sale, tax sale certificate, tax deed and possession of Mr. Stephanatos' homestead property illegal, unconstitutional, null and void and of no effect and voiding all public school tax liens on the subject property.
- b. Issuing a court order directing the U.S. Marshall to deliver the homestead property at 687 Indian Road, Wayne, New Jersey back to Plaintiff.
- c. For reasonable attorney's fees and costs pursuant to 42 USC Section 1988.
- d. For such other relief as the Court may deem just and proper under the circumstances.

COUNT TWO

DENIAL OF EQUAL PROTECTION GUARANTEED BY THE FEDERAL CONSTITUTION AND VIOLATION OF THE UNIFORMITY CLAUSE OF THE STATE CONSTITUTION

1. Plaintiff repeats, reiterates, and realleges each and every allegation set forth in paragraphs 1 through 251 of the Statement of Facts of the Complaint in Lieu of Prerogative Writ as if the same were set forth at length herein.

2. The state school tax levy on the property resulting in the tax sale and delivery of the tax deed to Defendant ATF and Del Vecchio was in violation of the equal protection rights of the Plaintiff guaranteed by the Federal and State Constitutions;

3. The state uniformity clause reads as follows: Article VIII, Section I, par 1(a) Property shall be assessed for taxation under general laws and by uniform rules. All real property assessed and taxed locally or by the State for allotment and payment to taxing districts shall be assessed according to the same standard of value, except as otherwise permitted herein, and such real property shall be taxed at the general tax rate of the taxing district in which the property is situated, for the use of such taxing district.

4. Since the public school taxes are state taxes, the taxing district is the entire state. Thus, the rates must be uniform throughout the entire state. The combination of equal protection and the uniformity clause guarantee a fair assessment of levies onto homeowners' properties.

5. Constitutional provisions requiring equality and uniformity of taxation lie at the foundation of the taxing power of the state and have for their purpose the distribution of the burden of taxation evenly and equitably as far as practical. Generally equality and uniformity of taxation are necessary under the provisions of the constitution of the state of New Jersey which contain in whole or in part the requirements that taxation must be equal and uniform and that the burden of taxation of all property must be fair and equitable.

6. The constitutional requirement of equal and uniform taxation substantially covers the ground of the due process and equal protection clauses of the federal Constitution and state constitution, that is, the requirements of these provisions in tax

matters are substantially similar, and what violates one of these provisions will contravene the other. Analysis under the uniformity clause of the state constitution is generally the same as that under the equal protection clause of the federal constitution.

7. Plaintiff alleges that the actions of the defendants violate the constitutional rights of Mr. Stephanatos (equal protection, just compensation, due process); the assessed taxes, being twice the statewide average for equally valuated property constitute invidious discrimination, are in violation of the uniformity clause of the state constitution; and the tax sale, tax sale certificate and the foreclosure actions constitute a violation of Mr. Stephanatos' property rights and have been conducted without any constitutional authority by either the Wayne Township or the School District or the State and without the consent, willingness or ability to pay such excess taxes by the Plaintiff.

WHEREFORE, Plaintiffs seek judgment against Defendants as follows:

- a. Declaring the tax sale, tax sale certificate, tax deed and possession of Mr. Stephanatos' homestead property illegal, unconstitutional, null and void and of no effect and voiding all public school tax liens on the subject property.
- b. Ordering the return of the fair amount of funds that have been paid to the State of New Jersey by the Plaintiff that are found to be in violation of the equal protection guarantee of the state constitution. Forever enjoining the defendants from levying and/or collecting any unfair, illegal, unconstitutional or discriminatory district school tax onto Mr. Stephanatos' property.

- c. For declaratory judgment that the subject property qualifies as exempt homestead property, and, if necessary under the circumstances, issuing an injunctive relief to prevent a levy and forced sale of the homestead.
- d. Issuing a court order directing the U.S. Marshall to deliver the homestead property at 687 Indian Road, Wayne, New Jersey back to Plaintiff.
- e. For legal fees and costs.
- f. For such other relief as the Court may deem just and proper under the circumstances.

COUNT THREE

VIOLATION OF THE PROCEDURAL AND SUBSTANTIVE DUE PROCESS

RIGHTS

- 1. Plaintiff repeats, reiterates, and realleges each and every allegation set forth in paragraphs 1 through 251 of the Statement of Facts of the Complaint in Lieu of Prerogative Writ as if the same were set forth at length herein.
- 2. The levy on the property resulting in the tax sale and delivery of the tax deed to defendants was based on an invalid state school tax or assessment, because it violated the procedural and substantive due process clause of the state and federal constitutions.

WHEREFORE, Plaintiff seeks judgment against Defendants as follows:

- a. Issuing a court order directing the U.S. Marshall to deliver the homestead property at 687 Indian Road, Wayne, New Jersey back to Plaintiff.

- b. For reasonable attorney's fees and costs pursuant to 42 USC Section 1988.
- c. For such other relief as the Court may deem just and proper under the circumstances.

COUNT FOUR

VIOLATIONS OF THE JUST COMPENSATION CLAUSE OF THE FEDERAL AND STATE CONSTITUTIONS

- 1. Plaintiff repeats, reiterates, and realleges each and every allegation set forth in paragraphs 1 through 251 of the Statement of Facts and Counts One through Four of this instant Complaint as if the same were set forth at length herein.
- 2. Article I, Section 20 of the New Jersey Constitution states that no public property shall be taken for public use without just compensation:
- 3. Article I, Section 20 of the New Jersey Constitution states that individuals or private corporations shall not be authorized to take private property for public use without just compensation first made to the owners:
- 4. Defendants have not provided any compensation to Mr. Stephanatos for the continuing special assessment and taking of his property to pay for the education of children ages 5 to 18.
- 5. At all times, Mr. Stephanatos has been unwilling to accept or consent to the discriminatory district school tax levies onto his homestead property.

6. At all times, Mr. Stephanatos let the defendants know that he considers the levying of non-compensatory and/or discriminatory taxes onto his homestead property as violative of the due process clause of the federal constitution as it became available to the states via the 14th amendment.

7. At all times, Mr. Stephanatos informed the defendants that they have no constitutional authority and no required consent to levy unequal, discriminatory, unfair, illegal and/or non-compensatory taxes onto his homestead property.

8. Defendants have continued for many years to levy unequal, unfair, illegal, unconstitutional and/or non-compensatory district school taxes onto Mr. Stephanatos' homestead property and these acts have continued to date.

9. Following 2004, Mr. Stephanatos refused to pay the unequal, unfair, discriminatory and/or unconstitutional district school taxes that were in excess of the statewide average school tax based on the same home valuation.

10. The defendants then filed liens onto Mr. Stephanatos property, indicating their intent to collect the illegal, unfair, unconstitutional and/or non-compensatory taxes levied onto Mr. Stephanatos' homestead property.

11. In September 2005, the defendants sold the unfair, illegal and/or unconstitutional tax liens to ATF, Inc.

12. The illegal and unconstitutional acts of the defendants continue uninhibited to-date, infringing upon and/or violating Mr. Stephanatos' right to enjoy his property and to feel safe and secure in his own home, as well as violating Mr. Stephanatos' due process rights guaranteed and protected by the due process clause

of the federal constitution as this clause became available to the states via the 14th amendment to the federal constitution.

13. The defendants seized Plaintiff's homestead property on June 28, 2011, without providing just compensation and for the direct benefit of a private entity. These actions are prohibited by the federal and state constitutions.

WHEREFORE, plaintiffs seek an Order of this Court

- a. Declaring the tax sale, tax sale certificate, tax deed and possession of Mr. Stephanatos' homestead property illegal, unconstitutional, null and void and of no effect and voiding all public school tax liens on the subject property.
- b. Directing the municipal defendants to cease and desist from enforcement of the illegal tax liens.
- c. Ordering the return of any funds that have been paid from the Township of Wayne to the Public School District in violation of the uniformity clause of the state constitution.
- d. Ordering the return of the fair amount of funds that have been paid to the State of New Jersey by the Plaintiff and Wayne Township homeowners that are found to be in violation of the equal protection guarantee of the state constitution. Forever enjoining the defendants from levying and/or collecting any unfair, illegal, unconstitutional or discriminatory district school tax onto Mr. Stephanatos' property.

- e. For declaratory judgment that the subject property qualifies as exempt homestead property for the purposes of the public school tax, and, if necessary under the circumstances, issuing an injunctive relief to prevent a future levy and forced sale of the homestead of the Plaintiff.
- f. Issuing a court order directing the U.S. Marshall to deliver the homestead property at 687 Indian Road, Wayne, New Jersey back to Plaintiff.
- g. For reasonable attorney's fees and costs pursuant to 42 USC Section 1988.
- h. For such other relief as the Court may deem just and proper under the circumstances.

COUNT FIVE

THE DISTRICT SCHOOL TAX VIOLATES THE COMMERCE CLAUSE PRINCIPLES BECAUSE IT FAILS TO HAVE SUBSTANTIAL NEXUS WITH THE TAXING ENTITY, IS NOT FAIRLY APPORTIONED, DISCRIMINATES AGAINST INTERSTATE COMMERCE, OR IS NOT FAIRLY RELATED TO SERVICES PROVIDED BY THE STATE OR THE SCHOOL DISTRICT. U.S.C.A. CONST. ART. 1, § 8, CL. 3.

1. Plaintiff repeats, reiterates, and realleges each and every allegation set forth in paragraphs 1 through 251 of the Statement of Facts and Counts One through Four of the Complaint in Lieu of Prerogative Writ as if the same were set forth at length herein.

2. The levying of district school taxes onto Mr. Stephanatos' property is a special assessment, requiring a benefit, compensation or some nexus between the property and the taxing district.

3. Defendants have not provided any compensation to Mr. Stephanatos for the continuing taking of his property.

4. Mr. Stephanatos has never used the school system, does not currently use the school system and will never use the school system as he has no children.

5. Fundamentally, the constitutional provision allowing taxation on property owned or used within the limits of a tax-levying entity (such as the local school district) describes a jurisdictional threshold grounded in principles akin to (if not entirely mandated by) due process and fundamental fairness. In other contexts, this type of threshold typically has been articulated in terms of a contact or nexus between the property or persons taxed and the entity levying the tax that is substantial enough to justify imposition of the tax.

6. The imposition of a \$6,500 public school tax on Mr. Stephanatos' homestead property by the Wayne School Board of Education violates fundamental fairness as the school district provides no service to Mr. Stephanatos or Mr. Stephanatos' property and there is absolutely no contact between the taxing school district and Mr. Stephanatos to justify the levying of a \$6,500 annual school levy that continues to increase by at least 4 to 7 percent per annum despite the lack of consent, willingness or ability of Mr. Stephanatos to accept such a levy onto his homestead property.

7. On the other hand, the school district provides significant and important services to parents and their properties, such as transportation to/from the parents property and the school building, education of the kids, sports, books, food service, counseling, surrogate parenting, special education, and even pre-school education (kids of ages less than five years old), despite the fact that the New Jersey constitution only allows the spending for the kids ages five and 18 years old..

8. Fundamental fairness requires that such costs be borne by the parents of the school children and not to threaten to sell or to actually sell Mr. Stephanatos' property to pay for these special assessments.

9. Constitutionally, the school district and even the state have absolutely no authority to levy these non-compensatory special assessment and/or taxes onto Mr. Stephanatos' property without his consent or without providing just compensation.

10. Mr. Stephanatos bought his home by using his wages that had already been taxed by the state of New Jersey at rates ranging from 1.5 to 4 percent to pay for state schools. Taxing again his homestead property to pay for the state schools without providing just compensation is impermissible under the state and federal constitutions because it constitutes multiple taxation of the same property that has no nexus or contact with the taxing district.

11. Mr. Stephanatos' right to purchase and acquire property is guaranteed by Article I, par. 1 of the state constitution and only a compensatory tax can be levied onto such property – i.e., there must be some service or connection or nexus between the school district and the person or property – there is no such nexus in the case of Mr. Stephanatos' property.

12. It is beyond saying that Wayne Township, being a mere conduit for the collection of the district school tax, has absolutely no constitutional authority to unilaterally call the state school tax a municipal tax and to levy a municipal lien onto Mr. Stephanatos' property based on the refusal of Mr. Stephanatos' to pay the discriminatory, unequal, illegal or unconstitutional district school tax which is not a municipal tax but a state tax.

13. The state of New Jersey at no time did it instruct the Wayne Township to sell Mr. Stephanatos' homestead property.

14. The only thing that the state of New Jersey instructed Wayne Township was to try to raise certain amount of money.

15. The state also told the Municipality to raise bonds to pay for the schools, if no adequate funds can be raised through taxation.

16. The more appropriate thing for Wayne Township to do is to ask for the fair amount of funding from the state of New Jersey.

17. Instead, Wayne Township recklessly decided to usurp legislative and other state authority and decided unilaterally to raise the entire amount of state school taxes by taking the property of its homeowners and using aggressive, illegal, unfair, unethical and unconstitutional practices to extort the property from its own homeowners despite the continuing voting down of the district budgets by the homeowners.

18. The levying of illegal, unconstitutional, discriminatory and unfair taxes onto Mr. Stephanatos' homestead property continues uninhibited and unabated to date. The defendants have now reached the next level of indecency and reckless conduct by

selling Mr. Stephanatos' homestead lands and have filed (through their agent, ATF) an action to foreclose Mr. Stephanatos' homestead property rights.

19. These acts of Wayne Township and the other defendants is in direct conflict with the intent of the State Legislature to exempt a certain amount of homestead property from school taxation (see the March 1999 New Jersey School Assessment Valuation Exemption Relief and Homestead Property Tax Rebate Act" (NJ SAVER and Homestead Rebate Act) amending and supplementing P.L.1990, c.61 (C.54:4-8.57 et seq.), amending P.L.1981, c.239 and P.L.1997, c.348).

WHEREFORE, plaintiffs seek an Order of this Court

- a. Declaring the levying and collection of the illegal, unfair, discriminatory, unconstitutional and/or non-compensatory taxes onto Mr. Stephanatos homestead property to be void and in violation of the commerce clause of the federal constitution; due process clause of the 14th amendment to the federal constitution; in violation of the just compensation clause of the federal and state constitutions; in violation of the property rights of Mr. Stephanatos guaranteed by Article I, section 1 of the state constitution, and additionally that such non-compensatory taxes are impermissible due to the multiple taxation of Mr. Stephanatos' homestead property and that Mr. Stephanatos' homestead property is exempt from district school taxation to its full valuation or to an amount determined by the court to be fair and proper.
- b. Declaring the tax sale and tax sale certificate of Mr. Stephanatos' homestead property illegal, unconstitutional, null and void and of no effect and voiding all municipal liens on the subject property.

- c. Directing the Township of Wayne to cease and desist from enforcement of the illegal tax liens and pending foreclosure actions.
- d. Enjoining the defendants from levying district school taxes onto Mr. Stephanatos' property to an amount that is found to be exempt from such taxation by the court.
- e. Forever enjoining the defendants from levying and/or collecting any unfair, illegal, unconstitutional or discriminatory district school tax onto Mr. Stephanatos' property.
- f. For declaratory judgment that the subject property qualifies as exempt homestead property, and, if necessary under the circumstances, issuing an injunctive relief to prevent a levy and forced sale of the homestead.
- g. Declaring the tax sale, tax sale certificate, tax deed and possession of Mr. Stephanatos' homestead property illegal, unconstitutional, null and void and of no effect and voiding all public school tax liens on the subject property.
- h. Directing the municipal defendants to cease and desist from enforcement of the illegal tax liens.
- i. Ordering the return of any funds that have been paid from the Township of Wayne to the Public School District in violation of the uniformity clause of the state constitution.
- j. Ordering the return of the fair amount of funds that have been paid to the State of New Jersey by the Plaintiff and Wayne Township homeowners that are found to be in violation of the equal protection guarantee of the state

constitution. Forever enjoining the defendants from levying and/or collecting any unfair, illegal, unconstitutional or discriminatory district school tax onto Mr. Stephanatos' property.

- k. For declaratory judgment that the subject property qualifies as exempt homestead property for the purposes of the public school tax, and, if necessary under the circumstances, issuing an injunctive relief to prevent a future levy and forced sale of the homestead of the Plaintiff.
- l. Issuing a court order directing the U.S. Marshall to deliver the homestead property at 687 Indian Road, Wayne, New Jersey back to Plaintiff.
- m. For reasonable attorney's fees and costs pursuant to 42 USC Section 1988.
- n. For such other relief as the Court may deem just and proper under the circumstances.

COUNT SIX

UNREASONABLE SEIZURE OF HOMESTEAD, BUSINESS AND PERSONAL PROPERTY AND PLAINTIFF'S PERSON

1. Plaintiff repeats, reiterates, and realleges each and every allegation set forth in paragraphs 1 through 251 of the Statement of Facts of the Complaint in Lieu of Prerogative Writ as if the same were set forth at length herein.

2. The defendants¹³ have seized a private homestead property valued at \$690,000 by claiming a state school tax debt of \$20,000; the actions of the defendants have caused Plaintiff in addition to the loss of his homestead property, several million dollars in damages in business losses and personal property damages.
3. The defendants could have seized Plaintiff's wages, or social security funds, or other property that was valued close to the amount they claimed he owed (Plaintiff disputes that he owes any money to the defendants); or they could have asked for funding from the state. Instead, they decided to obtain funding from private investors (such as defendant ATF and Del Vecchio) and then they violated Plaintiff's constitutional rights by taking private property for private use—an act that is strictly prohibited by the federal and state constitutions; to date the defendants have provided no justification for such unreasonable actions. Under the strict scrutiny test, the defendants have the burden of proving that they could not have accomplished their tax collections in any other way; the fact that they were able to obtain funding two weeks after the seizure of Plaintiff's homestead property, provides proof that their actions were unreasonable and in violation of Plaintiff's constitutional guarantees not to be subjected to unreasonable searches and seizures.

¹³ A municipality is not liable under 42 U.S.C. § 1983 on a respondeat superior theory. *Monell v. Dept. Soc. Servs. of New York*, 436 U.S. 658, 691 (1978). However, a government entity may be liable for its agent's actions upon a demonstration that a policy or custom of the municipality caused, or was a "moving force" behind, the alleged violation of Plaintiff's rights. *Kentucky v. Graham*, 473 U.S. 159, 166 (1985) (quoting *Polk County v. Dodson*, 454 U.S. 312, 326 (1981)); *Beck v. City of Pittsburgh*, 89 F.3d 966, 971 (3d Cir. 1996).

4. Plaintiff alleges that the actions of the defendants are so unreasonable that they violate the constitutional guarantee that Plaintiff's person and property not to be subjected to unreasonable seizures.

PRAYER FOR RELIEF

To prevail on a seizure claim, a plaintiff must prove that the government *unreasonably* seized property. *Soldal v. Cook County*, 506 U.S. 56 (1992), at 71. Although in *Soldal* the Court addressed the distinction between privacy and property, the Court's language is unequivocal and the principle — that the "reason" for the seizure is "wholly irrelevant" — applies equally here.

By contrast, to make out a takings claim, a plaintiff must demonstrate that the government took property *without just compensation*. *Williamson County Reg'l Planning Comm'n v. Hamilton Bank*, 473 U.S. 172, 194 (1985). Here, the facts prove that the defendants have committed both an unreasonable seizure (taking several millions dollars of property from the Plaintiff to satisfy \$20,000 in unlawful public school taxes) and a taking without just compensation (no just compensation has been provided to the Plaintiff for the public school tax levies and liens and certainly the defendants took a \$690,000 homestead property for a \$20,000 illegal school levy – no just compensation has been provided. Furthermore, the destruction of Plaintiff's private property and business is a taking without just compensation). In addition, the defendants took a private homestead property valued at \$690,000 for free and they gave it to a private defendant (ATF) in complete violation of the federal and state constitutions taking clauses (the 5th Amend. of the federal constitution and Article I, par. 20 of the state constitution) and a procedural due process violation.

Defendants have acted knowingly and with malice against the Plaintiff, and/or with reckless disregard and/or deliberate indifference to the Plaintiff's rights, and further with both subjective and objective intent to violate the Plaintiff's protected federal and state constitutional rights. As a result of the constitutional violations set forth above, the Plaintiff has suffered extreme physical and mental pain and suffering, in addition to the significant property and business loss.

WHEREFORE, Plaintiff requests that this Court:

- a. Issue a judgment declaring that the actions of the defendants described herein are unlawful and violate Plaintiff's rights under the fourth amendment to the federal constitution and of the respective constitution of New Jersey (Article I, par. 7);
- b. Declare that the Wayne Township's and its agents or assigns pattern, practice and/or policy violates Plaintiffs' Fourth, Fifth and Fourteenth Amendment rights;
- c. Declare that Plaintiff owns the homestead real property located at 687 Indian Road, Wayne, New Jersey in fee simple and is entitled to the quiet, lawful, and peaceful possession of such property;
- d. Quieting Plaintiff's title to the real property against Defendant(s), and all persons claiming under Defendant, including a bona fide purchaser for value without notice ;
- e. Declaring that Defendant and all persons claiming under Defendant have no estate, right, title, lien, or interest whatever in or to the subject property, or any part of the property;

f. Order the immediate return of Plaintiff's property at 687 Indian Road, Wayne, New Jersey by directing the U.S. Marshal to take control of the property and return it to the Plaintiff;

g. Order the refund of Plaintiff's wages that were supposed to be used by the defendants to reduce Plaintiff's school property taxes;

h. Award plaintiff reasonable compensatory damages against the defendants, as may be proved at trial;

i. Award Plaintiff reasonable punitive damages at ten times the compensatory damages;

j. Award Plaintiff his costs and attorneys' fees pursuant to 42 U.S.C. §1988; and

k. Grant such other relief as the Court deems just and appropriate.

COUNT SEVEN

FEDERAL LAW CLAIMS (UNLAWFUL SEARCH, UNLAWFUL SEIZURE, WARRANTLESS ENTRY INTO A DWELLING, WARRANTLESS ARREST, USE OF EXCESSIVE FORCE, FALSE ARREST, FALSE IMPRISONMENT, ASSAULT AND BATTERY, ABUSE OF PROCESS)

1. Plaintiff repeats, reiterates, and realleges each and every allegation set forth in paragraphs 1 through 251 of the Statement of Facts of the Complaint in Lieu of Prerogative Writ as if the same were set forth at length herein.

2. Due to the large number of counts, all the counts that involve the county defendants, including Lucas and D'Agostino are included in this instant count.

3. The court should note that the above legal theories of liability are filed as both federal law and state law claims.

4. Defendant Lucas performed an unlawful search of Plaintiff's property by peering through Plaintiff's dwelling window. Defendant then concocted charges against Plaintiff and committed an unlawful entry into Plaintiff's dwelling, false arrest, false imprisonment, malicious and/or wrongful prosecution, defamation, among other offenses.

5. At all times Plaintiff continue to indicate to the defendants that their acts are unlawful, but defendants refused to listen.

6. The Camden County' Sheriff's Manual has the following instruction for the officers: **3:3.12 Obedience to Unlawful Orders** "*Obedience to an unlawful order is never a defense of an unlawful action; therefore, no member or employee is required to obey any order, which is contrary to Federal or State law or Local ordinance. Responsibility for refusal to obey rests with the member. He/she shall be strictly required to justify his/her action.*"

7. Similar language can be found in all other sheriff's manuals. The fundamental law in the state of New Jersey and throughout the US is that the courts have no authority to take private homestead property and give it to a private person for the benefit of that private entity. This is strictly prohibited and it is universal law. The New Jersey judiciary being corrupt are well known for their deceitful and reckless

actions. At this time it is not clear what motivated Jacobson and McVeigh to act the way they acted and to refuse to uphold Plaintiff's constitutional rights; discovery will help answer a lot of questions.

8. However, Plaintiff did notify the sheriff's department of these unlawful, unconstitutional and void orders. The sheriff was placed on notice of the existence of a properly licensed business in the premises and the sheriff's duty was to ensure that these activities are not disrupted; the sheriff also knew that cannot enter or search a dwelling without an arrest warrant or a search warrant. Yet the sheriff's officers did just that, committing criminal activities while at the dwelling (the porch is considered part of the dwelling of Plaintiff) of the Plaintiff (the officers were peering through a window that was inaccessible to the general public).

9. Then, to justify their criminal peering and trespassing, Lucas and D'Agostino formed a conspiracy to falsify their reports and lie to the grand jury so that they justify their criminal acts. These officers knew that they had no search warrant, yet they decided to perform an unreasonable search, fully being aware that were not authorized to do so and fully being aware that there were people inside the premises (Lucas has already admitted to the fact that he believed that there were people inside Plaintiff's dwelling).

10. These two officers then concocted charges against the Plaintiff to force him out of his dwelling and then arrested him and placed in the Passaic County prison. However, these two officers knew that Plaintiff had the right to protect himself, his dwelling, his business and property from intruders. Thus, the charges against the Plaintiff will not stand in court and all the alleged evidence that was the result of the

illegal search of Plaintiff's dwelling will be dismissed. Currently, Plaintiff intends on filing motions to dismiss based on illegal search, illegal entry, outrageous government conduct, defense of dwelling and self under the Castle Doctrine, and failure to protect defenses. These motions will be filed during the next two months with Judge Dela Carrera, Passaic County Courthouse. The Court is asked to take judicial notice of that fact.

WHEREFORE, Plaintiffs seek judgment against defendants as follows:

- a. Award damages, both compensatory and punitive, against all county defendants.
- b. For reasonable attorney's fees and costs pursuant to 42 USC Section 1988.
- c. For such other relief as the Court may deem just and proper under the circumstances.

COUNT EIGHT

STATE LAW CLAIMS (UNLAWFUL SEARCH, UNLAWFUL SEIZURE, WARRANTLESS ENTRY INTO A DWELLING, WARRANTLESS ARREST, USE OF EXCESSIVE FORCE, FALSE ARREST, FALSE IMPRISONMENT, ASSAULT AND BATTERY, ABUSE OF PROCESS)

1. Plaintiff repeats, reiterates, and realleges each and every allegation set forth in paragraphs 1 through 251 of the Statement of Facts of the Complaint in Lieu of Prerogative Writ as if the same were set forth at length herein.

2. Due to the large number of state law claims, most the state claims that involve the county defendants, including Lucas and D'Agostino are included in this instant count.

3. The court should note that the above legal theories of liability are filed as both federal law and state law claims.

4. Defendant Lucas performed an unlawful search of Plaintiff's property by peering through Plaintiff's dwelling window. Defendant then concocted charges against Plaintiff and committed an unlawful entry into Plaintiff's dwelling, false arrest, false imprisonment, malicious and/or wrongful prosecution, defamation, among other offenses.

5. At all times Plaintiff continue to indicate to the defendants that their acts are unlawful, but defendants refused to listen.

6. The Camden County' Sheriff's Manual has the following instruction for the officers: **3:3.12 Obedience to Unlawful Orders**

7. Obedience to an unlawful order is never a defense of an unlawful action; therefore, no member or employee is required to obey any order, which is contrary to Federal or State law or Local ordinance. Responsibility for refusal to obey rests with the member. He/she shall be strictly required to justify his/her action.

8. Similar language can be found in all other sheriff's manuals. The fundamental law in the state of New Jersey and throughout the US is that the courts have no authority to take private homestead property and give it to a private person for the benefit of that private entity. This is strictly prohibited and it is universal law. The

New Jersey judiciary being corrupt are well known for their deceitful and reckless actions. At this time it is not clear what motivated Jacobson and McVeigh to act the way they acted and to refuse to uphold Plaintiff's constitutional rights; discovery will help answer a lot of questions.

9. However, Plaintiff did notify the sheriff's department of these unlawful, unconstitutional and void orders. The sheriff was placed on notice of the existence of a properly licensed business in the premises and the sheriff's duty was to ensure that these activities are not disrupted; the sheriff also knew that cannot enter or search a dwelling without an arrest warrant or a search warrant. Yet the sheriff's officers did just that, committing criminal activities while at the dwelling (the porch is considered part of the dwelling of Plaintiff) of the Plaintiff (the officers were peering through a window that was inaccessible to the general public).

10. Then, to justify their criminal peering and trespassing, Lucas and D'Agostino formed a conspiracy to falsify their reports and lie to the grand jury so that they justify their criminal acts. These officers knew that they had no search warrant, yet they decided to perform an unreasonable search, fully being aware that were not authorized to do so and fully being aware that there were people inside the premises (Lucas has already admitted to the fact that he believed that there were people inside Plaintiff's dwelling).

11. These two officers then concocted charges against the Plaintiff to force him out of his dwelling. However, these two officers knew that Plaintiff had the right to protect himself, his dwelling, his business and property from intruders. Thus, the charges against the Plaintiff will not stand in court and all the alleged evidence that was

the result of the illegal search of Plaintiff's dwelling will be dismissed. Currently, Plaintiff intends on filing motions to dismiss based on illegal search, illegal entry, outrageous government conduct, defense of dwelling and self under the Castle Doctrine, and failure to protect defenses. These motions will be filed during the next two months with Judge Dela Carrera, Passaic County Courthouse. The Court is asked to take judicial notice of that fact.

12. Defendant county's agents or employees under color of law, did intentionally and unlawfully threaten by actions to do violence to the PLAINTIFF coupled with an apparent ability to do so, creating a well-founded fear in PLAINTIFF that such violence was imminent, by pointing and aiming a rifle, shot gun or sage weapon or firearm or device at the PLAINTIFF.

13. The PLAINTIFF was placed in reasonable apprehension of immediately receiving fatal injury resulting from the defendant's actions. The defendant's actions were likely to result in serious bodily injury.

14. The conduct of Defendant Passaic county agents or employees towards PLAINTIFF, as more fully set forth above, was objectively unreasonable and constituted unnecessary and excessive use of force in violation of Plaintiff's clearly established constitutional rights under the 4th and 14th Amendments of the United States Constitution and 42 U.S.C. §1983. The deliberate and actual threat of force under the circumstances resulted from the defendant's customs, policies, practices, procedures, or an agent having final decision making authority, and was the moving force behind the constitutional violation.

15. As a direct and proximate result of the actions of defendants, PLAINTIFF suffered past, present and future damages which include: loss of real estate property, loss of business property, loss of personal property, illegal search, illegal arrest and imprisonment, defamation, loss of income and ability to work, physical suffering; physical inconvenience and discomfort; mental anguish and future emotional suffering; medical and legal costs and legal fees; all in violation of Plaintiff's civil rights.

WHEREFORE, Plaintiffs seek judgment against defendants as follows:

- a. Award damages allowable by law, both compensatory and punitive, against all county defendants.
- b. For reasonable attorney's fees and costs pursuant to 42 USC Section 1988.
- c. For such other relief as the Court may deem just and proper under the circumstances.

COUNT NINE

CONVERSION

1. Plaintiff repeats, reiterates, and realleges each and every allegation set forth in paragraphs 1 through 251 of the Statement of Facts of the Complaint in Lieu of Prerogative Writ as if the same were set forth at length herein.
2. Under New Jersey law, conversion is the wrongful exercise of dominion and control over the property of another in a manner inconsistent with the other person's rights in that property. *Peloro v. United States*, 488 F.3d 163, 173-74 (3d Cir. 2007). In the instant case, Plaintiff alleges that the defendants have

retained possession of Plaintiffs' property, including business equipment and personal property that was lost or never returned to the Plaintiff. Defendants did exercise dominion or control over Plaintiffs' property. Plaintiff filed the requisite notice claim notice as is required under the New Jersey Tort Claims Act and his State law tort claims against the county defendants are valid. To the extent that the defendants may claim that they have not received proper notices of the claims, the Court should note that all the witnesses are presently available for the defendants to commence an investigation. Plaintiff did inform of his claims multiple times from June 28, 2011 through to date. To the extent that there is any defect in the filing of the claims against the defendants, Plaintiff requests that he is allowed to correct any deficiencies without the state claims are dismissed.

3. It is Plaintiff's understanding that the county defendants were in fact operating as agents for the defendants ATF and Del Vecchio; as such, they may be indemnified by these two defendants; should ATF and Del Vecchio are the parties liable for the damages inflicted upon the person and property of Plaintiff, then the conversion and property damage claims are valid, as they are directed against a private party and not against a public entity.

WHEREFORE, Plaintiffs seek judgment against defendants as follows:

- a. Order the return of Plaintiff's business and personal property;
- b. Award the market value of the business and personal property that was lost or stolen;

- c. For reasonable attorney's fees and costs pursuant to 42 USC Section 1988.
- d. .
- e. For such other relief as the Court may deem just and proper under the circumstances.

COUNT TEN

CIVIL CONSPIRACY (42 U.S.C. §1985(3))

1. Plaintiff repeats, reiterates, and realleges each and every allegation set forth in paragraphs 1 through 251 of the Statement of Facts of the Complaint in Lieu of Prerogative Writ as if the same were set forth at length herein. This count goes principally against Lucas and D'Agostino who conspired to fabricate evidence and/or conceal evidence, and/or give false and/or misleading testimony against Plaintiff so that they interfere with the legal rights of Plaintiff and or abuse the legal process. The criminal acts of these two defendants have caused damages to the Plaintiff.

2. Section 1985(3) creates a private right of action against persons who conspire "for the purpose of depriving, either directly or indirectly, any person or class of persons of the equal protection of the laws, or of equal privileges and immunities under the laws." 42 U.S.C. § 1985(3) (1994). A section 1985(3) conspiracy claim must be pled with factual specificity. *Robinson v. McCorkle*, 462 F.2d 111, 113-14 (3d Cir.), cert. denied, 409 U.S. 1042 (1972). To establish a claim under Section 1985(3), Plaintiff must plead the following elements: (1) a conspiracy; (2) for the purpose of depriving any person or class of person of equal protection of the laws or equal privileges and

immunities; (3) an act in furtherance of the conspiracy; (4) whereby a person is either injured in his person or property or deprived of any right or privilege of a citizen of the United States.” United Bhd. of Carpenters and Joiners of Am., Local 610, AFL-CIO v. Scott, 463 U.S. 825, 828-29 (1983).

3. Plaintiff claims that these two individuals acted in concert to peer through Plaintiff’s window to perform an illegal search and to claim that they were assaulted; furthermore these defendants falsely claimed that they were acting as law enforcement officers when in fact they were not acting as law enforcement officers and were in fact acting as agents for the ATF and Del Vecchio in attempting to serve a void and/or unconstitutional writ of execution. New Jersey law prohibits the functioning of law enforcement officers as such in civil matters. See N.J.S.A. 40A:14-152. (“..shall have the powers of a constable in all matters other than in civil causes arising in such courts”). Furthermore, the sheriff’s manual specifically states that “Members shall not serve civil process or assist in civil cases unless the specific consent of the Sheriff is obtained and in conformance of their duty.” That duty includes the duty to be neutral, but these two defendants acted with prejudice against Plaintiff, as Lucas himself testified during the grand jury. That prejudice against the Plaintiff perhaps can explain as to why Lucas illegally peered through Plaintiff’s property and why he concocted his story and why he agreed with D’Agostino to fabricate evidence, to falsify their reports and to commit perjury in the grand jury. Perhaps they thought that they will get away with it, considering the history of the New Jersey government (see racial profiling cases).

4. As a result, Lucas and D'Agostino were not acting as a law enforcement officers at the time of the incident; they were acting as legal process servers and in fact they are considered "judicial employees" (see New Jersey Constitution, Article VI, SECTION VIII, par. 1 (b)(4)). Under the Castle Doctrine, Plaintiff had the right to prevent anybody from entering his dwelling, other than a law enforcement officer who is armed with an arrest warrant. Here, Lucas and D'Agostino had neither a search nor an arrest warrant as this was a civil matter.

5. The "well-established" elements of a civil conspiracy are "the combination of two or more persons acting in concert to commit an unlawful act, or to commit a lawful act by unlawful means, the principal element of which is an agreement between the parties to inflict a wrong against another, and an overt act that results in damage." *LoBiondo v. Schwartz*, 970 A.2d 1007, 1029 (N.J. 2009).

6. A plaintiff must "*at least* plead circumstantial facts supporting the logical inference that the alleged conspirators had a meeting of the minds and thus reached an understanding to work towards a common goal." *Tumi, Inc. v. Excel Corp.*, No. 05-0477, 2005 U.S. Dist. LEXIS 16027, at *17 (D.N.J. Aug. 1, 2005)

7. Here, Plaintiff has set forth factual allegations demonstrating agreement between Lucas and D'Agostino to falsify their police reports and grand jury testimony and to state that they were not peering through Plaintiff's window. There was a meeting of minds between these two defendants.

8. Plaintiff does identify that it was Lucas and D'Agostino who allegedly formed the agreement. It is also possible that an agreement may have been reached between Del Vecchio and Lucas, because Lucas did talk to Del Vecchio about the civil

matter and Del Vecchio spread malicious and defamatory matter about the Plaintiff to Lucas. For example, according to the grand jury testimony by Lucas, Del Vecchio told Lucas that Plaintiff did not pay taxes and that is why they decided to seize his homestead property. Del Vecchio never told Lucas that Plaintiff was only asking for Equal Protection, as is guaranteed by both federal and state law.¹⁴ Del Vecchio also never told Lucas that Plaintiff was demanding that the courts do not enforce the tax sale law because that law abridges Plaintiff's privileges and immunities guaranteed under both the federal and state constitutions (right to own property, right not to be subjected to unreasonable searches and seizures, the right to be free and independent, the right to just compensation, the right to due process, etc.). Del Vecchio also never told Lucas that he had threatened Plaintiff that he will take his home if he does not pay the school taxes, along with an 18 percent interest. This is the only time that Plaintiff demanded that Del Vecchio remove the liens from his home because it has affected his business and his credit.

9. Moreover, Lucas and D'Agostino themselves engaged in the underlying wrong, i.e., peering through Plaintiff's window (which is a criminal act under New Jersey law) and then they claimed they were assaulted; Lucas then talked to the sheriff and described the situation; the sheriff then advised them to fabricate facts to claim that somehow they saw Plaintiff through a wide-open front door, etc. so such they claim that they saw Plaintiff in plain view.

¹⁴ The 14th Amendment to the federal constitution states as follows: "No State shall make or enforce any law which shall abridge the privileges or immunities of citizens of the United States; nor shall any State deprive any person of life, liberty, or property, without due process of law; nor deny to any person within its jurisdiction the equal protection of the laws."

10. In addition, these two individuals (Lucas and D'Agostino) knew of the Castle Doctrine that is available in New Jersey for hundreds of years; they knew that Plaintiff could prevent them from entering his dwelling; they knew that Plaintiff had the right to defend himself, his business and his property; so they fabricated facts to make it sound as if they were assaulted, despite the fact that they testified that no threats were ever made by the Plaintiff.

11. Lucas and D'Agostino should have known that the court order was signed by a court (a Mercer County judge) having no jurisdiction over the matter or the res or over the Plaintiff and they should have inquired as to the validity of such order; perhaps they were misled by the lies of Del Vecchio. However, this will not save them from liability for committing the criminal act of peering and the perjury and the preparation of false reports. Therefore, Plaintiff has alleged all required elements of a civil conspiracy by Lucas and D'Agostino against his person.

12. In addition, D'Agostino told Lucas ("I think we did the right thing"; and "I know judge Reddin; he will back me up"). Plaintiff overheard these statements while he was inside the transport vehicle and while D'Agostino was talking to Lucas as they were standing outside the car.

13. Furthermore, McVeigh and Jacobson refused to uphold the equal protection, just compensation, taking clause and numerous are rights of the Plaintiff. This was in violation of the 14th Amendment clause that "nor deny to any person within its jurisdiction the equal protection of the laws." These two individuals lied that all Plaintiff's constitutional rights have been addressed, when in fact there was not even a hearing held; they also issued orders demanding actions that are strictly prohibited by

the state and federal constitution: for example, no private property can be taken from Plaintiff and provided to another private entity; this is a basic axiom of our constitutional law, yet these two individuals denied Plaintiff his rights and decided to act in that illegal way. The discovery will most likely determine as to the exact motive of these individuals but Plaintiff's observations is that these two individuals (especially McVeigh) acted with animus towards Plaintiff because he had an accent and was of a different ethnicity; this individual took full advantage of Plaintiff's legal handicap, claiming that all of Plaintiff's constitutional rights had been addressed when in fact none had been addressed.

14. At this time, these two individuals enjoy absolute immunity; but they have been criminally charged under New Jersey law (see official deprivation of civil rights (N.J.S.A. 2C:30-2). This crime is committed if a public official (including judges), or a person purporting to be a public official, knowingly commits an unlawful act with the purpose to intimidate or discriminate against another person because of race, color, gender, ethnicity, handicap, religion or sexual orientation, and (1) subjects that person to unlawful arrest, detention, including, but not limited to motor vehicle investigative stops, search, seizure, dispossession, assessment, lien or other infringement of personal or property rights; or (2) denies or impedes that person in the lawful exercise or enjoyment of any right, privilege, power or immunity.). Plaintiff has inquired with the U.S. Supreme Court as to whether these two individuals can be included as defendants.

15. The actions of the defendants resulted in significant property loss and loss of liberty by the Plaintiff. The actual losses by the Plaintiff exceed ten million dollars.

WHEREFORE, Plaintiffs seek judgment against defendants as follows:

- a. Award the appropriate amount of damages inflicted upon Plaintiff as a result of the conspiracy and overt acts committed by Lucas and D'Agostino against Plaintiff and his property;
- b. For reasonable attorney's fees and costs pursuant to 42 USC Section 1988.
- c. For such other relief as the Court may deem just and proper under the circumstances.

COUNT ELEVEN

PUBLIC MALFEASANCE (42 U.S.C. §1986)

1. Plaintiff repeats, reiterates, and realleges each and every allegation set forth in paragraphs 1 through 251 of the Statement of Facts of the Complaint in Lieu of Prerogative Writ as if the same were set forth at length herein. This count goes against all defendants.
2. Defendants are liable to plaintiff pursuant to 42 U.S.C. § 1986 in that defendants, having knowledge of the wrongs conspired to be done under Counts One through Nine, and having power to prevent or aid in preventing the commission of the wrongs, neglected or refused to prevent the intentional violation of Plaintiff's rights, privileges and immunities alleged under Counts One through Nine.
3. The wrongful conduct of the sheriff officer defendants and the municipal defendants or the private defendants could not have occurred without the participation or deliberate indifference and/or willful blindness of the sheriff or other named and unnamed defendants.

4. Plaintiff had notified the governor Chris Christie numerous times about the criminal activities of the defendants; the Governor wrote back to Plaintiff indicating that he is looking into the matter and that he also forwarded the complaint to his Attorney General, Ms. Paula Dow.
5. Plaintiff had also notified the Senator O'Toole and numerous other representatives of the state legislature of the criminal activities of the defendants. Mr. Kevin O'Toole responded several times and said that he had forwarded the matter to the Attorney General's office. Plaintiff was under the impression that the AG will intervene on his behalf and prevent the intentional violation of his rights, privileges and immunities. However, the AG never responded to the complaints filed by the Plaintiff almost on a weekly basis.
6. On June 28, 2011, Plaintiff called the AG office in Trenton, NJ and was told that the following people were handling his complaints: Robert Stoloff, Division of Law and Eileen Schlindwein Den Bleyker, Deputy Attorney General, Treasury Section. Plaintiff was also told that the role of the AG is to defend the employees of the state and not to uphold the rights of the Plaintiff. Plaintiff was advised to obtain the services of a lawyer if he was to safeguard his rights.
7. Plaintiff never received any communication from the AG offices regarding these matters, despite the continuing requests by the Plaintiff for intervention to stop the intentional violation of his rights, privileges or immunities.

WHEREFORE, Plaintiffs seek judgment against defendants as follows:

- a. Award the appropriate amount of damages inflicted upon Plaintiff as a result of the conspiracy and overt acts committed by Lucas and D'Agostino against Plaintiff and his property;
- b. For reasonable attorney's fees and costs pursuant to 42 USC Section 1988.
- c. For such other relief as the Court may deem just and proper under the circumstances.

COUNT TWELVE

INTENTIONAL INFLICTION OF EMOTIONAL DISTRESS, NEGLIGENT INFLICTION OF EMOTIONAL DISTRESS, NEGLIGENCE, NEGLIGENT TRAINING, FAILURE TO SUPERVISE

1. Plaintiff repeats, reiterates, and realleges each and every allegation set forth in paragraphs 1 through 251 of the Statement of Facts of the Complaint in Lieu of Prerogative Writ as if the same were set forth at length herein. This count goes against all defendants.

2. Instead of filing separate counts, Plaintiff has provided this instant count that includes several liability theories: intentional infliction of emotional distress, negligent infliction of emotional distress, negligence, failure to train, failure to supervise.

3. "One who by extreme and outrageous conduct intentionally or recklessly causes severe emotional distress to another is subject to liability for such emotional distress." *Buckley v. Trenton Sav. Fund Soc.*, 111 N.J. 355 (N.J. 1988).

4. Through the willful misconduct set out hereinabove, defendants, recklessly and maliciously inflicted upon Plaintiff severe emotional and physical distress.

5. The actions resulting in Plaintiff's assault and battery by defendant Passaic county agents or employees were caused by the Sheriff's customs, policies, procedures or practices, or, resulted from the action of an individual with final decision or policy making authority as implemented by the Passaic County Sheriff's Department, and was the moving force behind the constitutional violation of Plaintiff's civil rights. Defendant Sheriff's failed to promulgate, implement and/or oversee clearly established laws or policies pertaining to the use of force by its agents.

6. Defendant Sheriff's actions rose to the level of a custom or policy through tacit, implied or express authorization, or was a display of deliberate indifference towards the excessive use of such force during law enforcement investigatory detentions and seizures. The failure of Defendant Sheriff to promulgate, implement and/or provide oversight for the assault, battery and gunshot or sage weaponry usage was the moving force behind the constitutional violation of Plaintiff's civil rights.

7. Defendant Sheriff did not adequately train or supervise the law enforcement officers for the Passaic County Sheriff's Department in alternatives to the deployment of appropriate and proportioned force during its investigatory operations, detentions and seizures, and was the moving force behind the constitutional violation of Plaintiff's civil rights.

8. The failure of Defendant Sheriff to adequately train or supervise its employees or agents in the usage, limitations and proportionality of force during such investigatory detentions and seizures, resulted in custom or policy through tacit, implied or express authorization thereby causing the violation of clearly established law and an

abridgment of constitutional rights pursuant to the 4th and 14th Amendments of the United States Constitution.

9. Defendant Sheriff's customs, policies or practices resulted in, and were proximately and causally connected to a violation of Plaintiff's civil rights.

10. The actions of Defendant Sheriff resulted in PLAINTIFF suffering past, present and future damages, which damages include: loss of real estate property, loss of business property, loss of personal property, loss of income and ability to work, physical suffering, permanent disfigurement, loss of use of a bodily function, injury and discomfort; mental anguish and future emotional suffering; high blood pressure, colitis, depression, anxiety, loss of sleep and appetite, loss of emotional tranquility, recurring nightmares, lowered self-esteem, humiliation, embarrassment, lack of energy, headaches, stomachaches and other damages and will continue to suffer such damages in the future; medical care and treatment; medical and legal costs and legal fees; all in violation of Plaintiff's civil rights.

11. All of the foregoing intentional unlawful reckless and malicious acts complained of herein were intentionally designed and purposefully intended by defendants to expose Plaintiff to great emotional distress. Defendant's objective was to harass and vex Plaintiff and to deprive him of his property and rights.

12. The foregoing wrongful acts of defendants were done intentionally, willfully, recklessly and with total disregard for the physical and emotional health, tranquility, welfare and well-being of Plaintiff and directly resulted in injury, harm and damage thereto and a diminishment of Plaintiff's enjoyment of life.

WHEREFORE, Plaintiffs seek judgment against defendants as follows:

- a. Award the appropriate amount of compensatory and punitive damages to compensate the Plaintiff and punish the defendants for the damages inflicted upon Plaintiff as a result of the intentional unlawful reckless and malicious acts committed by the defendants against Plaintiff and his property;
- b. For reasonable attorney's fees and costs pursuant to 42 USC Section 1988.
- c. For such other relief as the Court may deem just and proper under the circumstances.

COUNT THIRTEEN

FAILURE TO PROTECT UNDER THE DUE PROCESS CLAUSE

1. Plaintiff repeats, reiterates, and realleges each and every allegation set forth in paragraphs 1 through 251 of the Statement of Facts of the Complaint in Lieu of Prerogative Writ as if the same were set forth at length herein. This count goes against all defendants.
2. Although as a general rule, "the state has no affirmative obligation to protect its citizens from the violent acts of private individuals," the "state-created danger" theory of liability is an exception to this rule. *Morse v. Lower Merion Sch. Dist.*, 132 F.3d 902, 907 (3d Cir. 1997).
3. The genesis of the state-created danger theory is found in the Supreme Court's decision in *DeShaney v. Winnebago County Dep't of Soc. Servs.*, 489 U.S. 189, 103 L. Ed. 2d 249, 109 S. Ct. 998 (1989). In *DeShaney*, a caseworker received several complaints and personally observed a number of suspicious injuries to

Joshua DeShaney, but took no action to protect the child. The child's father eventually beat the boy so severely that he suffered permanent brain damage. The child and his mother sued the department of social services under 42 U.S.C. § 1983 for depriving Joshua of his liberty interest in "freedom from . . . unjustified intrusion on personal security" under the due process clause of the Fourteenth Amendment "by failing to provide adequate protection against the father's violence." *Id.* at 195 (citing *Ingraham v. Wright*, 430 U.S. 651, 673, 51 L. Ed. 2d 711, 97 S. Ct. 1401 (1977)). Although the DeShaney Court held that the state had no affirmative duty to protect the child, it explicitly acknowledged that "while the State may have been aware of the dangers that Joshua faced in the free world, it played no part in their creation, nor did it do anything to render him any more vulnerable to them." 489 U.S. at 201.

4. As the courts have interpreted this language, a state-created danger exists "when state actors knowingly place a person in danger, the due process clause of the constitution . . . render[s] them accountable for the foreseeable injuries that result from their conduct." *Mark v. Borough of Hatboro*, 51 F.3d at 1151 (citation omitted). Thus, liability under the due process clause may be imposed "where the harm -- though at the hands of a private actor -- is the product of state action that legitimately can be characterized as affirmative conduct." *Id.* at 1151.
5. In *Kneipp*, the Third Circuit recognized for the first time the applicability of the state-created danger theory. The Third Circuit held that the plaintiff had raised a triable issue of fact as to whether defendants had violated Samantha Kneipp's Fourteenth Amendment right to substantive due process when the police officers

left her by the roadside on a cold winter night to find her way home alone, despite her severely intoxicated state and after having earlier allowed her husband to leave the scene. 95 F.3d at 1201, 1211. The Third Circuit concluded that a reasonable jury could find that Samantha "was in a worse position after the police intervened than she would have been had they not done so," and that "as a result of the affirmative acts of the police officers, the danger or risk of injury to Samantha was greatly increased." 922 F.2d at 1109.

6. In *Kneipp*, the Third Circuit adopted the following four-part test to determine whether the state-created danger theory applies in any given case: (1) the harm ultimately caused was foreseeable and fairly direct; (2) the state actor acted in willful disregard for the safety of plaintiff; (3) there existed some relationship between the state and the plaintiff; and (4) the state actors used their authority to create an opportunity that otherwise would not have existed for the third party's crime to occur. *Kneipp*, 95 F.3d at 1208 (quoting *Mark*, 51 F.3d at 1152). The critical inquiry for applying the "state-created danger" theory has been "whether the state actors involved affirmatively acted to create plaintiff's danger, or to render him or her more vulnerable to it." *D.R.*, 972 F.2d at 1373-74; *Mark*, 51 F.3d at 1152 ("The environment created by the state actor must be dangerous; they must know it to be dangerous; and . . . they must have used their authority to create an opportunity that would not otherwise have existed for the third party's crime to occur"). Plaintiff here has presented sufficient evidence to raise a triable issue of fact that the sheriff officers increased Plaintiff's vulnerability to harm by the third party (Del Vecchio and ATF) under the fourth prong of the *Kneipp* test.

Furthermore, the refusal by McVeigh and Jacobson to uphold the substantive and procedural rights of the Plaintiff despite numerous appeals by the Plaintiff, increased Plaintiff's vulnerability to harm by ATF and Del Vecchio who took the inaction by the state actors as the green light to lie to the sheriff officers and to take Plaintiff's homestead property for their own private use, in direct violation of both the federal and state constitutions that prohibit the taking of private property and delivering it to a private person for that private person's main benefit.

7. The municipal, county and state officers used their authority to create an opportunity that otherwise would not have existed for Del Vecchio and ATF to injure Plaintiff. The dispositive factor appears to be whether the state has in some way placed the Plaintiff in a dangerous position that was foreseeable, and not whether the act was more appropriately characterized as an affirmative act or an omission.
8. The relevant inquiry, therefore, is whether the municipal defendants and/or sheriff officers' acts or omissions "placed" the direct victims of ATF and Del Vecchio, in greater danger than they had already faced such that the state can be said to have "created" a danger to Plaintiff. See *Wood v. Ostrander*, 879 F.2d 583, 590 (9th Cir. 1989) (where police officers arrested a drunk driver and impounded his car, thereby leaving the female passenger stranded on the road in a notoriously high crime area, plaintiff raised a triable issue of fact as to whether the state affirmatively placed plaintiff in a position of danger); *Cornelius v. Town of Highland Lake*, 880 F.2d 348, 358 (11th Cir. 1989) (concluding that a triable issue of fact existed where defendants affirmatively created a dangerous

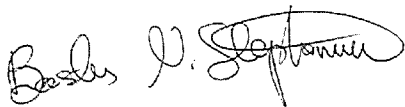
situation by establishing a prisoner work squad and assigning violent inmates to work around town hall).

WHEREFORE, Plaintiffs seek judgment against defendants as follows:

- a. Award the appropriate amount of compensatory and punitive damages to compensate the Plaintiff and punish the defendants for the damages inflicted upon Plaintiff as a result of the intentional unlawful reckless and malicious acts committed by the defendants against Plaintiff and his property;
- b. For reasonable attorney's fees and costs pursuant to 42 USC Section 1988.
- c. For such other relief as the Court may deem just and proper under the circumstances.

JURY DEMAND

Plaintiff hereby demands a trial by jury of all issues so triable.



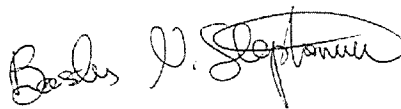
Basilis N. Stephanatos, PhD, JD
Plaintiff Pro Se¹⁵
PO Box 0520
Tenafly, NJ 07670-0520
(973) 897-8162
Plaintiff Pro Se
March 22, 2012

¹⁵ Although Plaintiff proceeds pro se for the filing of this complaint, he is in talks for retention of counsel to proceed with the substantive aspects of the litigation, including discovery and trial. At this time Plaintiff asks for the ordering of the immediate return of his homestead property that was confiscated by Wayne Township, its agents and assigns in violation of the federal and state constitutions.

VERIFICATION OF BASILIS NICHOLAS STEPHANATOS

I, Basilis Nicholas Stephanatos, hereby declares as follows:

1. I am over the age of eighteen and otherwise competent to testify.
2. I certify that the dispute about which I am suing is not the subject of any other action pending in any other court or a pending arbitration proceeding to the best of my knowledge and belief. Also, to the best of my knowledge and belief no other action or arbitration proceeding is contemplated. Further, other than the parties set forth in this complaint, I know of no other parties that should be made a part of this lawsuit. In addition, I recognize my continuing obligation to file and serve on all parties and the court an amended certification if there is a change in the facts stated in this original certification.
3. I HEREBY DECLARE, UNDER PENALTIES OF PERJURY, THAT I HAVE READ THE FOREGOING VERIFIED COMPLAINT AND THE FACTUAL ALLEGATIONS ARE, TO THE BEST OF MY KNOWLEDGE AND BELIEF, TRUE AND ACCURATE. I AM AWARE THAT IF ANY OF THE FOREGOING STATEMENTS MADE BY ME ARE WILLFULLY FALSE, I AM SUBJECT TO PUNISHMENT. 28 U.S.C. §1746.

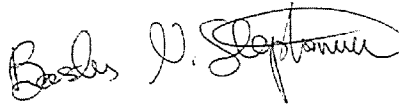


By: _____
Basilis N. Stephanatos

DESIGNATION OF TRIAL COUNSEL

Dr. Basilis N. Stephanatos, PhD, JD, Pro Se is appearing pro se for the plaintiff. A trial and/or discovery counsel substitution may occur in the near future.

BASILIS N. STEPHANATOS, PhD, JD
Plaintiff Pro Se

A handwritten signature in black ink, appearing to read "Basilis N. Stephanatos", written over a horizontal line.

By: _____
Basilis N. Stephanatos

Email: Bellet
Giacobbe
Nemeth

Basilis N. Stephanatos
P.O. Box 0520
Tenafly, New Jersey 07670-0520
Phone: (973) 897-8162
bstephanatos@gmail.com

TOWNSHIP OF WAYNE
RECEIVED
12 APR - 9 PM 4: 50

April 4, 2012

William T. Walsh, Clerk of the Court
U.S. District Court
Martin Luther King, Jr. Federal Building & U.S. Courthouse
50 Walnut Street
Newark, NJ 07101

Clerk's Office Tel.: *Phone (973) 645-3730*

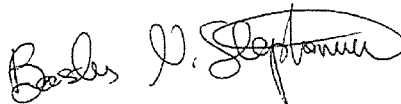
RE: CIVIL ACTION COMPLAINT FOR COMPENSATORY AND PUNITIVE
DAMAGES AND FOR DECLARATORY AND INJUNCTIVE RELIEF
Civil Action No. 02:12-cv-01793 (FSH)

TO WHOM IT MAY CONCERN:

I am submitting one (1) original and one (1) copy of a Motion for Declaratory Judgment/Injunctive Relief pursuant to Rule 57, or, in the alternative, Partial Summary Judgment for Counts One through Four of the Complaint. I attach a notarized affidavit upon which the motion is based. Via separate cover I have submitted a courtesy copy of this motion to the judge's chambers.

I also enclose the Consent & Registration Form to Receive Documents Electronically.

Very Truly Yours,



Basilis N. Stephanatos, PhD, JD
Plaintiff Pro Se

Basilis N. Stephanatos, PhD, JD
Plaintiff, Pro Se
P.O. Box 0520
Tenafly, NJ 07670-0520
Ph.: (973) 897-8162
Fax: (973) 810-0440
Email: bstephanatos@gmail.com

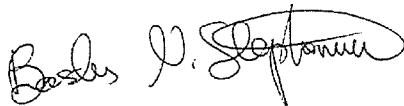
IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW JERSEY

BASILIS N. STEPHANATOS,	)	
	)	
Plaintiff, Pro Se	)	
	)	
v.	)	Civil Action No. 02:12-cv-01793 (FSH)
	)	FOR DAMAGES FOR VIOLATION
WAYNE TOWNSHIP	)	OF CIVIL RIGHTS UNDER 42 U.S.C.
AMERICAN TAX FUNDING, LLC.,	)	SECTION 1983; CONSPIRACY
WAYNE TOWNSHIP TAX COLLECTOR,	)	UNDER 42 U.S.C. SECTION 1983;
MAYOR OF WAYNE TOWNSHIP, indiv.)	)	CONSPIRACY UNDER 42 U.S.C.
ROBERT DEL VECCHIO, indiv.	)	1985; 42 U.S.C. 1986;
OFFICER RONALD LUCAS, indiv.	)	NONFEASANCE IN OFFICE
OFFICER D'AGOSTINO, indiv.	)	STATE LAW DAMAGES (DEFAMATION,
PASSAIC COUNTY,	)	NEGLIGENCE, INTENTIONAL
JOHN DOES 1-30	)	INFLECTION OF EMOTIONAL
	)	DISTRESS, PAIN AND
Defendants.	)	SUFFERING)
	)	
	)	
	)	<u>NOTICE OF MOTION</u>

PLEASE TAKE NOTICE that BASILIS N. STEPHANATOS, Pro Se, will move before the Honorable Judge Faith S. Hochberg, U.S.D.J. on Monday, May 14, 2012, pursuant to Fed. R. Civ. P. 57 for a Declaratory Judgment and Injunctive Relief (or in the alternative, Partial Summary Judgment pursuant to Rule 56(c)), Ordering the Return of Plaintiff's Homestead property located at 687 Indian Road, Wayne, New Jersey in the

County of Passaic and State of New Jersey, and described as follows: Tax 21 and Block. 4503 on the Official Map of the Township of Wayne.

In support of Plaintiff's motion, he will rely on the attached Affidavit and the Complaint for Damages for Violation of Civil Rights under 42 U.S.C. §1983, §1985, and §1986 ("Complaint") and for State Law Claims. In addition, he will rely on the attached Informal Brief containing a Memorandum of Law in Support of the Motion for Preliminary Judgment and Order to Return Plaintiff's Property.



Basilis N. Stephanatos, PhD, JD
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Email: bstephanatos@gmail.com

April 4, 2012

Basilis N. Stephanatos, PhD, JD
Plaintiff, Pro Se
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Fax: (973) 810-0440
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IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW JERSEY

BASILIS N. STEPHANATOS,

Plaintiff, Pro Se

v.

WAYNE TOWNSHIP

AMERICAN TAX FUNDING, LLC.,

WAYNE TOWNSHIP TAX COLLECTOR,

MAYOR OF WAYNE TOWNSHIP, indiv.

ROBERT DEL VECCHIO, indiv.

OFFICER RONALD LUCAS, indiv.

OFFICER D'AGOSTINO, indiv.

PASSAIC COUNTY,

JOHN DOES 1-30

Defendants.

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Civil Action No. 02:12-cv-01793-FSH-PS

FOR DAMAGES FOR VIOLATION
OF CIVIL RIGHTS UNDER 42 U.S.C.

SECTION 1983; CONSPIRACY
UNDER 42 U.S.C. SECTION 1983;
CONSPIRACY UNDER 42 U.S.C.

1985; 42 U.S.C. 1986;

NONFEASANCE IN OFFICE

STATE LAW DAMAGES (DEFAMATION,

NEGLIGENCE, INTENTIONAL

INFLECTION OF EMOTIONAL

DISTRESS, PAIN AND

SUFFERING, CONVERSION)

AFFIDAVIT IN SUPPORT OF MOTION

I, BASILIS N. STEPHANATOS, Pro Se, of full age, do certify and say:

1. I am the Plaintiff-Pro Se in the above matter. As such, I am personally familiar with the facts set forth herein.

2. I am the owner of residential real estate property known as 687 Indian Road, Wayne, New Jersey in the County of Passaic and State of New Jersey, and

described as follows: Tax 21 and Block 4503 on the Official Map of the Township of Wayne;

3. The property is my principal residence;

4. I purchased the property in 1995 from Brian Little; I have fully paid the mortgage on the property and I have full equity on the property. As a result, I have been holding both legal and possessory titles to my residential property; the value of the property in the 2007 real estate peak year was approximately \$690,000 (see Exhibit D for proof of the peak value of the residence).

5. No person or other entity was having or claimed a possessory title to my residential property;

6. I do not have and never had any children;

7. The defendants assessed on my residential property state school taxes and local school taxes that are at least twice the statewide average school taxes for equally-valuated property (see Exhibits A and B for examples of the statewide assessed school taxes); the amount of the state and local school taxes exceeded \$7,000 for tax year 2011; the total property taxes (including municipal and county taxes) exceeded \$11,500 for year 2011;

8. Since 2005, I refused to pay the full amount of the state school and local school taxes (I paid about half of the levied state school taxes) on the basis that such taxes violate the equal protection and state uniformity clauses of the state constitution; I was also arguing that extraction of the excess school taxes will be an unconstitutional taking and will violate the just compensation clause of the state and federal constitutions; I was also arguing that unfunded mandates cannot be imposed onto my

homestead property and that the income taxes on my wages were not used to reduce my property taxes as was required by the state constitution; none of these legal issues has been adjudicated by any court of competent jurisdiction;

9. The total amount of the unpaid public school taxes were about \$21,000 (\$3,000 per year (or half the total school taxes assessed on the property) for 7 years (2005-2011);

10. The defendants have been refusing to provide just compensation for the assessment of such excessive public school taxes; the defendants have been demanding payment of the complete amount of the state and local school taxes;

11. The defendants also refused to reduce the school taxes to ensure compliance with the equal protection and uniformity clauses of the state constitution;

12. The state and local school taxes exceed the statewide average taxes on equally valuated property by 100 percent (i.e., the defendants have been levying my property with twice as much state and local school taxes, without performing a special benefit for my residence);

13. I indicated to the defendants that they can levy on my wages, my car or they can ask for tuition from the parents of the children who attend the public schools, or ask the funds from the legislature; I also indicated to the defendants that the state legislators have not legalized the actions of the defendants and that what the defendants are doing does not represent the official policy of the state legislature; the defendants refused to listen;

14. The value of my home was reduced by \$200,000 due to the foreclosure actions of the defendants to recover unlawful taxes (see Exhibit D for a drop in the value

of Plaintiff's home after the filing of the foreclosure suit by ATF (or ATF Real Property, LLC), Del Vecchio and the municipal defendants)

15. The state judges (Mary Jacobson, Margaret MacVeigh, retired Judge Riva) refused to uphold my constitutional rights including, procedural and substantive due process, just compensation, equal protection, as has been detailed in the Complaint; these individuals also failed to address any of the legal issues I presented in defense of the foreclosure action; these individuals also refused to obey the U.S. Supreme Court decisions on these matters by stating that "in New Jersey we have a different property law system".

16. The state legislature has not authorized the taking of my residential property to pay for such unequal public school taxes; on the contrary, many legislators proposed laws to provide full refund of the homestead school taxes;

17. I informed the legislators, the governor and the New Jersey attorney general (AG) of the illegal actions of the defendants (they used the tax sale law to confiscate my property, despite the fact that no municipal liens were involved, as the disputed taxes were state school taxes); they all indicated that they will look into the matter;

18. While I was waiting to hear on the governor, AG and the legislators, my homestead was confiscated from me by the defendants by excessive force, fraud, unlawful means, extortion, deception, and under gun point on June 28, 2012; the detailed events are provided in the Complaint filed with the Court on March 23, 2012;

19. The defendants refused to stay the confiscation proceedings to allow me to file an emergency motion with the Federal Courts to avoid the damage to my home-based business;

20. The defendants did not allow me to file an emergency appeal with the Federal Court to stay the proceedings to review the Writ of Possession; instead, they forced me out of my residence and place of business by pointing guns and rifles at me and by blocking the residence and the roads around my residence with armored vehicles;

21. Ten days after the confiscation of my residence, I received a letter in the mail from Senator Kevin O'Toole, where he announced the increase in state aid for the public schools in Wayne Township (see Exhibit C); this proves my allegation that the defendants could obtain the school funding from the state and that they did not have to confiscate my residence and destroy my business and my belongings;

22. I have been homeless since the confiscation of my residence on June 28, 2012; No compensation has been provided for the value of my residence despite the numerous demands I made on the defendants prior to and after the seizure;

23. No compensation has been provided for the value of the business and personal property losses despite the numerous demands I made on the defendants prior to and after the seizure;

24. I have incurred, as a result, significant financial damages as a direct result of the actions of the defendants; the losses are into the millions of dollars as provided in the Complaint;

25. I have the right for immediate possession of the property, as I had completely paid for the property and I had made significant improvements and investments on the property, as indicated by the higher value of my residence compared to similar residences in the area; also, I still maintain that I am not legally liable for the discriminatory state and local school tax;

26. The property has been wrongfully taken by the defendants without any constitutional authority and despite the prohibitions of the federal and state constitutions that state that no private property shall be taken for a private purpose; here, the defendants took the property for the benefit of a private entity (American Tax Funding, LLC); this proves my allegations of substantive due process violation;

27. My business that was also located at the 687 Indian Road property, has also been damaged due to the actions of the defendants; I need the property back so that I perform my business; my attached complaint includes a detailed factual background in support of the motion.

28. **I request that the Court orders the immediate return of my homestead property** by whatever means are available to the court, such as: a court order following a preliminary judgment, and/or ordering the U.S. Marshal to seize the homestead property and deliver it to me, and/or any other means the Court deems to be appropriate; I request that the Court declares that Plaintiff owns the homestead real property located at 687 Indian Road, Wayne, New Jersey in fee simple and is entitled to the quiet, lawful, and peaceful possession of such property;

29. I also request that the Court quiets Plaintiff's title to the real property against Defendant(s), and all persons claiming under Defendant, including a bona fide purchaser for value without notice ;

30. I also request that the Court declares that Defendant(s) and all persons claiming under Defendant(s) have no estate, right, title, lien, or interest whatever in or to the subject property, or any part of the property;

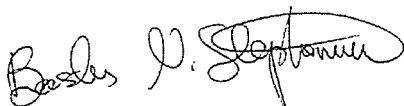
31. I finally request that the Court awards me the fair rental market value of my confiscated property for the period of June 28, 2011 through the date that the U.S. Marshall will seize the residence and return it to me. The fair market value of my residence is \$3,000/month. I am asking a judgment of \$36,000 to cover a period of 12 months of loss of the rental value of the residence (from June 28, 2011 to June 2012).

32. I also request that the court imposes punitive damages on the defendants;

33. In the alternative, I request that the Court awards me \$690,000 in compensation for my homestead property and \$6,900,000. In punitive damages due to the egregious nature of the defendants' actions.

PLAINTIFF'S CERTIFICATION

I hereby certify under penalty of perjury that the foregoing statements made by me are true and correct. I am aware that if any of the foregoing statements made by me are willfully false, I am subject to punishment. 28 U.S.C. §1746.



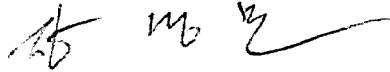
April 4, 2012

Basilis N. Stephanatos, PhD, JD
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NOTARIZED AFFIDAVIT

Sworn to and signed
before me this
30 day of March, 2012



Dated: 30 March 2012

YOUNG MO CHANG
NOTARY PUBLIC OF NEW JERSEY
Commission Expires 12/16/2013

EXHIBITS A, B, C, AND D

EXHIBIT A

Summary of Vital Statistics (Cont'd) Comparative Spending Guide 2010 Operating Type K-12 / 3501 + (Total of 105 School Districts)

Fall 2009													
-----Certified Staff-----													

EXHIBIT B



Governor Chris Christie • Lt. Governor Kim Guadagno
NJ Home | Services A to Z | Departments/Agencies | FAQs
Search: NJ DOE



NJDOE Home Families Students Educators Community

Projected 2009-10 State School Aid Excluding Debt Service, Pre-School Aid, Extraordinary Aid

County	District	Education				Special Education				Total				District			
		State Aid		Equalized Aid		Adequacy Aid		Choice Aid		Transportation Aid		Categorical Aid		Security Aid		Adjustment Aid	
		2009-09		2009-09		2009-09		2009-09		2009-09		2009-10		2009-10		2009-10	
ATLANTIC	ABSECON CITY	\$1,629,201	\$884,019	\$0	\$0	\$193,838	\$464,825	\$118,539	\$0	\$1,641,221	\$12,020	1.0%	\$1,844	\$10,307,617	\$0	0.0%	\$3,352
ATLANTIC	ATLANTIC CITY	\$20,999,441	\$0	\$0	\$0	\$1,191,574	\$3,264,418	\$2,350,111	\$14,193,338	\$20,999,441	\$0	0.0%	\$3,352	\$118,284,099	\$1	0.0%	\$3,352
ATLANTIC	ATLANTIC CO VOCATIONAL	\$3,613,136	\$3,364,510	\$0	\$0	\$0	\$315,797	\$113,466	\$0	\$3,793,793	\$180,657	5.0%	\$6,292	\$7,495,136	\$0	5.0%	\$6,292
ATLANTIC	BRIGHTLINE CITY	\$3,064,326	\$0	\$0	\$0	\$470,823	\$475,470	\$174,846	\$1,933,386	\$3,064,326	\$0	0.0%	\$3,356	\$18,338,033	\$0	0.0%	\$3,356
ATLANTIC	BUENA REGIONAL	\$18,875,418	\$17,128,303	\$0	\$0	\$1,038,553	\$1,098,419	\$555,914	\$0	\$19,618,189	\$843,771	5.0%	\$9,429	\$28,101,611	\$0	5.0%	\$9,429
ATLANTIC	CORBIN CITY	\$752,750	\$597,666	\$0	\$0	\$94,874	\$46,128	\$14,062	\$0	\$752,750	\$0	0.0%	\$6,652	\$1,444,674	\$0	0.0%	\$6,652
ATLANTIC	EGG HARBOR CITY	\$5,198,375	\$4,487,528	\$0	\$0	\$59,408	\$234,187	\$157,988	\$259,268	\$5,198,375	\$0	0.0%	\$11,578	\$7,059,528	\$0	0.0%	\$11,578
ATLANTIC	EGG HARBOR TWP	\$38,817,623	\$31,886,392	\$0	\$0	\$3,365,760	\$4,168,665	\$1,387,737	\$0	\$40,769,504	\$1,940,881	5.0%	\$5,108	\$95,887,108	\$1	5.0%	\$5,108
ATLANTIC	ESTELL MANOR CITY	\$2,077,267	\$1,526,227	\$0	\$0	\$143,847	\$169,673	\$28,197	\$219,323	\$2,077,267	\$0	0.0%	\$6,811	\$3,909,163	\$0	0.0%	\$6,811
ATLANTIC	FOLSOM BORO	\$4,890,910	\$3,888,643	\$0	\$882,607	\$253,462	\$259,024	\$69,784	\$0	\$5,233,730	\$342,820	7.0%	\$10,631	\$5,664,722	\$0	7.0%	\$10,631
ATLANTIC	GALLOWAY TWP	\$23,971,932	\$20,045,378	\$0	\$0	\$1,401,803	\$1,877,041	\$647,712	\$0	\$23,971,932	\$0	0.0%	\$8,655	\$49,748,533	\$0	0.0%	\$8,655
ATLANTIC	GREATER EGG HARBOR REG	\$30,134,287	\$26,977,840	\$0	\$0	\$1,937,778	\$2,143,162	\$582,200	\$0	\$31,640,980	\$1,506,713	5.0%	\$7,899	\$53,913,414	\$0	5.0%	\$7,899
ATLANTIC	HAMILTON TWP	\$21,549,337	\$18,698,873	\$0	\$0	\$1,661,384	\$1,826,113	\$641,434	\$0	\$22,628,804	\$1,077,467	5.0%	\$7,264	\$38,060,008	\$0	5.0%	\$7,264
ATLANTIC	HAMMONTON TOWN	\$12,684,967	\$11,168,234	\$0	\$0	\$666,247	\$1,188,674	\$396,060	\$0	\$13,319,215	\$634,246	5.0%	\$5,839	\$27,819,353	\$0	5.0%	\$5,839
ATLANTIC	LINWOOD CITY	\$2,025,182	\$909,128	\$0	\$0	\$109,672	\$479,018	\$64,410	\$462,954	\$2,025,182	\$0	0.0%	\$2,210	\$12,093,175	\$0	0.0%	\$2,210
ATLANTIC	LONGPORT	\$132,636	\$0	\$0	\$0	\$11,314	\$56,483	\$4,741	\$81,098	\$132,636	\$0	0.0%	\$2,010	\$1,072,940	\$0	0.0%	\$2,010
ATLANTIC	MAINLAND REGIONAL	\$7,625,719	\$6,249,419	\$0	\$0	\$370,594	\$855,136	\$150,570	\$0	\$7,625,719	\$0	0.0%	\$4,647	\$22,225,616	\$0	0.0%	\$4,647
ATLANTIC	MARGATE CITY	\$935,762	\$0	\$0	\$0	\$140,239	\$308,700	\$43,268	\$443,645	\$935,762	\$0	0.0%	\$1,663	\$10,989,294	\$0	0.0%	\$1,663
ATLANTIC	MULLICA TWP	\$5,561,045	\$3,998,037	\$0	\$0	\$229,977	\$333,538	\$149,878	\$849,615	\$5,561,045	\$0	0.0%	\$6,703	\$8,563,995	\$0	0.0%	\$6,703
ATLANTIC	NORTHFIELD CITY	\$3,808,425	\$3,289,843	\$0	\$0	\$44,013	\$567,725	\$97,265	\$0	\$3,899,846	\$180,421	5.0%	\$3,679	\$11,617,099	\$0	5.0%	\$3,679

EXHIBIT B

OCEAN	TOMS RIVER REGIONAL	\$71,972,480	\$42,908,855	\$0	\$0	\$4,802,858	\$8,810,931	\$1,588,757	\$14,282,081	\$71,972,480	\$0	0.0%	\$4,344	\$180,031,058	\$2
OCEAN	TUCKERTON BORO	\$1,487,904	\$857,989	\$0	\$0	\$26,787	\$116,746	\$83,728	\$432,754	\$1,487,904	\$0	0.0%	\$6,584	\$3,683,790	
PASSAIC	BLOOMINGDALE BORO	\$2,295,243	\$1,428,395	\$0	\$0	\$270,847	\$521,128	\$74,873	\$0	\$2,295,243	\$0	0.0%	\$2,424	\$15,098,792	\$
PASSAIC	CLIFTON CITY	\$26,517,923	\$18,051,970	\$0	\$0	\$1,761,442	\$6,013,588	\$2,016,819	\$0	\$27,843,819	\$1,325,896	5.0%	\$2,550	\$132,651,888	\$1
PASSAIC	HALEDON BORO	\$8,358,843	\$5,776,811	\$0	\$0	\$42,009	\$558,619	\$299,346	\$0	\$9,676,785	\$317,942	5.0%	\$6,591	\$11,573,860	\$
PASSAIC	HAWTHORNE BORO	\$2,563,053	\$769,886	\$0	\$0	\$292,289	\$1,383,425	\$245,626	\$0	\$2,691,208	\$128,153	5.0%	\$1,071	\$31,295,924	\$
PASSAIC	LAKELAND REGIONAL	\$5,245,701	\$4,045,378	\$0	\$0	\$454,412	\$848,598	\$97,313	\$0	\$5,245,701	\$0	0.0%	\$4,484	\$20,213,350	\$
PASSAIC	LITTLE FALLS TWP	\$791,837	\$0	\$0	\$0	\$155,703	\$506,131	\$69,747	\$60,246	\$791,837	\$0	0.0%	\$854	\$11,030,328	\$
PASSAIC	NORTH HALEDON BORO	\$511,847	\$0	\$0	\$0	\$123,595	\$358,286	\$55,568	\$0	\$537,439	\$25,552	5.0%	\$757	\$7,509,777	
PASSAIC	PASSAIC CITY	\$174,952,731	\$163,737,882	\$7,059,459	\$0	\$2,213,494	\$6,545,983	\$4,859,003	\$0	\$184,415,781	\$9,483,050	5.0%	\$15,511	\$184,475,054	\$2
PASSAIC	PASSAIC CO MANCHESTER REG	\$5,409,588	\$4,284,214	\$0	\$195,234	\$221,759	\$446,145	\$241,270	\$17,966	\$5,409,588	\$0	0.0%	\$8,682	\$14,193,929	\$
PASSAIC	PASSAIC VALLEY REGIONAL	\$1,458,815	\$235,922	\$0	\$0	\$395,857	\$716,082	\$108,954	\$0	\$1,458,815	\$0	0.0%	\$1,121	\$19,978,870	\$
PASSAIC	PASSAIC COUNTY VOCATIONAL	\$19,553,232	\$17,542,458	\$0	\$0	\$0	\$1,833,320	\$1,155,116	\$0	\$20,530,894	\$977,962	5.0%	\$6,195	\$26,597,817	\$
PASSAIC	PATERSON CITY	\$389,106,393	\$325,280,233	\$0	\$0	\$3,740,215	\$13,378,859	\$9,974,760	\$38,734,326	\$389,106,393	\$0	0.0%	\$16,018	\$423,877,718	\$4
PASSAIC	POMPTON LAKES BORO	\$4,356,102	\$3,159,530	\$0	\$0	\$167,886	\$892,291	\$196,295	\$0	\$4,356,102	\$0	0.0%	\$2,694	\$24,572,221	\$
PASSAIC	PROSPECT PARK BORO	\$7,271,974	\$6,849,578	\$0	\$0	\$36,325	\$453,643	\$286,027	\$0	\$7,635,573	\$363,559	5.0%	\$9,300	\$9,632,893	\$
PASSAIC	RINGWOOD BORO	\$3,509,829	\$1,483,409	\$0	\$0	\$707,473	\$718,082	\$99,397	\$503,268	\$3,509,829	\$0	0.0%	\$2,695	\$18,039,948	\$
PASSAIC	TOTOWA BORO	\$728,007	\$0	\$0	\$0	\$93,175	\$588,117	\$84,793	\$0	\$744,085	\$16,078	2.0%	\$723	\$12,112,205	\$
PASSAIC	WANAQUE BORO	\$2,757,448	\$1,948,583	\$0	\$0	\$183,852	\$524,877	\$100,136	\$0	\$2,757,448	\$0	0.0%	\$2,854	\$13,408,820	\$
PASSAIC	WAYNE TWP	\$6,741,712	\$0	\$0	\$0	\$1,694,108	\$4,407,361	\$640,242	\$0	\$6,741,712	\$0	0.0%	\$780	\$119,570,207	\$1
PASSAIC	WEST MILFORD TWP	\$18,215,630	\$10,640,714	\$0	\$0	\$1,698,869	\$2,163,242	\$303,142	\$1,411,863	\$18,215,630	\$0	0.0%	\$4,129	\$60,667,494	\$
PASSAIC	WOODLAND PARK	\$880,334	\$195,645	\$0	\$0	\$83,245	\$588,110	\$194,351	\$0	\$1,025,351	\$49,017	5.0%	\$849	\$12,883,855	\$
SALEM	ALLOWAY TWP	\$3,857,632	\$3,400,503	\$0	\$0	\$294,773	\$310,480	\$44,988	\$0	\$4,050,724	\$182,892	5.0%	\$6,608	\$8,942,839	
SALEM	ELMER BORO	\$1,588,249	\$1,015,438	\$0	\$0	\$105,957	\$103,487	\$14,324	\$347,045	\$1,588,249	\$0	0.0%	\$7,893	\$2,638,955	
SALEM	ELSNBORO TWP	\$568,901	\$298,374	\$0	\$0	\$53,496	\$65,541	\$13,377	\$138,113	\$568,901	\$0	0.0%	\$4,499	\$1,781,141	

EXHIBIT C



Senator

Kevin

O'Toole

Phone:

973-237-1360

Web:

<http://otoole.senatenj.com>

Email: senotoole@njleg.org



July 07, 2011

40th District Towns to Receive Increased School Aid

Senator Kevin O'Toole is happy to announce that local school districts will receive increased school aid for the 2011-2012 school year.

Senator O'Toole worked closely with the Christie Administration in an effort to gain a fairer share of school aid dollars in the final state budget signed by the Governor.

"School children and property taxpayers are the primary beneficiaries of the Governor's decision to dedicate additional state revenue to school aid for suburban communities," said Senator O'Toole "I'm pleased that Governor Christie worked with us over the past several months to dedicate additional state revenues to school aid for suburban communities. By making tough choices and using an unexpected bump in state revenues wisely, we were able not only to increase aid over last year, but to double the rate of increase that was originally proposed in March."

School aid for communities in the 40th District will be allocated as follows:

<u>District</u>	<u>State Aid FY '11</u>	<u>State Aid FY '12</u>	<u>\$ Increase</u>	<u>% Increase</u>
Allendale Boro	\$0	\$286,270	\$286,270	-
Bergen County Vocational	\$4,074,780	\$5,254,828	\$1,180,048	29.0%
Cedar Grove Twp	\$62,853	\$551,371	\$488,518	777.2%
Essex Co Voc-Tech	\$18,735,148	\$19,521,662	\$786,514	4.2%
Franklin Lakes Boro	\$44,398	\$547,648	\$503,250	1133.5%
Ho Ho Kus Boro	\$101,789	\$346,507	\$244,718	240.4%

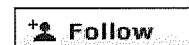
Lakeland Regional	\$4,143,868	\$4,585,130	\$441,262	10.6%
Little Falls Twp	\$173,689	\$421,245	\$247,556	142.5%
Mahwah Twp	\$735,363	\$1,844,135	\$1,108,772	150.8%
Midland Park Boro	\$73,411	\$456,017	\$382,606	521.2%
Morris County Vocational	\$768,862	\$1,094,960	\$326,098	42.4%
Northern Highlands Reg	\$0	\$477,000	\$477,000	-
Oakland Boro	\$0	\$503,064	\$503,064	-
Passaic County Vocational	\$17,250,682	\$18,564,344	\$1,313,662	7.6%
Passaic Valley Regional	\$374,503	\$807,947	\$433,444	115.7%
Pequannock Twp	\$1,153,148	\$1,867,584	\$714,436	62.0%
Pompton Lakes Boro	\$2,945,237	\$3,510,261	\$565,024	19.2%
Ramapo-Indian Hill Reg	\$0	\$927,028	\$927,028	-
Ridgewood Village	\$0	\$1,698,850	\$1,698,850	-
Ringwood Boro	\$2,502,917	\$2,906,085	\$403,168	16.1%
Riverdale Boro	\$64,843	\$193,397	\$128,554	198.3%
Totowa Boro	\$29,330	\$313,158	\$283,828	967.7%
Wyckoff Twp	\$0	\$648,114	\$648,114	-
Verona Boro	\$70,811	\$621,155	\$550,344	777.2%
Waldwick Boro	\$130,028	\$639,590	\$509,562	391.9%
Wanaque Boro	\$2,030,672	\$2,321,732	\$291,060	14.3%
Wayne Twp	\$295,796	\$2,877,260	\$2,581,464	872.7%
Woodland Park	\$331,234	\$610,816	\$279,582	84.4%



Kevin O'Toole on Facebook



Kevin O'Toole on Twitter



Why have I received this email? Based on your request to receive updates from or your prior contact with the office of Senator O'Toole, this message was sent to follow-up with additional information that you may find useful. [Click here](#) if you do not wish to receive any additional information from Senator O'Toole by email.

EXHIBIT D

Homes New Jersey Wayne real estate

Views: 579

HomeZestimates just got better! Map your neighborhood and get their advice on neighborhoods. [Map my friends](#)

687 Indian Rd

Walk Score™
Recently Sold
CASH dependent
\$340,000

Zestimate®: \$341,400
Est. Mortgage: \$1,276/mo
See current rates on Zillow

View Your 2012 Credit Scores Now, Free!



Sold "AS IS", Buyer responsible for permits and inspections.

Beds:	4
Baths:	2
Sqft:	1,886
Lot:	33,105 sq ft / 0.76 acres
Type:	Single Family
Year built:	1966
Last sold:	Feb 2012 for \$340,000
Parking:	--
Cooling:	--
Heating:	--
Fireplace:	--

More facts

Post for sale / rent Save Edit Share Map Print

Charts and Data

	Value	Range	30-day change	\$/sqft	Last updated
Zestimate	\$341,400	\$314K - \$413K	+\$4,200	\$181	03/30/2012

	Value	Range	30-day change	\$/sqft	Last updated
Rent Zestimate	\$1,997 / mo	\$1.5K - \$2.5K/mo	+\$2	\$1.06	03/27/2012
Owner Comment	Post a comment				

Zestimate

Listing price

Rent Zestimate

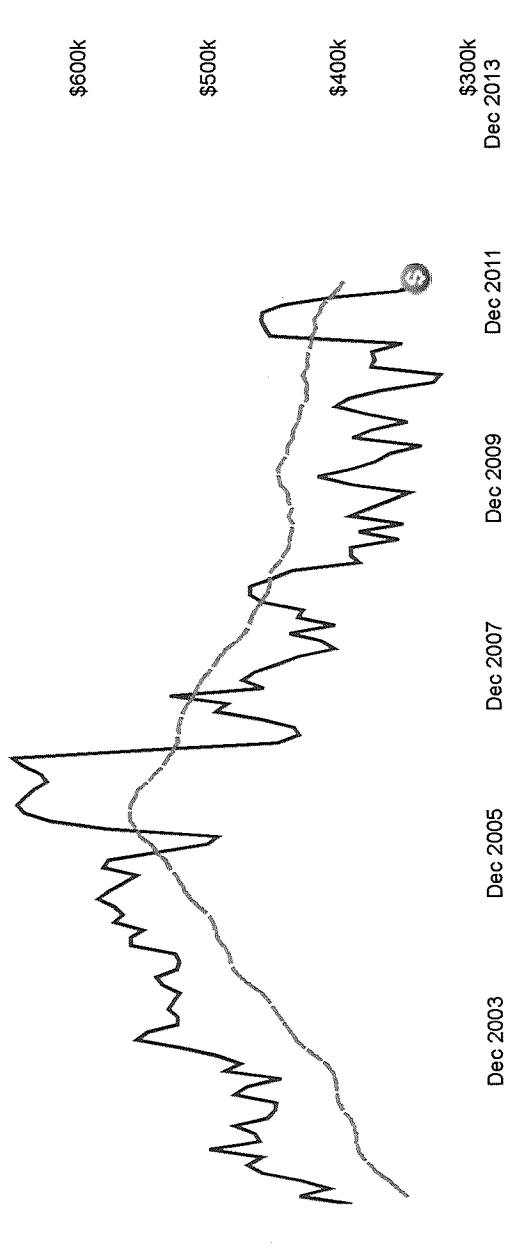
more

1 year

5 years

10 years

\$700k



Price History

View My 2012 Credit Report Now

Date	Description	Price	Change	\$/sqft	Source
02/08/2012	Sold	\$340,000	-2.6%	\$180	Public Record
11/11/2011	Listing removed	\$349,000	--	\$185	Coldwell Banker Residential Brokerage - Wayne Office
10/07/2011	Listed for sale	\$349,000	42.4%	\$185	Coldwell Banker Residential Brokerage - Wayne Office
more					

Tax History

Year	Property taxes	Change	Tax assessment	Change
------	----------------	--------	----------------	--------

Year	Property taxes	Change	Tax assessment	Change
2011	\$11,113	8.4%	\$237,000	--
2010	\$10,250	3.6%	\$237,000	--
2009	\$9,895	4.9%	\$237,000	--
more				

Maps and Views

- Map
- Bird's Eye View
- Street View

Monthly Payment

CERTIFICATION OF SERVICE

I, Basilis N. Stephanatos, certify that a copy of my motion was served by CERTIFIED MAIL, RETURN RECEIPT REQUESTED on April 4, 2012 upon:

Clerk, United States District Court (two copies)
District of New Jersey
M.L. King, Jr. Federal Building & U.S. Court House
50 Walnut Street
Newark, New Jersey 07102
Tel.: 973-645-3730

Hon. Faith S. Hochberg (one courtesy copy)
United States District Court
District of New Jersey
M.L. King, Jr. Federal Building & U.S. Court House
50 Walnut Street
Newark, New Jersey 07102
Tel.: 973-645-4851

Robert A. Del Vecchio, Esq. (one copy)
405 Lafayette Avenue
P.O. Box 561
Hawthorne, New Jersey 07507
Phone: (973) 423-9035
Fax: (973) 423-9036

American Tax Funding, LLC (one copy)
345 Jupiter Lakes Boulevard
Jupiter, Florida 33458-7100
Phone number is (561) 842-2955
Fax number is (561) 842-2946

Paul V. Margiotta, RMC, CMC (one copy)

Township Clerk's Office

Township of Wayne

475 Valley Road, Wayne

Passaic County

New Jersey, 07470

Phone: 973-694-1900, ext. 3218

Christopher P. Vergano (one copy)

Mayor of Wayne Township

475 Valley Road, Wayne

Passaic County

New Jersey, 07470

Phone: 973-694-1900

Wayne Township Tax Collector (one copy)

Township of Wayne

475 Valley Road, Wayne

Passaic County

New Jersey, 07470

Phone: 973-694-1900

William J. Pascrell III (one copy)

Passaic County Counsel

Passaic County Administration Building

401 Grand Street

Paterson, NJ 07505

Phone (973) 881-4466

Fax (973) 881-4072

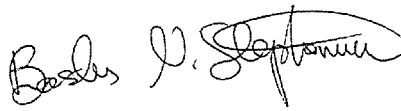
Passaic County Sheriff's Department (one copy)

Office of the Passaic County Sheriff
Legal Correspondence Unit
435 Hamburg Turnpike
Wayne, NJ 07470
Phone: (973) 389-5900

Ronald Lucas (one copy)
Office of the Passaic County Sheriff
Legal Correspondence Unit
435 Hamburg Turnpike
Wayne, NJ 07470
Phone: (973) 389-5900

Vince D'Agostino (one copy)
Office of the Passaic County Sheriff
Legal Correspondence Unit
435 Hamburg Turnpike
Wayne, NJ 07470
Phone: (973) 389-5900

Date: April 4, 2012

A handwritten signature in black ink, appearing to read "Basilis N. Stephanatos", written over a horizontal line.

Basilis N. Stephanatos, PhD, JD
Plaintiff, Pro Se

Basilis N. Stephanatos, PhD, JD
 Plaintiff, Pro Se
 P.O. Box 0520
 Tenafly, NJ 07670-0520
 Ph.: (973) 897-8162
 Fax: (973) 810-0440
 Email: bstephanatos@gmail.com

IN THE UNITED STATES DISTRICT COURT
 FOR THE DISTRICT OF NEW JERSEY

	)	
BASILIS N. STEPHANATOS,	)	
	)	
Plaintiff, Pro Se	)	
	)	
v.	)	Civil Action No. 02:12-cv-01793-FSH-PS
	)	
WAYNE TOWNSHIP,	)	FOR DAMAGES FOR VIOLATION
AMERICAN TAX FUNDING, LLC.,	)	OF CIVIL RIGHTS UNDER 42 U.S.C.
WAYNE TOWNSHIP TAX COLLECTOR,	)	SECTION 1983; CONSPIRACY
MAYOR OF WAYNE TOWNSHIP, indiv.)	)	UNDER 42 U.S.C. SECTION 1983;
ROBERT DEL VECCHIO, individually	)	CONSPIRACY UNDER 42 U.S.C.
OFFICER RONALD LUCAS, individual	)	1985; 42 U.S.C. 1986;
OFFICER D'AGOSTINO, individually.	)	NONFEASANCE IN OFFICE
PASSAIC COUNTY,	)	STATE LAW DAMAGES (DEFAMATION,
JOHN DOES 1-30	)	NEGLIGENCE, INTENTIONAL
	)	INFLECTION OF EMOTIONAL
Defendants.	)	DISTRESS, PAIN AND
	)	SUFFERING, CONVERSION)
	)	

INFORMAL BRIEF IN SUPPORT OF PLAINTIFF'S MOTION FOR DECLARATORY JUDGMENT AND AN INJUNCTION ORDERING THE RETURN OF PLAINTIFF'S HOMESTEAD PROPERTY. IN THE ALTERNATIVE, THIS MOTION SHOULD BE CONSTRUED AS PARTIAL SUMMARY JUDGMENT ON COUNTS ONE THROUGH FOUR

Plaintiff, Basilis N. Stephanatos ("Plaintiff" or "Dr. Stephanatos"), a natural person, in support of his Motion for Declaratory Judgment against Defendants on the issue of ownership of his homestead property says:

Plaintiff filed this lawsuit against the defendants for a violation of a number of his federal and state constitutional rights by the named and unnamed defendants. Plaintiff seeks both compensation for the damages he suffered as well as declaratory and injunctive relief. The subject of this present motion is a declaration that the New Jersey Tax Sale Law as it was applied to the Plaintiff's homestead property was unconstitutional because it violates the procedural and/or substantive due process, just compensation, taking and equal protection clauses¹ of the federal constitution and the respective clauses of the state constitution; the Plaintiff also is seeking a declaration that he is entitled to just compensation for the levying of state school taxes onto his homestead property or that he is not legally obligated to pay for the support of public school programs not specifically funded for by the state or not authorized by the New Jersey Constitution; and that he is entitled to just compensation for the confiscation of his homestead property.

This motion also seeks the return of Plaintiff's homestead property that the defendants confiscated under the guise of taxation and delivering it to a private entity (ATF and Del Vecchio). This motion also requests damages due to the loss of his homestead property between 6/28/2011 and until the property is restored back to the Plaintiff. Plaintiff also urges the Court to apply punitive damages, due to the egregious nature of the defendants' actions.

Despite numerous legislative enactments, a state judge exceeded her constitutional and jurisdictional authority and transferred legal and possessory title

¹ The defendant's actions have no rational justification for the confiscation of homestead property without providing any compensation or for the benefit of a private entity (ATF Real Estate, LLC).

(perhaps under fraud by ATF and Del Vecchio) to the defendant American Tax Funding Real Estate, LLC ("ATF") because Plaintiff refused to pay about fifty percent of the grossly unequal and discriminatory state school taxes that are violative of the equal protection and uniformity clauses of the state constitution. The defendants denied the equal protection of the laws and enforced the grossly unequal and unlawful state and local school taxes onto Plaintiff and confiscated his residential property, without providing any compensation and delivered it to the private entity. The state court clearly exceeded its constitutional authority. The defendants forced Plaintiff out of his home and business under the gun point, they used excessive force and prevented the Plaintiff from filing this instant motion on June 28, 2011. Plaintiff is asking this Court to order the return of Plaintiff's homestead property.

The defendants are accused of violating a number of Plaintiff's constitutional rights. They are also accused of committing tortious acts against the Plaintiff. In particular, defendant Del Vecchio is accusing of committing fraud upon the court and upon the county defendants. It is Del Vecchio who introduced fraudulent language into the Writ of Possession and asked a Mercer County judge to sign the Writ. When fraud upon the court is involved or there is no jurisdiction of the court, then the judgment of the court can be re-opened for a hearing.

ARGUMENT

- I. **THE DEFENDANTS HAVE CONFISCATED PRIVATE HOMESTEAD PROPERTY AND DELIVERED IT TO A PRIVATE ENTITY IN VIOLATION OF THE FEDERAL AND STATE CONSTITUTIONS. DEFENDANTS HAVE REFUSED TO PROVIDE JUST COMPENSATION FOR THE TAKING. PLAINTIFF IS ENTITLED TO THE RETURN OF HIS HOMESTEAD PROPERTY AS A MATTER OF BOTH FEDERAL AND STATE CONSTITUTIONAL LAW.**

The Fifth Amendment to the United States Constitution provides that “private property shall not be taken for public use without just compensation.” U.S. Const. amend. V. The language of the Fifth Amendment “**prohibits** both uncompensated takings **and takings for a private purpose.**” *Samaad v. City of Dallas*, 940 F.2d 925, 936 (5th Cir. 1991). These prohibitions against governmental takings apply to state and local governments through the Fourteenth Amendment. *Kelo v. City of New London*, 545 U.S. 469, 472 n.1 (2005). The New Jersey Constitution similarly provides that: “[p]rivate property shall not be taken for public use without just compensation.” N.J. Const. art. I, § 20. The New Jersey Supreme Court has declared that the protection afforded by the New Jersey Constitution is “coextensive” with the protections afforded under the United States Constitution. *Mansoldo v. State*, 187 N.J. 50, 58, 898 A.2d 1018 (2006); *Pheasant Bridge Corp. v. Twp. of Warren*, 777 A.2d 334, 343 (N.J. 2001). Here, **the defendants in fact took Plaintiff’s property for a private purpose**, which is strictly prohibited by both the federal and state constitutions-**this fact alone provides proof of a substantive due process violation.** Plaintiff respectfully submits that this Court must order the return of Plaintiff’s homestead property because the federal constitutional rights have been clearly violated.

The defendants have Intentionally Violated Plaintiff’s Federally Protected Rights, Privileges and Immunities

The fact that the defendants purposefully took Plaintiff’s property for strictly private purpose, in direct violation of the federal and state constitutions, provides irrefutable evidence of the intentional deprivation of Plaintiff’s rights and the deliberate violation of the federal and state constitutions. These actions also prove beyond any

doubt the intentional, deliberate, willful, purposeful and perhaps criminal actions of these defendants.

Unfortunately, the state school budget is controlled by the New Jersey judiciary who has been performing the role of judge and legislator and has resulted in unprecedented increases of the real property taxes to pay for the school expenditures. The judiciary have even approved, without the consent of the homeowners, billions of dollars in pre-school programs, despite the fact they have no constitutional authority to do so. The state legislature has not approved of such acts by the judiciary. Thus, the state court was not following any legislative mandate (in fact they acted in direct opposition to the legislative mandates) and instead expressed their own subjective opinions. This is in fact what the Advisory Committee on Judicial Conduct (ACJC) indicated to the Plaintiff when he filed an administrative complaint against judge Jacobson and McVeigh for refusing to obey the federal and state constitutions. As this Court knows, the judiciary are totally independent and cannot be held liable for their judicial actions; it is unfortunate that nobody can make them obey their oath of office.

In addition, it is a custom or policy of the municipal and county defendants to refuse to provide just compensation for the levying of these illegal state school taxes and/or liens and/or to refuse the equal protection of the laws by levying grossly unequal school taxes onto homeowners' properties without any due process and/or without any just compensation. The municipal and county defendants claim that it is their policy or custom not to provide any just compensation to anyone for the levying of such unequal school taxes, and they have taken it upon themselves to raise such school taxes by taxing the homeowners, without having the constitutional authority to do so because

according to the New Jersey Constitution "The Legislature shall provide for the maintenance and support of a thorough and efficient system of free public schools for the instruction of all the children in the State between the ages of five and eighteen years" (N.J. Const., Art. VIII, Section IV, par. 1).

In addition, the municipal and county defendants have the custom of levying billions of dollars in unfunded pre-school programs (i.e., for funding of children programs that are less than five years in age), notwithstanding the fact no such authority has been granted to them by the state constitution, no funding has been provided by the state and against the consent of millions of homeowners, including against the consent of the Plaintiff. Again, as with the regular school tax levies, no procedural and substantive due process is provided for such unlawful pre-school tax levies; Plaintiff filed petitions with various state courts, but all the courts said that "nothing has been taken" and refused to vacate the unlawful school tax levies and liens. Plaintiff has exhausted all remedies provided under state law; however, it should be noted that the state school budget is controlled by the New Jersey Supreme Court (NJSC), that, in direct opposition and against the consent of millions of homeowners, have been authorizing the levying of discriminatory school tax levies and liens onto homeowners homestead properties. The NJSC has justified such actions so that they provide "equal protection" to twenty one school districts, by forcing the state to tax Plaintiff's wages to also pay for the state school taxes of these twenty one districts. These unconstitutional actions by the NJSC have drawn the ire of many legislators, because the NJSC has exceeded its constitutional authority and has been performing the job of a judge and a legislature at the same time. As the Court can see, Plaintiff had the odds stacked against him, as he

was facing a corrupt and self-dealing NJSC who had instructed the lower courts to refuse to honor the constitutional rights of the homeowners. Plaintiff was completely denied equal protection, just compensation and other federally-protected civil rights, including procedural and substantive due process.

The listing of Plaintiff's Homestead in Foreclosure to Recover the Illegal Liens Reduced the Value of the Property by \$200,000. Also, the Assessment of Higher Taxes Reduces the Property Value and is an Inverse Condemnation (a Taking) of Plaintiff's Property

Exhibit D shows the price history of Plaintiff's homestead property. The foreclosure proceedings started in 2005, despite the demands by the Plaintiff not to file the action because it will reduce the value of his home and it also damage his personal and business credit. Del Vecchio refused to do so, despite the appeals of the Plaintiff. The listing of the home in foreclosure proceedings caused the reduction of the price of the home from the \$690,000 price range (which was about \$100,000 greater than the value of a comparable home in the area) to about \$330,000 (which was about \$100,000 lower than the value of a comparable home in the area). This \$200,000 price swing is a taking that has been caused by the unlawful actions of the defendants. Plaintiff is also trying to recover this price reduction as part of this lawsuit.

Furthermore, a town that charges higher property taxes will see a reduction in the property values. Indeed, empirical studies confirm that property taxes are capitalized almost fully into property values so that an increase in property taxes results in a corresponding decrease in property values. To be precise, property values decrease by the present value of the annual increase in property taxes. *William A. Fischel, The Homevoter Hypothesis 14–16* (2001), note 2, at 49–51. Thus, the defendants have taken much more than the home of the Plaintiff: they have taken a sizable amount of

his property value by forcing upon his property unequal, and non-uniform public school taxes that in turn has resulted in a corresponding reduction in the value of the property

Plaintiff requests that as an alternative to ordering the repossession of the home by the Plaintiff, the Court awards him a judgment of \$690,000 which is value of the home that Plaintiff would have recovered should have sold his property in few years.

Exaction from owner of private property of cost of public improvement in substantial excess of special benefits accruing to him is, to extent of such excess, taking, under guise of taxation, of private property for public use without compensation

For the last ten years, Plaintiff has been asking all the Defendants to provide him with the list of the JUST COMPENSATION required under our Federal and State Supreme Laws for the taking of his property. The record clearly shows that NO DEFENDANT HAS PROVIDED TO DATE ANY ENUMERATION OF THE JUST COMPENSATION GIVEN TO PLAINTIFF FOR THE TAKING OF HIS PROPERTY. Absolutely none. As indicated in the Complaint, the municipal defendants levy public school taxes that are at least 20 percent more that the core curriculum taxes. These additional levies are special assessments. Plaintiff has no children and receives no compensation for such services. Plaintiff's property does not receive any special benefits from such special assessments. Therefore, exaction by the defendants of these local public school taxes imposed by the municipal defendants onto Plaintiff's property is in fact a taking, under guise of taxation of private property for public use without compensation.

The local school tax is considered a special assessment and just compensation is required. *The Supreme Court of New Jersey in 158 N.J. 581, 731 A.2d 1, 2ND ROC-JERSEY ASSOCIATES, 3rd Roc-Jersey Associates, 4th Roc-Jersey Associates and*

5th Roc-Jersey Associates, Plaintiffs-Appellants, and Shav Associates, Plaintiff-Intervenor-Appellant, v. TOWN OF MORRISTOWN, et. al said that

“Core of definition of special assessment that makes imposition special assessment rather than general tax is not that benefit necessarily or primarily consists of physical improvements that are permanent in nature and are local in that they are adherent to or identified with specific individual properties that are directly and tangibly benefitted thereby, rather special assessment is used to provide combination of services and improvements that are intended and designed to benefit particular properties and demonstrably enhance the value and/or use or function of properties that are subject to special assessment.” Ibid.

“The benefit can be measured by increased market value or by the overall economic effect of the improvement.” Ibid.

The court also said that “Valid special assessment must be as nearly as may be in proportion to benefit received, and not in “substantial excess” of special benefits to land.” Ibid. Finally, the court quoted the United States Supreme Court in *Norwood v. Baker* (1898) 172 U.S. 269 at page 279 that In respect of special assessments, “exaction from owner of private property of cost of public improvement in substantial excess of special benefits accruing to him is, to extent of such excess, taking, under guise of taxation, of private property for public use without compensation. U.S.C.A. Const.Amend. 5; N.J.S.A. Const. Art. 1, par. 20.” Ibid. See also *Harrison v. Board of Supervisors*, 44 Cal. App. 3d 852 where the court vacated the assessment on the properties on the basis that no special benefit was accruing to the property owners. The Harrison court said the following:

There is no disagreement between the parties that the power to specially assess property to pay for public improvements is based upon existence of a special benefit to the assessed property. The Supreme Court explained the basis of this principle in Spring Street Co. v. City of Los Angeles (1915) 170 Cal. 24 at page 30 [148 P. 217]: "... That the return to the property owner by way of benefit is, under our system of government, the basic foundation upon which this right [to specially assess] rests, becomes apparent from the consideration that if we are not able to say that the owner for the specific charge imposed is compensated by the increased value of the property, then most manifestly we have a special tax upon a minority of the property owners, which tax is for the benefit of the public and which tax is special, unequal, and ununiform.

"Therefore, the compensating benefit to the property owner is the [44 Cal. App. 3d 857] warrant, and the sole warrant, for the legislature itself to impose the burdens of the special assessments." (See also San Diego Gas & Elec. Co. v. Sinclair (1963) 214 Cal. App. 2d 778 [29 Cal.Rptr. 769]; Safeway Stores, Inc. v. City of Burlingame (1959) 170 Cal. App. 2d 637, 644 [339 P.2d 933].) The Municipal Improvement Act of 1913 under which these assessment proceedings were conducted defines the assessment district in terms of land to be benefited (Sts. & Hy. Code, §§ 10008, 10204).

It is also clear that only a "special benefit" to the property assessed will justify an assessment, not merely "general benefit" inuring to the public as a whole. (Roberts v. City of Los Angeles (1936) 7 Cal. 2d 477, 491 [61 P.2d 323]; Lloyd v. City of Redondo Beach (1932) 124 Cal.App. 541, 546-547 [12 P.2d 1087].) [2] When the special benefit exists, the formula on which the assessments are made must be based on the benefit

received. (*Honegger v. Reclamation Dist. No. 1619* (1961) 190 Cal. App. 2d 684, 692 [12 Cal.Rptr. 76].)

The trial court based its holding that the assessments were void on its conclusion that there was no substantial evidence of a special benefit to the protesting property owners and, further, that the formula upon which the assessments were based was an invalid method as a matter of law.

That case dealt with storm drain assessments. But since the plaintiffs did not receive any special benefits, the court ordered the refund of the special assessments. See also: “[T]he Supreme Court of the United States and a majority of other jurisdictions have held that only special benefits may be constitutionally setoff.” (footnote omitted)). In the federal courts of appeals, “it is the law that only ‘special’ benefits can be deducted from any compensation due; ‘general’ benefits cannot be deducted.” *Hendler v. United States*, 175 F.3d 1374, 1380 (Fed. Cir. 1999); accord, e.g., *6816.5 Acres of Land v. United States*, 411 F.2d 834, 837 (10th Cir. 1969) (“The benefits [to the remainder] that arise in these situations have been characterized by the courts as ‘direct,’ ‘indirect,’ ‘general,’ and ‘special,’ with only ‘direct’ and ‘special’ being allowed as a set off.” (emphasis added)); *United States v. Trout*, 386 F.2d 216, 221 (5th Cir. 1967) (“Special benefits [are to be] distinguished from general benefits which do not offset recovery. . . .”).

The key point derived from these cases is that due process requires that compensation be provided to the property owner that is assessed a certain tax. Otherwise, the assessment of the tax results in a taking for public use, or in inverse condemnation in cases of high property taxes, which is either a taking or due process

violation. And equally important, the taking entity must provide "special benefits": general benefits such as the ones provided by the school district cannot be setoff. This is the universal law of property in these United States. There is no other property law. The New Jersey judiciary however, have been ruling otherwise, have taken control of the public school budgets and have forced upon the homeowners massive property taxes to pay for programs (such as the pre-school programs) that the constitution does not allow or has not authorized; the result has been the mass exodus of businesses from the state, reduction in property values and massive economic collapse. This situation cannot continue anymore and this suit is a request for the federal judiciary to enforce Plaintiff's property rights that the New Jersey courts have been refusing to uphold.

II. **PLAINTIFF ALSO ALLEGES VIOLATIONS OF HIS RIGHTS TO SUBSTANTIVE AND PROCEDURAL DUE PROCESS UNDER THE FOURTEENTH AMENDMENT.**

No Meaningful Procedural or Substantive Due Process has been Provided

Plaintiff would like the Court to focus on the following U.S. Supreme Court case, because it clearly represents what has happened in the State of New Jersey, about 100 years following the *Londoner v. Denver* decision (i.e., history has repeated itself, as it always does and the federal courts must straighten things back again).

In *Londoner v. City and County of Denver*, 210 U.S. 373 (1908), the U.S. Supreme Court said that in the assessment, apportionment, and collection of taxes upon property within their jurisdiction, the Constitution of the United States imposes few restrictions upon the states. In the enforcement of such restrictions as the Constitution

does impose, this court has regarded substance, and not form. *But where the legislature of a state, instead of fixing the tax itself, commits to some subordinate body the duty of determining whether, in what amount, and upon whom it shall be levied, and of making its assessment and apportionment, due process of law requires that, at some stage of the proceedings, before the tax becomes irrevocably fixed, the taxpayer shall have an opportunity to be heard, of which he must have notice, either personal, by publication, or by a law fixing the time and place [210 U.S. 373, 386] of the hearing. Hagar v. Reclamation Dist. No. 108, 111 U.S. 701 , 28 L. ed. 569, 4 Sup. Ct. Rep. 663; Kentucky R. Tax Cases, 115 U.S. 321 , 29 L. ed. 414, 6 Sup. Ct. Rep. 57; Winona & St. P. Land Co. v. Minnesota, 159 U.S. 526, 537 , 40 S. L. ed. 247, 251, 16 Sup. Ct. Rep. 83; Lent v. Tillson, 140 U.S. 316 , 35 L. ed. 419, 11 Sup. Ct. Rep. 825; Glidden v. Harrington, 189 U.S. 255 , 47 L. ed. 798, 23 Sup. Ct. Rep. 574; Hibben v. Smith, 191 U.S. 310 , 48 L. ed. 195, 24 Sup. Ct. Rep. 88; Security Trust & S. V. Co. v. Lexington, 203 U.S. 323 , 51 L. ed. 204, 27 Sup. Ct. Rep. 87; Central R. Co. v. Wright, 207 U.S. 127 , ante, 47, 28 Sup. Ct. Rep. 47.*

No such hearing has been established by the Board of Education (the governing entity that imposed the tax on Plaintiff's property) or the Wayne Tax Assessor (who assessed and allocated such tax) or by the Passaic County Board of Taxation (although numerous letters were submitted to them) to appeal the levying of Plaintiff's property for Public School and for the massive Passaic County tax PRIOR TO THE TAX BEING LEVIED. Plaintiff's due process rights have been clearly violated (both the substantive and the procedural rights). Also, no court has conducted a hearing on the Equal

Protection and Uniformity Clause violation issues – these issues have not been addressed by any court.

The New Jersey assessment appeal process only involves the amount of the property assessed value and the violation of the fundamental civil rights of Plaintiff cannot be addressed under such process; for example, the main issue here is the imposition of an onerous levy onto Plaintiff's property for public use purposes and the taking of his private property without just compensation and without procedural and/or substantive due process.

The U.S. Supreme Court in *Londoner v. City and County of Denver*, *supra*, then continued to say that “*If it is enough that, under such circumstances, an opportunity is given to submit in writing all objections to and complaints of the tax to the board, then there was a hearing afforded in the case at bar. But we think that something more than that, even in proceedings for taxation, is required by due process of law. Many requirements essential in strictly judicial proceedings may be dispensed with in proceedings of this nature. But even here a hearing, in its very essence, demands that he who is entitled to it shall have the right to support his allegations by argument, however brief: and, if need be, by proof, however informal.* *Pittsburgh, C. C. & St. L. R. Co. v. Backus*, 154 U.S. 421, 426 , 38 S. L. ed. 1031, 1036, 14 Sup. Ct. Rep. 1114; *Fallbrook Irrig. Dist. v. Bradley*, 164 U.S. 112 , 171 et seq., 41 L. ed. 369, 393, 17 Sup. Ct. Rep. 56.

It is apparent that such a hearing was denied to the plaintiffs in error. The denial was by the city council, which, while acting as a board of equalization, represents the state. *Raymond v. Chicago Union Traction Co.* 207 U.S. 20 , ante, 7, 28 Sup. Ct. Rep.

7. The assessment was therefore void, and the plaintiffs in error were entitled to a decree discharging their lands from a lien on account of it.” (emphasis added)
(Plaintiff’s note: this is exactly what Plaintiff is alleging; that the assessment for the school tax levy is null and void and cannot be executed and my land must be discharged from any disputed public use obligation pending establishment and implementation of procedural and substantive due process).

Based on the century-old legal authorities cited above, (along with all the U.S. Supreme Court Cases presented in the Complaint and the various other motion papers and replies) and based on the refusal of the regulatory entities that assess and impose the levy for a hearing, Plaintiff alleges that the imposition of the public school tax levy and the Passaic County Tax levy are therefore null and void and that Plaintiff is entitled for a declaratory judgment and injunctive relief discharging his property from the public school tax and the Passaic County tax levies. Furthermore, restitution of Plaintiff’s property is also requested at this time. These are truly fair and just requests.

Here, Plaintiff has alleged a procedural due process claim because of a violation of clearly established federal law, i.e., the recognition of the right of the homeowner to just compensation for the taking of his property and even for taxation. The fact that the defendants do not recognize the right of the Plaintiff for just compensation has been termed by the U.S. Supreme Court as “a mockery of justice”. *U.S. Supreme Court, CHICAGO, B. & Q. R. CO. v. CITY OF CHICAGO, 166 U.S. 226 (1897)*. “The mere form of the proceeding instituted against the owner, even if he be admitted to defend, cannot convert the process used [166 U.S. 226, 237] into due process of law, **if the necessary result be to deprive him of his property without compensation.** “

Thus, Plaintiff's argument is predicated on an alleged violation of the procedures established under federal and state constitutional law governing civil forfeiture. Therefore, he has alleged violations of the United States Constitution. The Court should thus hold that the defendants are not entitled to qualified immunity as to any claim asserted by Plaintiff that alleges a violation of procedural or substantive due process under the Fourteenth Amendment.

It is the Opinion of the New Jersey Courts that Just Compensation is Not Required for the Taking of Public School Taxes

The Due Process Clause of the Fourteenth Amendment provides: "[Nor] shall any State deprive any person of life, liberty, or property, without due process of law." Historically, this guarantee of due process has been applied to deliberate decisions of government officials to deprive a person of life, liberty, or property. e. g., *Davidson v. New Orleans*, 96 U.S. 97 (1878) (assessment of real estate); *Rochin v. California*, 342 U.S. 165 (1952) (stomach pumping); *Bell v. Burson*, 402 U.S. 535 (1971) (suspension of driver's license); *Ingraham v. Wright*, 430 U.S. 651 (1977) (paddling student); *Hudson v. Palmer*, 468 U.S. 517 (1984) (intentional destruction of inmate's property).

This history reflects the traditional and common-sense notion that the Due Process Clause, like its forebear in the Magna Carta, see *Corwin, The Doctrine of Due Process of Law Before the Civil War*, 24 Harv. L. Rev. 366, 368 (1911), was "'intended to secure the individual from the arbitrary exercise of the powers of government,'" *Hurtado v. California*, 110 U.S. 516, 527 (1884) (quoting *Bank of Columbia v. Okely*, 4 Wheat. 235, 244 (1819)). See also *Wolff v. McDonnell*, 418 U.S. 539, 558 (1974) ("The touchstone of due process is protection of the individual against arbitrary action of

government, *Dent v. West Virginia*, 129 U.S. 114, 123 (1889)"); *Parratt v. Taylor*, 451 U.S., at 544, 549 (Powell, J., concurring in result).

By requiring the government to follow appropriate procedures when its agents decide to "deprive any person of life, liberty, or property," the Due Process Clause promotes fairness in such decisions; and by barring certain government actions regardless of the fairness of the procedures used to implement them, e. g., *Rochin*, *supra*, it serves to prevent governmental power from being "used for purposes of oppression," *Murray's Lessee v. Hoboken Land & Improvement Co.*, 18 How. 272, 277 (1856) (discussing Due Process Clause of Fifth Amendment).

The U.S. Supreme Court has unequivocally ruled: "But if, as this court has adjudged, a legislative enactment, assuming arbitrarily to take the property of one individual and give it to another individual, would not be due process of law, as enjoined by the fourteenth amendment, it must be that the requirement of due process of law in that amendment is applicable to the direct appropriation by the state to public use, and without compensation, of the private property of the citizen. **The legislature may prescribe a form of procedure to be observed in the taking of private property for public use**, but it is not due process of law if provision be not made for compensation. Notice to the owner to appear in some judicial tribunal and show cause why his property shall not be taken for public use without compensation would be a mockery of justice . Due process of law, as applied to judicial proceedings instituted for the taking of private property for public use means. therefore, such process as **recognizes the right of the owner to be compensated if his property be wrested from him and transferred to**

the public. The mere form of the proceeding instituted against the owner, even if he be admitted to defend, cannot convert the process used [166 U.S. 226, 237] into due process of law, **if the necessary result be to deprive him of his property without compensation.** *U.S. Supreme Court, CHICAGO, B. & Q. R. CO. v. CITY OF CHICAGO, 166 U.S. 226 (1897).*

Here, the U.S. Supreme Court has clearly ruled that just compensation must be provided for the taking of private property. This is the universal law that the New Jersey courts are refusing to obey. This lead to the confiscation of Plaintiff's property, a deprivation of his property without just compensation- this is an automatic procedural and substantive due process violation. Based on the above holding of the U.S. Supreme Court, Plaintiff was not subjected to a valid procedural due process but to a mockery of justice that is fully characteristic of the New Jersey courts. Then these courts gave a homestead property to a private entity (ATF and Del Vecchio), for the benefit of that private entity, despite the rulings of the Court that *"No court, he said, would hesitate to adjudge void any statute declaring that 'the homestead now owned by A. should no longer be his, but should henceforth be the property of B.'* *Loan Ass'n v. Topeka, 20 Wall. 655, 663.*

Plaintiff is asking this Court to void the tax sale and the tax deed and return the homestead property to the Plaintiff due to the procedural and substantive due process violations and because this confiscation was an unreasonable seizure in violation of the Fourth Amendment to the Federal Constitution as it became available to the states under the 14th Amendment.

The Actions of the Defendants have Shocked the Conscience

The actions of the defendants shocked the conscience because the complained of behavior is coupled with allegations of corruption, self-dealing, unconstitutional “taking,” ethnic bias, or interference with otherwise constitutionally protected activity. *Eichenlaub v. Twp. Of Indiana*, 385 F.3d at 286 (3rd Cri. 2004) (citing *Olech*, 528 U.S. at 565-66). Here, the facts show that above-named defendants willfully and intentionally interfered with Plaintiff’s well-established constitutional rights, including the right to privacy, the right not to be subjected to unreasonable searches and seizures, the right to obtain just compensation prior to the taking of his homestead and other property, the right to be secure into his own home, the right to the equal protection of the laws, the right to procedural and substantive due process, the right to defend his property, the right to be free and independent, etc. and stole his homestead property under the gun point and delivered it to ATF – a proof of excessive force, self-dealing, corruption and unconstitutional taking.

With respect to Plaintiff’s substantive due process claim, the individual officials had no right to confiscate Plaintiff’s homestead property in exchange for a public school tax debt that Plaintiff has and still is disputing. The New Jersey Mercer County judge simply entered a judgment without any hearing other than a hearing by a Passaic County judge that was not a due process hearing but a hearing to save title (i.e., the courts said that “you either pay the school taxes with 18 percent interest or we take your property” – this cannot be possibly be said to constitute a due process hearing under the 14th Amendment). In fact, New Jersey Senator Kevin O’Toole repeatedly informed the State Attorney General of the illegal actions of the defendants, including

those actions by the judges. Mr. O'Toole has indicated that the state legislature has not proscribed or authorized the activities of the defendants or the courts. Therefore, this Court should find that the conduct of the individual officials alleged by the Plaintiff is sufficiently conscience-shocking as to state a legally cognizable claim for a violation of substantive due process under the Fourteenth Amendment. See *Fagan v. City of Vineland*, 22 F.3d 1296 (3d Cir.1994) (in banc) ("[T]he substantive component of the Due Process Clause can only be violated by governmental employees when their conduct amounts to an abuse of official power that 'shocks the conscience.' "); see also *Collins v. City of Harker Heights, Tex.*, 112 S.Ct. 1061, 1069, 117 L.Ed.2d 261 (1992) (reaffirming "shock[s] the conscience" standard in civil damage actions for violations of substantive due process); *Daniels v. Williams*, 474 U.S. 327, 331, 106 S.Ct. 662, 665, 88 L.Ed.2d 662 (1986) (the substantive component of the Due Process Clause "serves to prevent governmental power from being 'used for purposes of oppression' ") (citation omitted). *Giuffre v. Bissell*, 31 F.3d 1241, 1247 (3d Cir. 1994)

In addition, the fact that a court ordered the forfeiture of Plaintiff's residence does not save the defendants from civil liability. The defendants may argue that, pursuant to application of the "relation-back doctrine," title to Plaintiff's homestead property vested with the municipal defendants or its agents or assigns prior to any contact between them and Plaintiff, and that they therefore cannot under any circumstances be deemed unlawfully to have deprived Plaintiff of his homestead property. However, the common law "relation back" doctrine, which is a fictional and retroactive vesting of title, is not self-executing; rather, it takes effect only upon the entry of a judicial order of forfeiture or condemnation. *United States v. A Parcel of Land*,

Bldgs., Appurtenances & Improvements, 507 U.S. 111, 132 (1993) (Opinion of Stevens, J.), affirming, 937 F.2d 98 (3d Cir.1991). That doctrine is intended to protect the property rights of innocent purchasers of forfeited land, see 937 F.2d at 102-103; **it does not shield public officials from any possible liability for an unauthorized, unconstitutional, coercive and fraudulent confiscation of property such as Plaintiff alleges here.**

The individual officials may further contend that their conduct, even if unlawful, could not have deprived Plaintiff of his property in violation of the Fourteenth Amendment because their actions had no legal effect upon the forfeiture of Plaintiff's property. That argument merely begs the question of whether or not the property legally vested in the municipal defendants or their agents/assigns in the first place. We believe that the actions of the individual officials certainly would have had a "legal effect" on the confiscation if, as Plaintiff alleges, the defendants refused to uphold the federal law and the associated cases to facilitate forfeiture of the homestead property of the Plaintiff.

The individual officials, in any event, would not challenge the principle that the application of threats and intimidation (such as "pay up the school taxes with 18 percent interest or we will take your property" as Del Vecchio said to the Plaintiff) in order to induce a homeowner to comply with the extortionist scheme would constitute a violation of Plaintiff's right of substantive due process of law guaranteed by the Fourteenth Amendment. Also, the taking of private property for private purposes is strictly prohibited by the federal and state constitutions – this also provides proof of substantive due process violation. Finally, defendants potential "I didn't do it" defense to Plaintiff's substantive Fourteenth Amendment claim is not cognizable as a declaration of qualified

immunity. *Burns v. County of Cambria*, 971 F.2d at 1019. As Judge Easterbrook reasoned in *Elliott v. Thomas*, 937 F.2d 338 (7th Cir.1991), cert. denied, 112 S.Ct. 973 (1992): "[T]here is no separate 'right not to be tried' on the question whether the defendants did the deeds alleged; that is precisely the question for trial.... It is impossible to know which 'clearly established' rules of law to consult unless you know what is going on." *Id.* at 341.

Fraud upon the New Jersey Courts Committed by Del Vecchio and ATF

To give an example of the unlawful and unconstitutional activities by the state judiciary, Plaintiff attaches the Writ of Possession that they issued on May 13, 2011. Therein the New Jersey court wrote:

"The possession of which lands and premises the said defendants have hitherto unlawfully deprived the said plaintiff, as appears to us of record".

Who wrote these absurdities in the Writ of Possession? It cannot possibly be a judge, because ATF and Del Vecchio never had possession of the homestead of Dr. Stephanatos. How is it possible that Dr. Stephanatos *"unlawfully deprived the said plaintiff"* (ATF) of his very own homestead property? This is impossible. The "judge" who wrote these absurdities is Mary Jacobson located in Trenton, NJ who had neither personal nor res jurisdiction and refused to hold a hearing to address the fraudulent writ that she issued. It is also very likely that these statements on the Writ were made by Del Vecchio and ATF and the Mercer County judge or the clerk in Mercer County merely "witnessed" these writings. If so, Del Vecchio and ATF have committed a fraud on the court and we are asking for the re-opening of the judgment and Writ of

Possession to determine if fraud upon the court has been committed. The validity of the Writ of Possession has not been determined by any court.

Mr. Stephanatos had fully paid his very own homestead property and it is impossible that he "*unlawfully deprived the said plaintiff*" of his very own homestead property. I cannot simply believe that these "judges" are so incompetent and/or ruthless that they write and say whatever they want. In any event, these the people that Plaintiff had to deal with. Criminal charges have been filed against these individuals and Plaintiff testified in an FBI and NJ AG investigation regarding the activities of these judges and ATF/Del Vecchio. Hopefully they will be removed from the bench really soon, if they committed intentional denial of Plaintiff's rights, privileges and immunities guaranteed by the federal and state constitutions.

III. PLAINTIFF HAS ALSO ALLEGED AN EQUAL PROTECTION VIOLATION.
THE STATE SCHOOL TAX FUNDING SCHEME IS VIOLATIVE OF THE
EQUAL PROTECTION GUARANTEE

In recognition of the unequal school property taxes in New Jersey, in March 1999 the state legislature enacted the "New Jersey School Assessment Valuation Exemption Relief and Homestead Property Tax Rebate Act" (NJ SAVER and Homestead Rebate Act) amending and supplementing P.L.1990, c.61 (C.54:4-8.57 et seq.), amending P.L.1981, c.239 and P.L.1997, c.348, and making an appropriation that constituted the largest property tax relief program ever provided by the State of New Jersey.

The senate bill made reference of an average state school tax of \$1,800 for the year 1999. By contract, the Wayne School Board of Education levied almost \$3,600 in school taxes onto Mr. Stephanatos' homestead property. The intent of the State

Legislature was to exempt a certain amount of homestead property from school taxation.

Also in recognition of the unequal school property taxes in New Jersey, several assemblymen introduced ASSEMBLY CONCURRENT RESOLUTION No. 68, STATE OF NEW JERSEY, 212th LEGISLATURE, for the 2006 Session. Therein, the resolution explained that school property taxes are unequal and regressive and made recommendations to abolish the homestead school tax and instead raise the revenues via state revenues. The document can be found at <http://www.njleg.state.nj.us/bills/BillsByKeyword.asp>.

In addition, in A CONCURRENT RESOLUTION proposing to amend Article VIII, 2 Section 1 of the Constitution of the State of New Jersey, it is stated that *"The Legislature shall annually appropriate and the State shall annually pay, to each resident of this State who has paid property taxes for the tax year on a homestead that is owned as such, a refund of that portion of that property tax that is levied for local school purposes for the delivery of core curriculum content standards"*. This resolution can be found at <http://www.njleg.state.nj.us/bills/BillView.asp>, in the bills for the 2006-2007 season.

These bills and resolutions of the State Legislature further prove that the legislature is responsible for providing for the support of the public schools and not the Plaintiff – what the defendants did, to confiscate a private homestead property, destroy Plaintiff's business and arrest him, was unlawful and in fact criminal.

These resolutions also prove that the Wayne Board of Education should have gone to the State Legislature and ask for school support funding to cover for the \$3,000

per year in excess public school taxes that Plaintiff was refusing to pay. However, the defendants refused to do so, despite having the ability to do so. Therefore, their actions are also unreasonable.

The legislative bills state that the towns will have to raise the funds needed to fund educational expenses beyond the core curriculum. These local taxes are then “special assessments”, for which the local board of education must provide just compensation. The municipal defendants charge more than 20 percent additional school taxes to fund programs beyond the core curriculum – these additional taxes are considered special assessments for which the defendants have refused to provide just compensation to the Plaintiff. The state constitution only says that the legislature shall provide for the education of children of ages 5-18; it does not say that the Plaintiff is obligated to pay for pre-school programs or for problematic children- the parents must pay for the expenses of their children, as the children are the legal asset of the parent.

In every other jurisdiction of the United States, a tax sale is void, if it includes an illegal item of any considerable amount; Plaintiff continued to provide to the defendants the legal opinions of state and federal courts, but in no avail: For example, the following Michigan courts have ruled so: A tax sale of lands for a sum which includes an illegal item of any considerable amount is void. *Lacey v. Davis*, 4 Mich 140; *Case v. Dean*, 16 Mich. 12; *Edwards v. Taliafero*, 34 Mich. 18; *Hammontree v. Lott*, 40 Mich. 195; where a road tax in excess of the amount authorized by law forms part of the taxes for which a tax sale is made, it renders such sale invalid. *Silsbee v. Stockle*, 44 Mich. 561. Here, no law has authorized the public school taxes onto Plaintiff's homestead property. The current taxation system is simply based on the ability to pay and it is a revenue raising

procedure. There is no constitutional authority for the defendants to act the way they acted. There is no constitutional authority to levy taxes for pre-school programs (children less than 5 years in age) onto Plaintiff's property and no constitutional authority has been granted to the defendants to exceed the basic curriculum spending mandated by the state by twenty percent or so and to refuse to provide just compensation for such additional taxes.

The New Jersey court opined in *Robinson v. Cahill*, 118 N. J. Superior Court 223, 287 A. 2d 187 (L. 1972), that "Public education cannot be financed by a method that makes a pupil's education depend on wealth of his ... neighbors as distinguished from wealth of all taxpayers of the same class throughout the state". Furthermore, the judge wrote ". New Jersey system of financing public education ...denies equal protection rights guaranteed by the New Jersey and Federal Constitutions since it discriminates against...taxpayers by imposing unequal burdens for a common state purpose". Thus, the taxation system is presumptively violative of the equal protection rights of the Plaintiff.

Without burdening this court with the law at this stage of the lawsuit, I will only mention a couple of critical cases that have addressed the issue of the school and county taxes. In *Claremont School District, et al v. Governor, et al.*, (142 N.H. 462, 703 A.2d 1353, 123 Ed. Law Rep. 233) the Supreme Court, Brock, C.J., of New Hampshire held that:

(1) *property tax levied to fund education is a state tax, and, thus, taxing district is entire state*; (2) *system of financing public education through school taxes assessed in school*

districts was disproportionate and unreasonable within meaning of constitutional provision requiring proportional and reasonable tax assessments;

1. *Determining the character of a tax as local or State requires an initial inquiry into its purpose.*

2. *In order ... that the tax should be proportional ... it is required that the rate shall be the same throughout the *469 taxing district;-that is, if the tax is for the general purposes of the state, the rate should be the same throughout the state; if for the county, it should be uniform throughout the county;-and the requisite of proportion, or equality and justice, can be answered in no other way. State v. U.S. & C. Express Co., 60 N.H. 219, 243 (1880) (Stanley, J.) (emphasis added). We find the purpose of the school tax to be overwhelmingly a State purpose and dispositive of the issue of the character of the tax.*

The Supreme Court of Florida., in *STATE ex rel. CLARK v. HENDERSON et al.*, April 21, 1939., Rehearing Denied May 15, 1939., En Banc., *State ex rel. Clark v. Henderson*, 188 So. 351, 352 (Fla. 1939) reached the same conclusion as the Supreme Court of New Hampshire when it said that the school district tax is ancillary to county school tax provided by the Florida Constitution and is of the same nature as special tax for public free schools provided by Constitution,is a "tax" in aid of uniform system of public free schools, F.S.A.Const. art. 10, § 7; F.S.A. art. 12, §§ 6, 8, 10., 137 Fla. 666, 188 So. 351. As a state tax, it must be taxed using uniform rates throughout the state.

The Ohio Supreme Court in 1997 also ruled the school funding mechanism unconstitutional and singled out as a problem the heavy reliance on local property taxes to fund schools.(*DeRolph v. State*, 79 Oh.St.3d 297, 1997).

Thus, all these courts have ruled that systems like the ones in New Jersey are violative of the equal protection guarantee of the state constitutions. Yet, the defendants have enforced a state statute that is applicable to municipal liens, fully knowing that the funding scheme violates the equal protection rights of the Plaintiff and fully knowing that they do not provide just compensation to the Plaintiff for the “special assessments”. This type of behavior violates the equal protection clause of the 14th Amendment that say that **“No State shall make or enforce any law which shall abridge the privileges or immunities of citizens of the United States; nor shall any State deprive any person of life, liberty, or property, without due process of law; nor deny to any person within its jurisdiction the equal protection of the laws.”** There is no doubt that here the defendants have denied the equal protection of the laws, by forcing Plaintiff to pay twice as much state school tax as other residents that have equally valuated property. By doing so, they have abridged on Plaintiff's rights, privileges and immunities.

Request for Recovery of the Past State School Taxes as Violative of the Equal Protection Clause

As was provided above, the state school tax scheme violates the equal protection rights of the Plaintiff. Since no state procedure is available to recover the past taxes paid under protest, Plaintiff requests that this Court awards him the reasonable amount of state school taxes paid from 1995 through 2011. Authority for such request is provided by cases below, where a village imposed real estate fees on sellers of real property, but exempted sellers who afterward purchased other real property within the village, the court in *Ball v. Village of Streamwood*, 281 Ill. App. 3d

679, 216 Ill. Dec. 251, 665 N.E.2d 311 (1st Dist. 1996), an action alleging that the fees were unconstitutional, concluded that, although the taxpayers paid the fees without protest, the voluntary payment doctrine did not bar recovery, as the taxes were paid under duress because the ordinance provided for civil penalties and fines for failure to pay the fees. The court explained that the voluntary payment doctrine provides that a payor may not recover fees voluntarily paid, even if the fees assessed or imposed were illegal, unless: (1) the payor lacked knowledge of the facts upon which to protest the fees or taxes at the time that the payment was made; or (2) the payment was made under duress. The court reasoned that duress excused the plaintiffs' "voluntary" payment of the transfer tax because the plaintiffs' residences were subject to contracts to sell to third parties, and the village code provided civil penalties and fines for failure to pay the tax, which qualified as sufficient duress. Finding that the plaintiffs had standing to challenge the tax because their payments were certainly less than voluntary, the court remanded for a determination of whether the ordinance violated the equal protection rights of the plaintiffs.

Violation of Criminal Statutes by the Defendants

Finally, but not least, the above defendants have violated a number of criminal laws of the State of New Jersey, including "official deprivation of civil rights" (N.J.S.A. 2C:30-2). This crime is committed if a public official (including judges), or a person purporting to be a public official, knowingly commits an unlawful act with the purpose to intimidate or discriminate against another person because of race, color, gender, ethnicity, handicap, religion or sexual orientation, and (1) subjects that person to unlawful arrest, detention, including, but not limited to motor vehicle investigative stops,

search, seizure, dispossession, assessment, lien or other infringement of personal or property rights; or (2) denies or impedes that person in the lawful exercise or enjoyment of any right, privilege, power or immunity. They have also committed Theft by Unlawful Taking in violation of statute N.J.S.A. 2C:20-3. The New Jersey law has also criminalized the peering into dwelling places, a crime that has been committed by the county defendants. See 2C:18-3. *Unlicensed entry of structures; defiant trespasser; peering into dwelling places.* The New Jersey law has criminalized the so called “defiant trespasser (See 2C:18-3). This crime was also committed by the county defendants, acting as agent for ATF and Del Vecchio. The purposeful commission of criminal acts against the Plaintiff is proof of the intentional, purposeful and willful acts of the defendants to violate Plaintiff’s fundamental civil rights, such as equal protection, just compensation, right to enjoy his property from unlawful interference, right to be free from unreasonable searches and seizures, etc.

Plaintiff’s Income Taxes were not used to offset his Property Taxes. Ad Valorem means that there is a Special Benefit Provided to the Property Owner

Article VIII, Section I, paragraph 7 of the New Jersey Constitution states that “No tax shall be levied on personal incomes of individuals, estates and trusts of this State unless the entire net receipts therefrom shall be received into the treasury, placed in a perpetual fund and be annually appropriated, pursuant to formulas established from time to time by the Legislature, to the several counties, municipalities and school districts of this State exclusively for the purpose of reducing or offsetting property taxes”. Plaintiff believes that the tax on his personal income (about \$2,000 per year) is not appropriated to the Wayne School District to off-set or reduce Plaintiff’s property

taxes. This provides additional evidence of the illegality of the property school tax levies.

The whole rationale of *ad valorem* taxes is to capture value added to property after purchase or after increase in value as a result of improvements made by the municipalities or cities. Taxes come from profits made from ownership (e.g. tax on income-producing real estate); and, special taxes are assessed from owners benefiting from services like sewer line renovation and road infrastructure improvement, street lights, etc. Here we have a massive public school tax of more than \$6,500 imposed onto Plaintiff's private property against his will, without due process and in violation of the taking clause of the U.S. Constitution, with the power to sell the private Homestead property without due process. The cost of the education must be assessed not based on the value of Plaintiff's real estate property but most of the cost must be passed on to the individuals specially benefiting and to the commercial properties that they have the ability of passing on the added tax onto the consumers (and one of these consumers is the Plaintiff). This has always been the premise of the *ad valorem* tax: primarily tax the properties that receive a direct benefit (in the form of a service) or an increase in value as a result of improvements.

Residents who reside in three New Jersey Counties pay more in real estate taxes as a percentage of homeowner median income than residents of any other county in the United States. Specifically, residents who reside in Passaic County, N.J. pay on average 8.5% of their income in real estate taxes. Close behind are the residents who reside in Union County, N.J. and Essex County, N.J. who pay on average 8.1% of their income in property taxes.

1. Passaic County, N.J.

Taxes as a percentage of income: 8.5%

Median Homeowner Income: \$81,853

Taxes as a percentage of home value: 1.7%

Median Home Value: \$398,800

Median Property Taxes Paid on Homes: \$6,928

Source: The Tax Foundation, 2011

For the Court to understand the magnitude of the unequal taxation, Wayne Township levied almost \$12,000 in property taxes onto Plaintiff's homestead property, which is an old 1965 ranch-style home. Just across the street, in Pompton Lakes, the taxes assessed are half the ones assessed onto Plaintiff's homestead property, for equally valuated properties. This provides additional evidence of the magnitude of the inequality that Plaintiff was facing. The defendants have intentionally denied equal protection, when Plaintiff demanded that the school taxes levied onto his property be reduced to stop the equal protection and uniformity clause violations. The defendants denied these requests and confiscated Plaintiff's homestead property, destroying his business and imprisoned him.

IV. PLAINTIFF OWES NO DUTY TO THE STATE OR TO HIS NEIGHBORS TO DIVULGE HIS BUSINESS, OR TO OPEN HIS DOORS TO AN INVESTIGATION. HE OWES NO SUCH DUTY TO THE STATE, SINCE HE RECEIVES NOTHING THEREFROM, BEYOND THE PROTECTION OF HIS LIFE AND PROPERTY.

Plaintiff also continuing providing defendants with the relevant U.S. Supreme Court decisions, since such decisions represent the law of the land. For example, the U.S. Supreme Court in *Hale v. Henkel*, 201 U.S. 43 (1906) has said that Plaintiff's rights are such as existed by the law of the land long antecedent to the organization of the

state, and can only be taken from him by due process of law, and in accordance with the Constitution. The U.S. Supreme Court has said that Plaintiff owes nothing to the public so long as he does not trespass upon their rights.

The U.S. Supreme Court in *Hale v. Henkel*, 201 U.S. 43 (1906) defined the distinction between natural persons and corporations as it pertains to 5th Amendment protections within the U.S. of America Constitution.

"...we are of the opinion that there is a clear distinction in this particular between an individual and a corporation. The individual may stand upon his constitutional rights as a citizen. He is entitled to carry on his private business in his own way. His power to contract is unlimited. He owes no duty to the state or to his neighbors to divulge his business, or to open his doors to an investigation. He owes no such duty to the state, since he receives nothing therefrom, beyond the protection of his life and property. His rights are such as existed by the law of the land long antecedent to the organization of the state, and can only be taken from him by due process of law, and in accordance with the Constitution. He owes nothing to the public so long as he does not trespass upon their rights."

This frequently cited 5th Amendment Case decided by the U.S. Supreme Court, clearly supports Plaintiff's position that he owed nothing to the state and the local government other than the charges for the protection of his life and property (and other charges such as water, lighting, etc.). This case discussed the Fifth Amendment rights of the individual, but equal logic can be applied for upholding my other constitutional rights. It is against the U.S. Supreme Court decisions and in violation of the Takings Clause to the State Constitution (Art. I, par. 20) for the defendants to claim that they can

take Plaintiff's property without his consent, without providing any compensation, in violation of the uniformity clause of the state constitution and in violation of my equal protection rights.

Plaintiff plead with the defendants even on June 28, 2011 to obey these U.S. Supreme Court rulings, but they refused to do so. Plaintiff demanded an urgent oral hearing with McVeigh on June 28, 2011 so that he puts on record the refusal of these individuals to obey the US Supreme Court decisions. During the oral hearing Plaintiff told the defendants that the federal and state constitution prohibits the uncompensated taking and that no private homestead property can be taken and provided to a private entity for the direct entity of that private entity. Again these individuals refused to obey the constitutions and the US Supreme Court interpreting these decisions. These facts provided additional proof of the deliberate and egregious nature of the actions of the defendants. As a result of their refusals to obey the constitution and the US Supreme Court decisions, they forced Plaintiff out of his home under the gun point and caused Plaintiff over ten millions of dollars in actual compensatory damages.

Here, the defendants confiscated a \$690,000 homestead property claiming that Plaintiff owed few thousand dollars to the school district. The defendants have no such authority, neither constitutional nor statutory. The legislature has not ordered the confiscation of private homestead property for the non-payment of school taxes. It is the defendants who decided to act in that way, using statutes (such as the New Jersey Tax Sale Law) that are applicable to municipal tax liens and they applied to this instant situation. The defendants never went to the state legislature to ask for the taxes that Plaintiff was refusing to pay. In fact, as the Affidavit of the Plaintiff proves, the

legislature provided an increase in the state school funding, after the news of the confiscation of Plaintiff's property became known. Senator Kevin O'Toole told the Plaintiff that he referred the matter to the Attorney General's office, as the actions of the defendants appeared to be illegal and criminal in nature.

NO UNFUNDED MANDATES CAN BE IMPOSED ONTO PLAINTIFF'S PROPERTY BECAUSE IT VIOLATES ARTICLE VIII, SECTION II, PARAGRAPH 5, OF THE NJ CONSTITUTION

Article VIII, Section II, paragraph 5, NJ Constitution states:

(a) With respect to any provision of a law enacted on and after January 17, 1996, and with respect to any rule or regulation issued pursuant to a law originally adopted after July 1, 1996, and except as otherwise provided herein, any provision of such law, or of such rule or regulation issued pursuant to a law, which is determined in accordance with this paragraph to be an unfunded mandate upon boards of education, counties, or municipalities because it does not authorize resources, other than the property tax, to offset the additional direct expenditures required for the implementation of the law or rule or regulation, shall, upon such determination cease to be mandatory in its effect and expire. A law or rule or regulation issued pursuant to a law that is determined to be an unfunded mandate shall not be considered to establish a standard of care for the purpose of civil liability.

The New Jersey Board of Education is imposing unfunded mandates onto the Wayne Township Board of Education which in turn levies Plaintiff's homestead property to pay for such unfunded mandates and refuses to provide due process hearings for Plaintiff to appeal the takings of his property for public use without just compensation;

therefore, the imposed levies for pre-school children and special education children are violative of this constitutional provision.

V. THE COURT MAY ISSUE A DECLARATORY JUDGMENT AND INJUNCTIVE RELIEF IN THIS PENDING ACTION OR, IN THE ALTERNATIVE, GRAND PARTIAL SUMMARY JUDGMENT

Fed. R. Civ. P. 57 governs the procedure for obtaining a declaratory judgment under 28 U.S.C. §2201. The existence of another adequate remedy does not preclude a declaratory judgment that is otherwise appropriate. The court may order a speedy hearing of a declaratory-judgment action. The Declaratory Judgment Act provides, in relevant part, as follows:

§ 2201. Creation of remedy

(a) In a case of actual controversy within its jurisdiction, any court of the United States, upon the filing of an appropriate pleading, may declare the rights and other legal relations of any interested party seeking such declaration, whether or not further relief is or could be sought. Any such declaration shall have the force and effect of a final judgment or decree and shall be reviewable as such.

28 U.S.C. § 2201(a). To satisfy Article III's case or controversy requirement, an action must present (1) a legal controversy that is real and not hypothetical, (2) a legal controversy that affects an individual in a concrete manner so as to provide the factual predicate for reasoned adjudication, and (3) a legal controversy so as to sharpen the issues for judicial resolution. *Armstrong World Industries, Inc. v. Adams*, 961 F.2d 405, 411 (3rd.1992).

Here, the parties interests are adverse, with the defendant's position is that they do not have to provide just compensation for the confiscation of Plaintiff's homestead

property despite the strict prohibition of the federal and state constitutions demanding just compensation for anything that amounts to a taking for public use. The constitution also prohibits takings for a private purpose and this is here the case. It appears that the defendants are refusing to obey the constitution and that is why the Court must declare the rights, liabilities, privileges and immunities of the parties. There is, therefore, a very real and immediate adversity of interests.

The declaratory judgment must also be conclusive. That is, the legal status of the parties must be changed or clarified by the declaration. *Step-Saver Data Systems, Inc. v. Wyse Technology*, 912 F.2d at 648. A declaration will conclusively establish Plaintiff's right to receive just compensation for the levying of state school taxes onto his property; it will also establish Plaintiff's right to receive just compensation for the taking of his \$690,000 homestead property by the defendants, including the diminution of his property value by the levying of discriminatory state school taxes. Plaintiff ought not to have to risk incurring the financial obligation of such payments before knowing if he is constitutionally obligated to pay for it, and the question is primarily a legal one involving interpretation of the applicable constitutional provisions and other pertinent legislation. This is within the duties of this Court.

Finally, the declaratory judgment must have utility. It must be of some practical help to the parties. The Declaratory Judgments Act was enacted "to clarify legal relationships so that plaintiffs (and possibly defendants) could make responsible decisions about the future." *Step-Saver*, at 650. The idea behind the Act was to clarify legal relationships so that parties could make responsible decisions about the future. A declaration by this Court that Plaintiff has the right to ask for just compensation for the

levying of thousands of dollars of public and local school taxes will most certainly clarify the legal relationship between the parties and prevent future litigation.

According to the notes of the judiciary committee, the fact that a declaratory judgment may be granted “whether or not further relief is or could be prayed” indicates that declaratory relief is alternative or cumulative and not exclusive or extraordinary. A declaratory judgment is appropriate when it will “terminate the controversy” giving rise to the proceeding. Inasmuch as it often involves only an issue of law on undisputed or relatively undisputed facts, it operates frequently as a summary proceeding, justifying docketing the case for early hearing as on a motion, as provided for in California (Code Civ.Proc. (Deering, 1937) §1062a), Michigan (3 Comp.Laws (1929) §13904), and Kentucky (Codes (Carroll, 1932) Civ.Pract. §639a–3).

Here, although questions of fact remain regarding the damages portion of Plaintiff's lawsuit, there seems to be no material dispute over the critical facts relevant to the injunctive and declaratory relief sought by Plaintiff.

Fed. R. Civ. Pro. 56 Motion for Partial Summary Judgment

In the alternative, Plaintiff requests that the Courts issues a partial summary judgment on the Counts One through Four of the Complaint (the Taking, Just Compensation, and Equal Protection Counts). Pursuant to Fed. R. Civ. Pro. 56(c), a motion for summary judgment will be granted “if the pleadings, depositions, answers to interrogatories, and admissions on file, together with the affidavits, if any, show that there is no genuine issue as to any material fact and that the moving party is entitled to a judgment as a matter of law.” *Anderson v. Liberty Lobby, Inc.*, 477 U.S. 242, 247 (1986); *Celotex Corp. v. Catrett*, 477 U.S. 317, 322 (1986). An issue is “genuine” if the

evidence is such that a reasonable jury could return a verdict for the nonmoving party. *Anderson*, 477 U.S. at 248; *Celotex*, 477 U.S. at 322-26; *Doe v. Abington Friends Sch.*, 480 F.3d 252, 256 (2007). All facts and inferences must be construed in the light most favorable to the non-moving party. *Peters v. Delaware River Port Auth.*, 16 F.3d 1346, 1349 (3d Cir. 1994).

The party seeking summary judgment must initially provide the court with the basis for its motion. *Celotex Corp.*, 477 U.S. at 323. This requires the moving party to either establish that there is no genuine issue of material fact and that the moving party must prevail as a matter of law, or demonstrate that the nonmoving party has not shown the requisite facts relating to an essential element of an issue on which it bears the burden. *Id.* at 322–23. Once the party seeking summary judgment has carried this initial burden, the burden shifts to the nonmoving party. To avoid summary judgment, the nonmoving party must demonstrate facts supporting each element for which it bears the burden, and it must establish the existence of “genuine issue[s] of material fact” justifying trial. *Celotex Corp.*, 477 U.S. at 324.

Once a moving party satisfies its initial burden of establishing a prima facie case for summary judgment under Fed. R. Civ. Pro. 56(c), the opposing party “must do more than simply show that there is some metaphysical doubt as to material facts.” *Matsushita Elec. Indus. Co. v. Zenith Radio Corp.*, 475 U.S. 574, 586 (1986). The nonmoving must set out specific facts showing a genuine issue for trial using affidavits or as otherwise provided in Fed. R. Civ. Pro. 56(e).

Here, there are no material issues of fact in dispute regarding Counts One through Four, as the defendants have confiscated private homestead property under the

guise of taxation, delivered Plaintiff's homestead property to a private entity (ATF Real Estate LLC) and have refused to provide just compensation. The federal constitutional law is also very well established, requiring that the Plaintiff receive just compensation for the confiscated property. The law also prohibits the taking of Plaintiff's property and delivering it to a private entity for the main benefit of that entity. Thus, Plaintiff is entitled to partial summary judgment as a matter of law, and this Court should order the rescission of the homestead property sale and return the property to the Plaintiff..

CONCLUSION

The actions of the defendants have resulted in due process violations, taking clause violations, unreasonable seizures, and so on; and they committed these unlawful acts while they were trying to enforce unlawful tax levies. The New Jersey courts had no constitutional authority to take a \$690,000 homestead property and deliver it to a private individual for the satisfaction of an illegal debt of approximately \$21,000. Using the authority of *Londoner v. Denver*, and *Loan Ass'n v. Topeka*, supra, the Plaintiff respectfully submits to the Court that the public school taxes levied onto Plaintiff's homestead property are null and void and the Court should issue a declaratory and injunctive relief to that extent and order the rescission of the tax sale and repossession of Plaintiff's homestead property; in essence, Plaintiff is asking for the Court to rescind the confiscation of his homestead property.

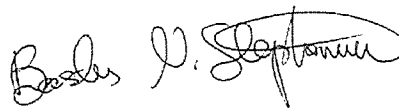
As an alternative to ordering the rescission of the forfeiture of his homestead property and repossession of the home by the Plaintiff, the Court should award him a judgment of \$690,000 which is value of the home that Plaintiff would have recovered should have sold his property at peak market conditions. The Plaintiff also requests the

loss of income from the property of \$3,000/month, and \$6,900,000 in punitive damages (at about ten times the compensatory damages) due to the egregious actions of the defendants.

WHEREFORE, for the reasons stated above and in the attached informal brief, Plaintiff respectfully requests that this Honorable Court:

- (1) Enters a declaratory judgment declaring Plaintiff's right to the return of his homestead property and other missing property; (2) issue an injunction ordering Defendants to return such items to Plaintiff immediately; (3) award compensatory damages for the loss of income from the Plaintiff's property of \$3,000/month; (4) award punitive damages against the defendants at ten (10) times the compensatory damages; (5) awards all past state school taxes that are violative of the equal protection rights of the Plaintiff, and (6) award reasonable legal fees and costs associated with this motion. A suggested order is attached.

BASILIS N. STEPHANATOS, PhD, JD
Plaintiff Pro Se

A handwritten signature in black ink, appearing to read 'Basilis N. Stephanatos', written over a horizontal line.

By: _____
Basilis N. Stephanatos, PhD, JD

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW JERSEY

BASILIS N. STEPHANATOS,	)
	)
Plaintiff, Pro Se	)
	)
v.	)
	) Civil Action No. 02:12-cv-01793 (FSH)
	) FOR DAMAGES FOR VIOLATION
WAYNE TOWNSHIP	) OF CIVIL RIGHTS UNDER 42 U.S.C.
AMERICAN TAX FUNDING, LLC.,	) SECTION 1983; CONSPIRACY
WAYNE TOWNSHIP TAX COLLECTOR,	) UNDER 42 U.S.C. SECTION 1983;
MAYOR OF WAYNE TOWNSHIP, indiv.)	CONSPIRACY UNDER 42 U.S.C.
ROBERT DEL VECCHIO, indiv.	) 1985; 42 U.S.C. 1986;
OFFICER RONALD LUCAS, indiv.	) NONFEASANCE IN OFFICE
OFFICER D'AGOSTINO, indiv.	) STATE LAW DAMAGES (DEFAMATION,
PASSAIC COUNTY,	) NEGLIGENCE, INTENTIONAL
JOHN DOES 1-30	) INFLICTION OF EMOTIONAL
	) DISTRESS, PAIN AND
Defendants.	) SUFFERING)
	)
	)
	) <u>ORDER</u>

AND NOW, this 14 day of May, 2012, upon consideration of Plaintiff's Motion for Declaratory Judgment under Rule 57, or in the alternative for Partial Summary Judgment under Rule 56 and Defendant's Response, **IT IS HEREBY ORDERED** that:

1. Defendants' Motion to Dismiss for Lack of Subject Matter Jurisdiction under Rule 12(b)(1), or in the alternative, Motion for Summary Judgment under Rule 56 is **DENIED**;
2. Plaintiff's Motion for Partial Summary Judgment is **GRANTED** as to his request for declaratory judgment as to the liability of Defendants to him under the Fifth and 14th Amendments to the Federal Constitution;

3. The forfeiture of Plaintiff's homestead property at 687 Indian Road, Wayne, New Jersey is hereby rescinded; and
4. The Courtroom Deputy Clerk shall schedule a hearing to determine the appropriate amount of compensatory and liquidated damages to be awarded to Plaintiff.

BY THE COURT:

HON. FAITH S. HOCHBERG, U.S.D.J.