



**Affidavit of Fact/ In the Nature of a Complaint abatement
Notice Of Quo Warranto**

25th Day of April 2012

Inquirer/Plaintiff: DeyRahEl, Imorre', D,Allah, Ay, Ali American National
Ex Relatione: DARYL I. DILLIHAY

Attention: Liable Parties to Action
Judge/Magistrate: William Gasbarro
Clerk: Carie A. Crone of ABSECON MUNICIPAL COMPLEX/COURT
Esquire/Feigned prosecutor: James Grimley
Patrolman/Policy Enforcer: C. Cavileer
Color of Office/Colorable Officer(s)

RECEIVED
MAY 01 2012
AT 8:30
WILLIAM T. WALSH
CLERK

On or about the 19th day of March 2012, I, DeyRahEl, Imorre', D, Allah, Ay, Ali, the undersigned, natural person, made a special appearance at the ABSECON MUNICIPAL COMPLEX/COURT/INCORPORATED, by way of Special appearance, In Propia Persona, Sui Juris to challenge jurisdiction regarding the matter of Legal Fiction, DARYL I. DILLIHAY, quasi suit number 000070, in violation of herein mentioned policy enforcers/ claimed public officials, Tangible oath(s) of office, the North American Republic Constitution for the United States and the public trust, for which the herein mentioned policy enforcer(s)/officer(s) of the court have taken oath(s), and are contractually obligated and bound to enforce, pursuant to Article VI, clause 2, of the North American Republic Constitution.

I, the undersigned, natural person, sentient being, Moorish-American National, issued and hand delivered an Affidavit of Fact/Writ of Discovery, on or about the 15th day of March, 2012. At approximately 4:15 p.m. EST, requesting full disclosure of the matter in question, identities and status of all involved parties, to challenge/affirm jurisdiction, and inform the court of the Non-validity of their document/offer/ colorable claim(s), void for the cause of defective language (*ref Big Torts 122; Nixon v. Reeves, 65 Minn. 159, 67 N.W.989,33, L.R.A.506 see False Imprisonment Bouvier's law dict. 3rd revision pg. 1182, Article 4 Section 1 supreme law of the Land*), as well as other pertinent questions at law, of the herein named policy enforcer(s)/Officer(s), evidenced directly on the issuing writ, stamped received by ABSECON MUNICIPAL COMPLEX/COURT INCORPORATED. on the 15th day of March 2012.

William Gasborro J.M.C. made known the matter I was on special appearance for., I the undersigned, Authorized Representative for the nom de guerre, DARYL I. DILLIHAY/ENS LEGIS, informed the court of my Natural Person/Moorish- American National status, stating my limited special appearance/by way of special visitation, In Propia Persona, Sui Juris, hereby challenging the Jurisdiction of the ABSECON MUNICIPAL COMPLEX/COURT INCORPORATED, pursuant to Article III, Section 1, and Article VI, Section 2, in accordance with the supreme law of the land.[2] William Gasborro, J.M.C., in want of jurisdiction, proceeded to ask me who the legal fiction/Ens Legis, DARYL I.

DILLIHAY is/was, I then replied that I'm here on that matter in special appearance, and am only here for the answering of the issuance of my writ, which [3]William Gasborro J.M.C., then repeated his first action, , in which I previously stated my full lawful appellation and title, evidencing his propensity for impartiality by continually attempting to entice me into peonage and divestment (18 US Code Section ,1581,1583,1589,1590), involuntary servitude, in violation of his contractual obligation and Oath. [4]WILLIAM GASBARRO J.M.C. then proceeded to read off the colorable accusations for the Mis-Nomer/Ens Legis DARYL I DILLIHAY at which time he then allowed and or conspired with the courts Esquire, [5]James Grimley, to speak on the alleged matter in question, all the while precluding me from introducing evidence in-fact, which would have precluded the court Municipal Esquire from speaking, pursuant to Article 3, Section 1, Article VI, Section 2, and more specifically Article I, Section 10, contrary to William Gasborro J.M.C.'s obligation of his fiduciary duty, pursuant to and in accordance with **Boyd v. United States**: "*The Court is to protect against encroachment of constitutionality or secured liberty . It is equivalent to a compulsory production of papers, to make the non-production of them a confession of the allegations which is pretended they will prove. The seizure of compensatory production of a man's private papers to be used against him is equivalent to compelling him to be a witness against himself, in violation of the fifth amendment , and in a prosecution for a crime, penalty or forfeiture is equally within the prohibition of the fifth amendment.*"

Byrars vUnited States 273USR 28:

" *Constitutional provisions, where the security of a person and property are to be liberally construed, and It is the duty of the courts to be watchful for the constitutional rights of the Citizen and against any stealth encroachment therein*

I, the undersigned, sentient being, freeman, verbally challenged the court's jurisdiction, and immediately after being forcefully verbally tolled from introducing the evidence in-fact, I respectfully informed the court that I did not wish to proceed in an incompetent foreign venue, and for the matter to be dismissed or removed to an Article III Constitutional court of competent jurisdiction, in harmony with the supreme law of the land, pursuant to Article III, Section 1, Article VI, Section 2 of the American Constitution for the United States of America.

As I, the undersigned, sentient being, freeman, "**Do Not Recognize**" the ABSECON MUNICIPAL COMPLEX/COURT INCORPORATED or any of its policy enforcer(s)/officer(s), I then requested, for and on the record, to see William Gasborro- J.M.C.'s, as well as all other involved policy enforcer(s) enjoined in this matter's, Delegation of Authority confirmed by Congress as a lawful and formal discovery, along with proof of jurisdiction, pursuant to and in harmony with the Supreme law of the land, Article VI, Section 2:

Substantive Point of Right :

" *Once challenged, jurisdiction cannot be assumed, it must be proved to exist.*" ***Stuck v Medical Examiners 94 Ca 2d 751.211,P2d 389***

" *The law requires proof of jurisdiction to appear on the record of the administrative and all administrative proceedings*" **[Hagans v Lavine, 415 U.S. 528]**

" *Where rights secured by the Constitution are involved, there rule-making or legislation, which would abrogate them.* **Miranda v Arizona 348 US 436, 125:**"

" *The claim and exercise of Constitutional Rights cannot be converted into a crime.* **Miller v Kansas 230F 2nd 486, 489:**"

“Ministerial officers are incompetent to receive grants of judicial power from the legislature, their acts in attempting to exercise such powers are necessarily nullities.

Burns v Sup Ct. SF, 140 Cal 1.”

“ A judge ceases to sit as a judicial officer because the governing principle of administrative law provides that court are prohibited from substituting their evidence, testimony, record, arguments, and rationale for that of the agency. Courts in administrative issues are prohibited from even listening to or hearing arguments, presentations, or rationale.”

ASIS v US 568 F2d, 284

“ When acting to enforce a statute and its subsequent amendments to the present date, the judge of the municipal court is acting as an administrative officer and not in a judicial capacity; courts in administering or enforcing statutes do not act judicially, but merely ministerially”

Thompson v Smith 154 SE 583

Definition of Inferior Court This term may denote any court subordinate to the chief appellate tribunal in the particular judicial system; but it is commonly used as the designation of a court of special, limited, or statutory jurisdiction, whose record must show the existence and attaching of jurisdiction in any given case, in order to give presumptive validity to its judgment. Ref In re Heard’s guardianship, 174 Miss. 37, 163 So. 685, 687. Henrey Campbell blacks Law dictionary revised 4th edition pg. 918; Art. 4 sect. 1

William Gasborro made a judgement void on its face ab initio, however the threat of my liberty being circumscribe still lingers, William Gasborro insisted on me appealing his arbitrary decision but denied appeal by virtue of not providing the documented transcripts and offering them at the pecuniary rate of 300 Federal Reserve Notes, in violation of Amendment 7, Bill of Rights, my right to a jury trial at the common law, and rules in accordance to the common law.

(Regarding Delegation of Authority and Lawful Jurisdiction, a prerequisite of lawful Authority to adjudicate , pursuant to and in harmony with Article III, Section 1, and Article VI, Section 2 of the American Republic Constitution, for the United States of America)

Despite my assertion to not proceed, informing the quasi court of it’s lack of competence and authority to lawfully hear the matter by verbally citing the specific case law for the record, in efforts to assist the court to protect my right to a common law venue by way of honoring their Oath by dismissing the matter or removing it to a court of competent jurisdiction, i.e., an Article III Constitutional Court, established by the American Republic Constitution of North America for the United States of America. [1] William Gasborro J.M.C., continued to proceed in a color of law/authority status without any evidence of Lawful or legal authority, for failing/refusing to produce his Oath of office in tangible form, as well as the Delegation of Authority Order of the Court, upon my request as a formal and lawful discovery. Thus the Natural Person William Gasborro acting as judge displayed hints of Constitutional Psychopathic Inferiority as defined in Henery Campbell Blacks Law Dictionary Revised 4th edition page 385.

Constitutional Psychopathic Inferiority. Individuals who show a lifelong and constitutional tendency not to conform to the customs of the group, and who habitually misbehave, and have no sense of responsibility to their fellowmen or to society as a whole. These individuals fail to learn by experience and are inadequate, incompatible, and inefficient. State Ex rel. Pearson v. Probate Court of Ramsey County, 205 Minn. 545.287 N.W. 297,300; Wilson v. Walters, Cal. App., 112 P.2d 964. Henery Campbell Blacks Law Dictionary Revised 4th edition page 385. Art. 4 Sect 1. Supreme Law of the Land.

The display of licentiousness impelled by the Natural Person(s) William Gasborro and co-conspirator Esquire James Grimly operating the ABSECON MUNICIPAL COURT with intent to circumscribe my liberties is not **good behavior** and has in fact caused **Damage** via breach of fiduciary duty/obligatory duty to uphold the public trust/supreme law of the land, to which All state/government, employees, Judges, prosecutors, clerks, any, and all claimed government officials are contractually bound to uphold, enforce, and protect by oath and obligation. Ref Article 6 North American Republic Constitution.

Assertion Definition of Constitution- In American law. The written instrument agreed upon by the people of the Union or of a particular state, as the absolute rule of action and decision for all departments and officers of the government in respect to all the points covered by it, which must control until it shall be changed by the authority which established It (we the People), and in opposition to which any act or ordinance of any such department or officer is null and void,(ref Cooley, Const. Lim. 3. Hen. Camp. Blk Law revis. 4th edition pg 385

[6] however contrary to the facts documented in this evidence bound to be known by any Natural Person/entity claiming judicial authority, William Gasborro- J.M.C then proceeded with posing questions, and acting in manor reminiscent of practicing law from the bench, in clear violation of his Oath and Corporate Charter, to remain impartial, and perform to the best of his ability, in want of jurisdiction. The Magistrate William Gasborro then erroneously attempted to convert my Affidavit of Truth/ Writ in the nature of Discovery, into a motion to dismiss in collusion with the ABSECON MUNICIPAL COMPLEX/COURT INCORPORATED Esquire, James Grimley to divest me of my Allodial Birthrights and the fundamental protocols of the supreme law of the land in my Ancestral Estate North America, In Fact Secured by my **Cement Civil Social Contract/Civil Social Security i.e. the North American Republic Constitution which all claimed governmental officials are obligated by Oath/virtue of claimed position.**

I, the undersigned, sentient being, invoked the assistance of counsel, per 6th Amendment/ Bill of Rights as the Esquire, James Grimley[7] impelled to introduce evidence to proceed in an unlawful, unclean, arbitrary manner, via **Inter Alios**, and more specifically," **Inter Alios Res Gestas Aliis Non Posse Praejudicium Facere Saepe Constitutum Est: It has often been settled that things which took place between other parties cannot prejudice.**" **Blacks Law Dictionary, revised 4th Edition, Pg. 948** In collusion with William Gasborro, evidenced in the transcripts of said proceedings, and by 5 American-National(s), Natural Persons In Full Life, I brought to witness the unlawful conduct of the herein mentioned respondent(s) , in which I made All efforts and attempts to ascertain the judicial authority assumed by the natural persons, in their public and private capacity, William Gasborro-J.M.C. and James Grimley -Esquire, for ABSECON MUNICIPAL COMPLEX/ COURT INCORPORATED, by way of verbal request and demand of the Document(s) and/or Order(s), Previously requested by way of the Affidavit of Truth/ Writ in the Nature of Discovery Exhibit A.

Upon resistance of my requests/demands for the introduction of the evidence requested I lost all faith and or honor for herein mentioned policy enforcers/ tort-feasors, for the obvious Constitutional, ethical, human rights, breach of fiduciary duty violations, etc., ascertained by the Misconduct and unlawful actions of said natural persons, in their public and private capacities, contrary to their contractual, obligatory Oath, and fiduciary duty to the supreme law of the land. Therefore I informed the court that removal to an Article III, constitutional court is in order, in which William Gasborro- J.M.C., for and on the record, replied that his court was not an Article III court, and asserted the fact that the ABSECON MUNICIPAL COURT was established by a New Jersey statue which in fact no member of the court ever identified the Mandate of said statue, upon request/and demand for the origin/mandate of said statue. Thereby admitting the court does not have or possess competent authority or jurisdiction to proceed, or even hear the matter, rationale, or testimony. The very same admission of lack of competency and/or authority was made in the beginning of this particular matter on the 19th day of March 2011 by

William Gasborro -J.M.C., and after being questioned where he derives his authority to act and/or adjudicate or compel authority over the people. He continued to act and perform in a color of law Capacity, of which I, the undersigned, Natural Person sentient being, attempted to assist him by citing the very case, lawfully barring him from moving forward or even acting. (*see Substantive Point of Right: Burns v Sup., Ct., 140 Cal. 1., Thompson v Smith 154 SE 583, and ASIS v US 568 F2d, 284.*

I, the undersigned, sentient being, asked William Gasborro-J.M.C. what venue/court are we in criminal or civil? He then replied criminal, which affirmed to me that there has to be an injured party and /or Corpus Delicti, in which I humbly requested to be produced as evidence in-fact , for the record. However in fact no damaged party/ corpus delicti is relevant to the accusations.

I, the undersigned, sentient being, then requested [8]William Gasborro-J.M.C. provide his nationality and status, for and on the record, and he replied that he wasn't going to do that, so I asked why? He replied that it (the court) was not, (therefore failure to identify) I then replied, I do not wish to contract with you, the court lacks and still has not proven jurisdiction, and no proof of delegation of authority, pursuant to Article III, Section 1 of the American Republic Constitution for the United States. William Gasborro-J.M.C., contrary to his duty to defend the American Republic Constitution for the United States of America, for which he swore an Oath, and is contractually bound, proceeded to set the next court date up for trial, without providing an answer to the writ issued, or evidence of his authority to lawfully adjudicate over the people, in violation of Article III, Section 1, Article VI, Section 2, Bill of Rights, Amendment 9 and 10 of the supreme law of the land.

On or about the 9th day of April 2012, at 3 p.m. EST, I the undersigned, sentient being, appeared by way of special appearance/ special visitation In Propia Persona, Sui Juris, as in the 19th day of March 2012 unlawful proceeding. Almost immediately, myself and 3 American Nationals I brought as witness, were greeted with hostility upon entering the ABSECON MUNICIPAL COMPLEX/COURT, as if policy enforcers were prepared for my arrival, with extra policy enforcer (police) protection, a clear display of force.

As I, the under-signed, sentient being approached the bar, judge William Gasborro-J.M.C.'s whole demeanor and attitude changed from courteous and professional to a forceful warlike tyrant, as he ordered, in an extremely harsh tone, for me to sit down. I, the undersigned, sentient being, immediately objected and demanded my right to jury trial, pursuant to Article 6, Bill of Rights, American Republic Constitution for the United States, as I also reminded him that there still has not been an answer to the Affidavit of Truth Writ in the Nature of Discovery, as he also refused to answer my additional Affidavit of truth/ Writ in the Nature of Discovery, Exhibit B filed and stamped received by ABSECON MUNICIPAL COM-PLEX/ COURT INCORPORATED just hours before actually being forced into a state of Duress to sit in the Defendants chair, in which the extra policy enforcer (police prescence) gathered extremely too close to my being as though I was going to be ransacked, a clear display of force and fear. At that point I, the undersigned, sentient being, became extremely bewildered and confused, as William Gasborro-J.M.C. stood in his chair, from the bench, screamed and ordered me to sit in the defendant's chair, at which point I, the undersigned, sentient being, attempted to invoke counsel, per my right , pursuant to Article VI, Bill of Rights, William Gasborro J.M.C. screamed again, as his team of policy enforcers (ABSECON POLICE) drew even closer as if on motion of the judge to kidnap my physical being (Force and Fear),

I, the undersigned sentient being, replied are you ok judge? You seem to be foaming at the mouth, and you're scaring me. It is evident that I, the undersigned, will not receive a fair trial or proceeding in this courtroom today. "Force and Fear", only under force and fear will I cross into the bar, and for and on the record, the court is not to misconstrue my crossing the bar and sitting in the defendants chair as a waiver of my rights, or a submission to the jurisdiction of the court, and in no way am I in cooperation or wish to

contract with tort-feasors. I demanded my right to a jury trial, clearly defined in the American Republic Constitution for the United States for which [9]William Gasborro-J.M.C. has an obligatory, contractual Oath. My objections, as well as trying to verbally introduce the additional Affidavit of Truth Writ of Discovery, were of no avail, as the judge asked did I have anything further to introduce, my reply was not at this time, as I was damaged by the actions of the Natural Persons operating the MUNICIPAL COURT causing disturbance to my bona fide expectation. Majority of Everyone in ABSECON MUNICIPAL COMPLEX/COURT were bias, and the behavior was extremely erratic, hostile and very aggressive.

As I, the undersigned, attempted to consort with my counsel, policy enforcer C, CAVILEER physically stood in front of me purposely blocking my view, from receiving lawful advisement from my counsel which he was asked to move 4 rows in back of myself, then eventually removed by the same, as well as other policy enforcers mentioned therein, and was only allowed to return after judge William Gasborro-J.M.C. made his void *ab initio* ruling against the Legal Fiction/ Ens legis: DARYL I. DILLIHAY, for which I, the undersigned, sentient being, am Authorized Lawful Representative. I, the undersigned, became so disgusted with the lack of prudence and professionalism, that is supposed to be maintained during good behavior in office, especially in position of public trust, knowing all the while William Gasborro-J.M.C., has an contractual obligation to his Oath of Office, in which he's entrusted, instead resorted to licentiousness, intentional/constitutional Tort-Feasing in his claimed lawful office Against the United States, by way of color of authority, felony Perjury of Oath, insurrection, Sedition, R.I.C.O., Treason in violation of the supreme law of the land, and the law of nations,. I, the undersigned just remained seated to ease the tension in the courtroom, requested a stay, after numerous objections of all unlawful introduction of Misrepresented/Defective, void *ab initio* documentation they attempted to introduce as evidence, "*No sanction can be imposed absent proof of jurisdiction*" [*Stanard v. Olesen, 74 S. Ct. 768*], then I, The undersigned, sentient being exited the building.

Therefore, the following questions are placed before this Tribunal, seeking Full Disclosure, of which, MUST be lawfully responded to in kind and ALL points of Inquiry must be answered including Exhibit B.

1. Does a contract exist between DeyRahEl, Imorre', D, Allah, Ay, Ali: Authorized Representative Natural Person, in Propia Persona/ In Full Life, Ex relatione DARYL I. DILLIHAY/ENS LEGIS and STATE OF NEW JERSEY INCORPORATED/ABSECON MUNICIPAL COURT, bearing my signature?
2. If such contract does exist, produce it for the record.
3. If such a contract exists, provide proof that said contract acts as a waiver of my Right To Privacy and the Right to be let alone, which is protected under the 4th amendment of the United States of America Republic Constitution, wherein my rights are secured and protected from encroachment.

Substantive Point of Right #3:

"Right of privacy is a personal right designed to protect a person from unwanted disclosure of personal information."

CNA Financial Corporation v Local 743, 515 F. Supp. 942.

"the United States never held any municipal sovereignty, jurisdiction, or right of soil in Alabama or

any of the new states which were formed ... The United States has no Constitutional capacity to exercise municipal jurisdiction, sovereignty or eminent domain, within the limits of a state or elsewhere, except in the cases in which it is expressly granted ..." [Pollard v. Hagan, 44 U.S.C. 212, 221, 223] ... see article 4 sect 1 supreme law of the land
(In Harmony with Equal Protection Doctrine)

"If any tribunal finds absence of proof of jurisdiction over person and subject matter, the case must be dismissed." [Louisville R.R. v. Motley, 211 U.S. 149, 29 S. Ct. 42]

4. Request for Averment of Jurisdiction: Please produce, for the Record, the Delegation of Authority for this Court/Tribunal, STATE OF NEW JERSEY INCORPORATED/ABSECON MUNICIPAL COURT, pursuant to Article III, Sec.1 and 2 of United States Republic Constitution, of which **all** Courts derive their Judicial Authority, which indicates their right of Law to adjudicate over the people, if any exist.

Further, I state for the record, I have not entered into, nor do I wish to enter into any contracts with STATE OF NEW JERSEY INCORPORATED/ABSECON MUNICIPAL COURT, knowingly, willingly, or intentionally.

Whereas, when no contract exist there is no obligation. In Order for an obligation to exist a contract MUST exist and it must not have adhesions, must be concise and cannot be an unconscionable contract that violates substantive Rights of the People, less it is Void Ab Initio.

and;

Whereas, Any Demand to compel me to act or perform, must be a Lawful demand.

and;

Whereas, the Absecon Municipal Court/Tribunal is acting under Statutes, which are not Law, unless supported by law, and must be produced for the record; no statute(s) can violate the Rights secured by the People is the Supreme Law of the land, the Republic Constitution for the United States of America, established to protect the Rights of the People, of which every state, state constitution, state court, charter, sub-charter, chapter, sub-chapter, association, agency, entity, corporation, et al, must abide by and cannot abrogate. (See Article VI).

Substantive Point of Right #5:

When acting to enforce a statute and its subsequent amendments to the present date, the judge of the municipal court is acting as an administrative officer and not in a judicial capacity; courts in administering or enforcing statutes do not act judicially, but merely ministerially". Thompson v. Smith, 154 SE 583.

and;

Whereas, the Tribunal, STATE OF NEW JERSEY INCORPORATED/ABSECON MUNICIPAL COURT is acting outside of its statutory limitations and violating the Laws, committing fraud and attempting to enforce under a non-existing or Void Ab Initio contract, and giving no validity or jurisdiction to any judgment conferred upon this matter.

Substantive Point of Right #6:

"If the court is not in the exercise of its general jurisdiction, but of some special statutory jurisdiction, it is as to such proceeding an inferior court, and not aided by presumption in favor of jurisdiction." Smith's Leading Cases, 816.

Therefore, failure to address ALL of the issues raised herein equates in law as to have addressed NONE of them and will serve as a waiver for any claims you are attempting to assert over me and/or my family.

Therefore, I am allotting 7 (seven) days for a review of the Facts in This writ and a corresponding Affidavit signed by the Respondent under penalty of perjury. Failure to do so, lawfully places your administration in Default for the record which is the status now.

Should your administration Constitutional Tort Feasors attempt to proceed with this matter by way of Threat, Duress and Coercion, without responding to this Writ, constitutes a violation of your own charter, specifically New Jersey State Constitution: Article 1, Section(s) 1, 2a., 7 as well as the the fourth amendment, secured by the constitution, as well as a violation of **Title 18 U.S.C., Section 241: Conspiracy Against Rights, Title 18 U.S.C., Section 242: Deprivation of Rights Under Color of Law.** Both criminal and civil charges will be filed on All agents and principals involved. Charges will be filed against them in their private and official capacities, for their obvious collusion in depriving the rights of the people and committing Fraud and Treason against the people and their oath bound obligations.

"Officers of the court have no immunity, when violating a Constitutional right, from liability. For they are deemed to know the law."

Owen v. Independence, 100 S.C.T. 1398, 445 US 622.

"An unconstitutional act is not law; it confers no rights; it imposes no duties; affords no protection; it creates no office; it is in legal contemplation, as inoperative as though it had never been passed." Norton v. Shelby County, 118 U.S. 425

16AM Jur 2d., Sec. 97: Then a constitution should receive a literal interpretation in favor of the Citizen, is especially true, with respect those provisions which were designed to safeguard the liberty and security of the Citizen in regard to person and property." Bary v United States-273 US 128

16Am Jur 2d., Sec. 117: " Various facts of circumstances extrinsic to the constitution are often resorted to, by the courts, to aid in determining its meaning, as previously noted however, such extrinsic aids may not be resorted to where the provision in the question is clear and unambiguous in such a case the courts must apply the terms of the constitution as written and they are not at liberty to search for meanings beyond the instrument."

Notice to Agent Is Notice to Principal, Notice To Principal Is Notice To Agent!

Quasi suit Number 000070

With respect For the record, on the record, and let the record show from where does the Absecon Municipal Court derive authority and jurisdiction in this matter?

Thank You,

I Am: DeyRahEl, Imorre', D, Allah, Ay, Ali

DeyRahEl, Imorre', D, Allah, Ay, Ali
Authorized Representative, Natural Person,
In Propria Persona, In Full Life: Ex Relatione
DARYL I. DILLIHAY, All Rights Reserved:
U.C.C. 1-207/ 1-308; U.C.C. 1-103
New Jersey State Territory
c/o 205 Coleman Place
Galloway [Zip Exempt]
Non-Domestic


American-National, In Full Life
Witness


American-National, In Full Life
Witness


American-National, In Full Life
Witness

All Exhibits :

Are in Sync by
letter and Number
in accordance with
proceedings

Cc:

STATE OF NEW JERSEY GOVERNOR
Chris Christie
Office of the Governor
PO Box 001
Trenton, NJ 08625

STATE OF NEW JERSEY
ABSECON MUNICIPAL COURT- Clerk
500 MILL ROAD
ABSECON, NJ 08201

Quasi suit Number 000070

United States Attorney General
Irvin B. Nathan- Attorney General
441 4th Street, NW Washington, DC 20001

STATE OF NEW JERSEY
Jeffrey S. Chiesa- Attorney General
P.O. Box 080 Trenton, NJ 08625-0087

STATE OF NEW JERSEY
William Gasbarro-J.M.C.
ABSECON MUNICIPAL COURT
500 MILL ROAD
ABSECON, NJ 08201

Attention: WILLIAM T. WALSH, CLERK OF COURT
Mitchell H. Cohen Building & U.S. Courthouse
4h & Cooper Streets Room 1050, Camden, NJ
08101

Atlantic County Municipal Joint Insurance Fund
Five Greentree Centre/525 Lincoln Drive West
P.O. Box 489, Marlton, NJ 08053
Attention: Paul J. Miola Executive director\
Denise C. Plavchak-Executive Adinistrator

EXHIBIT A



RECEIVED

MAY 15 2012

ABSECON
MUNICIPAL COURT



RECEIVED

THE MOORISH NATIONAL REPUBLIC
THE MOORISH DIVINE AND NATIONAL MOVEMENT OF THE WORLD
Aboriginal and Indigenous Natural Peoples of North America

MAY 01 2012

AT 8:30
WILLIAM T. WALSH
CLERK

Affidavit of Fact
Writ of Discovery

Exhibit I: Re: Misrepresented Instrument – Bill of Attainder No./COMPLAINT-SUMMONS No. 0101S2012000070

Date : 3/14/2012

Claimant/Inquirer-DeyRahEl, Imorre', D, Allah, Ay, Ali
STATE OF NEW JERSEY
ABSECON MUNICIPAL COURT
500 MILL ROAD
ABSECON, NJ 08201

Re: Misrepresented Instrument(s) – Bill of Attainder No./COMPLAINT-SUMMONS NO.: 0101S2012000070

Pursuant to Article III, Section 1 of the United States Constitution Judicial Authority is vested in the Supreme Court or a lower court which has a "Certified Delegation of Authority Order". For the record, on the record, and let the record show forward a copy of the certified Delegation of Authority Order confirmed by Congress as a lawful and formal Discovery.,

Let it be noted for the record, on the record and let the record show a response is required 10 days from receipt of this letter. If no copy of the Certified Delegation of Authority Order is received within the specified time frame this Affidavit of Fact - Writ of Discovery shall stand as Law affirming that Any And All Ministerial Offices and Officers and Agencies, and Agents for the Agency, Administrations and Administrators, and Departments, i.e. STATE OF NEW JERSEY INCORPORATED/ABSECON MUNICIPAL COURT, does not have Jurisdiction as per Article III, Section 1 of the United States Constitution, And do not have the judicial power or authority to compel authority over the people:

Substantive Point of Right #1:

"Ministerial officers are incompetent to receive grants of judicial power from the legislature, their acts in attempting to exercise such powers are necessarily nullities." Burns v. Sup., Ct., SF, 140 Cal. 1.

Unless, there exist a contract between the party or parties, at the will of the party or parties, of which contract must be existing by free, prior and informed consent.

Substantive Point of Right #2:

"Waivers of Constitutional Rights, not only must they be voluntary, they must be knowingly intelligent acts done with sufficient awareness."

Brady v. U.S., 397 U.S. 742, 748

Said contract must bear my signature, must not contain any adhesions, must not be done under threat, duress or coercion, must be clear and concise and must not be construed to deny any Rights of the People.

Questions arise as to the type of Tribunal or Court and the lawful jurisdiction of STATE OF NEW JERSEY INCORPORATED / ABSECON MUNICIPAL COURT, and its lawful relationship to judicial authority over the people. The Court/Tribunal must be in possession of it, and must produce it as proof of their jurisdiction for the record, *and* in order to have validity to its judgments. Inferior courts are not granted judicial authority by the Legislature; anything less then producing said jurisdiction, is proof that the Court / Tribunal is attempting to bring injury to the people and deprive them of their liberties.

Inferior Court: *This term may denote any court subordinate to the chief appellate tribunal in the particular judicial system (e.g. trial court); but it is also commonly used as the designation of a court of special, limited, or statutory jurisdiction, whose record must show the existence and attaching of jurisdiction in any given case, in order to give presumptive validity to its judgment.*

Furthermore I demand, as is my Constitutional / Treaty secured rights, a copy of the 'Oath of Office', Oath of Ethics, and Bond Number, insurance policy/Bond for the municipality, any and all Surety/Indemnity Bond(s), as well as the Certificate/Certification, with accompanying filing Number(s), from the New Jersey Secretary of State's Office, Evidencing the STATE OF NEW JERSEY/ABSECON MUNICIPAL COURT/CORPORATION's capacity to do business legally, and more importantly Lawfully, within the New Jersey Republic Territory, for all state/government officials, employees, Judges, prosecutors, agents, clerks, and anyone who has touched or is in anyway involved with this case per Article VI of the United States Republic Constitution, and Article VI of the Constitution of the State of New Jersey. Also see Article 1, Section 2a of the New Jersey State Constitution.

"Where rights secured by the Constitution are involved, there can be no rule-making or legislation, which would abrogate them. Miranda v. Arizona 384 US 436, 125:"

"The claim and exercise of Constitutional Rights cannot be converted into a crime. Müller v. Kansas 230 F 2nd 486, 489: "

"When acting to enforce a statue and its subsequent amendments to the present date, the judge of the municipal court is acting as an admistrative officer and not in a judicial capacity; courts in administering or enforcing statues do not act judicially, but merely ministerially"
Thompson v Smith 154 SE 583

" A judge ceases to sit as a judicial officer because the governing principle of administrative law provides that courts are prohibited from substituting their evidence, testimony, record, arguments, and rationale for that of the agency. Adittionally, courts are prohibited from substituting their judgment for that of the agency. Courts in administrative issues are prohibited from even listening to or hearing arguments, presentations, or rational"

ASIS v US 568 F2d, 284

"Ministerial officers are incompetent to receive grants of judicial power from the legislature, their acts in attempting to exerises such powers are necessarily nullities."
Burns v Sup Ct. SF, 140 Cal 1.

"Once Challenged, jurisdiction cannot be assumed, it must be proved to exist."
Stuck v Medical Examiners 94 Ca 2d 751.211,P2d 389.

"The law requires proof of jurisdiction to appear on the record of the administrative agency and all administrative proceedings" [Hagans v. Lavine, 415 U.S. 528]

"the United States never held any municipal sovereignty, jurisdiction, or right of soil in Alabama or any of the new states which were formed ... The United States has no Constitutional capacity to exercise municipal jurisdiction, sovereignty or eminent domain, within the limits of a state or elsewhere, except in the cases in which it is expressly granted ..." [Pollard v. Hagan, 44 U.S.C. 212, 221, 223]

"No sanction can be imposed absent proof of jurisdiction" [Stanard v. Olesen, 74 S. Ct. 768]

"... Federal jurisdiction cannot be assumed, but must be clearly shown." [Brooks v. Yawkey, 200 F. 2d 633]

"If any tribunal finds absence of proof of jurisdiction over person and subject matter, the case must be dismissed." [Louisville R.R. v. Motley, 211 U.S. 149, 29 S. Ct. 42]

Therefore, the following questions are placed before this Tribunal, seeking Full Disclosure, of which, **MUST** be lawfully responded to in kind and **ALL** points of Inquiry must be answered.

1. Does a contract exist between DeyRahEl, Imorre', D, Allah, Ay, Ali:Authorized Representative Natural Person, in Propia Persona/ In Full Life, Ex relatione DARYL I. DILLIHAY/ENS LEGIS and STATE OF NEW JERSEY INCORPORATED/ABSECON MUNICIPAL COURT, bearing my signature?
2. If such contract does exist, produce it for the record.
3. If such a contract exists, provide proof that said contract acts as a waiver of my Right To Privacy and the Right to be let alone, which is protected under the 4th amendment of the United States of America Republic Constitution, wherein my rights are secured and protected from encroachment.

Substantive Point of Right #3:

"Right of privacy is a personal right designed to protect a person from unwanted disclosure of personal information."
CNA Financial Corporation v Local 743, 515 F. Supp.942.

4. Request for Averment of Jurisdiction: Please produce, for the Record, the Delegation of Authority for this Court/Tribunal, STATE OF NEW JERSEY INCORPORATED/ABSECON MUNICIPAL COURT, pursuant to Article III, Sec.1 and 2 of United States Republic Constitution, of which **all** Courts derive their Judicial Authority, which indicates their right of Law to adjudicate over the people, if any exist.

Further, I state for the record, I have not entered into, nor do I wish to enter into any contracts with STATE OF NEW JERSEY INCORPORATED/ABSECON MUNICIPAL COURT, knowingly, willingly, or intentionally.

Whereas, when no contract exist there is no obligation. In Order for an obligation to exist a contract MUST exist and it must not have adhesions, must be concise and cannot be an unconscionable contract that violates substantive Rights of the People, less it is Void Ab Initio.

and;

Whereas, Any Demand to compel me to act or perform, must be a Lawful demand.

and;

Whereas, this Court/Tribunal is acting under Statutes, which are not Law, unless supported by law, and must be produced for the record; no statute(s) can violate the Rights secured by the People is the Supreme Law, the Republic Constitution for the United States of America, established to protect the Rights of the People, of which every state, state constitution, state court, charter, sub-charter, chapter, sub-chapter, association, agency, entity, corporation, et al, must abide by and cannot abrogate. (See Article VI).

Substantive Point of Right #5:

When acting to enforce a statute and its subsequent amendments to the present date, the judge of the municipal court is acting as an administrative officer and not in a judicial capacity; courts in administering or enforcing statutes do not act judicially, but merely ministerially". Thompson v. Smith, 154 SE 583.

and;

Whereas, the Tribunal, STATE OF NEW JERSEY INCORPORATED/ABSECON MUNICIPAL COURT is acting outside of its statutory limitations and violating the Laws, committing fraud and attempting to enforce under a non-existing or Void Ab Initio contract, and giving no validity or jurisdiction to any judgment conferred upon this matter.

Substantive Point of Right #6:

"If the court is not in the exercise of its general jurisdiction, but of some special statutory jurisdiction, it is as to such proceeding an inferior court, and not aided by presumption in favor of jurisdiction." Smith's Leading Cases, 816.

Therefore, failure to address ALL of the issues raised herein equates in law as to have addressed NONE of them and will serve as a waiver for any claims you are attempting to assert over me and/or my family.

Therefore, I am allotting 7 (seven) days for a corresponding Affidavit signed by the Respondent under penalty of perjury. Failure to do so, lawfully places your administration in Default.

Should your administration attempt to proceed with this matter by way of Threat, Duress and Coercion, without responding to this Writ, constitutes a violation of your own charter, specifically New Jersey State Constitution: Article 1, Section(s) 1, 2a., 7 as well as the the fourth amendment, secured by the constitution, as well as a violation of Title 18 U.S.C., Section 241: Conspiracy Against Rights, Title 18 U.S.C., Section 242: Deprivation of Rights Under Color of Law. Both criminal and civil charges will be filed on All agents and principals involved. Charges will be filed against them in their private and official capacities, for their obvious collusion in depriving the rights of the people and committing Fraud and Treason against the people and their oath bound obligations.

"Officers of the court have no immunity, when violating a Constitutional right, from liability. For they are deemed to know the law."

Owen v. Independence, 100 S.C.T. 1398, 445 US 622.

"An unconstitutional act is not law; it confers no rights; it imposes no duties; affords no

protection; it creates no office; it is in legal contemplation, as inoperative as though it had never been passed." **Norton v. Shelby County, 118 U.S. 425**

Notice to Agent is Notice to Principal, Notice To Principal is Notice To Agent!

For the record, on the record, and let the record show from where do you derive your authority and jurisdiction in this matter?

Thank You,
I Am: DeyRahEl, Imorre' D Allah, Ay, Ali

DeyRahEl, Imorre', D, Allah, Ay, Ali
Authorized Representative, Natural Person,
In Propria Persona, In Full Life: Ex Relatione
DARYL I. DILLIHAY, All Rights Reserved:
U.C.C. 1-207/ 1-308; U.C.C. 1-103
New Jersey Territory
c/o 205 Coleman Place
Galloway [Zip Exempt]
Non-Domestic

Daryl I. Dillihay Jr.
American National, In Full Life
Witness

Kateria Dillihay
American National, In Full Life
Witness

James Earl Dillihay
American National, In Full Life
Witness

Cc:

STATE OF NEW JERSEY
ABSECON MUNICIPAL COURT- Clerk
500 MILL ROAD
ABSECON, NJ 08201

United States Attorney General
Irvin B. Nathan- Attorney General
441 4th Street, NW
Washington, DC 20001

STATE OF NEW JERSEY
Jeffrey S. Chiesa- Attorney General
P.O. Box 080
Trenton, NJ 08625-0087

STATE OF NEW JERSEY
William Gasbarro-J.M.C.
ABSECON MUNICIPAL COURT
500 MILL ROAD
ABSECON, NJ 08201



TOMMIE WILLIS
NOTARY PUBLIC OF NEW JERSEY
COMMISSION EXPIRES 10/2/2015



Exhibit A (1)



CITY OF ABSECON
OPEN PUBLIC RECORDS ACT REQUEST FORM
500 MILL ROAD
ABSECON, NJ 08201
609-641-0663 X100 & FAX 609-645-5098

RECEIVED

MAY 01 2012
 AT 8:30
 WILLIAM T. WALSH
 CLERK

Important Notice

The last page of this form contains important information related to your rights concerning government records. Please read it carefully.

Requestor Information - Please Print

First Name DeyRahEl MI Al Last Name Al
 E-mail Address _____
 Mailing Address c/o 205 Coleman Place
 City Galloway State NJ Zip [08205]
 Telephone 609-748-8449 FAX _____
 Preferred Delivery: Pick Up ☒ US Mail ☐ On-Site Inspect ☐ Fax ☐ E-mail ☐

If you are requesting records containing personal information, please circle one: Under penalty of N.J.S.A. 2C:28-3, I certify that I **HAVE / HAVE NOT** been convicted of any indictable offense under the laws of New Jersey, any other state, or the United States.

Signature _____ Date _____

Payment Information

Maximum Authorization
 Cost \$ _____

Select Payment Method

Cash ☐ Check ☐ Money Order ☐

Fees: Letter size pages - \$0.05 per page
 Legal size pages - \$0.07 per page
 Other materials (CD, DVD, etc) - actual cost of material

Delivery: Delivery / postage fees additional depending upon delivery type.

Extras: Special service charge dependent upon request.

Record Request Information: Please be as specific as possible in describing the records being requested. Also, please note that your preferred method of delivery will only be accommodated if the custodian has the technological means and the integrity of the records will not be jeopardized by such method of delivery.

This inquiry consists of a Common Law Request, pursuant to Common Law. I request once again, Officer (Policy Enforcer) C. CAVILEER, Sgt. STOLL, and WILLIAM GAB-BARDO J.M.C.'s Oath(s) of Office, Video Transcript of the 3/19/2012 Proceeding, Certified Delegation of Authority Order(s) pursuant to Article 3, Section 1 of the American Constitution for the United States, Any and All related Bonds(s), Surety/Indemnity, or otherwise. The Insurance Policy and/or Bonds(s) for the Policy Enforcers(s) mentioned therein / above. Also requested are the Magistrate Judge and the prosecutions; license to practice law.

AGENCY USE ONLY

Est. Document Cost _____
 Est. Delivery Cost _____
 Est. Extras Cost _____
 Total Est. Cost _____
 Deposit Amount _____
 Estimated Balance _____

Deposit Date _____

AGENCY USE ONLY

Disposition Notes
 Custodian: If any part of request cannot be delivered in seven business days, detail reasons here.

In Progress ☐ Open ☐
 Denied ☐ Closed ☐
 Filled ☐ Closed ☐
 Partial ☐ Closed ☐

AGENCY USE ONLY**Tracking Information**

Tracking # _____
 Rec'd Date _____
 Ready Date _____
 Total Pages _____

Final Cost

Total _____
 Deposit _____
 Balance Due _____
 Balance Paid _____

Records Provided

Custodian Signature _____

Date _____

Exhibit A (2)



CITY OF ABSECON
Municipal Complex
500 Mill Road
Absecon, New Jersey 08201

Carie A. Crone, RMC
Municipal Clerk

Phone (609) 641-0663x101
Fax (609) 645-5098

April 3, 2012

Mr. DeyRahel Ali
205 Coleman Place
Galloway, NJ 08205

Dear Mr. Ali:

Re: Request For Public Records

This letter is in response to your Request for Public Records Requests received March 29th, 2012:

- Oath of Office for Officer Cavileer, Sergeant Stoll and Judge Gasbarro. **4 Pages.**
- Video transcript of 3/19/2012 proceeding. **No record exists. Absecon Court is not video taped.**
- Certified delegation of authority order pursuant to Article 3, Section 1 of the American Constitution of the United States. **No record exists.**
- Insurance bonds for Absecon, all related surety/indemnity bonds. **24 Pages. The employees listed don't have individual bonds; the City is bonded under the Municipal Joint Insurance Fund.**
- Secretary of Treasury Certificate with filing number from New Jersey Secretary of Treasury Department to do business in the State. **Being a Municipality this certificate is not required.**
- The judge and prosecutors license to practice law. **This is not an Absecon Record.**

The cost to comply with your request is \$1.40. The above-mentioned information is ready once payment is received.

Sincerely,


Carie A. Crone
Municipal Clerk

RECEIVED

MAY 21 2012

AT 8:30
WILLIAM T. WALSH
CLERK

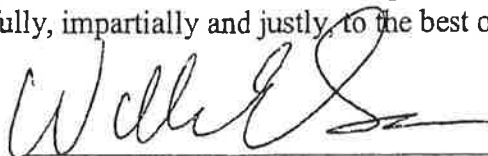
JUDICIAL OATH

STATE OF NEW JERSEY:

SS:

COUNTY OF ATLANTIC:

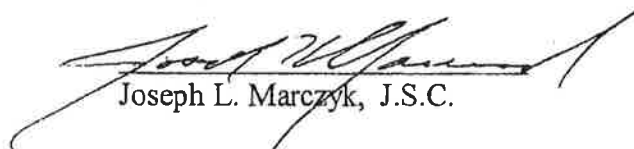
I, William E. Gasbarro, do solemnly swear that I will support the Constitution of the United States and the Constitution of the State of New Jersey, and that I will bear true faith and allegiance to the same and to the Governments established in the United States and in this State, under the authority of the people and will perform the duties of the municipal court judge for the City of Absecon, County of Atlantic, faithfully, impartially and justly, to the best of my ability. So help me God.



William E. Gasbarro



Sworn and subscribed before
me this 5th day of
January, 2012



Joseph L. Marczyk, J.S.C.

(N.J.S.A. 41:1-1 and -3)

(The oath must be taken before a Superior Court Judge and the original filed with the administrator of the municipal court and a copy sent to the Administrative Office of the Courts. For a joint municipal court, the original is sent to the Secretary of State.)

Exhibit A(4)

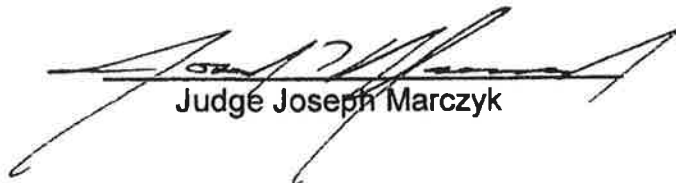
**OATH OF ALLEGIANCE
AND
OATH OF OFFICE**

**STATE OF NEW JERSEY,
COUNTY OF ATLANTIC**

I, William E. Gasbarro do solemnly swear (or affirm) that I will faithfully, impartially and justly perform all the duties of the office of Municipal Court Judge according to the best of my ability. I further solemnly swear (or affirm) that I will support the Constitution of the United States and the Constitution of the State of New Jersey, and that I will bear true faith and allegiance to the same and to the Governments established in the United States and in this State, under the authority of the people. So help me God.


Judge William E. Gasbarro

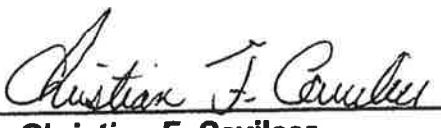
**Sworn and subscribed before
me this 5th day of January, 2012.**


Judge Joseph Marczyk

**OATH OF ALLEGIANCE
AND
OATH OF OFFICE**

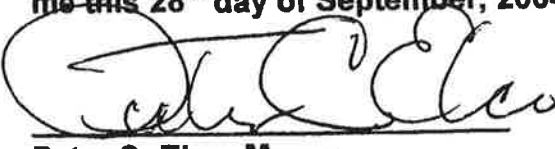
**STATE OF NEW JERSEY,
COUNTY OF ATLANTIC**

I, CHRISTIAN F. CAVILEER, do solemnly swear (or affirm) that I will faithfully, impartially and justly perform all the duties of PATROL OFFICER, ABSECON POLICE DEPARTMENT according to the best of my ability. I further solemnly swear (or affirm) that I will support the Constitution of the United States and the Constitution of the State of New Jersey, and that I will bear true faith and allegiance to the same and to the Governments established in the United States and in this State, under the authority of the people. So help me God.

Signature 
Christian F. Cavileer

Address 


Sworn and subscribed by
me this 28th day of September, 2004.


Peter C. Elco, Mayor

RECEIVED



Exhibit B Pg 1 of 4
Quest Suit Number: 000076

MAY 01 2012
6th Day
AT 8:30
WILLIAM T. WELSH
CLERK

Affidavit of Fact/ Writ in the Nature of Discovery

Claimant/Inquirer: DeyRahEl Immore' D, Allah, Ay, Ali American-National
Ex Relation Daryl Dillihay

Attention: Liable Parties to Action
Judge/Magistrate William G. Gasbarro
Clerk: Carie A. Crone of ABSECON MUNICIPAL COURT
Esquire/feigned prosecutor: James Grimley
Patrolmen/ Policy Enforcer C. Cavileer

RECEIVED

APR - 9 2012

ABSECON
MUNICIPAL COURT

This writ is introduced into the record as evidence for the record. I am DeyRahEl Imorre' Ali a natural person an American-National, heir of North America Exercising my divine Allodial Birthright, In Fact Secured by my Cement Civil Social Contract/Civil Social Security i.e. the American Constitution which all claimed governmental officials are obliged by oath. I am not an artificial person and/or misrepresentation as DARYL DILLIHAY spelled in all capital characters, according to the laws of English/American Grammar the structure of said spells cannot be referenced or substantiated as the identity of any Natural Person including myself. I am a part of the living Human family and I am identified as a proper noun in spelling¹, according to the laws of English/American Grammar; the fundamental facts of Civilization this is Truth. Therefore any documents with Grammatically misrepresented spell(s) (*in all caps*) have no validity to my Allodial Identity or Appellation, and are void for the cause of defective language (*ref Big Torts 122; Nixon v. Reeves, 65 Minn. 159, 67 N.W. 989, 33 L.R.A. 506. see False Imprisonment Bouvier's law dict. 3rd revision pg. 1182.*)

Whereas the asserted facts are substantive grounds to abate and eradicate the said spells/misrepresentations/allegations as the assumed identity of the Natural Proper Person, American-National DeyRahEl, Imorre', D, Allah, Ay, Ali. My Race is Human and my Nationality is American, I am a Moor by Lineal and Collateral Consanguinity. My Ancestral Estate is the celestial tract of land known to common people as North, South, Central America. This first paragraph serves as direct and positive evidence of my Allodial identity and National Appellation for the record. I am not subject to or in agreement with the arbitrary will of Constitutional Tort-Feasors, and/or arbitrary rules of foreign Natural Persons implying North American Judicial Jurisdiction.

The Definition of American is asserted as Evidence of my Allodial Identity, and emphasis of Lack of Jurisdiction of the Foreign Municipal Venue ABSECON MUNICIPAL COURT operating on my Estate in want of Article 3 Constitutional Standing.

¹ With respect to the Fact evidence is sufficient to eradicate any accusation of the misrepresented spells as my identity and dismissal of allegations connected to it.

American n. an aboriginal or one of the various copper-colored natives found on the American Continent by Europeans the Original Application of the Name. (*Common Law reference Websters Unabridged Dictionary Published 1936 page 53. Ref The Natural Persons enveloped in my Lineal and Collateral Consanguinity.*)

The Supreme law of the land is invoked by due course of Law, as well as these claims and inquiries in this writ for the record to be answered and held on the floor on the special appearance scheduled for the 9th day of the April Moon 2012 at 3 p.m. EST.

The Natural Persons Liable for the operation of the ABSECON MUNICIPAL COURT, has the obligation to eradicate any arbitrary will or impulse to the effect of assumed jurisdiction and all other colored claims for the reason that the court is foreign from the lawful American due process applicable to the Customs of the American National DeyRahEl, Imorre', D, Allah, Ay, Ali as there is no civil or criminal breach, and no claim before a civil, or criminal court.

Furthermore the **esquire** feigning as a legitimate prosecutor interrelated to the de jure American Judicial system, is in error for the Fact that the word esquire is a title of nobility in England (Angle land) and is expressly prohibited in Law by Article 1 section 10 of the Supreme law of the Land (America). Whereas the Natural Person American-National DeyRahEl, Imorre', D, Allah, Ay, Ali does Not Consent to any foreign operations that contradict our/my de jure American Judicial Procedures, or to breaking the law with any Constitutional Tort Feasors. Therefore the court is in want of jurisdiction. Furthermore if a foreign Noble or any person is attempting to hold a claim, against the indigenous American-National DeyRahEl, Imorre', D, Allah, Ay, Ali the claim must exist in a Competent Court.

The following questions are posed upon the ABSECON MUNICIPAL COURT and introduced as legal and lawful evidence to be answered for the record.

- 1) Where did the Natural Person feigning as prosecutor get the title Esquire from?
- (2) Is the Magistrate William Gasbarro in conspiracy with any other persons to attempt to divest my inalienable Nationality and customs interrelated to my Nationality?
- 3) Is there any biological bias or interest existing with the Natural Persons Liable for the ABSECON MUNICIPAL COURT?
- 4) Is there a Natural Person that can Host a stand at a competent tribunal to Claim or prove I caused them injury beyond a reasonable doubt for the record?

- (5) What is the Mandate of the Statue that The ABSECON MUNICIPAL COURT is operating on?
- 6) With circumspection of the Fact that The ABSECON MUNICIPAL COURT is Mandated on a Statue Contrary to article 3 Section 1 of the Supreme Law of the Land where and how is Judicial Jurisdiction assumed and or exercised by the ABSECON MUNICIPAL COURT?
- 7) If the Natural Persons Liable for the operation of the ABSECON MUNICIPAL COURT do not honor the North American Republic Constitution, will the Natural Persons, State for the record as evidence the law that is in operation?
- 8) Can the Esquire/colored prosecutor James Grimley and all parties in collusion known and unknown substantiate for the record as evidence the Meaning of Article 1 Section 1 of The New Jersey State Republic Constitution?
- 9) Can the Esquire/ colored prosecutor James Grimley who in fact is lacking injured party, and all parties in collusion known and unknown substantiate for the record the Meaning of Article 1 section 2a of the New Jersey State Constitution?
- 10) With respect to the fact that the Natural Person claimed Judge William Gasbarro has an oath and obligation to uphold the Constitution for the United States of America, can the Natural Person substantiate for the record the difference between an oath and an obligation?
- 11) If the Colored prosecutor for ABSECON MUNICIPAL COURT Wills to persist in pursuing a fictitious claim to circumscribe my liberty based on identity, will the colored prosecutor clarify his Name, Nationality, Ancestral Estate, the injury and injured party for the record?
- 12) If not what reason does the Court have to persist when parties are not identified, or refuse to identify themselves?
- 13) Does Judge/Magistrate William Gasbarro Have the intent to be a Constitutional Tort Feasor, or an impartial judge?
- 14) Can the court define the Etymon of the word Municipal for the record?
- (15) Is there any competent Natural Person who can make an honorable claim that the Natural Person DeyRahEl Immore Ali did anything inimical to the peace, good order, and Morals of society, relevant to the matter which the Natural persons liable for the ABSECON MUNICIPAL COURT threaten my Life liberty and Pursuit of happiness for?

- 16) What is the honor of abusing power and defrauding the Natural People in the guise of law via misrepresented oaths to take actions to circumscribe liberty of any Natural people without an injured party?
- 17) If the Natural Persons Liable for the ABSECON MUNICIPAL COURT intend to dishonor the North American Republic Constitution will the Judge/Magistrate admit that open confession in court by oral or written evidence to let it be made known for the record? (if not it will be measured by actions of the Natural Persons appearing to impel to breach their fiduciary duties and circumscribe my liberty).
- 18) Who is the Article 3 Judge that signed off on a 4th amendment warrant to subject me to a position, that substantiates me hindering the policy enforcer C. Cavileer from apprehending/Kidnapping my physical American body?

This writ is to be answered at the Special Appearance on the 9th day of April 2012 for the record.

Sincerely,

Raphael, Amos, P. Allak, Ay, Al
Indigenous American- National

The witnesses to this writ are signed as direct and positive evidence of My Allodial Identity all rights reserved.

Muzaim Alphon El
Indigenous American- National
Daniel Brown - Talley Jr.
Indigenous American- National
Ed. Amalaing, Daniel - Hayward
Indigenous American- National
Mark Brown Hylake
Indigenous American- National

Attachments as evidence: Proclamation on Moorish-American Week 2012 Mayor of Trenton, New Jersey recognizing my National Indigenous American Status.

Exhibit B (2)

RECEIVED

APR - 5 2012

ABSECON
MUNICIPAL COURT

WHEREAS, Moorish Americans are the descendants of the ancient Moors, who were permitted by the Old Pharaohs of Kemet to cross Africa and later formed kingdoms extending from the northwestern and southwestern shores of Africa, the Atlantic Islands onto the present day Continental American and.

WHEREAS, the native Moorish Peoples of the Americas are now united in order to link themselves with the family of nations, and.

WHEREAS, the Moorish Americans have formed a sovereign Theocratic Government guided by the principles of love, truth, peace, freedom, and justice through virtue of the universal right to self-determination as well as with the Declaration on the Rights of Indigenous Peoples guaranteed in the Charter of the United Nations, and.

WHEREAS, on January 8, 1886, Noble Drew Ali was born in the State of North Carolina and destined to become the first Patriot of the Moorish American People, and.

WHEREAS, in 1912, Noble Drew Ali was appointed as El Hajj Shari' Abdul Ali the heads of Egypt and the Holy City of Mecca to return to the United States as the Prophet and Founding Father of the newly risen Nation of Moorish Americans, and.

WHEREAS, as a result of the Congressional ratification of the 14th Amendment that was enacted in 1865, the Moorish people were emancipated from slavery.

NOW, THEREFORE, BE IT RESOLVED that the City Council of the Borough of Trenton, New Jersey does hereby recognize the week of January 8 - 15, 2012 as Moorish American Week.

Marge Caldwell-Wilson, North Ward Councilwoman

Kathy McBride, Council President

RECEIVED

APR - 9 2012

ABSECON
MUNICIPAL COURT



WHEREAS the undersigned, Mayor of the City of Absecon, New Jersey, do hereby certify that the following is a true and correct copy of the resolution of the City Council of the City of Absecon, New Jersey, as adopted on the 13th day of April, 2012:

RESOLUTION NO. 12-01, of the City Council of the City of Absecon, New Jersey, as adopted on the 13th day of April, 2012.

WHEREAS the undersigned, Mayor of the City of Absecon, New Jersey, do hereby certify that the following is a true and correct copy of the resolution of the City Council of the City of Absecon, New Jersey, as adopted on the 13th day of April, 2012:

WHEREAS the undersigned, Mayor of the City of Absecon, New Jersey, do hereby certify that the following is a true and correct copy of the resolution of the City Council of the City of Absecon, New Jersey, as adopted on the 13th day of April, 2012:

AND WHEREFORE, I, LATICE B. BRICKLAND, Mayor of the City of Absecon, New Jersey, do hereby certify that the following is a true and correct copy of the resolution of the City Council of the City of Absecon, New Jersey, as adopted on the 13th day of April, 2012:

ADOPTION OF RESOLUTION NO. 12-01

and I, LATICE B. BRICKLAND, Mayor of the City of Absecon, New Jersey, do hereby certify that the following is a true and correct copy of the resolution of the City Council of the City of Absecon, New Jersey, as adopted on the 13th day of April, 2012:

AND WHEREFORE, I, LATICE B. BRICKLAND, Mayor of the City of Absecon, New Jersey, do hereby certify that the following is a true and correct copy of the resolution of the City Council of the City of Absecon, New Jersey, as adopted on the 13th day of April, 2012:



Latice B. Brickland
Mayor

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

**ROHIT B. SURTI AND JAYSHRI R. CAMDEN
SURTI,**

DOCKET NO. -CV-

Plaintiffs,

v.

**OFFICER KEVIN CRAIG, OFFICER
LAURA WINKEL, CITY OF ABSECON
POLICE DEPARTMENT, CITY OF
ABSECON POLICE OFFICERS
UNKNOWN 1 -10, AND THE CITY OF
ABSECON, NEW JERSEY, JOINTLY,
SEVERALLY, AND IN THE
ALTERNATIVE,**

Defendants.

COMPLAINT AND JURY DEMAND

Plaintiff Rohit B. Surti and Jayshri R. Surti, both presently residing in the Township of Galloway, County of Atlantic, and State of New Jersey, by way of Complaint against Defendants, does hereby say:

COUNT ONE

1. Plaintiffs Rohit B. Surti ("Mr. Surti") and Jayshri R. Surti ("Mrs. Surti"), Husband and Wife, both citizens of the United States, presently reside in Galloway Township, New Jersey.
2. Defendants Officer Kevin Craig and Officer Laura Winkel ("Defendant Craig" and "Defendant Winkel"), the City of Absecon Police Department, and the City of Absecon, are all located in the State of New Jersey.
3. This matter arises out of conduct occurring on or about June 18, 2013 in the City of Absecon, County of Atlantic, and the State of Jersey.
4. This action involves a claim pursuant to 42 U.S.C.A. § 1983, whereby jurisdiction and venue are properly situate in the United States District Court for the District of New Jersey.

5. On or about June 18, 2013, Mr. Surti called Absecon police regarding alleged unruly individuals at the "Budget Inn 4 U" ("Budget Inn") located at 930 White Horse Pike, Absecon, New Jersey.
6. At the time in question, Mr. Surti was assisting his wife, Mrs. Surti, who was the manager on duty at the motel.
7. Because of a problem guest, Mr. Surti called 911 and requested that police officers be dispatched to the motel.
8. Upon arrival, police officers of the Absecon Police Department spoke separately to Mr. Surti and to the motel guest who was hosting a party in his room.
9. Afterwards, Defendant Craig told Mr. Surti that he was not going to arrest or remove the guest. Further, Defendant Craig told Mr. Surti that if he wanted to sign a complaint against the guest, Mr. Surti could do it. Defendant Craig again emphasized that the Absecon Police were not going to take any action against the guest.
10. Mr. Surti then expressed his dissatisfaction with the inaction of the officers.
11. Defendant Craig told Mr. Surti that they (the Absecon Police) have had previous problems at the Budget Inn, come there often, and were "tired" of going to the Budget Inn.
12. Mr. Surti then stated to Defendant Craig that he should "do [his] job."
13. Almost immediately thereafter, Defendant Craig, without warning, provocation, justification, or cause, sprayed Mr. Surti with pepper spray in the eyes causing a severe burning sensation.
14. Prior to and at the time Defendant Craig was spraying Mr. Surti in the eyes with pepper spray, Defendant Winkel was positioned behind Mr. Surti.
15. As he sprayed the pepper spray, Defendant Craig moved the canister back and forth horizontally several times across Mr. Surti's eyes.
16. Defendant Craig sprayed the pepper spray into Mr. Surti's eyes from several inches away or even less.
17. While Defendant Craig was spraying Mr. Surti in the eyes with pepper spray, Defendant Craig stated to Mr. Surti that he was under arrest.
18. Because of the effect of the pepper spray, Mr. Surti was disoriented and temporarily blinded.
19. Upon being sprayed with pepper spray by Defendant Craig, Mr. Surti covered his eyes with his hands immediately.

20. Defendant Winkel grabbed Mr. Surti's arms and forcefully pulled them behind his back just as Defendant Craig completed spraying Mr. Surti with pepper spray.
21. At the time Defendant Winkel grabbed Mr. Surti's arms and forcefully pulled them behind his back, Mr. Surti was still blinded by the pepper spray and disoriented.
22. Defendants Craig and Winkel involuntarily reduced Mr. Surti from a standing position to the ground.
23. Defendants Craig and Winkel forced Mr. Surti from a standing position to the prone position, without buffering, onto the asphalt parking lot of the motel.
24. Defendants Craig and Winkel from the Absecon Police Department, without warning, provocation, justification, or cause, grabbed Mr. Surti by the arm(s), twisted his body, and in violation of his Civil Rights, improperly and inappropriately forced Mr. Surti onto the asphalt parking lot, causing a dislocation and fracture of Mr. Surti's left shoulder and left arm.
25. More specifically, the actions of Defendants Craig and Winkel caused Mr. Surti to suffer a four-part acute comminuted fracture of the left humeral neck and head which demonstrated approximately 6 millimeters of distraction and 3 centimeters of overriding and foreshortening. Put simply, the top part of Mr. Surti's humerus was fractured into four pieces with two pieces ending up side-by-side, overlapping by more than an inch.
26. In the Absecon police station and following arrest, Mr. Surti advised Defendant Craig that he was unable to operate a water fountain with his left arm or hand.
27. In the Absecon police station and following arrest, Mr. Surti advised Defendant Craig that his left arm and shoulder were in severe pain.
28. Defendant Craig told Mr. Surti, "not to be dramatic."
29. Defendant Craig, upon preparing to release Mr. Surti after processing and some length of time, asked Mr. Surti if he wished to go to the hospital.
30. Mr. Surti advised Defendant Craig that, upon release, he would go to the hospital himself.
31. At approximately 7:30 a.m. the following morning, Mr. Surti went to the hospital emergency room at Atlanticare Regional Medical Center in Pomona where the fractures in his left shoulder and arm, as well as additional injuries, were identified.
32. As a result of the injuries sustained because of the actions of Defendants Craig and Winkel, Mr. Surti was required to undergo immediate surgery.

33. Surgery to Mr. Surti's left shoulder and arm occurred on Friday, June 21, 2013.
34. Mr. Surti has permanent injuries and scarring as a result of the actions of Defendants Craig and Winkel set forth above and herein.
35. Because of the actions of Defendants Craig and Winkel, Mr. Surti did not regain the full use of his left shoulder and arm.
36. At all times relevant hereto, Defendant Craig and Defendant Winkel were acting under color of law as officers of the City of Absecon Police Department.
37. Upon information and belief, Defendants Craig and Winkel utilized improper police procedure(s) and technique(s) in taking Mr. Surti into custody.
38. Upon information and belief, Defendants Craig and Winkel, as officers with the City of Absecon Police Department, were improperly trained in the use of force, escalation in use of force, "Force Continuum," and appropriate and proper arrest and submission technique(s) and procedure(s).
39. Defendants' conduct is in violation of Mr. Surti's Federal Civil Rights pursuant to 42 *U.S.C.A.* 1983, and as such, Plaintiff Rohit Surti and Plaintiff Jayshri Surti were damaged.
40. Defendants' conduct violated Plaintiff Rohit Surti's Federal and New Jersey State Constitutional rights in violation of 42 *U.S.C.A.* 1983 and *N.J.S.A.* 10:6-1 *et seq.*
41. At all relevant times hereto, the City of Absecon Police Department, and upon information and belief, Unknown Officers of the City of Absecon Police Department 1-10, were acting under the color of law as police officers of the City of Absecon, County of Atlantic, and State of New Jersey. Unknown Officers of the City of Absecon Police Department 1-10 are hereby plead as fictitious parties and should such information as to his, her, or their identity become known or available to Plaintiffs, Plaintiffs reserve the right to amend this Complaint as set forth under the *F.R.C.P.* and supplementing *L.C.Rs.*
42. Mr. Surti's injuries were a direct result of the actions of Defendant Craig and Defendant Winkel.
43. Mr. Surti's injuries were proximately caused by the actions of Defendant Craig and Defendant Winkel.
44. Defendants Craig and Winkel utilized excessive force when forcing Mr. Surti from a standing position to the ground.

45. Defendants Craig and Winkel improperly utilized force when taking Mr. Surti from a standing position to the ground.
46. Upon information and belief, the actions of the officers of the City of Absecon Police Department referenced above and herein are part of a pattern and practice of illicit and inappropriate conduct.
47. Upon information and belief, the actions of the officers of the City of Absecon Police Department referenced above and herein are based on the failure to appropriately monitor and enforce standardized operating procedures and policies on the use of force and "Force Continuum."
48. Mr. Surti's medical costs directly resulting from Defendant Craig's and Defendant Winkel's actions well exceed the statutory bar set forth at *N.J.S.A.* 59:9-2.
49. As a result of the actions of Defendants, Mr. Surti was subjected to pain, suffering, negligent and intentional infliction of emotional distress, embarrassment, humiliation, emotional and mental distress, physical trauma, and psychological trauma.

WHEREFORE, Plaintiff Rohit Surti demands judgement as against Defendants for:

- A. Compensatory and Punitive Damages;
- B. Pre- and Post-Judgment Interest;
- C. Attorney Fees, Court Costs, and Costs of Suit; and
- D. For Such Other Relief as The Court May Deem Equitable and Just.

COUNT TWO

50. Plaintiffs repeat the allegations of Count One as if fully set forth at length herein.
51. Defendants' conduct is in violation of Plaintiff Rohit Surti's State of New Jersey Civil Rights as set forth under the New Jersey State and the Federal Constitution, such actions being recognized and permitted pursuant to *N.J.S.A.* 10:6-1 *et seq.*
52. Defendants deprived Mr. Surti of his State and Federal Constitutional Rights.
53. As a result of Defendants' conduct, Mr. Surti was harmed.
54. Defendants' actions were the direct and proximate cause of the harm suffered by Mr. Surti.

WHEREFORE, Plaintiff Rohit Surti demands judgement as against Defendants for:

- A. Compensatory Damages;
- B. Pre- and Post-Judgment Interest;
- C. Attorney Fees, Court Costs, and Costs of Suit; and
- D. For Such Other Relief as The Court May Deem Equitable and Just.

COUNT THREE

- 55. Plaintiffs repeat the allegations of Counts One and Two as if more fully set forth at length herein.
- 56. Upon information and belief, Defendant Craig's conduct, noted herein, was intentional.
- 57. Upon information and belief, Defendant Craig's conduct was willful, deliberate, and otherwise constitutes impermissible misconduct.
- 58. Upon information and belief, Defendant Winkel's conduct, noted herein, was intentional.
- 59. Upon information and belief, Defendant Winkel's conduct was willful, deliberate, and otherwise constitutes impermissible misconduct.

WHEREFORE, Plaintiff Rohit Surti demands judgement as against Defendants for:

- A. Compensatory and Punitive Damages;
- B. Pre- and Post-Judgment Interest;
- C. Attorney Fees, Court Costs, and Costs of Suit; and
- D. For Such Other Relief as The Court May Deem Equitable and Just.

COUNT FOUR

- 60. Plaintiffs repeat the allegations of Counts One, Two, and Three as if more fully set forth at length herein.
- 61. Defendant Craig's and Defendant Winkel's conduct described herein was reckless and with wanton and gross disregard as to the care and physical safety of Plaintiff Rohit Surti.
- 62. Defendant Craig's and Defendant Winkel's conduct described herein constitutes gross recklessness.
- 63. Upon information and belief, the actions of Defendants Craig and Winkel, described herein, were done with a conscious indifference as to the consequences.

64. As a result of the Gross Recklessness of Defendants Craig and Winkel, Mr. Surti was harmed.
65. As a result of the Reckless actions of Defendants Craig and Winkel, Mr. Surti was harmed.

WHEREFORE, Plaintiff Rohit Surti demands judgement as against Defendants for:

- A. Compensatory and Punitive Damages;
- B. Pre- and Post-Judgment Interest;
- C. Attorney Fees, Court Costs, and Costs of Suit; and
- D. For Such Other Relief as The Court May Deem Equitable and Just.

COUNT FIVE

66. Plaintiffs repeat the allegations of Counts One, Two, Three, and Four as if fully set forth at length herein.
67. Defendants' actions are such that Plaintiff Rohit Surti is entitled to recover under the New Jersey Tort Claims Act, set forth at *N.J.S.A. 59:1-1 et seq.*

WHEREFORE, Plaintiff Rohit Surti demands judgement as against Defendants for:

- A. Compensatory Damages;
- B. Pre- and Post-Judgment Interest;
- C. Attorney Fees, Court Costs, and Costs of Suit; and
- D. For Such Other Relief as The Court May Deem Equitable and Just.

COUNT SIX

68. Plaintiffs repeat the allegations of Counts One, Two, Three, Four, and Five as if fully set forth at length herein.
69. Defendants Craig and Winkel failed to exercise reasonable caution, due diligence, and otherwise act in a reasonably prudent manner regarding the physical handling and arrest of Plaintiff Rohit Surti.
70. In so doing, Defendants Craig and Winkel acted in a negligent and deficient manner.
71. As such and as a result of his, her, and their actions, Defendants Craig and Winkel were the direct and proximate cause of the harm to Mr. Surti, such harm being answerable in damages.

WHEREFORE, Plaintiff Rohit Surti demands judgement as against Defendants for:

- A. Compensatory Damages;
- B. Pre- and Post-Judgment Interest;
- C. Attorney Fees, Court Costs, and Costs of Suit; and
- D. For Such Other Relief as The Court May Deem Equitable and Just.

COUNT SEVEN

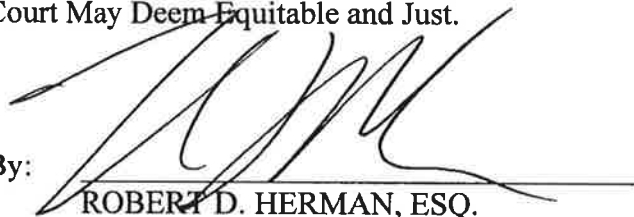
- 72. Plaintiffs repeat the allegations of Counts One, Two, Three, Four, Five, and Six as if fully set forth at length herein.
- 73. At all times relevant to this action, Plaintiff Jayshri R. Surti, was the lawful wife of Plaintiff Rohit Surti.
- 74. As a direct and proximate result of the negligent, reckless, wanton, intentional, and malevolent conduct of the Defendants noted above, Plaintiff Jayshri R. Surti has suffered a loss of care, comfort and consortium of her husband, Plaintiff Rohit Surti, and has been damaged in other ways.

WHEREFORE, Plaintiff Rohit Surti demands judgement as against Defendants for:

- A. Compensatory and Punitive Damages;
- B. Pre- and Post-Judgment Interest;
- C. Attorney Fees, Court Costs, and Costs of Suit; and
- D. For Such Other Relief as The Court May Deem Equitable and Just.

Date: June 11, 2015

By:



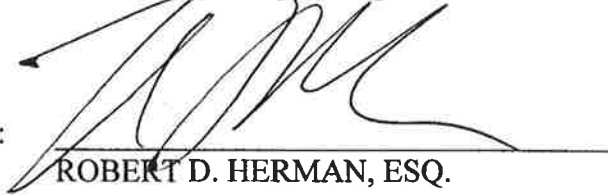
ROBERT D. HERMAN, ESQ.
ATTORNEY FOR PLAINTIFFS
222 NEW ROAD, SUITE 106
LINWOOD, NJ 08221
rdhesq1@msn.com
(609) 601-8750

JURY DEMAND

Plaintiffs hereby demand a Trial by Jury as to all issues raised by this pleading.

Date: June 11, 2015

By:

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

ROBERT D. HERMAN, ESQ.
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Absecon, NJ 08201-1208
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Email: Tom@DuffyLawGroup.com
Attorney for Plaintiff

BRETT T. DUFFY,

Plaintiff,

v.

THE ABSECON POLICE DEPARTMENT,
THE CITY OF ABSECON, former
ABSECON CHIEF OF POLICE DAVID
RISLEY, ABSECON MAYOR JOHN
ARMSTRONG, ABSECON OFFICER
CHRISTOPHER CAVILEER, THE OFFICE
OF THE PROSECUTOR OF ATLANTIC
COUNTY, OFFICE OF THE ATTORNEY
GENERAL OF NEW JERSEY, COUNTY
OF ATLANTIC, THE ATLANTIC COUNTY
SHERIFF'S OFFICE, VICINAGE I of
SUPERIOR COURT, THE NEW JERSEY
ADMINISTRATIVE OFFICE OF THE
COURTS, JUDGES JULIO MENDEZ,
A.S.J.C., and GLENN GRANT, J.A.D.,
ACTING AOC ADMINISTRATIVE
DIRECTOR, THE STATE OF NEW
JERSEY and J. DOES #1 TO #100, Fictitious
Persons or Entities Whose Real Names are
Unknown At This Time, jointly, severally and
in the alternative,

Defendants.

**Superior Court of New Jersey
Law Division
Atlantic County
(transferred to Cumberland)**

Docket No. CUM-L-0480-16

**CIVIL ACTION WITH
REQUEST FOR DAMAGES
AND DECLARATORY AND
INJUNCTIVE RELIEF**

FIRST AMENDED COMPLAINT

Plaintiff Brett T. Duffy ("Brett"), residing in New Jersey, in Atlantic County, part of
Judicial Vicinage I, and a citizen of the City of Absecon says:

NATURE OF ACTION WITH FACTS

Summary of Facts

1. This is a complaint about the defendants' various Civil Rights violations and Disability Discrimination against Plaintiff Brett T. Duffy. These Constitutional Crimes and retaliations against Brett are shocking and stand by themselves without regard to other events. However, it is very clear that many, if not all, of the Constitutional Torts and legal violations in this case, none of which should ever have occurred in our civilized society, were retaliation for his father Thomas Brett Duffy's (Duffy or elder Duffy) zealous representation of people with disabilities. Most of the Civil Rights violations are actionable under Disability Discrimination Laws, and some other Statutory Torts, not only as retaliation for his father's disability advocacy but also because Brett is a qualified person with disabilities. Specifically, he has various developmental disabilities and cerebral palsy but he is a citizen entitled to his Constitutional Rights.
2. He was definitely subjected to the deep seated hatred that some people feel against people with disabilities: his arresting officer stated, "I'm throwing the book at this retard." This school-yard bully in a blue uniform is the main cause of all of the issues in this complaint. Why the City of Absecon and its Police Department even hired this individual, who has been terminated by two other police organizations for police brutality and other Civil Rights violations, is beyond reason. As was easily predicable when he was hired, the City and the Department have now cost Absecon taxpayers hundreds of thousands of dollars in Civil Rights damages and defense costs.
3. The main Civil Rights violations involve not only denial of counsel – he asked his dad as counsel the second he had an M-16 machine gun pointed at him when he was voluntarily surrendering and obviously unarmed – but actually lying to him that police had called his dad, as requested, and his dad had told Brett, "He was on his own." Please refer to Exhibit Pages 1-2

(hereinafter "ExXX or ExXX-YY): his father's phone records from both his business telephone line (6400) and his "landline" (0178) both show the Absecon Police did not call him. There aren't even any calls from a "609" number except for an ER nurse who called his dad when she became certain the police were denying Brett his Constitutional Rights (to counsel, to a phone call (or calls on his own phone) and to be watched when in custody – especially when the police lied to him that his dad was abandoning him).

4. While in Absecon Police custody, Brett was already in bad medical shape from being denied his requested anxiety medication through the absolute deliberate indifference of command structure of the Absecon Police. When lied to that his father had abandoned him, he attempted to hang himself with some clothing. It was a total violation of all police procedure to leave anybody, especially a young person, due to especially high custodial suicide rates, alone, in a room with exposed pipes and other available fulcrums, without "suicide proofing" him by taking his outer clothes, his belt and even his shoe laces. Leaving him alone after lying to him that his dad/counsel had abandoned him, highly suggests they were attempting to provoke a suicide attempt, probably to cover up their mounting series of Civil Rights violations such as a warrantless search without consent, denial of counsel, and, of course, lying about the availability of counsel, who was a mere 1 mile away. Obviously, if the police had followed the Constitution, mainly the 5th and 14th Amendments, Brett's dad would have been with him in the conference room and Brett also would have had no motive for a suicide attempt.

5. After these many Civil Rights violations, the police started to build a huge "smoke screen" in a not very effective attempt to hide their huge civil rights and professional disciplinary liabilities. After the suicide attempt, the Chief of Police told the arresting officer Christian Cavileer ("AO"), "this is on you" as he and Brett were leaving for the PIP unit. (Brett asserts

this command was police “code” for “do a cover up.”) This is when the AO decided “to throw the book at the retard” to save his own skin. He only verbalized the decision after Brett returned from the PIP unit at which time another officer hearing slur, told the AO not to use language like that. This officer, hearing the slur, should have reported to the Chief that AO Cavileer was no longer objective and should be removed as arresting officer – if that was not already immediately obvious to the Chief either under principals of professional responsibility and conflict of interest or because the Chief himself heard the “retard” comment himself.

6. The Atlantic County Prosecutor and Vicinage I of Superior Court subsequently participated in the cover up of the Absecon Police misconduct both because that is their policy and practice and to further retaliate against the Duffy Family both for disability advocacy and because some of them have, or have had, serious disabilities. Vicinage I has been particularly blatant. It “lost” Brett’s PTI application, it has parroted the prosecutor’s discriminatory and stereotypical comments about people with mental disabilities. Ex3-6 (prosecutor’s written argument), discriminatory language is mostly on Ex5&6, pp.3-4 in original, first new paragraphs on both E5 (p.3 – “mental illness probation” & E6 (p.4 – people with mental disabilities “need[] closer supervision and stronger sanctions”).¹ The Vicinage just “bounced” a multi-issue motion filed in early January 2015 which may have been dispositive of the case, or voided the prosecutor’s “veto” of the judiciary’s grant of PTI, or which, at least, should have disqualified Vicinage I for any number of reasons, not the least of which is that Brett’s dad was counsel in two disability discrimination lawsuits against Vicinage I at the time the charges were filed and for a considerable period thereafter.

¹ Both of these “groupings” are *per se* discriminatory and they also plainly state that people with mental disabilities are ineligible for PTI. This ineligibility has to be false: the “special conditions” PTI form specifically has provisions for “Medical / Psychological Tests / Evaluations and/or Counseling as Directed.” Ex7-8 (Exemplar PTI forms for Raymond Rice – note that while Rice is not mentally disabled (he is a very healthy pro athlete), one of his conditions was mental improvement and learning some discipline by attending “Anger Management Counseling.”)

7. Finally, some may say this suit was filed to further disqualify Vicinage I and to conflict the prosecutor. First, they were both highly conflicted and disqualified at the time the charges were filed. Brett has restrained himself from filing this suit until the charges were disposed of. However, part of the goal of the prosecutor and Vicinage I has been to drag out the criminal case (denying a right to a speedy trial) past the Statute of Limitations for this suit. Brett has waited until the last day to file: no further restraint was possible and he refuses to drop this absolutely meritorious cause of action due to very obvious bullying by "the powers that be."

8. By Order of the Cumberland County Law Division, this lawsuit will have to be served before Brett's PTI is finalized. We predict such timing will result in attempts to reinstate the prior Veto regarding the PTI program. We don't think it will work but we hope we don't have to find out.

The Parties

9. **Brett Duffy** is a qualified person with disabilities who was 21 at the time of the incidents related herein. His mental age is in the 14 to 16 range, which is obvious to the casual, untrained observer. Under ADA Title II he is qualified merely by being a human being, or at least a citizen of New Jersey and of the United States. However, his main physical disabilities are cerebral palsy and neurofibromatosis, Type I and he is qualified for many types of employment. Both conditions have related developmental and mental disabilities related below. Neither of these conditions makes him ineligible to be treated with respect and to have a full panoply of Civil Rights. In fact, his disabilities, particularly his mental ones, clearly give him additional Civil Rights under the ADA and especially the LAD that are inapplicable to people without disabilities. In this case, Brett had a right to counsel and to parental contact due to his mental

condition WITHOUT regard to whether he requested counsel or parents (as guardians). This is especially so since his mental disabilities are very obvious in any conversation with a casual observer. The Absecon Police and the City Administration are well aware of the extent his mental disabilities because, to their credit, they have helped search for him when he has become confused and lost on at least two occasions (along with the Galloway Police). This is much appreciated but it doesn't make Brett into a Police Punching Bag.

10. Instead of accommodating his disabilities, the Absecon Police sought to take advantage of them by lying to him, intimidating him and denying him counsel and parental contact. With regard to their search of his car, these tactics did not work as they have neither a search warrant nor a signed permission for a search. Nothing he said to the police is admissible in the criminal case because he requested counsel immediately when Officer Cavileer pointed the M-16 at him when he was voluntarily surrendering.

11. Brett's mental disabilities are obvious but not severe. For example, his hope to join the Marines is not out of the question if he were able to obtain a waiver of his CP. His inability to run is probably his largest impediment to joining the military, not any mental incapacity. He has had Individual Educational Plans (IEPs) his entire life, the State of New Jersey has granted him several test-taking accommodations (usually more time). Still, he is easily misled – such as accepting a lie his dad had abandoned him. In fact, Brett has a right to counsel beyond the 5th Amendment via Disability Discrimination Laws which give supra-protections under both the Due Process and Equal Protection Clauses. Ironically, because the Absecon Police consider him to be a “retard,” that means, by their own terms, he had an immediate right to counsel whether he requested counsel or not.

12. **The Absecon Police Department** is a “public entity,” receiving Federal Funds, which is the genesis of this entire case. Its unprofessional conduct has denied Brett his 1st, 2nd, 4th, 5th & 6th Amendment Rights (as applied to the States via the 14th Amendment) as well as his simple 14th Amendment Rights to Due Process and Equal Protection. These actions are brought under the New Jersey Civil Rights Law as well as 42 U.S.C. § 1983. Additionally, it is very clear the police have engaged in disability discrimination and retaliation. These causes of action are also brought under the ADA, Section 504 of the Rehabilitation Act (given that both Absecon and the Absecon Police Department are recipients of federal funds – likely including the M-16 Machine Gun pointed at Brett) as well as the NJ LAD. Brett will emphasize the ADA because it trumps many of the defenses available under § 1983. For the purposes of disability discrimination, the Absecon Police Department and its arrest procedures and evidence gathering procedures (or lack thereof) are “public accommodations” within the meaning of the LAD and are a service, program or activity under both the ADA and § 504.

13. The Police Department has a policy, practice or custom (hereinafter just “policy”) of intimidating arrestees into surrendering their Fourth Amendment Rights through intimidation, lies about being liable for obstruction of justice charges for not granting permission and just doing whatever they want without regard to any Constitutional Limits on their police power. They also have a “collateral” policy of denying counsel to any and all suspects or actual arrestees due to hatred of lawyers for enforcing citizen’s rights, which is annoying to the Police. Duffy can produce numerous local citizens who will testify to the abuse of their 4th & 5th Amendment Rights.

14. Elder Duffy is also aware Absecon Police also have a policy of using “scared straight” methods on anyone whom they consider to be “wayward,” especially youths (defined per NJ

Guidelines as anyone 24 or younger). These methodologies are totally unconstitutional without the consent of the abuse victim. Even so, when these methods are officially used by police (with consent), sometimes in conjunction with former or current inmates, psychologists or psychiatrists are readily available as part of the program to look for participants who are past their "breaking point" so they can be removed from the "scared straight" environment so there is no lasting psychiatric damage. In contrast, the Absecon Police have been performing this questionable and delicate psychiatric service on numerous victims for decades. Again, the elder Duffy can produce other residents and at least one client who have been subjected to these procedures in lieu of court charges, which are obviously out of the question after the Constitutional abuses heaped on these victims. Because of the lies and resultant suicide attempt, the Absecon Police had to divert from its usual "scared straight but no charges" methodology in Brett's case.

15. **The City of Absecon** is the "public entity," receiving Federal Funds, responsible for the maintenance, behavior and funding of the Absecon Police Department. Everything stated above about the Absecon Police Department applies with equal or greater force to the City of Absecon. A major point with the City of Absecon, in addition to the Police Department, is why managerial officials hired Officer Cavileer despite his clear record of Civil Rights abuses and discrimination against minorities. Similarly, all Absecon's high managerial officials, including the mayor and the Chief of Police, as well as City Council, are well aware of the above unconstitutional policies, practices and customs of the Absecon Police Department. They endorse and foster these "tough guy" tactics and have certainly never done anything to control them. This is why they hired a "tough guy" like Officer Cavileer who is "an enforcer" who knows no Constitutional bounds.

16. **Chief of Police David Risley** (at that time), is named both personally and in his official capacity under § 1983 for his failure to supervise Officer Cavileer by 1) stopping (or counseling against beforehand) his unconstitutional behaviors before they happened; 2) removing Officer Cavileer from Brett's case due to a conflict of interest or avoiding the appearance of impropriety (although there were actual improprieties in this case) because, after the suicide attempt, Cavileer was clearly subject to discipline for unconstitutional behavior (e.g. if dad/counsel had been called or he had been given his anxiety medication, the suicide attempt would never have occurred, if only because his dad would have been with him in the conference room) – this was expressed in the Chief's "This is on you" comment to Cavileer when Brett was being taken to the PIP unit; 3) the "This is on you" comment, which should have meant "you're going to be disciplined (and obviously removed from the case due to conflict), was actually "police code" for "It's on you to make an adequate 'smokescreen.'" So began the cover up and threatening situation to the Duffy Family so that they don't use their legal abilities to file a suit such as this one either out of fear or out of distraction with defending Brett against false charges which were made out of malice and retaliatory and discriminatory motives.

17. Proof of this unconstitutional malicious prosecution would be no pellet device (or garden tool) user has ever been charged with the serious crimes leveled against Brett (the gardening tool charge has already been dismissed) in Absecon. Duffy has witnesses who were either given a "discharge within city limits" ordinance violation summons or were just given a warning, some had their guns confiscated, many were released into parental custody (even when no longer minors), with or without the device and usually without a summons.

18. Finally, on information and belief, all charges sent to the prosecutor are supposed to be reviewed by the Chief of Police before being sent to the prosecutor. If Chief Risley did this, he

approved changes which he knew were made by a highly conflicted officer and (whether ordered to do so or not) were a “smokescreen” to hide unconstitutional behavior by the Absecon Police. Brett also has information that Officer Cavileer found some way “around” the Chief’s approval, if so, the Chief is still implicated for not correcting the “end around” and has, by his inaction, endorsed and adopted these breaches of Due Process as his own.

19. **Mayor John Armstrong**, in addition to all the legal theories applying to Chief Risley above, is likely the motivation for this entire abuse of Brett’s rights. Older Duffy sued Armstrong’s wife, the The Honorable Valarie Armstrong, A.J.S.C. (Ret.), for 1) retaliating against him for filing an ADA administrative complaint (on AOC approved forms) for a client (mentally disabled person being prosecuted while *pro se*). Her Honor’s answer was basically, “if you’re so smart about the ADA, I order you to defend her,” despite the fact Duffy had told Her Honor he need chemotherapy and couldn’t do it), 2) threatening Duffy for filing an ADA request (when finally relived as counsel and on the chemo, Duffy asked her (very politely) to PLEASE have Vicinage staff stop referring the former client to Duffy for advice, which happened more than once) and 3) dismissing another ADA complaint, about serious malfeasance in office and blatant discriminatory conduct (demeaning and uncalled for tirade about Duffy and people with disabilities in general) because she was too conflicted to hear it (agreed but the Canons and standard NJ ethical guidelines are that the conflicted person refer the matter to another decision maker, preferably via an assignment by a 3rd person (in the case of an Assignment Judge, it would usually be the AOC AD or the Chief Justice; but since AOC AD had same conflict as Judge Armstrong, should probably have been the Chief Justice or his designee).

20. Many believe Duffy’s suits for himself and his clients lead to the early retirement of Her Honor. Duffy has confronted the Mayor with this issue and, admittedly, he has denied it. He

claimed to be unaware of Duffy's being blamed for the early retirement and promised to dispel this rumor. Brett alleges that both Armstrongs were well aware of the rumor and let it hang like a Sword of Damocles (whether true or not) over Duffy's head. Duffy has dodged this Sword several times² but it's now "dropped" on Brett. This "rumor" created an atmosphere amongst city employees, including the police, that Mayor Armstrong would look favorably upon anybody who retaliated against the Duffy Family. It was totally foreseeable that an "at risk" employee such as Officer Cavileer (who we assume is on permanent probation due to his past behavior)³ would think he could curry favor (or "points") with the Mayor regarding punishment for future (absolutely certain) misconduct or, perhaps, promotions. The Mayor did nothing to dispel this atmosphere and endorse the fair treatment of all Absecon citizens. In all events, the Mayor has ratified and endorsed Officer Cavileer's (predictable) malfeasance in office by not firing him and not even launching an investigation (which, if serious, would require outside investigators due to the pre-existing conflict between the Mayor and the Duffy Family and the City's and Department's conduct regarding Brett.) Mayor Armstrong never investigated Absecon's and the Absecon Police's hiding of exculpatory evidence which was the voluntary pellet device registration despite Duffy's clear request for an investigation. Ex50-52 (Duffy demand to Mayor a few days after the registration showed up 14 months late).

21. To be fair, Duffy did complain to the Mayor about Brett's treatment. The Mayor did take away Officer Cavileer's "toys." Cavileer complained to Brett that he had had his M-16 and

² There are numerous examples of written threats, failure to act on ADA complaints or CIS requests, etc. However the most felonious of these was intentionally putting a false time stamp, 5 days late and 1 day past the Statute of Limitations. Compare stamp of E9 (May 30, 2012) with the Statute date of May 29 (2nd to last line on E9) and the correct ACMS date of May 25, 2012 (E10). The problem is that, per the Chief Clerk in Trenton, the stamp on the complaint trumps the entry in ACMS. The main reason (there are at least two others) for an absolute inference of premeditation and intentionality is why weren't all the complaints stamped at the same time when received - the familiar "chunk, chunk, chunk" noise heard at any Superior Court clerks' window 50+ times per day.

³ At a minimum, at union arbitration over the potential dismissal, no arbiter could find Cavileer's conduct, past and present, excusable - it's obviously a result of a total, intentional disregard of citizen's rights. No matter how "pro-police" an arbiter may be it is a near certainty, the arbiter would come to the conclusion, "three strikes and you're out."

repeating shotgun (called a "street sweeper") locked in his trunk for use only in emergencies. Both weapons are much too indiscriminate for a police weapon but they probably got the guns for "free," confiscated from a drug dealer or "donated" by the U.S. Military). Cavileer mentioned the Mayor's action during a "profiling" stop with no tickets or even claimed infractions – just keeping an eye on the town "retard," which he probably thinks is Constitutional and even legal. Mayor Armstrong (and Council) are behaving like the captain of a ship who sees the risk from a loaded "cannon rolling around on the deck," ordering his crew to unload the powder and shot but then still leave it free to roll around on the deck. The analogy is not really that good because Cavileer can still do plenty of damage with his Glock side arm.

22. Finally, by not taking stronger action Mayor Armstrong has endorsed Cavileer's actions. Specifically, what has he done about the fact there was no signature on the search permission (and no warrant) and no one has ever produced a Miranda card -- signed or unsigned? What about the "retard" comment? Duffy complained to Armstrong about all of these. He has endorsed these actions and, being Mayor, he has done it not only for himself personally and officially but for the City of Absecon. These unremediated Constitutional and Civil Rights violations are the policy, practice and custom for the City, the City Council, the Mayor and the Police Department. The Mayor has also endorsed, or encouraged, blatant disability discrimination – he also took no action on the "retard" comment disclosed to him -- both personally and as CEO, on behalf of the City. We invite him to show us otherwise.

23. He is sued under § 1983 both personally and in his official capacity for Constitutional Violations and under the LAD for disability discrimination. He is also sued under Ex Parte Young (via § 1983) and the Declaratory Judgment Act to change the policies of the City and the Police Department. Brett also pleads that Mayor John Armstrong is a recipient of Federal Funds

in his capacity as Absecon CEO. He is the human face for the government's largess and, then in turn, he distributes the money to all of the defendants and others so he may be liable under § 504 of the RA.

24. **Officer Christopher Cavileer** is being sued for being the driving force, acting under City and Police policies, practices and customs, behind the massive Civil Rights violations in this case. He is sued personally and in his official capacity under § 1983 and personally under the LAD for disability discrimination. Brett seeks a declaratory judgment that, for the good of Absecon taxpayers, if no one else, that he be terminated from the Absecon Police Department and declared unfit to be employed as a police (or peace) officer anywhere in this State.

25. **The Office of the Prosecutor of Atlantic County** is definitely a "public entity" but it is unclear whether it is within the control of the State (through the Attorney General (AG) or the County). Unfortunately, it is generally immune from the acts of its officers. However, it is not immune from the ADA/RA/LAD actions for the blatant disability discrimination, prejudice and use of stereotypes present in its own writings and reasoning and its decision to persecute a person with disabilities as part of a cover up of police misconduct, which it should have immediately investigated itself due to an unsigned search permission and the file having no Miranda card and for an arrestee being left alone long enough to attempt suicide, which was only stopped because one officer happened look in the conference room.

26. Because of this lack of clarity about responsibility for the prosecutor's discrimination, Brett also sues the **Office of the Attorney General of New Jersey** and the **County of Atlantic** as "public entities" and recipients of Federal Funds who are responsible for the prosecutor's office's discrimination. These entities have clearly failed to have policies and procedures in place to control the prosecutor's behavior and discriminatory actions. They also have no policies

and procedures in place to force the prosecutors to forward any evidence of police misconduct (no Miranda card should be a compulsory referral -- but certainly no Miranda and no Search Permission) even if these referrals were only for minorities; it would show the AG and the County are "on top of" police misconduct. In the case of the AG's Office, they have unconstitutionally allowed different counties to develop totally different procedures and policies in many areas but, specifically, regarding PTI as applied to minorities. In this case, the Atlantic County Prosecutor's Office has made up a "no PTI for people with mental disabilities" without permission (but possibly the tacit collusion) of the AG's Office or the County. The term "mental illness probation" exists nowhere in AOC or AG guidelines on any topic, let alone barring such person from PTI. Yet the term is being written in briefs (E5) and repeated at oral argument -- by both prosecutors and judges -- with no supervision by the AG, the County, the AOC or, ultimately the State as a unified "public entity."

27. **The Atlantic County Sheriff's Office** is being sued for conveniently producing report(s) on the pellet device that fail to analyze the propulsion mechanism such that it is not a rifle or shotgun (no shell or "jacket") or even a weapon (no "firing" mechanism). They should have done a neutral analysis consonant with our Statutes. Instead they participated in the disability discrimination with Brett as a separate "public entity" for ADA or RA purposes, separate from the others above and as a place of public accommodation under the LAD. We seek a declaratory judgment that, due to this kind of malfeasance, that, in the future, private, neutral reports on pellet devices be obtained on an element based form such that the two elements of a "jacket or shell" and no firing mechanism or projectile ejected by an explosive charge would automatically have shown the pellet device was not a rifle or shotgun. Any other procedures, lead to discriminatory and illegal treatment of citizens. Brett, in addition to the relief above, wants

damages because the lack of completeness in the report certainly led to dragging the case out and was basically a false report as to the rifle or shotgun issue.

28. **Vicinage I of Superior Court** has also continued its long-running retaliation against the Duffy Family and participated in the cover up. Limiting the allegations only to those since the arrest. We applaud the grant of PTI to Brett by Judicial Officers but we equally condemn the abandonment of its Constitutional Duties to act as a neutral between the prosecution and defendant. We seek declaratory judgment for the proposition, endorsed by the Appellate Division in State v. Lee and Our Supreme Court in Roseman & Lewin, that the Courts ought to better “protect” the decisions of its officers and fulfill its Constitutional Duties as a neutral against prosecutorial abuse. (Roseman also counseled judges to guard against political *vendettae*. We claim retaliation is a form of political vendetta.) There are serious Constitutional violations for “bouncing” a valid motion on several issues, which has kept Brett “in the dock” for a needlessly long time and for totally ignoring the multiple attempts, including the “bounced” motion, to have it issue a decision on the issue of the disqualification of the Vicinage and, generally, to answer ADA complaints per our Supreme Court’s Complaint Manual. It is being sued, as many times before, for discrimination and retaliation under the ADA Title II/§ 504 as a “public entity” and recipient of Federal Funds under § 504 and as a “public accommodation” under the LAD and as a sub-division of the “State of New Jersey,” which is also a recipient of Federal Funds. As evidence of Vicinage I’s liability in this case, when the “bounced” motion was finally going to be heard (2 years late), the Prosecutor all of the sudden decided that it would withdraw the objection or veto to Brett’s PTI Application. We put this forth as evidence that the prosecutor’s ability to drag Brett’s case out over years was a direct result of not hearing the January 2015 motion because once it was scheduled, the prosecution capitulated. This delay,

which caused Brett mental anguish, inability to obtain employment ("lost wages"), unnecessary attorney's fees as well as major abuses of his Civil Rights, is a co-liability of Vicinage I and the Prosecutor's Office.

29. **The New Jersey Administrative Office of the Courts** is a "public entity" and "public accommodation" and recipient of Federal Funds being sued for its own disability discrimination and its own unconstitutional and illegal behavior in "sweeping Duffy's ADA Complaints under the rug." (Newer complaints mentioning the appearance of impropriety of prosecuting Brett in Vicinage I while his dad is suing it). In short, the AOC has failed to enforce its own policies (such as motions being heard on time and PTI being a non-discriminatory program) and to supervise Vicinage I so that these AOC policies are followed there and throughout the State. For example, Judge Mendez claims to have forwarded at least Duffy's most recent complaint, and probably others, to the AOC. This is a reasonable action because His Honor is conflicted because Duffy is suing his Vicinage. But then the AOC has not followed its own procedures and processed these ADA administrative complaints. We believe the AOC has the same state-wide policy, admitted by the New Jersey State Police, of not processing Discrimination Complaints which may result in Lawsuits. This is a disgraceful policy for a Judicial Organization.

30. **Judges Julio Mendez, A.S.J.C. and Glen Grant, J.A.D., Acting AOC Administrative Director**, at the moment, are being sued in their official capacities for mandamus under Ex Parte Young via § 1983 or for mandamus by declaratory judgement under the ADA or LAD and other laws that assure NJ citizens access to the Courts and to administrative process. Brett is only asking these judges to do their jobs and decide, whether judicially or administratively, the Vicinage I disqualification issue so, if aggrieved, he can file an interlocutory appeal in the Appellate Division on this highly important ethical issue. Brett also demands that the "bounced"

motion be processed (this is moot if the prosecutor really has withdrawn its veto which it did say in open court and, earlier, to me on the phone) – there are still many points in it that have not been addressed such as reconsideration of the denial of PTI under Lee (and now State v. Roseman & Lewin on the ethical limits of prosecutorial discretion in PTI).

31. **The State of New Jersey** is a “public entity,” “public accommodation” and recipient of Federal Funds being sued for Disability Discrimination under the LAD, RA and ADA for any retaliation or discrimination by its sub-entities over which it has plenary control. It is also sued for Civil Rights violations of any Right guaranteed by Federal or State Law or the Federal or State Constitution, especially those rights in the 14th Amendment and those in the Bill of Rights which have been extended to the States or any such actions that, while not strictly within the ambit of the 14th Amendment, are so necessary to maintain the preservation of citizens’ rights that Congress still has power under the 5th Clause of the 14th Amendment to vitiate the sovereign immunity of the States. LAD violations do not need to be based on our Constitutions, as slightly limited by Dale v. Boy Scouts, so we extend the reach of the LAD against the State of New Jersey to include violations of New Jersey Constitutional Provisions (under a Bivens-type approach if necessary), our Civil Rights Law, any other Statutes, Administrative Rules, including the Rules of Court, and any other official state pronouncements which have been violated or ignored as a form of discrimination and retaliation.

32. The State of New Jersey is responsible for the actions of all of its entities and officers mentioned above, except the City of Absecon and its officers, but including the Absecon Police (trained by and heavily monitored by the State Police and the AG’s Office). Officer Cavileer should have been prevented from being a police officer long ago – he was trained at the SP Academy and fired by the State Police (same as State or AG’s Office) without sufficient warning

to other police organizations about his tendency for brutality and the violation of citizen's rights. The State, through all of its entities and officers in this Complaint, encourages disability discrimination and retaliation against those filing complaints as well as the simple discrimination/retaliation of ignoring ADA administrative complaints and allowing such things as the "bouncing" of motions and the non-investigation of serious breaches of Civil Rights such as the Brady hidden exculpatory evidence in this case as well as all the others mentioned above.

33. Every place in this complaint a State entity or officer is mentioned, the "State of New Jersey" shall be deemed as mentioned also.

34. Please Note: None of the State Entities are being sued under § 1983 (it would be the ADA/LAD instead per Justice Scalia's 9-0 opinion in U.S. & Goodman v. Georgia).

DETAILED FACTS OF ACTION

35. Brett Duffy is a qualified person with disabilities. He used a pellet device in an area designated as a hunting area on New Jersey (NJ) State website (WLM). NJ law is very "up in the air" on pellet devices (and sling shots, bow & arrow and even toy guns) so Brett sought a PFID from the local police. He never heard anything back so he purchased a pellet device legally in Pennsylvania. Because of the doubt above, Brett took it to the Absecon Police Department voluntarily to register it. He and the officer had a rather sophisticated discussion of NJ "gun law" while various papers were filled out.

36. Brett T. Duffy is a citizen of New Jersey with certain mental and physical disabilities. In this case, the relevant ones are Cerebral Palsy (CP) and Asperger's Syndrome. Despite these disabilities, Brett is an upstanding citizen and very patriotic. So much so that he would like to become a U.S. Marine. Obviously, there is a medical issue with his enlistment.

37. There are several websites of military people with mild CP who "got in." None had a waiver, they all just used hard work and diligence to hide their disability, some with the aid of a liberal-minded recruiter. Brett's not going to break the rules so he'd need a waiver. President Obama has indicated he is inclined to grant them due to his "everybody ought to have chance to serve" policy. Trump should have a similar pro-American, pro-enlistment policy so everybody can serve their country but we don't know.

38. Brett wanted to have more to offer the Marines than his regular skills. Every Marine must be a "marksman," which is level high level accuracy while using various military equipment. Brett did apply for a gun permit in his then hometown of Galloway Township. He was orally told he was not approved. However, the reason given was, "Ask your father." This was a violation of Due Process: the Statute demands a written opinion so the citizen can exercise his or her right to appeal to Superior Court (and "upward" after that, if so inclined).

39. Brett was testing a pellet device and hunting at the Absecon Wild Life Management Area (AWiLMA) which is listed as a hunting zone on the New Jersey (NJ) Wild Life Management's website ("website"). He cleared the device of a pellet which was stuck in the device and "bagged" a pigeon, which he, like many Europeans, considers a delicacy. It is important to note that Brett had multiple "levels" of ADA (ADA in this Complaint means ADA/RA/LAD taken together) Protected Party status with regard to the State, Vicinage I, the AOC and the New Jersey Judiciary in general.

40. The Absecon police officer went through what must be the standard instructions to registrants. Such as: keep the device securely in your house, in your trunk unloaded with the pellets in the glove compartment or such when traveling and, ideally, the device should be locked in its case when not in use. To encourage locking, the officer gave him a free lock. He

and the officer specifically covered the status of pellet devices in this State. The officer stated that, while the State is not “happy” with pellet device purchases in other States, “there’s nothing they can do about it” and the pellet gun is legal. He specifically invoked the Commerce Clause and the Second Amendment as well as mentioning Heller and McDonald (2nd Amendment allows gun purchases and possession for reasonable uses such as personal protection, hunting and target practice without permits, PFID, etc.). The issue of registration, which Brett had just mooted with his voluntary registration, was left for another day by the Court).

41. A few days later, the Absecon police would be claiming the pellet device was some kind of illegal weapon (probably a rifle or shotgun), as a crime of the fourth degree and, later, the prosecutor would “up the ante” arguing the gun’s mere possession was a crime of the second degree (on par with embezzling over \$50,000 or robbing a 7-11 WITHOUT a gun). If this were true, why wasn’t the device confiscated when Brett went to register it? In sum, Brett had a right to rely on this officer’s absolutely accurate statements on NJ “gun law.” Why was his registration deemed voluntary if pellet devices are “rifles?” Why wasn’t Brett told he needed a PFID (with the gun once again confiscated in the meanwhile)? Who hid the exculpatory registration materials for 14 months and, then either by conscience or mistake, put the forms in the processing “stream” sending them to the State Police? Ex35-39.

42. He used the device in the perhaps mis-designated hunting area (has a right to rely on State publications). See generally, confusing and contradictory Fish & Wildlife website discussion of gun and hunting issues at Ex40-49. A “busy-body” old lady approached him while he was putting his device in its case, locking it and stowing it in his car trunk. It is important to note she clearly did not deem Brett a “threat” or “danger” in any way: while the device was in plain view, she walked about 200 feet through muddy ground to cause an unnecessary

confrontation. So, this woman, who like a majority of Americans, probably knows zero about guns, could tell, at a good distance, the device is basically a toy. He talked to the lady (her statement to the police is mostly accurate) a little and then she told him, by her own statement, "Get the fuck out of here." Brett complied by driving away: he didn't want any trouble.

43. He could see the lady was calling somebody – probably the police. Again, not wanting trouble, he called the police and turned himself in for questioning. He followed instructions and pulled into a closed business' parking lot in Galloway. The first police officer who showed up pulled out an M-16 machine gun on him. Brett was obviously unarmed – and he had turned himself in! Brett immediately put his hands on his head and stated, "I want my attorney, he's my dad." They pointed a machine gun at him: he's definitely not an interviewee, he's a suspect with a right to counsel. True to the training he has been given he refused to sign a search permission form. The police then told that, if they had to call a judge for a warrant and s/he granted one, he'd be charged with obstruction of justice.

44. He had to learn this ridiculous proposition and the term "Obstruction of Justice" had to come from this incident. Obstruction just has never come up in his dad's practice. Luckily, it just didn't sound right to Brett. He reiterated he wanted to discuss the search permission with his dad, as counsel. They handcuffed him – whether to frighten him into signing or they just gave up, we don't know. Two police started tear open his trunk, he told them to stop, the keys were in his pocket. They pulled the keys out of his pocket and opened the car. It is unclear but somewhere in with the handcuffs, somebody did put a pen between his fingers and moved his hand. This is moot because, if they did succeed in getting a mark on the permission with everything being upside down and backwards due to the cuffs, the "v" mark is on the witness line, not the permission signature line – which is blank. See E15.

45. When taking the pellet device out of the trunk, the AO took off the lock from the gun case, throwing it back in the trunk, stating, "This isn't going to help." He did the same with the gun case. Destruction of exculpatory evidence – and he's talking about obstruction of justice for asking for a warrant! Speaking of obstruction, it now had been about a half hour of the above circus and nobody's even attempted to call his dad/counsel despite his Constitutional Demand.

46. They took him to the Absecon Police Station in City Hall. He told them about his psychiatric condition and that he was having a "panic attack" and wanted his Xanax (or similar prescription medicine) which was a few feet away. He keeps asking for his dad/counsel; now emphasizing that his dad could bring his meds with him from the house a mile away.

Apparently, it was clear to the casual observer Brett was in psychiatric distress so they removed his handcuffs. He kept asking for Xanax and other medications. One of the cops asked him if it were a "life or death" situation – that is not the Constitutional standard intentionally ignoring a request for meds a few feet away is illegal. The Standard is deliberate indifference to a medical condition or need. In effect, they over-ruled the directions of a trained psychiatrist (to take Xanax, etc. as needed but at least once per day) under whose care Brett had been doing well – maybe even great. On this basis, Brett pleads that the Absecon Police displayed deliberate indifference to his medical needs and that this was a policy or practice of using a "life and death" standard rather than the one the Courts demand. Further, this "life or death" standard is the test approved for medical situations by the City of Absecon, which is part of the policy, standard or practice which Absecon demands from its police officers.

47. We are not insensitive to the fact the police may have wanted to make sure it was Xanax of a safe dosage (< 3 mg). There are two thoughts on this. First, they could confirm which pill Brett wanted at a distance and then go look up the code numbers at Drugs.com to make sure the

pill matched what he was asking for. Or they could have typed in the drug name and view the 8 different pill size/color/dosage sizes and compare to find a match. It took counsel all of 38 seconds, from a closed browser, before he was looking at that various sizes, etc. of Xanax.

<http://www.drugs.com/imprints.php?drugname=Xanax>. Comparison may have taken another 30 seconds (all the colors and sizes are different so more likely 10 seconds).

48. Second, dad/counsel should have been there by now. Without the police asking, his dad would have pulled out his phone and shown the police the 8 exemplars on the above page – he would have anticipated that the Police may have had some (minimal) concern that an upset kid with mental disabilities was asking for the correct medication.

49. So Brett is now in a conference room with no handcuffs. He's expecting his dad/counsel to show up. He is questioned way too much for someone who has demanded counsel. Then he's left alone except that a cop comes to the door and absolutely illegally, unethically and unconstitutionally tells him, "Your dad says you're on your own." So no one is watching him, he still has a big red "hoodie," a belt and shoe laces on his person, they have denied him counsel, they have denied him medication, and now they lie to him that dad/counsel had told him he was on his own.

50. We wish to make it clear Duffy never received so much a one ding with a hang up from the Absecon Police. The records for both phone lines are at Ex1-2. So Brett alone, thinking his sole available (and relevantly trained) parent has abandoned him (paternal grandparents are dead; his mom and her parents live in Florida), with no medication to ease his distressed mind, not really surprisingly he decides to end his life. If it works, that's an acceptable result; if it doesn't at least he'll get his medication and finally get to talk to his dad about his legal situation.

51. So he gets all too far along with hanging himself with his hoodie, when the shortest male officer (don't know name) on the force runs in to the conference room, blurts, "What the fuck are you doing, your dad will sue us for a million dollars" and then, thankfully, succeeds in getting him down. We don't need to do it in the complaint but we put the defendants on notice that this excited utterance will be used, amongst other things, to show that Duffy's status as a lawyer – one who is well-known for his disability advocacy – is weighing more heavily on their police minds than the fact they had a Constitutional duty to call his dad as counsel.

52. It is clear, especially from the utterance, the Absecon Police had gotten "in for a penny," then "in for a dime," then a dollar and then, by their own calculations, a million dollars. At each step in the above disaster, the clear move was to call Duffy – and let the "chips" fall where they may. Forget about being counsel, they didn't call a parent of a person with mental disabilities who's obviously in a lot of distress and the parent can access Brett's med supply at home?

53. Now they are REALLY in big trouble. They must realize they have "flirted" with negligent homicide charges. The smarter ones may realize they have committed several Constitutional felonies and could have been looking at felony murder. Do they cut their losses? Call Duffy? Better yet send an officer (preferably their most diplomatic) to offer Duffy a ride to the hospital because he's going to be upset and shouldn't drive? No.

54. So Brett, per statute, goes to the PIP Unit – the first time during this entire mess, the Absecon Police have come remotely close to following any kind of professional procedure. By Brett's count there were at least two police officers. One took him there, fine. The other: to keep doctors and nurses from finding out that Brett's being kept from calling his lawyer – his dad. This officer was pretty effective, he took the battery out of Brett's phone so the doctors would think he had a phone which they had demanded as part of their medical advice: the kid

needs his parents. Brett did ask for his battery back to call his dad/lawyer. The cop told him he had waived his right to counsel – which is kind of strange since no Miranda card has ever been produced with the original charges or by the prosecutor in discovery. Obviously, a prisoner can change his mind and demand counsel at any time. And Brett was definitely a prisoner with two police guards outside his hospital room, like he's on the "ten most wanted" list. The truth is Brett had incessantly requested counsel – his dad.

55. The denial of the phone that had been "prescribed" by the doctors is yet another example of deliberate indifference to the actual medical advice of doctors standing right in front of them. They were also too busy with their ill-fated "cover-up" to care about any legal, medical or other advice to which Brett was entitled by the Constitution, by Law and their own Procedures Manual (which we believe is published and updated by the State Police).

56. The doctors gave him Xanax or other appropriate medication(s) and, after they took effect, Brett was "out of it" mentally (if he wasn't before). Of course, the police took him back to the station and interrogated him while he was "high" on the legally prescribed drugs designed to keep a suicide risk from being able to get a (new) plan together for another attempt. We are very surprised the PIP doctors gave a suicide risk BACK to the people who weren't watching him closely enough to avoid the first attempt. This especially so because the doctors should have been able to detect that Brett's mental age is in the 14-16 year-old range – clearly a call to parents or a guardian, or at least a competent friend, was a professional responsibility. We will assume they were intimidated by two (or more) well-armed Absecon Police Officers.

57. Not telling Duffy about the situation almost worked. One brave nurse called Duffy and told him what was happening – despite being "ordered" not to do so. Unlike the Doctors, she WAS HIGHLY SUSPICIOUS that the cops were clearly preventing Brett from calling anybody.

She heard the cops talking about Brett's dad being a lawyer and had no trouble locating Duffy on the internet. She called Duffy told him what happened. Obviously, Duffy was beyond upset but he tried to get as much information as possible. It was also instantly clear that the Absecon Police were withholding counsel from Brett – Duffy was sure he'd ask for his dad – and what the nurse overheard and confirmed there was a conspiracy. This also led to the next maddening thought that Duffy should have been with Brett when the police were, obviously, not watching him. (The revelation to his dad that he was told "he was on his own" was still in the future.)

58. However, Duffy's main concerns were (a) that he be kept overnight for observation for obvious reasons; (b) that he ABSOLUTELY not be released to the police (so they could take another "shot" at killing him); and (c) that, if he could not be kept overnight, that he at least be released to Duffy. Clearly, any legal issues could be left to another day – but the nurse was clear the cops wanted him back in custody. Later, it would be clear they needed to build a "smoke screen" – and, perhaps, hide the voluntary registration from 13 days earlier before releasing him.

59. After looking at the phone logs, Duffy was called and had a 5 minute maximum conversation with one of the civil case managers. At the end of the call, Duffy asked the Manager to release his call back to the operators. He asked for the Atlantic City Civil Court and asked to speak to either the Chancery Judge or the emergency judge on duty. Duffy got a total "run-around," despite telling at least three judicial assistants the gravity of the situation and stating all he wanted was a standard, post-suicide attempt, "keep in the hospital for observation" order, whether voluntary or involuntary. Duffy wishes he took notes but he wasn't planning on filing a lawsuit like this one. He thought Vicinage I would have the common decency to help Duffy with an emergency – one of the rare ones that isn't complicated, all it needs is a stroke of a Judge's pen. Duffy merely wanted a judge to fulfill his or her Constitutional Duties during

business hours, albeit on short, emergency notice. (Why have an emergency judge if nobody knows who s/he is or will not connect a licensed attorney to that judge?) The last person Duffy spoke to was a law clerk, probably with a J.D. This young man told Duffy he totally comprehended the situation and would relate the matter to the judge and I'd be called back. Duffy never was – his phone was on him for the rest of the day, mostly 100% charged, so there was no "technical" problem.

60. This is really offensive: Vicinage I hates Duffy so much they won't even give him the time of day (or a call back) in a family emergency, again, during standard business hours. If the judge was worried about *ex parte* issues, he could have told me to find an adversary. The Absecon solicitor, like most other attorneys, was not hiding from people. He could have been called in minutes. In the alternative, Duffy could have called the hospital legal department. The immediate issue was with the hospital – they were being pressured to release Brett on a medically imprudent time scale. With an adversary or not, Duffy would have told the judge it was obviously imprudent to release Brett to the Absecon Police so they could, maybe, "finish the job." Ultimately, judge, adversary or both, Duffy would have asked, "Do you want to read in the paper tomorrow that Brett's died in police custody, from whatever cause, when you could have ordered (or fostered an agreement to) a simple overnight observation for competency?"

61. In any case, after wasting his time with the Courts, Duffy called the nurse back and was informed that the police had just taken Brett back into custody and had left. Duffy had ten minutes for the trip from Atlantic City to Absecon. He composed himself, put on some better clothes and made the two minute trip to City Hall. He went to the police door, pushed the buzzer and stated, "I am Tom Duffy; I am an attorney and I am here to see my client Brett Duffy, who also happens to be my son." He was left "cooling his heels" for about 40 minutes so he stated

pretty much the same phase on the door intercom. Both times, the reply was very close to, "We can see you, wait." So Duffy was visible on their camera system: those cameras are visible to most of the people in the wide, circular police area so the entire department was aware of the Constitutional deprivation going on before their eyes. As a result, this conspiracy to deny Brett Counsel and other rights had to encompass all police and other workers in the circular room. Specifically, Chief Risley had to be aware of this conspiracy of deprivation if only because, as Chief, he commands from the station except in the most unusual circumstances. Brett cites this as clear evidence that it is the policy, practice and custom to cover-up any situation for which Absecon City, the police department or they as individuals for which they may be liable later, especially in situations involving Constitutional Rights. Otherwise, why didn't the other employees approach the Chief and simply tell him they refused to be a party to this huge Constitutional Tort. If necessary to prompt action, they could threaten to call the State Police, the Mayor (who is a lawyer), the Solicitor or even just the council person(s) responsible for supervising public safety.

62. Regarding the Mayor, on information and belief, His Honor was called soon after Brett attempted suicide. So he was there when Brett was returned to the station and he could see me pacing at the "buzzer" door to the police department. Without regard to Mayor Armstrong being part of the cover-up conspiracy (if he was present in that room with the video of Duffy pacing, he was), the fact that so many City of Absecon and Police employees, especially Executive Officers, did nothing is very probative evidence that the City of Absecon, in addition to its Police Department, also has a policy, practice and custom to cover-up any situation for which the City may be liable later, especially situations involving Constitutional Rights. This is especially so when the Mayor (and we assume the Council) got a complaint right after these incidents (from

Brett's dad). All Absecon did regarding this incident was to have AO Cavileer put his ridiculously inappropriate (except in combat) weapons in his trunk. Both the machine gun and the continuous fire shotgun are weapons designed to kill as many people as possible as quickly as possible. Their key fault is that they are very indiscriminate. Police should not have weapons that deadly and indiscriminate. These are the weapons of terrorists who don't care who they kill, they just want a large "body count." In any case, all the Mayor did was make AO Cavileer put his "toys" behind lock and key for a while.

63. Getting back to City Hall the day of the incident, eventually, the AO and Brett came out from the door. Duffy asked him what was going on by stating, "Have you been interviewing my client while keeping me out here?" No answer. He handed Duffy a folio with the charges and other papers. On top was the attached (Ex15) unsigned search permission so Duffy, "You think this is a valid search waiver." Shrug. After reviewing the entire file, Duffy said, "So you admit there is no Miranda card in the file – but, even if there were, in his mental condition, it wouldn't be worth the paper it was printed on" – expecting he might produce one. Shrug, and said, "That's why we didn't get one." Later I found out he stated, "I am throwing the book at this retard" AFTER returning from the hospital, while the entire department was keeping counsel from his client. We now interpret, "That's why we didn't get one" to mean that he's a "retard" and they don't have any rights anyway – what other conclusion can you come to?

64. The charges at that time turned on the phrase, "possession with an illegal purpose" regarding a gardening tool (ridiculous charge – later thrown out by the judge) and the pellet device. Brett had just cut back the Ivy in his dad's yard (while dad was at an ADA conference no less) with the gardening tool. Hunting isn't illegal either. Both were legal purposes so the charges were not that worrisome. Duffy, as counsel, immediately made a video of the Ivy that

had been cut back and how the two different ends on the tool were used. The main blade was for thrashing random vines and there was a saw in the handle for cutting larger vines that did not succumb to the blade.

65. On April 25, 2014, the very helpful PTI coordinator emailed Duffy, on request, a PTI form, which he filled out that day. Ex22-24. He took it with him to an IFP interview for a public defender (Ex25-27) – somebody who does this every day. See Ex22 (Email) & Ex23-24 (PTI form filled out and dated 4/25/14). Duffy may have filed the form on April 29, 2014 when Brett signed his IFP PD form (Ex28-29). Either way, the PTI application was filed with many days left to spare. The idea was to get PTI application in before the indictment so that prosecutor saves time on the Grand Jury Process. However, the PTI application and its accompanying law firm check were supposedly “lost.” The application was put on a large, gray plastic table behind the filing windows. Luckily, however long it was there (probably not long) or elsewhere, Judge Sandson happened to see it. (His Honor is not a Criminal Part Judge; since he did arraign Brett, he must some times help his colleagues in the Criminal Part.)

66. At the arraignment, Judge Sandson stated, “This looks like a PTI case” and asked how the application was going. The clerks replied that there was no application in the file. The judge stated that no, he had seen the application Mr. Duffy filed for his son.⁴ He was fairly perturbed by this and ordered the clerks to search for it while His Honor attended to other matters. After several minutes: nothing. The major issue created at that moment by the clerks “losing” it, the PTI application was it was now late. Judge Sandson told counsel to go file *nunc pro tunc*.

⁴ The PTI application asked for little information and it’s signed by the defendant. E28. The only way Judge Sandson could know Duffy filed a PTI Form for Brett was he saw the accompanying check from Duffy’s firm. It has never been cashed. So His Honor did see both the application and the check. By the end of the day, the check should have been filed with the Bursar so it must have been the day the PTI was filed.

Duffy's co-counsel, objected that it was a replacement application and the judge agreed stating that fact was in the record.

67. Obviously, per the "lost" commentary above, it is alleged that the clerks intentionally trashed the PTI application, very similarly to the 5 days late (1 day past the Statute) time stamp 2 years earlier. Ex9-11. (Also, no one ever called about the extensive ADA accommodation request on the CIS at E11) This was a *per se* denial of Due Process and robbed Brett of pre-indictment discussions with the prosecutor or the prosecutor may have gone along with the PTI recommendation to avoid the work involved in an indictment. (For example, the prosecutor would not have been exposed to the Absecon Police at the presentment where they (successfully) implored him or her to join their "smoke screen" conspiracy to avoid huge civil liability to Absecon City and Police and possible criminal charges against individual officers for severe Constitutional deprivations (Criminal Parts of various Civil Rights Laws). The Absecon City and Police as well as the prosecutor did this either to retaliate against Brett's dad for representing people with disabilities (mainly mental disabilities) or simply to discriminate against Brett due to disability (hate crime aggravation – "retard" comment and many other facts), probably both.

68. During the summer of 2014, PTI was granted by the Vicinage I judicial officers. This judicial consideration of the circumstances led to the correct conclusion that nobody was hurt, there were numerous mitigating circumstances, etc. (This is before Brett learned that the exculpatory registration was being hidden.) As a result, the minimum PTI period of 6 months was recommended. The Atlantic County Prosecutor's Office "vetoed" the grant of PTI. In their letter describing their reasoning, they made many discriminatory references and comments regarding people with mental disabilities and used a stereotypical view that such persons are lazy, incompetent, worthless and, especially, a criminal conviction is of no significance (such as

causing non-employment) because “they” are just going to be on welfare or SSI for the rest of their lives anyway. Such conviction also keeps them “on the State’s “radar map.”

69. The prosecutor’s position very clearly takes a discriminatory approach to PTI that PTI is for people without disabilities (and “white” people, which fact has been proven statistically beyond any shadow of a doubt) and “Mental Illness Probation” is for people with mental disabilities, be they psychiatric or developmental. In deferring to the prosecutor’s veto of PTI, the Court, in the person of Judge Kyran Connor, parroted the prosecutor’s discriminatory and stereotypical reasoning. The statement was that people with mental disabilities need to stay on the State’s “radar map” for a longer period than others. This had to mean that the criminal conviction was part of the “radar map” process because the prosecutor was offering one year of mental illness probation when PTI could be as long as three years, to which counsel had given their full assent. This is just unconscionable and this Complaint attributes these discriminatory programs and activities to the “public entities” Vicinage I, the County of Atlantic (due to probation officer and Sherrieff involvement), the AG’s office (for not controlling the prosecutors’ discriminatory policies and having training to eliminate such beliefs and attitudes) and, on the same basis as above, the AOC, the Judiciary (both have numerous anti-discrimination policies which even people who wrote the policies don’t follow – see threatening letters at Ex12-14 (Chief Counsel for AOC), Ex16-21 (Judge Armstrong) Ex33-34 (Judge Connor). The State of New Jersey allows these threats to continue.

70. With regard to Judge Connor, it was well known to Vicinage I, the AOC and the Judiciary in general that Judge Connor had absolutely no respect for the Due Process rights of juveniles, the Judicial Cannons and even just simple propriety. His Honor has admitted, at deposition, that he had engaged in *ex parte* conversations with the DYFS director about the

disposition of various juvenile and parental rights cases when he was assigned to the Family Part in Cape May County in Vicinage I. He had also changed orders without a hearing. His Honor's sole defense to this is that the other person(s) involved in the conversations were not lawyers. That may be worse: speaking to a party's administrator (State is a party) without any lawyers present. In any case, due to this predilection to *ex parte* conversations with people who were frequently involved in cases, Brett is going to allege there were *ex parte* (or otherwise inappropriate or unethical) conversations in his case. Apparently, these facts, and probably others (possibly including the non-hearing of the motion discussed below), led to a "deal" in which Judge Connor would resign rather than face disciplinary (or other) charges. Clearly, the resignation was unusual, he was only 60 years old: he had ten more years he could sit on the bench.

71. While deferring to the prosecutor at that hearing, after His Honor's decision, the judge did specifically point out a case decided after the briefing on the PTI issue, State v. Lee, stating, "It's worth a read." (The prosecutor was still there so it was not *ex parte*.) In Lee, the Appellate Division had found interesting an argument that the Judiciary is giving too much deference to the prosecutor in PTI veto cases. They did not mention it but, after all, the PTI program was "invented" by the Judiciary. The prosecutors participated with the Judicial PTI Program and eventually the Legislature passed a PTI statute. The Statute severely limits court review of a prosecutor's "veto." This probably violates the New Jersey Constitution which gives plenary control over the Court Rules and our Rules of Evidence to the Judiciary. The legislature cannot dictate the kind of extreme deference spelled out in the Statute – they can assign burdens of proof and they may be able to state that the Courts should give "due consideration" to the prosecutor's decision. This much is certain: in no other situation do the New Jersey Courts all

but abandon the decision of one of its officers, even a non-judge. Typically, they give deference to the judge or jury's decision on factual issues but all legal decisions are open to de novo, "level playing field" review.

72. There are good reasons for this. First, "[i]t is emphatically the province and duty of the judicial department to say what the law is." Second, it preserves the Judiciary's Constitutional role as a neutral. Third, it avoids the appearance of impropriety that the Judiciary is responsible for unfair, racist, discriminatory and illegal decisions made by prosecutors – or, occasionally, by another judge. Looking back to the Shancen Allen debacle in early 2014, who took the most of the "heat" for what was obviously a racist decision? The judiciary – it may have even led to a judge's resignation. Everybody thought the prosecutor was enforcing a really stupid (and unconstitutional under the "full faith and credit" clause) law way past the breaking point – but maybe that's his job. The Judiciary is supposed to step in and correct such situations ESPECIALLY when there is even the slightest hint of prejudice, discrimination or other unconstitutional or illegal activity in the decision making.

73. Duffy and co-counsel consulted and decided Duffy would write the motion for reconsideration with these Lee and other Constitutional Issues. While he was doing that, co-counsel finally consented to putting the Court on notice that Vicinage I may be disqualified. Later, Duffy and co-counsel decided it was high time for a suppression motion, especially with no warrant and a blank search permission. Co-Counsel instructed Duffy all he had to do was state that Brett wanted a suppression hearing under R. 3:5-7 (second sentence). The prosecutor files the first brief with the burden of proving the search was Constitutional. Then the defense files a reply attempting to pick apart the prosecutor's arguments (if any) – co-counsel would handle the reply brief, they are the suppression experts. Duffy also put in an argument that the

prosecutor's "upgrading" the charges from third degree "with an illegal purpose" to second degree possession of a rifle or shotgun was unsupported by the law even though the prosecutor had obtained an opinion from the Sheriff's office that the pellet device was a shotgun. (Rifles and Shotguns are defined as devices with a barrel that use shells or "jacketed" ammunition, in which the propulsive charge is part of the ammunition. Clearly, the definition was carefully written to exclude pellet and other air devices, slingshot devices and cross-bows.) The Sheriff's officer conveniently did not opine about the projectiles or the firing mechanism for the pellet device. This false report (by omission) is the major reason the Sheriff's Office is being sued and it is also a significant reason in the County's liability.

74. Duffy was aware the judge did not believe he was counsel. With regard to the vicinage disqualification matter, it didn't matter. All attorneys have an ethical duty to report anything to a sitting judge (or his or her supervising judge) that would have a tendency to create an appearance of impropriety. In fact, all citizens are free to point out such a situation to the Judiciary – such warnings are supposedly invited and will be considered, not to be the subject of senseless threats and summary rejection. Further, the Criminal Part's appearance rule, R. 3:8-1, is very simple: "The attorney for a defendant in criminal action shall forthwith file an appearance with the criminal division manager's office of the county wherein the venue is laid." A PTI application isn't enough? It's filed in the same office. Duffy started receiving court mail immediately the last time he filed a PTI application (before an appearance notice). With Brett, there was also the filing of a Public Defender's application to see if a qualified criminal lawyer could be obtained, with or without Duffy continuing to appear in the case.

75. Duffy mainly drafted the motion with the several issues (Ex30-32 (front page with motion timestamp; first page of brief at E32)), it was edited at least twice by co-counsel (mostly

on the suppression and jacket issues). Counsel came to an agreed final version and Duffy filed it by hand, being careful to get a date stamped copy after the document tampering in April 2012 and the “lost” PTI application.

76. Continuing the unconstitutional treatment, Judge Connor just “bounced” the motion. Ex33-34 (“bounce” letter). It’s pretty clear from his “bounce” letter, His Honor at best just skimmed the motion, if that. It was explained why Duffy was counsel as a “first paper” filer with the criminal manager with both the PTI and Public Defender applications. Second Amendment Counsel filed an appearance – not a substitution, which Duffy would have to have signed. Even if not counsel, the disqualification motion was being made under the ethical rules. The Judge did seem to absorb that there was a conflict and he angrily pointed out that he did not know either Brett or Duffy. His Honor had obviously confused recusal (personal to a given judge) and disqualification (the entire vicinage is “conflicted” because of facts that may lead to an appearance of impropriety). Finally, Duffy told the Judge, if he just didn’t want to hear from Duffy, call co-counsel and he’d state his co-authorship and adopt the motion as his own. Clearly, no matter what His Honor’s belief set or state of information, there were a plethora of other remedies, consonant with the Constitution, available such as asking Duffy for an appearance letter (would have faxed within the hour, co-signed if necessary), asking the PTI staff if the “lost” PTI application was the actual state of affairs, calling co-counsel, and numerous others. His sole purpose had to have been to deny Brett Due Process by not hearing some half-way decent arguments about complicated issues. This is especially true with the disqualification motion because Duffy stated in the brief to please send it to the Assignment Judge who should make disqualification decisions. If that motion had been heard, Brett likely could have avoided two years of mental anguish and pain, embarrassment and lost wages from not being able to work

with a pending charge. This is because, when argument was scheduled on these Constitutional issues, two years late (Jan '15 to Jan '17), all of the sudden the prosecutor finally dropped his veto or objection to Brett's PTI.

77. One of the great ironies of the bounced motion (not the first time it happened to Duffy – nor do we suspect it will be the last) was that it was just another in a long list of reasons why Vicinage I is conflicted. It is interesting to note the prosecutor, who was aware of the joint authorship, when she found out about the “bouncing” stated, “What are you supposed to put on an appeal, ‘Attempted to be raised below?’” Obviously, a “bounced” motion does no favor to any litigant. In this case, it made a disaster out of the mess that already existed. She asked what we’d do. Co-counsel shrugged; Duffy confessed to being scared stiff by the threatening and deprecating nature of the letter. With or without her present, we agreed that “laying low” for a while was a good idea. Should lawyers have concerns like this for being zealous advocates? This is Due Process in Vicinage I and in Atlantic County in particular: they only hear motions they “like,” any that may implicate them are bounced. Technically, you can’t file an interlocutory appeal; you’re not an “aggrieved party” with standing to appeal. Not deciding these motions obviously maintains the *status quo ante* – which is what the Courts prefer. Who cares if it violates the Due Process Clause, etc.? We note that co-counsel denies being intimidated. However, we note that it was months, likely May 2016, before Co-counsel refiled statutory definition “not a rifle” motion. (Yes, the bounced motion resulted in a 17 month delay on this issue and several others. We also note this was fully 2 years after the Absecon Police filed the charges.) At a minimum, Brett was denied a speedy trial under the 6th Amendment.
78. We note that in this hiatus, Judge Conner resigned, at age 60, before Summer 2015. We believe it was an alternative to facing ethical charges for the *ex parte* issues and probably others.

This pretty much explains his aberrant behavior: he just didn't care and why not get a few "licks" in on the local "punching bag" and his kid. This goes to Vicinage I's duty to supervise a judge who knows s/he's quitting – not retiring, nobody wants to go out on a "bad note." Of course, Assignment Judge Mendez seems to always "back his judges" – right or wrong – so there is a general lack of supervision in Vicinage I. (See, *infra*, about ignoring Duffy's complaints about felonious behavior and serious breaches in the Canons and the Judicial Employee Ethics Rules.) We think it's clear, as a matter of Constitutional Supervision, a Vicinage should not leave a resigning judge (especially a forced or semi-forced resignation which seems to be the case here) on the bench, especially in the Criminal or Family Part where they can really mess up people's lives. Small Claims comes to mind or at most the Special Civil Part. It's just common sense – of Constitutional proportions. We note that Judge Mendez could not rely on the "middle-manager," Presiding Judge of the Criminal Part -- he was resigning too. Judge Mendez was "cc:"ed on the bounced motion and did nothing – even though Judge Mendez knew this was another in a long list of Constitutional deprivations against the Duffy Family.

79. The entire summer and at least half the Fall of 2015 was just more denial of a speedy trial. (The April/May 2016 the defense refiled "not a rifle" motion, originally filed by Duffy on January 2, 2015 wasn't heard until late October 2016.) Now we know that Vicinage I has had some real problems – calling them "personnel issues" would fully undermine the gravity of the situation. A civil judge died instantly from an embolism just after three criminal judges had "quit" (Judges Connor and Donio, who was the criminal part presiding judge just resigned and another retired judge on recall, who had a full calendar so far as we know, just simply went back into full retirement. This was a perfect opportunity to transfer this case (and others, by agreement of counsel) and save face by claiming it was merely an administrative move having

nothing to do with disqualification. Vicinage I was too busy enjoying torturing Brett (and Duffy) with a never-ending case.

80. The main goal of all this has been to keep from issuing an appealable opinion or order on the disqualification issue because they know, 90% chance, the Appellate Division will take the ethical "safe route" and transfer the case.⁵ Also, win or lose, all of the felonious and unconstitutional conduct, the Civil Rights violations, and the cover up will all be before the Appellate Division in stark relief. What choices would they have? Join the cover up? All of these horrible facts, most in writing (or lack of response to valid complaints, motions, et al.) would come crashing down on Vicinage I and the AOC and, in particular, on Defendant Judges Mendez and Grant. We sue them only in their official capacities and seek no damages from them at this time, we'd need to know more about their conduct. We do use § 1983 and LAD as vehicles to Declaratory Judgment (and the ADA to the extent applicable to force a public entity's officers to stop discriminating and to follow the law). Brett is simply suing them for Mandamus to issue an opinion or make a decision on the disqualification issue, which is appealable (if needed), or process the complaints of counsel. He's asking them to do their job – to stop sweeping this complaints and felonies "under the rug."

81. Duffy's year old ADA administrative complaint about the disqualification issue and the lack of a motion hearing on the January 2015 motion in Brett's case, has been transferred to the AOC, per Judge Mendez's office about a year ago. To be fair to Judge Mendez, that would be a correct move for him to make if he's finally admitted that he has a conflict with Duffy (and therefore Brett) due to several past lawsuits and a current pending lawsuit against Vicinage I and

⁵ In the Fall of 2016, Judge Wild did finally hear the disqualification motion and claimed "Vicinage I did nothing wrong." Obviously, Her Honor overlooked a pattern of unconstitutional and felonious behavior in Vicinage I. This decision was subjected to an interlocutory appeal, which is a "long shot" in nearly all cases. As usual, the Appellate Division denied review of the decision at that time.

several complaints that he hasn't processed a major Formal ADA Complaint served on him on November 1, 2012. It has been served at least six times since then on various AOC officials – including one personal service about a year ago by “Access & Fairness” Committee member Joseph Orlando, Chief Clerk of the Appellate Division, upon the AOC EEO staff. If they won't process a Title II Formal Complaint delivered by a very high ranking officer who communicates with the Chief Justice several times per week, what chance do the rest of the citizenry have to get their Title II complaints processed?

82. In any case, the new complaint about the disqualification is almost a year old and no word from a substitute decision maker. (Judge Grant is conflicted too.) We wish to note that these stalled ADA complaints going back 4 years have the effect of making the whole Duffy Family go around as if they had a target on painted on their backs. This gives Brett standing to demand processing of these complaints – look what's happened to him because they were not processed. Duffy has offered to pay for the investigation of his Formal ADA complaint by a neutral (obviously cannot be anyone over whom the New Jersey Courts have any measure of control so fear of retaliation is ruled out) due to the AOC's obvious conflicts. The offer has been withdrawn in favor of spending the money moving out of New Jersey. In the end, we suspect the lack of investigation is due to some kind of “turf war.” The “Access & Fairness” Committee has no control over either the EEO or the Title II office – per Joe Orlando. It's likely, in the absence of supervision, EEO refuses to investigate Title II cases. After all, by definition, the Complainants will be people with disabilities who are “lazy,” “don't matter” and, above all, don't have any power or money to obtain lawyers. If they do get lawyers, the AOC has made it clear there will be career and possibly life-ending consequences (which almost happened in this case) for the lawyer and, if that doesn't work, his or her family members. What other conclusion

can you draw? In the end, maybe this discriminatory “program or activity” did not count on running into a lawyer whose income is not dependent on the state courts – or the District Courts for that matter. So they moved on to Brett: you know, even the Mafia wouldn’t go after anybody’s family, let alone a family member with disabilities.

83. There are all kinds of oddities that need to be sorted out. According to the prosecutor there are no videos or other recordation of Brett’s time in the Absecon Police Department whether registering devices or being arrested. So every police department in the country can produce video of a drunk driver in which the defendant is making fool of him or herself – obviously drunk – but the Absecon Police couldn’t keep videos (or audios) of the day there was an attempted suicide in their office? If true, Brett will seek a destruction of evidence instruction in this case. If video is available, it’s just one of many suspected Brady violations in this case.

CAUSES OF ACTION

FIRST COUNT

Title II of the Americans with Disabilities Act

1 This Count arises under Title II of the ADA under which Brett is clearly a “qualified person with disabilities.”

2 Plaintiff repeats and reiterates all of the paragraphs set forth above and makes them a part hereof as if set forth specifically at length. Brett was discriminated against by all defendants solely by reason of disability (RA) or by reason of disability (ADA Title II) or based on disability (LAD). Or he was discriminated against as retaliation for his dad’s advocacy for people with disabilities (mostly mental disabilities) per the standards in the last sentence.

3 The above described facts, where a public entities and employees are obviously ignoring its duties under the ADA to provide access to its ADA procedures without retaliating

against those who do so -- especially given the clear inference, intimidation and retaliation is intentional. Additionally, judiciary employees must be given training to handle ADA matters properly. The alternative fosters and encourages employees to flounder on ADA requests and complaints as they also do not have available effectively communicated standards and rules to handle the matters and to retaliate against those who use the full Administrative Appeals process supposedly available to them without retaliation.

4 The ADA specifically authorizes actions such as this to effect remedies such as those discussed above. The ADA's abrogation of the 11th Amendment has been upheld. This is particularly true in cases, like this one, in which the "Public Entity" has violated both the Constitution and the ADA at the same time.

5 Brett's ADA, ADA Advocacy and Due Process Rights, as well as those of every other New Jersey Citizen with a disability needing accommodation "to access" the courts, have been violated by the operation of inaccessible, ineffectively communicated and incorrect ADA procedures, which even when followed properly for a time, result in retaliation, as described in this entire Complaint. He request damages for mental pain and suffering, lost wages, humiliation and for nearly continuous violations of the following Amendments to the Constitution: 1st (has kept both Father and Son Duffy from speaking or advocating for people with disabilities, "bouncing Jan '15 motion was a denial of redress for grievances as well as a Due Process and Equal Protection Violation) , 2nd (gun rights), 4th (illegal search of his car and theft of his anxiety medication), 5th (totally denying him counsel which he immediately requested while he was clearly both a "suspect" and "in custody"), 6th (no speedy trial and since PTI is a substitute for indictment, "losing" the first application was a Constitutional Tort which denied him access to the prosecutor before he was formally indicted.

6 Brett requests this Court to declare that the above conduct also is also amenable to injunctions and writs of mandamus or any other equitable remedy against the CEOs of any “public entity” herein named or any of the “public entities” for violations of the ADA and even the AOC’s own Rules regarding processing of administrative complaints under the ADA demanded in the Declaratory Judgment Count.

SECOND COUNT

Section 504 of the Rehabilitation Act

1 This Count arises under Section 504 of the Rehabilitation Act.

2 Plaintiff repeats and reiterates all of the paragraphs set forth above, especially including the ADA in the First Count above and makes them a part hereof as if set forth specifically at length.

3 This count is largely duplicative of the ADA Count, given that the two must be interpreted in step with each other. The main difference being that the standard is “solely by reason of disability.” Retaliation standards are unclear but if they have the above requirements as above, Brett pleads with the “(solely) by reason of” standard. However, Brett asserts that, since the retaliation rules apply to “losing” advocacy et al., we believe the standard is “more likely than not” causation. Brett requests this Court to declare that the above conduct also violates the Rehabilitation Act as demanded in the Declaratory Judgment Count.

4 It is also alleged that Brett was “otherwise qualified” to receive the benefits of the disability access programs, without retaliation, as well as “ordinary” programs such as his rights under the 4th and 5th Amendments.

5 Obviously, the State of New Jersey and its sub-entities are the recipients of Federal
Financial Assistance both for judicial and numerous other projects.

6 The damages in the First Count are reiterated.

THIRD COUNT

LAD

1 This Count arises under the LAD.

2 Plaintiff repeats and reiterates all of the paragraphs set forth above and makes them a
part hereof as if set forth specifically at length.

3 This count is largely duplicative of the ADA Count, given that the two must be
interpreted in step with each other. As to the LAD, Brett pleads the standard of “more likely
than not” for both discrimination and retaliation. Brett requests this Court to declare that the
above conduct also violates the LAD as demanded in the Declaratory Judgment Count.

4 Brett has been subjected to discrimination and retaliation based on his status as a
person with disabilities as described above or retaliation for consistent Duffy Family advocacy
for people with disabilities, particularly mental disabilities – or very like both motives.

5 He also requests the same damages that are in the First Count

FOURTH COUNT

Disability Harassment Claim under ADA, RA and LAD

1 This Count arises under the theory from sex harassment cases that there can be
liability for a pervasive and uncontrolled atmosphere of malaise toward disability discrimination
issues and retaliation. In sex cases, it is typically stated as a separate cause of action so Brett
does so here.

2 Plaintiff repeats and reiterates all of the paragraphs set forth above and make them a part hereof as if set forth specifically at length.

3 The above described facts, where the City of Absecon, the Absecon Police Department, the State of New Jersey and its administrative units, including the Judiciary, via the AOC and Vicinage I, are obviously ignoring their duties under the ADA, RA and LAD, and the New Jersey Supreme Court's own rules, to provide access to its courts and its court-related ADA/RA/LAD procedures, by retaliating against those who use them, limiting availability of information and having ineffective communication resulting in lack of accommodation and access, discrimination and retaliation under those three statutes. Judiciary employees must be given training and funds to handle such matters properly, especially including procedural, privacy, comportsment and anti-retaliation concerns. Lack of training fosters and encourages employees to flounder on ADA/RA/LAD requests and complaints as they also do not have available effectively communicated standards and rules to handle these requests and complaints which results in a pervasive atmosphere of disability harassment.

4 In this particular case, the prosecutor's own writings display an attitude that PTI is not available for people with disabilities. They must accept "mental illness probation" which is totally different from PTI in that "mental illness probation" results in a conviction on the person's "record." This makes it nearly impossible for a person with disabilities to obtain employment – which we believe is the sole intent. This way, the State can keep people with disabilities on the "radar map" for much longer than PTI. This is done because people with disabilities because of discrimination and stereotypes that people with disabilities are, in the view of the State and its sub-entities, inherently evil, lazy, morally culpable for their given medical

conditions, they don't matter, they will be on SSI, SSD or Welfare for the rest of their lives so what does it matter they can't get a job and on and on.

5 Brett was threatened with "Mental Illness Probation" and experienced the degradation inherent in such terms as "Mental Illness." (You know, it's 2017, if the State is going to use such a concept, it's "Mental Disability Probation" but that sounds pretty bad and makes the State into a bully. How about "Mental Disability PTI?") But with great mental anguish he did not accept the probation mainly because the name is so discriminatory he could not tolerate being in the "program."

6 Brett wishes to have the cases of every person who accepted "Mental Illness Probation" reviewed and every person with mental disabilities who received some form of punishment. There is little doubt that most, or perhaps all, of the people with disabilities should have received PTI for the same period as their probation. Their cases need to be converted, *nunc pro tunc*, such that their convictions are expunged, the same as people in PTI.

7 The State and its sub-entities are also engaging in "differential discrimination" against people with disabilities who are more obviously impaired than others. The Drug Court is a fantastic program but it only treats the horrible mental disability of addiction – which is rarely obvious. Its victims "look normal" so they get better treatment in society. But addiction is also a mental disability! Ask any doctor, look in the DSM-5. It's right in there with other horrible mental disabilities such as schizophrenia, OCD, depression, PTSD and many others.

8 There is no logical or judicial reason to treat one group of mentally disabled people for their mental disability and, basically, throw all the other mental disabilities "to the dogs." The less well treated group can't even get PTI – they, as best, maybe get "Mental Illness Probation" with a conviction for life. That's serious, hard boiled discrimination. The programs

in the Drug Court and a possible Mental Disability Court may be quite different. Certainly, people with mental disabilities mostly don't need weekly urine tests but they do need to meet with a psychiatrist or psychologist on a regular basis – perhaps at the Court itself. Also, the Mental Disability Court may be more adjudicative. Psychiatrists *et al.* would determine the extent of the person's mental disability. Many in the Court may be eligible for the "insanity" defense or other culpability-mitigating defenses. The psychiatrists, the prosecutor and the defense should openly talk about a suitable rehabilitation program based on medicine, not on any theories of punishment. The judge would maintain the role of approving or rejecting any such rehabilitation plan.

9 If Brett does not qualify as a "Class Plaintiff" for these people with mental disabilities who are being discriminated against by the Court System on a constant basis by only being offered "Mental Illness Probation" and other discriminatory services, programs and activities, we will request discovery on people who received "mental illness probation." Perhaps, we can use some of them as plaintiffs for people who were "saddled" with "Mental Illness Probation." This action is not currently a Class Action and probably will not be: we envision it more as a one or two plaintiff case that sets a precedent for the future – like Pasqua v. Council, for example.

Unlike Pasqua, there would be some retroactive relief that, ideally, all people who were given "Mental Illness Probation" will have their convictions vacated and, instead, be enrolled *nunc pro tunc* in PTI with any probation time counting toward PTI supervision. However, we feel Brett's being threatened with "Mental Illness Probation" is sufficient to grant him standing for people who did take the (raw) "deal." He almost did but he decided he'd rather fight against the discriminatory program and the antediluvian term "Mental Illness."

10 The State of New Jersey has waived its 11th Amendment Immunities by listing itself as an entity subject to suit in the LAD and by taking federal funds under the RA. The ADA violation is particularly valid here because this kind of situation, effecting fundamental and Due Process rights, is exactly what Congress was attempting to remedy.

11 As a result of such deprivation of rights granted under the ADA/RA/LAD, Plaintiff demands that this Court declare that the pervasive discriminatory environment be eliminated in the Courthouses. Since he has been exposed to and, essentially, punished by "Mental Illness Probation," Brett requests damages as stated in the First Count as well as declaratory or injunctive relief, described above, for any defendants with mental disabilities but especially those in the totally illegal "mental illness probation" program.

FIFTH COUNT

Direct Suit for Violation of Federal and State Law Under § 1983 and the NJ Civil Rights Law

1 This Count is against the individual, human defendants and does not involve any of the "public entities" being sued -- this concept is included in the ADA Count against public entities under the U.S. (Goodman) v. Georgia case but the ADA does not apply to individuals.

2 Plaintiff repeats and reiterates all of the paragraphs set forth above and make them a part hereof as if set forth specifically at length.

3 The above described facts, have intimidated Brett from exercising numerous Constitutional Rights including, but not limited to, Free Speech, Redress of Grievances, Due Process Rights and the right to disability advocacy without retaliation for a given cause for which he may advocate. Specifically, the defendants have violated Brett's rights under the 14th Amendment itself and these amendments by incorporation: 1st, 2nd, 4th, 5th and 6th Amendments.

4 All of the human defendants in this case were acting under “color of state law” and with extreme malice when they deprived Brett of his Constitutional Rights and discriminated and retaliated against him in violation of State and Federal Law. This is particularly true for Defendant McClain because we have witnesses who claim he said he was looking to take some kind of revenge on the elder Duffy, via Brett. The reason was Duffy had “cost the county a lot of money.” This is highly unlikely.⁶ McClain is also of the opinion that Duffy should be disbarred for some unclear and non-existent reason.

5 Any person of reasonable firmness would also have been intimidated by the outrageous and retaliatory actions of the human defendants. This is particularly true regarding the First Amendment to the extent that both Brett and counsel were afraid to file this suit. We predict that serving this suit will result in retaliation. Most likely, the prosecutor will attempt to reinstate his or her veto of the PTI based on the Judiciary’s recommendation in the Summer of 2014. If so, these acts will just be added to this Complaint.

6 The human defendants are not entitled to any immunity or, if allowed a qualified immunity, they have gone beyond the rules, which would allow such immunity.

7 As a result of such deprivation of rights granted under the ADA/RA/LAD, Plaintiff demands that this Court declare that the pervasive discrimination and retaliation are illegal and issue specific injunctions against any actors who will not stop their illegal actions. Plaintiff also demands both preliminary and permanent restraints upon the human defendants that they are to follow the numerous anti-discrimination and anti-retaliation policy statements from the AOC and

⁶ The first lawsuit against Vicinage I (for forcing him to put on an “insanity” defense which held up chemotherapy Duffy needed for a fatal condition), he did also sue the county on the theory that he was unsure whether the judges were State or County (or both) employees. I stated in the complaint, he’d dismiss the County if they could show the judges were not County employees. They did so but County Counsel preferred to participate in a group motion for dismissal. All told, this may have been \$1000 out of the county budget. That was over ten years ago. Since then this is the only complaint seeking to hold the County liable if they have any control over the county prosecutor and because of a false or incomplete report by the Sheriff’s Department – over which the County has full, or nearly full, control.

our Supreme Court which are being ignored on a daily basis. The prosecutor must be restrained from having the "Mental Illness Probation" program and the Judiciary must be restrained from accepting any plea deals involving "Mental Illness Probation." We also request mandates that all criminal defendants with mental disabilities be evaluated by neutral psychiatrists as an absolutely necessary first step in accommodating mental disabilities. Like all ADA disability evaluations, these exams would be paid for by the State, the Judiciary, the AG or the relevant prosecutor's office and we seek mandamus to assure the funds are provided for these non-discriminatory programs and activities. Finally, the Plaintiff demands declaratory or mandamus relief that ADA/LAD training and funds availability for all New Jersey Judiciary or AG Employees -- especially including the judges and prosecutors.

8 Due to the above harassment and retaliation, it is also specifically demanded that if the plaintiff returns to court in the Vicinage I, which he is now suing, he be given a conflict ADA coordinator with whom to resolve his accommodation requests under the three statutes as well as transfer to another Vicinage for any adjudication.

9 Duffy himself also demands damages for his illegal and unconstitutional treatment for the pain, mental anguish, embarrassment and fear caused by the human defendants' totally intentional attempt to deprive Brett of his Rights. It worked for three years but now it's "flopped" and resulted in this lawsuit and other complaints of various kinds.

10 Please note this Count may "mature" into a new Count under either Federal or New Jersey RICO (or both) if discovery leads in that direction. There is no Statute of Limitations issue: both RICO Statutes have at least a four year period. Certainly, there are no shortage of predicate acts which are relevant felonies to establish a "pattern of racketeering" activity. We prefer to call it a pattern of corrupt activity.

SIXTH COUNT

Demand for Declaratory Judgment & Restraints

1 This Count arises under the New Jersey Declaratory Judgment Act.

2 Plaintiff repeats and reiterates all of the paragraphs set forth above (and those in the
Original Complaint) and makes them a part hereof as if set forth specifically at length.

3 The Plaintiff demands that this Court issue a Declaratory Judgment & Mandamus for
all of the specific remedies requested above. A reiteration of these demands are:

4 That Vicinage I is conflicted from hearing any matters involving the Duffy Family in
general and Brett Duffy in particular.

5 That the highly discriminatory "Mental Illness Probation" program or activity be
cancelled and to declare or Order that People with Mental Disabilities must not be excluded from
the PTI program. One possibility is that the Drug Court program be expanded to include mental
disabilities or the a new Mental Disability Court be established to handle fairly the unique issues
that come up regarding mental disabilities rather than forcing such persons into a life-altering
conviction which is totally unnecessary but seems to spring from the highly discriminatory belief
in both the Prosecutor's Office and the Judiciary that such persons need to be "on the radar map"
for a longer period of time by "saddling" them with a criminal conviction. The Courts are ill
suited for providing the psychiatric, psychological and educational services which people with
mental disabilities need to be successful and productive members of society. Whereas a criminal
conviction does no one any good and undermines the credibility of the State, the Prosecutor's
Office, the AG, the AOC and the Judiciary that they seek fairness in administering Equal Justice

under Law, Due Process and protection of Fundamental Freedoms that are part of a System of Ordered Liberty in a civilized society.

6 That a fund in the AOC be established in the AOC (or each Vicinage separately) to pay for psychiatric, psychological and educational services required to properly evaluate people with mental disabilities. The same fund should also be available to provide ADA accommodations to all people with disabilities, mental or otherwise.

7 That the Superior Court be required to check its own records (*e.g.* any mental “commitment” records) as well as State and Federal Databases, for any evidence mental disability of any kind so that such people can be channeled into psychiatric (and other) examinations aimed specifically at rehabilitation rather than punishment. These evaluations should be made available to counsel for the person with mental disabilities so counsel can determine if the “insanity” or other mental incapacity defenses may be available to the client. If there is a trial, the ADA requires that, as an accommodation of disability, any expert mental disability testimony be provided free of charge to the defendant and his or her counsel. Again, the alternative is that State’s credibility is undermined by the actual, or the appearance of, impropriety that the State really wants to put people with mental disabilities in prison and other inappropriate punishment programs rather than provide rehabilitative services which are far less expensive than the taxpayers having to pay \$100,000 per year or more for inappropriate incarceration.

8 That the City of Absecon and its Police Department be ordered to obtain video (with voice) devices for all police vehicles and “body cameras” for all police so that the citizens of Absecon, this State and the Nation have assurances that police will honor their rights, Constitutional or otherwise, or else be subjected to suit (which is likely only to occur when there

is visible liability from the recordings) to correct such behavior. That such recordings be maintained for a period of at least 3 years (we believe current law requires a seven year period) which really should be 20 years so that any minors would have the right to bring an action for abuse of rights when they were children upon reaching the age of majority. We note that any sane entity or person, who is following "the rules," would have every incentive to obtain and maintain such recording, if only to discourage frivolous lawsuits. Only persons and entities who were regularly abusing people's rights would not want to have such evidence. In this case, the recorded evidence was never made part of the "automatic" discovery and when specifically requested within 6 months of the arrest, Absecon told the prosecutor they had been destroyed. Hopefully, the recordings will surface just as the voluntary registration, requested at the same time, supposedly "didn't exist." What is clear is that destruction of recording within 6 months is outrageous, against all common sense (especially when there is clear city and police possible liability) and probably violates State Police guidelines.

9 That Brett Duffy be awarded a sum sufficient to compensate him for the outrageously unconstitutional behavior during his arrest, but especially for denying him counsel and lying to him that counsel had abandoned him and not supervising the prisoner, for his lack of a speedy trial, for all of the lost wages, mental anguish and criminal attorney's fees to which the State has subjected him solely by reason of disability or solely as retaliation by reason of his dad's advocacy for people with (mostly mental) disabilities or both.

REQUEST FOR RELIEF

WHEREFORE, Plaintiff demands judgment against the defendants, jointly and severally, in an amount sufficient to compensate for his injuries, including mental anguish, humiliation and embarrassment from the way he has been treated, plus punitive damages due to the intentional non-compliance with the ADA, LAD and the Rehabilitation Act at issue in this case, attorney' fees, costs and expenses for bring this action, pursuant to 42 U.S.C. § 12133 42 U.S.C. § 1985 & 29 U.S.C. § 794a as well as under the LAD fee shifting provisions, both pre- and post-judgment interest to the maximum extent allowed by law, and such other relief as the Court may deem just including, but not limited to, the demand for declaratory and injunctive relief in the Complaint.

CERTIFICATION
(NO OTHER ACTION TAKEN)

I hereby certify that the matter in controversy is not the subject of any other civil action pending in any court and is likewise not the subject of any pending arbitration proceeding. (It is the subject of a request for administrative investigation and remediation but I do not think that is relevant -- and it's been ignored.) I further certify that I have no knowledge of any contemplated action or arbitration proceeding regarding the subject matter of this action and I am not aware of any other parties who should be joined to this action except as stated in this Complaint.

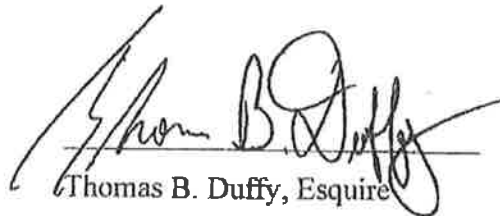
JURY DEMAND

The Plaintiff demands a jury trial as to all factual and damage issue in this case.

DESIGNATION OF TRIAL COUNSEL

Thomas B. Duffy is hereby designated as trial counsel for Plaintiff.

Dated: January 26, 2017


Thomas B. Duffy, Esquire

Thomas B. Duffy
Counsellor at Law
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Absecon, NJ 08201-1208
Ph: 609-457-6700
Email: Tom@DuffyLawGroup.com
Attorney for Plaintiff

BRETT T. DUFFY,

Plaintiff,

v.

THE CITY OF ABSECON, former
ABSECON CHIEF OF POLICE DAVID
RISLEY, ABSECON OFFICER
CHRISTOPHER CAVILEER, THE OFFICE
OF THE PROSECUTOR OF ATLANTIC
COUNTY, OFFICE OF THE ATTORNEY
GENERAL OF NEW JERSEY, VICINAGE I
of SUPERIOR COURT, THE NEW JERSEY
ADMINISTRATIVE OFFICE OF THE
COURTS, THE STATE OF NEW JERSEY
and J. DOES #1 TO #100, Fictitious Persons
or Entities Whose Real Names are Unknown
At This Time, jointly, severally and in the
alternative,

Defendants.

United States District Court
District of New Jersey
Camden Division
(Removed from State Court)

Docket No. 17-1117(JBS/AMD)

CIVIL ACTION WITH
REQUEST FOR DAMAGES
AND DECLARATORY AND
INJUNCTIVE RELIEF

THIRD AMENDED COMPLAINT

Brett Duffy of Absecon, NJ states as follows:

Initial Facts: Absecon

1. On April 8, 2014, Brett went to Absecon City hall to voluntarily register his new pellet gun.

2. He filled out the form and had a chat with Lt. (now Chief) DeRitis about “gun law.”
3. The major legal opinion that DeRitis imparted to Brett was that you don’t need a Firearms Purchaser ID or a hunting license to own a pellet gun, even one bought out-of-state, due to Federal Law pre-empting State Law. (See infra that this Registration was hidden.)
4. On April 17, 2014, Brett fired his pellet gun in a marsh area next to a navigable waterway of the United States.
5. He was in a muddy area near the water that is frequently subsumed by the waterway.
6. He alleges he was within Federal Jurisdiction, which was controlled by Federal “Gun Law” which has a specific prohibition on the regulation of pellet guns.
7. He put his unloaded pellet gun in the trunk, complying with all NJ Gun Transport Rules.
8. Due to a verbal altercation while putting the pellet gun away, Brett called the police to see what was happening.
9. On route to the Lake Makepeace Shooting Range, Brett pulled off Route 30 into a parking lot, per an Absecon Police request to just stay there to answer some questions.

The Arrest, Illegal Search & Beginning of the Denial of Counsel: Absecon/Cavileer/Risley

10. Absecon police arrest Brett in Galloway Township. Christian Cavileer, the first officer at the scene, pulled his gun out.
11. Brett immediately asked for his father, Tom Duffy, as counsel.
12. This request for counsel was reiterated many times during the ordeal that follows. It was never honored.
13. More Absecon and Galloway police arrived. They decided Absecon had jurisdiction.
14. When departing a Galloway officer said to the Absecon police, “Just write him up for a discharge [within city limits ordinance] citation.”

15. Brett's Fifth Amendment Rights were violated when Cavileer chose to interview despite Brett's repeated request for counsel. Brett was never read Miranda and he did not sign any Miranda waiver card.

16. Brett refused to let the police search his car without a warrant or counsel.

17. Police told Brett if they got a warrant and items were found, he'd be charged with Obstruction of Justice. When Brett did not "buy" into this, the police became enraged and put a slash on the search permission form. Ex. p. 1.

18. The slip is blank where the motorist is supposed to sign. The slash only denoted there was a witness.

19. Police illegally searched Brett's car, which added a 4th Amendment Violation to the pre-existing 5th Amendment Violation.

20. They found the pellet gun and a machete, which was well within the legal limitation on length under New Jersey Law, stowed under the seat in its scabbard.

21. With regard to both the gun and machete, Cavileer removed them from their scabbard and casing, respectively, stating while discarding the casing, "This isn't going to help me."

22. Cavileer altered the evidence to make these two legally carried items seem more menacing or accessible than they were.

23. At the Absecon Police Station, police took a "mug shot" of Brett and put Brett in a holding cell.

24. Neither the cell nor Brett were sufficiently "suicide-proofed."

25. Brett still had the following possible suicide "tools:" his shoelaces, his belt and a large "hoodie," which he had with him but was not wearing.

26. Only one of Brett's hands was handcuffed to the bench; the "hoodie" was within reach.

27. When his dad didn't show up in a reasonable time period, he complained his rights were being violated and, for perhaps the 4th or 5th time since the gun was pointed at him, requested his dad as counsel. Cavileer refused to let Brett call his dad.

28. Brett had an "anxiety attack" from waiting so long and because his dad had not arrived.

29. Brett requested his anxiety medication and was refused.

30. Cavileer finally said he was calling his dad and left the room.

31. Cavileer was either called somebody else or faked a call to Brett's dad (Duffy).

32. Cavileer returned to the not-suicide-proofed holding room and told him, "Your father says, 'You're on your own.'" No doubt this was an unconstitutional attempt "to soften Brett up" even more by lying to him about counsel, violating the 5th Amendment again.

33. Cavileer left the cell in violation of all police-prisoner regulations. Per the regulations and the State Police Manual (applicable to all NJ police) and pursuant to many NJ State committee reports on prisoner suicide, police are charged with very closely watching prisoners under the age of 25 (Brett was 21).

34. During this entire time, Duffy was at home with his cell phone and a cordless phone.

35. A simple, but constitutionally required, call to Duffy would have avoided all that follows.

36. If Absecon followed the 5th Amendment or even common sense, Brett's dad would have been there, lowering Brett's anxiety level.

37. Brett was already having a "panic attack", denied his meds, and this lie totally devastated him because his dad has helped many other people with disabilities but not his own son.

38. Brett made a rash decision to end his life, or "to get out of the moment," all caused by denial of medication and a lie by the police about the availability of counsel.

39. He took the hoodie, tied it around a fulcrum that should not have been available to him, wrapped it around his neck and lurched forward. He started choking.

40. Just by chance, a police officer happened to see Brett through the partially open door to the cell. He ran in, stated, "What the fuck are you doing? Your dad will be suing us for a million dollars," and then untied Brett's neck.

41. The crisis officer on duty told Brett he had to go to the PIP psychiatric unit in Atlantic City. This was the only procedure the Absecon Police did "by the book" that day.

42. On the way out of the building, the Chief of Police David Risley told Cavileer, "This is on you." We allege this is very clear "police talk" to ridiculously over charge Brett when the original plan, based on Cavileer's report, was to turn Brett over to Fish & Wildlife (F&W) Officers.

43. The F&W officers showed up while Brett was in the PIP unit and came to the conclusion he broke no laws and left the Station.

The PIP Unit & the "Kidnapping" without Orders, Discharge or a Prescription-

Absecon/Cavileer/Risley

44. At the PIP unit the officers told staff not to notify anyone about Brett. This violates New Jersey Public Safety & Health Regulations, and Standard Psychiatric Practice, to get a family member to the patient's bed -- especially when the suicide was due to feelings of abandonment.

45. The staff objected to this command, but did not contest the armed police officers.

46. The staff gave him Seroquel (50 mg) and Effexor (250 mg – max dosage) on arrival. Ex. p. 17. At some point, he was also given Klonopin (.5 mg). These are all powerful sedatives and anti-depressants to reduce anxiety, which also reduce clear thought and memory ability.

47. The police saw the use of these medicines. After those administrations, it was unconstitutional, beyond the denial of counsel, to question the suspect or defendant in a medicated state. Absecon knew this and so did its police officers.

48. The police officers then encouraged the staff to give Brett more sedatives. Once again, since they were dealing with armed officers, hospital staff complied. (Brett only remembers getting 2 capsules.)

49. The medical records show conflicting information. The discharge record and the "take home instructions" say he only received Klonopin, the orders list all three drugs.

50. This information was not given to Brett or his dad.

51. Brett continued to complain about not being allowed to call his dad. A hospital employee told the police to give Brett his cell phone.

52. The police complied but took the battery out first. They were not going to allow him to call his dad.

53. A nurse heard the officers mention that Brett's dad was an attorney and they did not want him to know what happened. The nurse called Duffy at 2:36 p.m. and told him the police were in a big hurry to get Brett back to Absecon. She thought this was a bad idea, if only because it was against Standard Medical Practice.

54. Officer Cavileer unconstitutionally interviewed Brett at the hospital beginning when he arrived at 4:21 p.m. & continuing for an unknown period of time, fully knowing the effects of, and probably witnessing some of, the medication administrations.

55. Cavileer should have been removed from the case because he had a clear conflict of interest with Brett: it was Cavileer who was at fault for the lack of "suicide-proofing," not giving Brett his meds and, ultimately, lying to Brett about counsel, which triggered the suicide attempt.

56. Cavileer's presence at the hospital was consistent with the Absecon Policy, through Chief Risley, that it was "on him" to do what was necessary to avoid liability.

57. Between 5:26 and 5:27 p.m., the police learned the nurse was on the phone with Duffy. They immediately grabbed Brett and hauled him out the door at about 5:28 p.m. The nurse screamed, "They're taking him now!"

58. With Duffy on the phone, the nurse's exclamation was the last thing Brett heard while being dragged out the door.

59. Consistent with Cavileer (and by now Absecon's) conflict, it is unclear whether Brett was actually medically cleared to leave. He did not receive discharge papers or prescriptions.

60. It is alleged that the medical staff conformed their notes to the fact that he was taken from them before he was actually cleared or discharged or both.

61. The order form "to police" was written between 5:32 p.m. Ex. p. 16. This is clearly after Brett left at 5:28 p.m. This order was edited 2 days later but Brett doesn't know what was added or subtracted.

62. Brett alleges and is very sure he was taken Against Medical Advice.

63. Brett alleges that the "to police custody" or other information favorable to the hospital's getting paid (or avoiding liability) was added to Ex. 16.

64. Consistent with the above, the medical clearance is signed 5:35 p.m. (actual time 5:38) with these explicit instructions, "Need constant observation in Jail,¹ until seen by therapist & psychiatrist & needs his medications." Ex. p.17

65. These discharge orders were not given to Brett. The time stamp on the orders indicates Brett and the Police were half way home to Absecon.

¹ In another document the doctor used the term "one on one" observation.

66. A nurse writes that Brett's take home instructions were "performed" at 5:42 p.m. Ex. p.

18. Brett was in Absecon by then -- per Absecon Police Records.

67. Brett belonged in an "Extended Care Stabilization Bed" (ECSB)² that the doctor had originally ordered at 5:14 p.m. Ex. p. 15.

68. Because Brett belonged in an ECSB, what the police did to him was basically a kidnapping. They dragged him away from where he belonged and wanted to be, & held him captive. Absecon, Cavileer and Risley did this to keep him away from counsel and medical treatment and to unconstitutionally interview him while sedated so they could over-charge him as part of the Absecon Police cover up.

Back at the Police Station: Still Denying Brett Counsel: Absecon/Cavileer/Risley

69. Timestamps and phone records show Duffy arrived at the Station at about 4:40 p.m. and Brett arrived at about 5:42 p.m. at the Station. Duffy had to use the public door. Brett was sneaked via a "garage door" in back of the Station.

70. Upon arriving at the Police Dept, Duffy buzzed and stated, "I am Tom Duffy. I am an attorney here to see my client, Brett Duffy, who also happens to be my son." He was not told his son was still at the hospital -- which he should have been, but was told to wait.

71. Duffy waited patiently for about 45 minutes, then called the nurse to see where Brett was at 5:24 p.m. Toward the end of the conversation, the nurse shouted, "They are taking him now!" (The call lasted 5 minutes, consistent with the police timestamp of leaving the hospital at 5:28 p.m.)

72. Duffy buzzed the door again, making essentially the same statement but adding a complaint about the wait and demanding to know exactly where his client was. He was not

² This is thought to mean a transfer to the Mental Health Ward (called "One Pines") on the hospital's "mainland campus" in Galloway about 9 miles away.

admitted and was told to wait more. The question about the location of his client was left unanswered.

73. From 5:42 p.m. to about 6:30 p.m. (Cavileer's time on the case stopped at 6:31 p.m.), Brett was being unconstitutionally interviewed (with counsel 30 feet through a brick wall) for over a half hour. Both Brett and Duffy were requesting to see the other.

74. When getting paperwork to charge Brett, Officer Cavileer proclaimed, "I am going to throw the book at this retard" clearly showing he was abiding by the "This is on you" order and over-charging Brett to gain leverage in what they knew was an inevitable lawsuit.

75. Still, Cavileer would need "help" to drag the case out past the two-year statute of limitations, which he received from the Prosecutor and the Court (see *infra*).

76. Cavileer trumped-up charges because Brett was disabled. Brett's anxiety disorder caused him to make an unexpected decision when given false information and Cavileer hated Brett for the outcome.

77. At least one officer did hear the "retard" comment and told him not to refer to Brett that way. Any officer who heard this comment should have been trained by Absecon immediately to report to the Chief, the ethics officer, town counsel or the Mayor that Cavileer was not fit to handle Brett's case. He was extremely angry and was making discriminatory comments about Brett.

78. Instead, the policy and practice, right from the Chief Risley, was to cover up everything and it was totally "on" the person who caused the problem (here Cavileer) to do whatever he had to avoid consequences.

79. Around 6:25 p.m., Brett and Cavileer went out to Duffy, who immediately asked if Cavileer had been interviewing his client. Cavileer refused to answer, but he did hand Duffy a blue folder with many papers in it.

80. Duffy immediately noticed that the search permission was not signed. Duffy pointed to a "v" shaped line above the witness section of the document. Duffy asked, "Are you claiming this line is my son's signature?" Cavileer shrugged.

81. Having found no Miranda card, Duffy asked where it was. Cavileer stated, "It wouldn't have mattered anyway."

82. If Brett were a "retard," Cavileer and Absecon both knew it was mandatory to get him counsel and notify his parents. So Miranda would not matter.

83. Cavileer did not mention anything about the PIP unit or the suicide attempt.

84. He certainly did not tell Duffy there was paperwork at the hospital he should read and follow.

The Second Suicide Attempt Due to Lack of Stabilization at the PIP Unit:

Absecon/Cavileer/Risley

85. Brett was in no condition to relate any kind of factual account. Duffy tried to ask Brett a few questions, but he gave answers that just didn't make any sense.

86. Duffy guided Brett to his bedroom, asked if Brett wanted something to eat and got another garbled answer.

87. Duffy put Brett in his bed. Brett slept for roughly 24 hours until about 7 p.m. on Friday, April 18th, 2014.

88. Due to kidnapping that denied Brett proper medical care, Brett attempted suicide again about 3 days later.

89. This second suicide attempt was because of the despair he was feeling over the trumped up charges against him.

90. Brett had a Constitutional right to see a doctor without Absecon or State interference and to have the doctor's orders followed.

91. In addition to being denied counsel, he was denied his right to associate with his dad in a time of need.

92. To summarize, Absecon, Cavileer and Risley are sued for § 1983 violations for denial of counsel, denial of medication and lying to Brett about a Constitutional Right, specifically, the following Amendments: 1 (association and speech with dad); 2 (Right to have gun on Federal Land and in trunk on way to shooting range); 4 (unsigned search permission and denial of counsel to obtain a warrant); 5 (denial of counsel, no Miranda reading); denial of Due Process and Equal Protection under the 14th Amendment for trumping up charges which were obviously false.

93. Absecon is sued for the same violations as Cavileer for maintaining a policy and practice of not honoring requests for counsel, warrantless searches without permission, and not reading Miranda Warnings.

94. There were literally about a dozen police (J. Does 1-12) around Brett's case and no one bothered to call his dad, obtain a warrant, or read him Miranda. That's a policy.

95. There is also a policy to attempt to cover up liability by getting the responsible person to do whatever is necessary – per the Risley “This is on you” statement. These are a denial of Due Process and Equal Protection.

96. Brett is NOT suing Absecon for violating the following amendments for policy choices: 1 (they let family visit prisoners (unless they are lawyers --which is covered under the 5th Amendment); 2 (tolerant of weapons).

97. As far as cover-ups go, the big issue in that area is the Brady violation because the exculpatory Registration was hidden. We simply don't know who hid the registration (J. Does 12-15). Whoever hid it violated Due Process and Equal Protection as well as the 6th Amendment by rendering Brett's lawyers useless on the major exculpatory issue of the registration.

98. Brett cannot say Absecon has a policy of hiding evidence but the registration being hidden for 14 months was an effect of Absecon's liability cover up policy.

Obtaining an Emergency Judge to Order Brett to Remain in the Hospital: Vicinage I of Superior

Court and the NJ Administrative Office of the Courts

99. From about 3:10 p.m. to 3:40 p.m., Duffy consulted with criminal counsel who told Duffy not to move for an emergency order to keep Brett at the hospital -- it was blowing the matter out of proportion.

100. At 4:02 p.m., a case manager called at about different matter and Duffy asked to be transferred to the operator. He asked for the emergency judge. There was confusion over who was on duty.

101. Duffy finally got to the law clerk of the emergency judge. He explained the situation in brief and that he wanted, at least, an order to keep Brett overnight.

102. The clerk said he understood the situation and he'd explain to the judge. He assured Duffy he'd get a call back.

103. Duffy never received a call back.

104. Brett had a Due Process Right, albeit an emergency one, to a phone hearing. Brett was still at the PIP unit. Any judicial intervention would have avoided the second suicide attempt because Brett would have completed his treatment.

105. This request and promise of a call back were ignored as retaliation for Duffy's advocacy on behalf of people with disabilities. Any other lawyer would have gotten a call back. (Brett alleges that not processing motions or ignoring administrative requests, along with other Due Process violations, was part of a pattern in Vicinage I regarding Duffy and his clients, many of whom were suing Vicinage I.)

106. In the alternative, Vicinage I and the AOC need better procedures for the emergency judge so people aren't denied a Due Process Hearing. The current "system" denies people their rights.

107. It is also disability discrimination because nearly all the emergency calls relate to a citizen with a mental disability who needs treatment. Vicinage I & the AOC are extremely hostile to attorneys who represent these citizens with mental disabilities. Duffy has reams of documents showing discrimination and retaliation against him and his clients with disabilities.

The "Lost" PTI Application

108. Cavileer's paperwork from Absecon was sent to the prosecutor's office.

109. Duffy consulted criminal attorneys who all said the matter would be remanded to Municipal Court.

110. Duffy looked at various Rules and determined that applying for PTI before an indictment was a good way "to cover all the bases."

111. On or about April 25, 2014, Duffy obtained a PTI form from Court Officer Jill Houck. Duffy and Brett took the completed PTI form to the Criminal Courthouse when Brett applied for a public defender on April 29, 2014 in the afternoon.

112. Duffy and Brett submitted the PTI application at the filing window with a \$75 check from Duffy.

113. Duffy and Brett would later learn this application including the check, were both “lost.” To be clear, Brett alleges that this “loss” was intentional and was part of a pattern of denials of Due Process, discussed infra under retaliation, with the specific intent to make sure Brett was indicted rather than diverted into PTI.

114. In the alternative, we allege that the procedures in the administrative processes of the court are shoddy and poorly followed thereby allowing for the “loss” of important paperwork such as Brett’s PTI application.

115. The Superior Court Judge who arraigned Brett said, “This is a PTI case.”

116. This Judge remembered seeing the PTI form and knew Duffy filed it for Brett, which His Honor could only have known from seeing Duffy’s check with the application.

117. That Judge had Brett replace the “lost” application immediately.

118. That same day, the Judicial Staff interviewed Brett about the PTI application. The Staff recommended him for PTI for a 6-month period.

119. However, whoever “lost” the PTI application, robbed Brett of a pre-indictment PTI application, which are looked upon more favorably because they save the trouble of an indictment. Again, this was no doubt their intended purpose.

The Prosecution: “Trumping-Up” the Police’s Baseless Charges

120. Brett was first indicted in May on Indictment 14-05-1167 that followed Officer Cavileer's charge of N.J.S.A. 2C:39-5d for both the machete and the pellet gun specifically, "knowingly and unlawfully did possess a certain weapon, to wit [item] under circumstances not manifestly appropriate for such lawful uses as may have."

121. Both items have appropriate uses such as clearing brush or ivy and hunting, respectively, and they were legally stored so these charges didn't have a lot of weight.

122. Based on that analysis, the machete offense was not pursued by the prosecutor once counsel appeared.

123. The same analysis should have followed for the pellet gun – particularly because Brett registered it and Officer DeRitis told him it was legal.

124. Also, both were 4th Degree Charges with no injuries, etc.; they would also almost always be referred back to Municipal Court, where Brett alleges the charges would have been dropped.

125. Brett alleges that upon finding out that the Absecon Police had serious liability in the case, the prosecutor sought "to protect" them by issuing Superseding Indictment 14-06-1207B on June 3, 2014.

126. The machete charge remained the same but the other offense was "upped" to a Third Degree Offense of possession of a firearm without a Firearms Purchaser ID and cited to the "Rifle or Shotgun" provision at N.J.S.A. 2C:39c(1).

127. A pellet gun does not meet the definition of either a rifle or shotgun. The former requires "using the energy of the explosive in a fixed metallic cartridge to fire a single projectile..." N.J.S.A. 2C:39-1(m). The latter requires use of energy from "the explosive in a fixed shotgun shell..." N.J.S.A. 2C:39-1(n). Pellet guns have neither cartridges, casings or shells, nor do they

rely on any explosive. Specifically, per N.J.S.A. 2C:39-1(e), the definition of an explosive fails in the very first few words: “means any chemical compound or mixture”

128. This nonsensical charge made for motives of discrimination, retaliation, or to protect the Absecon Police, or any or all of those reasons.

129. Despite the fact the arraignment judge immediately declared, “This is a PTI case,” before he found out the PTI application had been “lost,” the prosecutor “vetoed” the Judiciary’s granting of PTI.

130. The Prosecutor and Court repeatedly stated that people with “mental disabilities” are not eligible for PTI. (See Prosecution’s letter opposing a motion to vacate its “veto” at Ex. pp. 2-5, particularly Ex. pp. 4-5.)

131. The Court stated the purpose for the exclusion from PTI was to keep defendants with “mental disabilities” on its “radar map” longer via probation. This makes no sense because the very same probation officers supervise both defendants in PTI and Post-Conviction Probation (“Mental Illness” or “Regular”) for similar time periods.

132. The prosecutor did this out of reasons of malice toward the Duffy family and motives of discrimination and retaliation for past lawsuits against the Judiciary and State or out of discrimination against Brett based on the fact he was a person with disabilities or to help out Absecon.

133. Counsel sought “to overturn” the veto by arguing it was based on all these illegal motives and the prosecutor’s insistence that Brett was only eligible for “Mental Illness” Probation and not PTI because of his disabilities.

134. Duffy had also notified the Prosecutor of Justice Department Memos that their behavior of having a different, very much less favorable "path" than PTI for People with Disabilities, violated the ADA.

135. The State, via the Judiciary in the person of Judge Connor, approved of this discriminatory reasoning stating people with "mental disabilities" need to remain on the Judiciary's "Radar Map" for more time.

136. Because of this discrimination, whatever the motive, Brett was ineligible for PTI due to a non-existent "mental illness."

137. The Defense filed an exculpatory motion, based on the failure of the elements of the offenses, illegal search and Brady violations as well as the facts constituting defenses (mainly Officer DeRitis' legal advice), about 8 months into the case.

138. Judge Connor sent it back, refusing to hear it, without a reason. The prosecutor was perplexed and this "bounced" motion terrified both defense lawyers.

139. His Honor wrote a letter when he returned the motion. Ex. pp.6-7. In the letter, he stated he was not conflicted, which was true. He did not understand the Disqualification was for the Vicinage because Duffy had at least two clients' ADA/§ 504/LAD lawsuits pending at the time and one irregularity (the "loss" of the PTI application) had already created an appearance of impropriety.

The Brady Issue with the Registration

140. Counsel requested a copy of the voluntary gun registration at the beginning of the case. Since the voluntary registration was exculpatory, Brett alleges Absecon & the Prosecutor, alone or together, tried to hide this voluntary registration to attempt to rob Brett of the legal opinion defense. Still, the legal opinion was raised in the above motion (with no proofs).

141. Fourteen (14) months later, in early June 2015, someone sent the registration to Trenton, presumably from its hiding place, for processing and it quickly ended up in Brett's mailbox.

142. The motion, still pending and unheard, was amended to include the actual proof of legal opinion.

143. About 2 months later or 16 months after the motion was bounced, during the Summer 2015, the exculpatory motion was re-filed and began to be processed.

144. To strengthen the argument in the motion that the prosecutor had no evidence of "mental illness," Duffy sent 6-8 IEPs covering from pre-school to 12th Grade showing that Brett had no "mental illness." (The April 17th PIP records confirm this lack of "mental illness".)

145. Brett's main issues were depression, obsessive/compulsive disorder, ADHD, a high-functioning level of autism, and low intelligence, which is frequently attributed to learning disabilities, which are characteristic of autism. These are all disabilities but are not "mental illnesses."

146. When the prosecutor's opposition to the exculpatory motion was due for a hearing many months later the prosecutor "folded" and withdrew its "veto" of the PTI -- 30 months after pursuing a case riddled with ethical improprieties, especially including the Brady issue.

147. After the indictment, the main Constitutional Violation was due to the State, via both the prosecutor and judiciary. There were 2-3 years of foot dragging which denied Brett his speedy trial rights, probably to avoid the filing of this lawsuit.

148. Brett alleges that, if the exculpatory motion of January 2015 were heard in a timely fashion, the case would have ended in 12 months. Or certainly after 14-15 months when the Brady violation regarding the hidden registration came out of hiding in June 2015.

PTI

149. Brett accepted this late PTI in the interest of mitigation of damages and the laudable purpose of getting off of SSI in August 2017. It took until February 2017 to get him enrolled: more foot dragging. Ex. p. 19-22.

150. Once the charge was not "pending," Brett went to Commercial Trucking School ("no charges" was a condition of admission), earned his CDL, and rather quickly got a job as a "long haul" trucker, which pays about \$25,000 - \$30,000/year.

Retaliation

151. If the original PTI application had not been "lost" or the exculpatory motion had been heard on time, most of the Constitutional Violations against the State would not have happened or been moot (mainly the Brady violation). That denial of Due Process is the crux of the case against the State.

152. There has been a pattern of not providing the most basic Due Process procedures to Duffy and his clients. These incidents include stamping a complaint 5 days late and one day past the Statute of Limitations, two letters from the AOC rebuking him for reporting the 5 day late date stamp. In the same case as the felonious timestamp, there was a motion for a guardian for a client whom Vicinage I had involuntarily committed at least 5 times (all diagnoses were Schizophrenia) in the one and a half year period involved in the lawsuit. The motion was never heard despite numerous calls and at least one letter pointing out that it needed to be scheduled -- per a direct order from the assignment judge.

153. While all of these breaches of Due Process may individually be "plausibly deniable," together they make a case for retaliation that their having been caused by chance alone is literally in the billions of billions.

154. The general theme perpetrated by the State, via both the Court and the Prosecutor was delay -- denial of Brett's speedy trial rights. Once the registration showed up, Counsel and Brett were ready for trial.

155. In addition to the clear fact an Absecon police officer told Brett the gun was legal in a fairly lengthy discussion, Brett had several much older, mostly former police or military officers, he knew from the gun range willing to testify as experts for Brett that a pellet gun is not a "rifle or shotgun."

The Favorable Termination

156. Brett had no issues and his PTI was completed in February. Ex. pp. 23-24. A PTI graduate must wait 6 months to file for an expungement. Brett's will be filed in August 2018 for both the arrest and the charges.

157. Please note that there was no guilty plea, there was no conditional conviction, just an order of postponement (Ex. p. 20) and there was never an colloquy, allocution or any admissions of any kind. The case was dismissed on February 22, 2018.

Damages

158. The damages to Brett are the sheer stress and agony of waiting two and a half years for an outcome in a case and the ignominy of being stereotyped as "mentally ill" for immutable characteristics he was born with.

159. There are lost wages from his current job of being a long haul big rig truck driver.

160. Due to the Patriot Act and similar legislation, truck driving schools (CDL schools) and trucking companies cannot accept or hire anybody with a pending charge. As soon as Brett was in PTI, Duffy called the trucking school, explained that the situation was really caused by retaliation against him, and Brett was accepted about 3 years after the charges were filed.

161. Brett went to truck school in a class starting in March 2017, his learning disability and the fact his right hand is cocked to the right from CP (used for shifting the 12-15 gears in the Big Rigs), slowed him down somewhat. He graduated in June 2017 and was signed up by CRST Trucking in July 2017.

162. His SSI payments were terminated in August 2017.

163. He has lost wages from June - August 2014, when he wanted to go to CDL School, until August 2017 or 3 years. He's been earning about \$2200/month as an apprentice and his wages just went up by about 10% for being with the company for a year. So that's about \$75,000.

164. A goodly part of that would be used to pay back SSI, which is 36 months at about \$700/month or about \$25,000. Brett believes he has to pay this money back from any lost wages awards under the SSI Statute or Regs. If that's incorrect, Brett still wants to pay the money back as a matter of fairness and invokes the False Claims Act or any other similar Statute or Rule, be they Federal or State, which would get the government its money back.

165. There are also two totally unnecessary suicide attempts and hospitalizations. The April 14, 2014 PIP visit was totally caused by the Absecon Police denying him his meds and lying to him.

166. The second hospitalization caused by the lack of complete treatment for the first suicide attempt began on or about Tuesday, April 22, 2014. Brett wants to recover the money for these

visits for his insurer and Medicaid under any applicable legal theory. Additionally or in the alternative, this second hospitalization was caused by the trumped-up charges filed against him.

The Injunction Against Use of "Mental Illness" Probation

167. The most important issue in this case is that it is a well-documented case in which the prosecutor repeatedly stated on paper and in court that a person with mental disabilities of an intellectual nature was only eligible for "mental illness probation," rather than PTI.

168. The DoJ has issued memos and papers documenting this kind of (illogical) discrimination/stereotyping and telling prosecutors to stop, which Duffy gave to the prosecutor.

169. The Judiciary echoes this discrimination by stating that "Mental Illness Probation" keeps people with mental disabilities on the State's "Radar Map."

170. This "Radar Map" is discriminatory because people with mental disabilities will have a criminal record and PTI defendants will not. This is inefficient, illegal, and unconstitutional way "to keep track of" people with mental disabilities.

171. The collateral effects on employment and possible future criminal process make it financially, if not ethically, inefficient. There are much easier, less expensive and non-punitive methods for the State to keep people with mental disabilities in programs with an eye to treatment, assistance, and gainful employment than the completely inappropriate and unconstitutional use of the Criminal Justice System, which has an eye toward punishment.

172. With regard to people with mental disabilities of a psychiatric nature, we are pretty sure that "Mental Illness Probation," for which they may seem to fit the definition of the term, is never offered to these defendants. Mainly because the Prosecutors would be handing, at least, a diminished capacity defense and, very likely, an "insanity" defense to the defendant, which would lead to acquittal and psychiatric services at state expense (see reason #3, below).

173. Therefore, "Mental Illness Probation" is only being used for people with mental or developmental disabilities, such as Brett. This is blatant per se Disability Discrimination: having a program with drastically different life results: no record with PTI vs. a record which can possibly be expunged after 5 years.

174. This choice is made by prosecutors and, if appealed, by judges who make snap, ignorant decisions based on stereotypical thinking WITHOUT EVIDENCE about the defendants' actual mental condition. (They best proof of ignorance from lack of training is that they are categorizing people with developmental disabilities or otherwise having low "IQs" as "Mentally Ill.") This violates the Due Process Clause (no evidence), the Equal Protection Clause (snap, stereotypical, discriminatory, and uniformed decisions about mental status affecting legal procedure) and the ADA (maintaining two programs with totally different life outcomes based solely on disability) at the same time.

Differential Discrimination between Intellectual Disabilities
and Certain Psychiatric Conditions

175. The discrimination does not end with irrational "Radar Map" system described above. Brett applauds that fact New Jersey maintains a "Drug Court" as a more purposed form of PTI for defendants with the psychiatric condition of addictive personality disorder (or the mental disability of substance dependence, whether the condition began legally in hospital or with prescriptions or illegally).

176. This program or activity cannot be subject to the "experimental" exception available for some programs that would otherwise violate the Constitution, usually the Equal Protection Clause, since it has been in existence for 20 years or more.

177. This program has recently changed to be much more favorable than "regular" PTI. "Graduation" now results in complete expungement of all criminal records. There is no doubt this program is, and was designed to be, much more intensive than "regular PTI." There are constant drug screenings as well as numerous seminars and court appearances (the seminars usually take place in a courtroom). This is a constitutionally and ADA appropriate program for people with the particular mental disability of substance addiction or dependence.

178. However, when such a program is maintained favoring one type of mental disability over another (really all others), differential discrimination begins to rear its ugly head. This is especially true when there is no rational basis for running a program for one mental disability and not others. This is especially true when it would be less expensive to run a Mental Disability Court than the Drug Court, due to the huge costs of the drug testing.

179. Furthermore, many addicts have a mental illness that they are "self-medicating." It is unfair that these "self-medicating" people with mental illness are routed to the drug court, while the rest are not.

180. On the other hand, people with intellectual disabilities are extremely good at following rules -- they are well aware of the avalanche of discrimination and retaliation that will almost always follow if they don't. People with psychiatric disabilities are good at following rules for the same reasons.

Discrimination v. Retaliation

181. Anywhere in this complaint in which there is a claim of discrimination, there is also a claim that the event was retaliation for Brett and Duffy's assistance to other people with disabilities and lawsuits regarding those activities. All of those activities created protection from

retaliation and harassment under both the ADA and LAD, the relevant statutes used in the lawsuits. To comply with Uqbal, there are some of the relevant docket numbers:

CAUSES OF ACTION

FIRST COUNT

Title II of the Americans with Disabilities Act

1 This Count arises under Title II of the ADA under which Brett is clearly a “qualified person with disabilities.”

2 Plaintiff repeats and reiterates all of the paragraphs set forth above and makes them a part hereof as if set forth specifically at length.

3 Brett is a qualified person with disabilities. He was on SSI for the disabilities listed above at the time of these incidents. With regard to being qualified, all persons have a right to access or interact with all of the public entities in this complaint.

4 Brett was discriminated and retaliated against by all entity defendants (i.e. Absecon, Prosecutor, AG, Vicinage I, the AOC and New Jersey itself) solely by reason of disability (RA) or by reason of disability (ADA Title II) or based on disability (LAD).

5 Brett was discriminated against due to his own characteristics or as retaliation for his dad’s advocacy for people with disabilities (mostly mental disabilities) per the standards in the last sentence.

6 The above-described facts demonstrate that the public entities are obviously ignoring their duties under the ADA to provide people with disabilities (Brett) access to their programs without discrimination or retaliation.

7 The ADA specifically authorizes actions such as this to effect remedies such as those discussed above. The ADA's abrogation of the 11th Amendment has been upheld. This is particularly true in cases, like this one, in which the "Public Entity" has violated both the Constitution and the ADA at the same time per the Goodman case.

8 Brett's ADA, ADA Advocacy and Due Process Rights, have been blocked or ignored at every turn and every stage of this case due to discrimination, retaliation and Civil Rights violations. He did not have the same access to the services, programs and activities of these entity defendants as a person without a disability. He requests damages for mental pain and suffering, lost wages, humiliation and for nearly continuous violations of the following Amendments to the Constitution per defendant.

9 **The following ADA violations against Absecon** for having a policy and practice of not accommodating people with disabilities per the ADA and its regs. Brett asked for his dad, without regard to his being a lawyer. This was an accommodation request due to his low intelligence and anxiety disorder. This led to the following violations: 1) Absecon needed to call parent(s) just as required for a minor. Brett's mental age at the time maybe was that of 15-16 year old; 2) having or making his cell safe, including taking away any possible suicide tools, due to the anxiety disorder; 3) giving him his meds on request as an accommodation; 4) if he had no meds, watching him at all times; 5) intentionally giving him incorrect information that his dad had abandoned him; 6) taking him from the PIP unit before he was discharged; 7) not letting him see his dad at the Station or talk to him on the phone; 8) not letting him consult with counsel due to low intelligence so he'd have the same rights and protections as a "regular" person; 9) conducting an interview while the person's meds are obviously making him incoherent or

“high;” 10) trumping up charges out of malice and for leverage in an inevitable ADA suit; 11) not training the police about ADA rights so events like the above are avoided.

10 **With regard to the State Defendants,**³ they committed the following violations: 1) intentionally destroying his PIP application as retaliation for Brett’s or Duffy’s activities, this also made it certain he’d be indicted and not diverted into PTI; 2) for having and then not examining their highly discriminatory “mental illness” probation program when told it was discriminatory; 3) for having no evidence of mental illness, yet classifying Brett as such; 4) for making “snap,” stereotypical, and discriminatory judgments about who is or is not “mentally ill;” 5) without regard to the legality of the Mental Illness Probation program, for not having PTI decision maker training programs about ADA discrimination and retaliation to bring some rationality and education to the Mental Illness Probation and PTI programs; 6) for dragging the case out for 2.5 years to increase Brett’s anxiety levels so they can take advantage of his disability; 7) they also dragged the case out to try to assist Absecon in avoiding liability; 8) also trumped up the charges from 3rd to 2nd degree offenses in which simple elements were missing (shell or casing and explosion) to unethically gain “leverage” in the case due to discrimination or retaliation.

11 Brett requests this Court declare that the above conduct is also amenable to injunctions and writs of mandamus or any other equitable remedy against the State for its violations of the ADA and § 504 detailed in this Complaint and specified above, but particularly against Vicinage I, the AOC and the State for violating their own rules regarding processing of administrative complaints under the ADA such as the ones Brett’s counsel made during the

³ All four were involved. Brett had prosecutors from both the Office of the Prosecutor and the AG’s office; Vicinage I and the AOC “back up” prosecutors’ decisions with their “Radar Map” and other discriminatory theories of law. Further, PTI is a collaboration between the Judiciary (AOC), The Prosecutors and the AG’s Office. All the Vicinages have differences in the way they handle PTI.

course of his case. Further, he requests ending the differential discrimination of the Drug Court. Finally, he insists that PTI is opened to people with disabilities as demanded in the Declaratory Judgment Count.

12 Brett demands compensation for his damages such as mental pain and suffering, lost wages, humiliation, and such other relief as the Court may deem just, due to the violations above.

SECOND COUNT

Section 504 of the Rehabilitation Act

1 This Count arises under Section 504 of the Rehabilitation Act.

2 Plaintiff repeats and reiterates all of the paragraphs set forth above, including the ADA violations in the First Count, any mention of the ADA in this entire complaint also includes § 504, above and makes them a part hereof as if set forth specifically at length.

3 This count is largely duplicative of the ADA Count (including that it is only against the State Defendants), given that the two must be interpreted in step with each other. The main difference being that the standard is “solely by reason of disability.” Retaliation standards are unclear but if they have the requirements as above, Brett pleads with the “(solely) by reason of” standard. However, Brett asserts that the retaliation rules standard is “more likely than not” causation. Brett requests this Court to declare that the above conduct also violates the Rehabilitation Act as demanded in the Declaratory Judgment Count.

4 It is also alleged that Brett was “otherwise qualified” to receive the benefits of the disability access programs, without retaliation, as well as “ordinary” programs such as his rights under the 4th, 5th & 6th Amendments. Brett has all the disabilities mentioned in the complaint and was on SSI which requires that he be “totally permanently disabled” so there is little doubt about his status.

5 Obviously, the State of New Jersey and its sub-entities are the recipients of Federal
Financial Assistance both for judicial and numerous other projects.

6 The request for damages in the First Count is reiterated.

THIRD COUNT

LAD

1 This Count arises under the LAD. All entity defendants are (or have responsibility
for, in the case of the State) “places of public accommodation.”

2 Plaintiff repeats and reiterates all of the paragraphs set forth above and makes them a
part hereof as if set forth specifically at length.

3 This count is largely duplicative of the ADA Count, given that the two must be
interpreted in step with each other. As to the LAD, Brett pleads the standard of “more likely
than not” for both discrimination and retaliation. Brett requests this Court to declare that the
above conduct also violates the LAD as demanded in the Declaratory Judgment Count.

4 Brett has been subjected to discrimination and retaliation based on his status as a
person with disabilities as described above or retaliation for Duffy Family advocacy for people
with disabilities, particularly mental disabilities – or very likely, both motives.

5 He also requests the same damages that are in the First Count.

FOURTH COUNT

Disability Harassment Claim under ADA, RA and LAD

1 This Count arises under the theory from sex harassment cases that there can be
liability for a pervasive and uncontrolled atmosphere of malaise toward disability discrimination

issues and retaliation. In sex cases, it is typically stated as a separate cause of action so Brett does so here.

2 Plaintiff repeats and reiterates all of the paragraphs set forth above and make them a part hereof as if set forth specifically at length. **The Absecon Defendants are not included in this count at this time** because there is not enough information about any other ADA suits or its rules for handling ADA requests.

3 The above described facts the State of New Jersey and its administrative units (prosecutors and AG) including the Judiciary, via the AOC and Vicinage I, are obviously ignoring their duties under the ADA, RA and LAD, and the New Jersey Supreme Court's own rules, to provide access to its courts and its court-related ADA/RA/LAD procedures, by retaliating against those who use them, and having ineffective communication (such as not answering ADA requests on Case CISs or ADA complaints), resulting in lack of accommodation and access, discrimination and retaliation under those three statutes. The State Entities and their Employees' lack of training fosters and encourages employees to flounder on ADA/RA/LAD matters, devise discriminatory programs, such as "Mental Illness Probation" out of whole cloth. The entities do not have effectively communicated standards and rules to handle and control ADA matters which results in a pervasive atmosphere of disability harassment.

4 In this particular case, the prosecutor's own writings display an attitude that PTI is not available for people with mental disabilities. They must accept "mental illness probation" which differs from PTI in that "mental illness probation" results in a conviction on the person's "record." This makes it nearly impossible for a person with disabilities to obtain employment – which we believe is the sole intent. This way, the State can keep people with disabilities on the "radar map" for much longer than PTI. In the view of the State Defendants, people with

disabilities, especially mental ones, are inherently “evil, lazy, morally culpable for their given medical conditions, they don’t matter, they will be on SSI, SSD or Welfare for the rest of their lives so what does it matter if they can’t get a job” and on and on.

5 Brett was threatened with “Mental Illness Probation” and experienced the degradation inherent in such terms as “Mental Illness.”

6 Brett, as sole plaintiff (*e.g* like Gideon) wishes to have the cases of every person who accepted “Mental Illness Probation” reviewed and every person with mental disabilities who received some form of punishment reviewed. There is little doubt that most, or perhaps all, of the people with disabilities should have received PTI for the same period as their probation. Their cases need to be converted, *nunc pro tunc*, such that their convictions are expunged, the same as people in PTI.

7 There is a possibility that Brett will seek to become a class plaintiff with regard to “Mental Illness Probation” or Drug Court Issues. That would only involve the State Defendants, not Absecon.

8 The State and its sub-entities are also engaging in “differential discrimination” against people with disabilities who are more obviously impaired than others. The Drug Court is a fantastic program but it only treats the mental disability of addiction – which is rarely obvious. Its victims “look normal” so they get better treatment in society. But addiction is also a mental disability! Look in the DSM-5. It’s right in there with other serious mental disabilities such as schizophrenia, as well as conditions such as OCD, depression, PTSD and many others.

9 There is no logical or judicial reason to treat one group of people with mental disabilities for their mental disability of addiction and, basically, throw all the other people with mental disabilities “to the dogs.” The non-addicted group can’t even get PTI – they, as best,

maybe get “Mental Illness Probation” with a conviction for life. That’s serious, hard boiled discrimination. The programs in the Drug Court and a possible Mental Disability Court may be quite different. Certainly, people with mental disabilities don’t need weekly urine tests but they do need to meet with a psychiatrist or psychologist on a regular basis – perhaps at the Court itself. Also, the Mental Disability Court may be more adjudicative. Psychiatrists (or other mental health practitioners) would determine the extent of the person’s mental disability. Many in the Court may be eligible for the “insanity” defense or other culpability-mitigating defenses. The psychiatrists, the prosecutor and the defense should openly talk about a suitable rehabilitation program based on medicine, not on any theories of punishment. The judge would maintain the traditional role of making settlement suggestions and approving or rejecting any such rehabilitation plan.

10 If Brett does not qualify as a “Class Plaintiff” for these people with mental disabilities who are being discriminated against by the Court System (prosecutor, AG, vicinages, AOC and the State combined) on a constant basis by only being offered “Mental Illness Probation” and other discriminatory services, programs and activities, we will request discovery on people who received “mental illness probation.” Perhaps, we can use some of them as plaintiffs for people who were “saddled” with “Mental Illness Probation.” This action is not currently a Class Action and probably will not be: we envision it more as a one or two plaintiff case that sets a precedent for the future – like Pasqua v. Council or Gideon, for example. Unlike Pasqua but in step with Gideon, there would be some retroactive relief that, ideally, all people who were given “Mental Illness Probation” will have their convictions vacated and, instead, be enrolled *nunc pro tunc* in PTI with any probation time counting toward PTI supervision. However, we feel Brett’s being threatened with “Mental Illness Probation” is sufficient to grant him standing for people who did

take the (raw) “deal.” He almost took the Mental Illness Probation, but he decided he’d rather fight against the discriminatory program and the antediluvian term “Mental Illness.”

11 The State of New Jersey has waived its 11th Amendment Immunities by listing itself as an entity subject to suit in the LAD and by taking federal funds under the RA. The ADA violation is particularly valid here because this kind of situation, effecting fundamental and Due Process rights, is exactly what Congress was attempting to remedy.

12 As a result of such deprivation of rights granted under the ADA/RA/LAD, Plaintiff demands that this Court declare that the pervasive discriminatory environment be eliminated in the Courthouses.

13 Since he has been exposed to and, essentially, punished by “Mental Illness Probation,” Brett requests damages as stated in the First Count as well as declaratory or injunctive relief, described above, for any defendants with mental disabilities but especially those in the illegal “mental illness probation” program.

FIFTH COUNT

Direct Suit for Violation of Federal and State Law Under § 1983 and the NJ Civil Rights Law

1 This Count is against the individual human defendants, who at the moment are only former Chief Risley and Officer Cavileer, and Absecon as “persons,” (i.e. all the Absecon Defendants only) for civil rights violations and does not involve any of the State Defendants in this case.

2 Plaintiff repeats and reiterates all of the paragraphs set forth above and makes them a part hereof as if set forth specifically at length.

3 The above described facts, have intimidated Brett from exercising numerous Constitutional Rights including, but not limited to, Free Speech, Redress of Grievances and

association with his dad (1st), 2nd Amendment Rights (getting charged for “keeping or bearing arms”), the Right to be free from illegal searches and seizures (4th), Right to Counsel (5th), the right to effective counsel in the litigation part of a case (6th)⁴ and to be free from cruel and unusual punishment (8th) (being kidnapped from the hospital before treatment was completed), and Due Process Rights and Equal Protection and the right to disability advocacy without retaliation for a given cause for which he may advocate. Specifically, the defendants have violated Brett’s rights of Due Process and Equal Protection Rights under the 14th Amendment itself and these amendments by incorporation: 1st, 2nd, 4th, 5th, 6th and 8th Amendments.

4 All of the Absecon Defendants are “persons” and in this case were acting under “color of state law” and with extreme malice when they deprived Brett of his Constitutional Rights and discriminated and retaliated against him in violation of State and Federal Law.

5 Any reasonably resolute person would have been intimidated by the outrageous and retaliatory actions of the Absecon defendants. This is particularly true regarding the First Amendment regarding violations in Brett’s arrest and custody and to the extent that both Brett and counsel were afraid to file this suit or complain in any other manner.

6 The “person” defendants are not entitled to any immunity or, if allowed a qualified immunity, they have gone far beyond the standard, known Constitutional Rights which would allow such immunity.

7 As a result of such deprivation of rights granted under both the New Jersey & Federal Constitutions, as well as the ADA/RA/LAD, Plaintiff demands that this Court declare that the pervasive discrimination and retaliation are illegal and issue specific injunctions against any

⁴ Hiding the Pellet Gun Registration Form had to be perpetrated by the Absecon Defendants or one of the J. Doe defendants. This Brady violation made counsel very ineffective in the first 14 months of the case. Once released, counsel had an effective answer to the “purchasing without a Firearms Purchaser ID” element in the 3rd Degree Rifle/Shotgun charge, which was already had defective elements.

Absecon Defendants who will not stop their illegal actions. Plaintiff also demands both preliminary and permanent restraints upon the “person” defendants that they are to follow the numerous anti-discrimination and anti-retaliation policy statements from the State and State Police which are being ignored on a daily basis. Finally, the Plaintiff demands declaratory or mandamus relief that Constitutional Rights training be made available for all Absecon Employees so incidents such as this do not reoccur.

8 Duffy himself also demands damages for his illegal and unconstitutional treatment for the pain, mental anguish, embarrassment and fear caused by the human defendants’ totally intentional attempt to deprive Brett of his Rights. It worked for two and a half years but now it’s “flopped” and resulted in this lawsuit.

SIXTH COUNT

Demand for Declaratory Judgment & Restraints

1 This Count arises under the Federal & New Jersey Declaratory Judgment Acts.

2 Plaintiff repeats and reiterates all of the paragraphs set forth above and makes them a part hereof as if set forth specifically at length.

3 The Plaintiff demands that this Court issue a Declaratory Judgment & Mandamus for all of the specific remedies requested above. A reiteration of these demands are:

4 That Vicinage I is conflicted from hearing any matters involving the Duffy Family in general and Brett Duffy in particular and any such action will be transferred.

5 That the highly discriminatory “Mental Illness Probation” program be cancelled and to declare or Order that People with Mental Disabilities must not be excluded from the PTI program. All persons with any type of mental disability must be examined by a psychiatrist or

psychologist on their need for medical treatment and whether such treatment will be more likely to result in good social behavior than prison per consideration #5 in the PTI statute before the court or the prosecutor makes any PTI decision.

6 To declare that the Drug Courts, as currently operated under New Jersey Law and Court Rules are discriminatory against people with non-drug related mental disabilities. Drug and Alcohol addiction are mental disabilities or diseases just as much people with mental disabilities caused by developmental disabilities, psychiatric disease (such as schizophrenia) or damage during their lifetimes. All of these mental disabilities are in DSM V and, as is clear from any reading of that manual, all of these mental issues should be treated the same as any other more physical disease such as cancer, heart disease and other diseases affecting other organs. Brett demands that the State stop this differential discrimination, such as when there are beneficial programs for drug addiction but not other mental disabilities..

7 That a fund be established in the AOC (or each Vicinage separately) to pay for psychiatric, psychological and educational services required to properly evaluate people with mental disabilities. The same fund should also be available to provide ADA accommodations to all people with disabilities, mental or otherwise.

8 That the Superior Court be required to check its own records (*e.g.* any mental “commitment” records or any other judgment of incapacity) as well as State and Federal Databases, for any evidence of mental disability of any kind so that such people can be channeled into psychiatric (and other) examinations aimed specifically at rehabilitation rather than punishment.

9 According to the Absecon website, effective September 22, 2017, all uniformed Absecon Patrol Officers are equipped with Body Worn Cameras and are required to audibly and

visually record incidents involving a police response. Brett applauds such “modernization.” However, he demands that such recordings be maintained for a period of at least 3 years (we believe current law requires a seven year period, which really should be 20 years so that any minors would have the right to bring an action for abuse of rights when they were children upon reaching the age of majority).

10 That Brett Duffy be awarded a sum sufficient to compensate him for the outrageously unconstitutional behavior during his arrest, but especially for denying him counsel and lying to him that counsel had abandoned him and not supervising the prisoner, (all Absecon Defendants to this point) for his lack of a speedy trial (State Defendants only), both instances of “trumping up” the charges (both Absecon & State Defendants) for all of the lost wages, mental anguish and criminal attorney’s fees to which the Absecon and State Defendants have subjected him solely by reason of disability or solely as retaliation by reason of his dad’s advocacy for people with (mostly mental) disabilities or both.

REQUEST FOR RELIEF

WHEREFORE, Plaintiff demands judgment against the defendants, jointly and severally, in an amount sufficient to compensate for his injuries, including mental anguish, humiliation and embarrassment from the way he has been treated, plus punitive damages due to the intentional non-compliance with the ADA, LAD and the Rehabilitation Act at issue in this case, attorneys' fees, costs and expenses for bring this action, pursuant to 42 U.S.C. § 12133 42 U.S.C. § 1985 & 29 U.S.C. § 794a as well as under the LAD fee shifting provisions, both pre- and post-judgment interest to the maximum extent allowed by law, and such other relief as the Court may deem just including, but not limited to, the demand for declaratory and injunctive relief in the Complaint.

CERTIFICATION
(NO OTHER ACTION TAKEN)

I hereby certify that the matter in controversy is not the subject of any other civil action pending in any court and is likewise not the subject of any pending arbitration proceeding. (It is the subject of a request for administrative investigation and remediation but I do not think that is relevant – and it's being ignored.) I further certify that I have no knowledge of any contemplated action or arbitration proceeding regarding the subject matter of this action and I am not aware of any other parties who should be joined to this action except as stated in this Complaint.

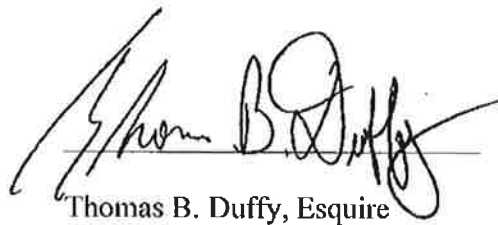
JURY DEMAND

The Plaintiff demands a jury trial as to all factual and damage issues in this case.

DESIGNATION OF TRIAL COUNSEL

Thomas B. Duffy is hereby designated as trial counsel for Plaintiff.

Dated: August 2, 2018


Thomas B. Duffy, Esquire

NOT FOR PUBLICATION

**UNITED STATES DISTRICT COURT
DISTRICT OF NEW JERSEY**

DEYRAHEL IMOORE,

Plaintiff,

v.

WILLIAM GASBARRO at el.,

Defendants.

Civil Action No. 12-2605 (RBK)

**MEMORANDUM OPINION
AND ORDER**

This matter comes before the Court upon Plaintiff's submission of three documents, one being titled "Affidavit of Fact / In the Nature of a Complaint [A]batement Notice [o]f Quo Warranto," see Docket Entry No. 1 at 2, another being titled "Writ of Discovery," see id. at 12, third one being titled "Affidavit of Fact Order to Abate in the Nature of Mandatory Injunction," see Docket Entry No. 2, and numerous other documents attached by Plaintiff to the aforesaid three submissions as exhibits, see, generally, Docket Entries Nos. 1 and 2, and it appearing that:

1. All Plaintiff's submissions are executed in the style and utilized the argot common to legal submissions made by persons who qualify themselves as "Moorish," "Marrakush," "Murakush" or akin, which terms are often used to indicate "redemptionist" and/or "sovereign citizen" socio-political position. See Bey v. Stumpf, 2011 U.S. Dist. LEXIS 120076, at *2-13 (D.N.J. Oct. 17, 2011) (detailing various aspects of said position).

Moorish and Redemptionist Movements. Two concepts, which may or may not operate as interrelated, color the issues at hand. One of these concepts underlies ethnic/religious identification movement of certain groups of individuals who refer to themselves as "Moors," while the other concept provides the basis for another movement of certain groups of individuals, which frequently produces

these individuals' denouncement of United States citizenship, self-declaration of other, imaginary "citizenship" and accompanying self-declaration of equally imaginary "diplomatic immunity."

[a]. Moorish Movement

In 1998, the United States Court of Appeals for the Seventh Circuit - being one of the first courts to detail the concept of Moorish movement, observed as follows:

[The Moorish Science Temple of America is a] black Islamic sect [T]hree-fourths of its temples (congregations) are inside prisons. The Moors, as adherents to the Moorish Science Temple are called, have their own version of the Koran and a list of prophets that includes, in addition to the prophets recognized by orthodox Islam, Buddha, Confucius, and the founder . . . of the Moorish Science Temple Two groups vie for leadership of the sect: one in Mt. Clemens, Michigan, headed by [someone referred to as] Grand Sheik/Moderator Brother R. Love-El, and one in St. Louis headed by [someone referred to as] Grand Sheik Jerry Lewis-Bey. (The suffixes "El" and "Bey" refer to the African tribes from which the Moors believe black people are descended.)

Johnson-Bey v. Lane, 863 F.2d 1308, 1309 (7th Cir. 1998).¹

[b]. "Redemptionism," "Paper Terrorism" and Related Concepts

Shortly after the concept of Moorish movement was outlined by the Seventh Circuit, discussions of another movement appeared on the pages of legal opinions issued by the federal judiciary; that other movement was dubbed as "sovereign citizenship" movement. This movement was fostered by

a loosely organized collection of groups and individuals who have adopted a right-wing anarchist ideology originating in the theories of a group called the Posse Comitatus in the 1970s. Its adherents believe that virtually all existing government in the United States is illegitimate [Therefore, such] "sovereign citizens" wage war against the government and other forms of authority using "paper terrorism" harassment and intimidation tactics, and occasionally resorting to [physical] violence.

¹ The underlying term "Moors" seemingly reflects the adherents' interest in highlighting their actual or alleged "ancestry in ancient Moors, i.e., the seventeenth century Muslims of the Islamic Iberian Peninsula and North Africa, who were of Berber and Arab descent." Marrakush Soc'y v. N.J. State Police, 2009 U.S. Dist. LEXIS 68057, at *4, n.1 (D.N.J. July 30, 2009).

Sovereign Citizen Movement, Anti-Defamation League, at <<http://www.adl.org/Learn/ext_us/SCM.asp?LEARN_Cat=Extremism&LEARN_SubCat=Extremism_in_America&xpicked=4&item=sov>> (visited on Mar. 31, 2011).² Consequently, a decade after the Seventh Circuit's issuance of *Bey v. Lane*, the United States Court of Appeals for the Third Circuit noted a stream of government actions aimed at controlling the "paper terrorism" activities of sovereign citizens, which - by then - matured into a wide-spread criminal scheme, where the scheme participants' "self-legitimized" their names for the purposes of initiating fraudulent legal transactions. The Court of Appeals explained:

Evidently, [adherents of this scheme have been] filing [fraudulent] financing statements under Article 9 of the UCC, which sets forth a process for perfecting security interests in property. These liens and judgments, accessible on financing statement forms, are easy

² The concept of "sovereign citizenship" does, occasionally, relate to the phenomenon of "world passports." "World passports," issued by the so-called World Service Authority ("WSA"), are not recognized, in the United States and in the majority of world nations, as substitutes to official documents, such as national passports or drivers' licenses. *See, e.g.,* Eugenio J. Huot Calderon, *The Concept of Puerto Rican Citizenship*, 35 Rev. D.P. 321, 333-36 (1996); <<<http://web.archive.org/web/20080307015819/http://foia.state.gov/masterdocs/07fam/07m1310.pdf>>>. A former-World-War-II-bomber-pilot-turned-peace-activist Garry Davis created the WSA in 1953 after renouncing his U.S. citizenship and gaining notoriety by picketing the United Nations to argue that world peace requires a global government rather than a system of nation-states. *See* Daniel Engber, *What's a World Passport?* Slate Mag. (Mar. 24, 2006). The WSA has been promoting "world citizenship" by issuing documents largely similar in their appearance to regular national passports, which the WSA called "world passports," to any person who wanted to declare himself/herself "a citizen of the world." One can inexpensively obtain such "passport" by filling out an application form at the WSA website. *See* <<<http://www.worldgovernment.org/>>>. Therefore, while some persons just denounce their United States citizenship under the claim of sovereign citizenship, *see, e.g., Roche v. Attorney General*, 420 Fed. App'x 124, 2011 U.S. App. LEXIS 5773, at 1-2, nn. 1 and 2 (3d Cir. 2011), others accompany their denouncements of United States citizenship by applications for "world passports" and attempts to use these passports as legally cognizable documents, sometimes for the purposes of perpetrating criminal schemes in the United States. *See, e.g., Asghar v. State*, 698 N.E.2d 879 (Ind. Ct. App. 1998). Moreover, a person's denouncement of his/her United States citizenship (being occasionally accompanied by the person's obtaining of a "world passport") frequently produces a peculiar "side effect" in the form of that person's self-grant of alternative, imaginary citizenship which, in turn, results in that person's insistence upon his/her "diplomatic immunity" for the purposes of United States law or, better say, for the purposes of the "grantee's" attempts to avoid the reach of law. *See, e.g., U.S. Dist. Court v. Ephriam*, 2009 U.S. Dist. LEXIS 103284 (D. Kan. Nov. 4, 2009).

to file. Once registered, however, the fraudulent liens are very burdensome to remove. For example, in a New Jersey incident, [one group] registered a fraudulent \$ 14.5 million lien with the New Jersey Department of Revenue against a federal prosecutor and a \$ 3.5 million lien against a federal judge for using [the group participants'] "copyrighted" names in court papers and hearings [Adherents of this scheme] have filed these commercial liens with state departments of revenue, departments of state, or other the state agencies responsible for receiving and recording these financial instruments. Further investigation revealed that various publications were advocating the exploitation of the UCC filing process and provided explicit instructions on how to perfect these fraudulent security interests, including sample financing statements forms. [These publications built on] the "Redemptionist" theory, which propounds that a person has a split personality: a real person and a fictional person called the "strawman." . . . Redemptionists claim that government has power only over the strawman and not over the live person, who remains free [and, thus,] individuals can free themselves by filing UCC financing statements, thereby acquiring an interest in their strawman. Thereafter, [pursuant to this "theory,"] the real person can demand that government officials pay enormous sums of money to use the strawman's name or, in the case of prisoners, to keep him in custody. If government officials refuse, [adherents of this scheme] file liens against [government officials] . Adherents of this scheme also advocate that [they] copyright their names to justify filing liens against officials using their names in public records such as indictments or court papers.

Monroe v. Beard, 536 F.3d 198, 203 and nn. 3 and 4 (3d Cir. 2008); accord Roche, 420 Fed. App'x 124, 2011 U.S. App. LEXIS 5773, at 2 (noting that the "sovereign citizen" litigant elected to present the district court's dismissal of his petition as a "contract" between the court and the litigant).

The "strawman" concept is, occasionally, presented/exploited somewhat differently by those redemptionists who claim that - at the moment of their denouncement of United States citizenship and/or their accompanying self-grant of imaginary alternative citizenship - their "strawman" incarnation became "deceased," and their live persons quasi-expatriated from the U.S. (while continuing their actual physical residence in the United States). In connection with this odd quasi-expatriation scheme, such redemptionists often claim that their live persons: (a) hold "estates" in the form of actual physical bodies of their

respective “quasi-deceased” strawmen;³ and (b) reside in geographic locales “self-claimed away” from the United States.

[c]. Interplay Between Moorish and Sovereign Citizenship Movements

It does not appear that one’s Moorish ethnic roots (or Moorish religious convictions, or both) have any reason to go hand-in-hand with one’s adhesion to the sovereign citizenship movement (or with one’s professing the theory of redemptionism, or with one’s practice of “paper terrorism,” claims of self-granted “diplomatic immunity,” etc.). However, and unfortunately enough, certain groups of individuals began merging these concepts by building on their alleged ancestry in ancient Moors (and/or on their alleged or actual adhesion to Moorish religious convictions) for the purposes of committing criminal offenses and/or initiating frivolous legal actions on the grounds of their self-granted “diplomatic immunity,” which these individuals deduce either from their self-granted “Moorish citizenship” and from their correspondingly-produced homemade “Moorish” documents (or from correspondingly-obtained “world passports”) or from a multitude of other, equally non-cognizable under the law, bases, which these individuals keep creating in order to support their allegations of “diplomatic immunity.”⁴

³ This “estate” concept is legally deficient on its face. As one court explained,

[such] “estates” of [litigants] cannot qualify as [actual] litigants since [these “estates”] offer no order by a probate court acknowledging the existence of these “estates” and, indeed, it would be surprising had such order been entered because it is well established that the body of a decedent cannot be an estate, or even a part of an estate. See Greneker v. Sprouse, 263 S.C. 571, 574, 211 S.E.2d 879 (1975) (clarifying that the estate is limited to the real and personal property of a decedent); see also In re Estate of Medlen, 286 Ill. App. 3d 860, 864, 677 N.E.2d 33, 222 Ill. Dec. 220 (Ill. App. Ct. 1997) (explaining that “there is no property right in a dead body, and the body forms no part of the decedent’s estate . . .” and citing 22A Am. Jur. 2d Dead Bodies §§ 2 and 3 and In re Estate of Fischer, 1 Ill. App. 2d 528, 535, 117 N.E.2d 855 (Ill. App. Ct. 1954)); In re Estate of Moyer, 577 P.2d 108, 110 (Utah 1978) (same); Snyder v. Holy Cross Hospital, 30 Md. App. 317, 352 A.2d 334 (Md. App. Ct. 1976) (same).

Estate of Casimir v. New Jersey, 2009 U.S. Dist. LEXIS 78113, at *9 (D.N.J. Aug. 31, 2009).

⁴ Such claims of “diplomatic immunity” are without merit. As it was already observed,

[Plaintiffs err in conflating their] expatriation and [diplomatic] immunity arguments, since: (a) Plaintiffs seem to focus on an irrelevant fact that anyone

Murakush-Amexem, 790 F. Supp. 2d 241, 2452-12 (footnotes in original).

2. To the degree Plaintiff wishes to utilize this legal proceeding in order to express his socio-political beliefs, Plaintiff's submissions are facially frivolous. Socio-political rhetoric has no place in legal disputes, since this Court's Article III, § 2, cl. 1, mandate is limited to resolution of legal cases and controversies.
3. However, taking notice of Plaintiff's prepayment of the applicable filing fee, the Court cannot rule out the possibility that Plaintiff has bona fide intent to litigate this matter, and Plaintiff's submissions made thus far were merely a result of Plaintiff's confusion caused by massive public dissemination of hoax "Moorish/Marrakush" forms, available online and even in hard copy, and often utilized by pro se litigants lacking legal savvy. See, e.g., Bey v. Stumpf, 2011 U.S. Dist. LEXIS 120076, at *28-36 (detailing the nature of this ill and providing examples of such hoax forms). Therefore, being mindful of Plaintiff's pro se litigant status and, hence, Plaintiff's susceptibility to confusion by such sources that might appear legitimate regardless of the hoax products these sources disseminate, this Court finds it warranted to allow Plaintiff an opportunity to litigate his legal claims in

may renounce his/her United States citizenship, but this fact in no way establishes that Plaintiffs actually expatriated in accordance with the applicable legal requirements, see, e.g., Memorandum Opinion for the Solicitor General of June 12, 2000, . . . ; Marks v. Esperdy, 315 F.2d 673 (2d Cir. 1963) . . . ; and (b) even if the Court were to hypothesize that Plaintiffs duly expatriated, the fact of expatriation has no effect on the state court's jurisdiction to conduct Plaintiffs' criminal proceedings. See, e.g., Cohen v. Little Six, Inc., 543 N.W.2d 376 (Minn. Ct. App. 1996); see also Cara S. O'Driscoll, The Execution of Foreign Nationals in Arizona, 32 Ariz. St. L.J. 323 (2000); [accord] Casanova v. Fitzpatrick, 214 F. Supp. 425 (S.D.N.Y. 1963)

Casimir, 2009 U.S. Dist. LEXIS 78113, at *19, n. 8 (parenthetical explanations omitted).

good faith, by submitting a valid amended complaint. The Court stresses that Plaintiff's amended complaint, if submitted, should be void of any "Moorish/Marrakush" argot or legal claims. In other words, Plaintiff shall utilize the form provided by the Clerk and complete that form in *plain and simple English*. The Court also takes this opportunity to warn Plaintiff that his persistence at submitting documents executed in "Moorish" or "Marrakush" style and/or argot would result in conclusive closure of this matter and might even cause imposition of sanctions, if warranted.

"The courts in this nation stand ready to address challenges brought by litigants in good faith. Which, in turn, means that the judiciary — including the Judges in this District — expect litigants to treat their litigation with utmost seriousness, without abusing legal process and without unduly testing of the resolve or common sense of the judiciary." In re Telfair, 745 F. Supp. 2d 536, 2010 U.S. Dist. LEXIS 110681, at *130 (D.N.J. Oct. 15, 2010).

Th[is] Court does not know why M.K., K.S., K.C., Bey, El, etc. have chosen to file their labyrinthine, multi-defendant . . . actions in federal courts over the years, or why they have elected to file the Instant Matter, . . . in the last few weeks. . . . [T]hese litigants have . . . exacted and will continue to exact a heavy price on the finite resources of this District Court and other federal courts at district level and, hence, on litigants in other matters as to whom justice will be delayed while those scarce [judicial] resources are expended to process M.K., K.S., K.C., Bey and El's bounty. See Miller v. Donald, 541 F.3d 1091, 1096 (11th Cir. 2008) ("Frivolous and vexatious law suits threaten the availability of a well-functioning judiciary to all litigants"); Procup v. Strickland, 792 F.2d 1069, 1072 (11th Cir. 1986) (en banc) ("Every lawsuit filed, no matter how frivolous or repetitious, requires the investment of court time, whether the complaint is reviewed initially by a law clerk, a staff attorney, a magistrate, or the judge"). The undersigned will not sit idly by as this District Court is inundated with harassing and vexatious litigation arising from whatever M.K., K.S., K.C., Bey and El's perceived multimillion-dollar constitutional affront du jour might be.

Bethel v. Bosch, 2010 U.S. Dist. LEXIS 128065, at *13 (S.D. Ala. Dec. 2, 2010).

Murakush Caliphate of Amexem Inc. v. New Jersey, 790 F. Supp. 2d 241, 267 (D.N.J. 2011) (original brackets and ellipses removed).

4. Operating on presumption that Plaintiff might be interested in bona fide litigation, the Court finds it warranted to provide Plaintiff with guidance as to execution of Plaintiff's amended complaint. The Court urges Plaintiff to study this guidance with utmost care and seriousness and execute his amended pleading, if any, in strict compliance with this guidance.

- a. A civil complaint must be *a clear and concise* statement. In determining the sufficiency of a pro se complaint, the Court must be mindful to construe the facts stated in the complaint liberally in favor of the plaintiff. See Haines v. Kerner, 404 U.S. 519 (1972); United States v. Day, 969 F.2d 39, 42 (3d Cir. 1992). However, any civil complaint must conform to the requirements set forth in Rules 8(a) and (e) of the Federal Rules of Civil Procedure. The Rules require that the complaint be simple, concise, direct and set forth “a *short and plain* statement of the claim showing that the pleader is entitled to relief.” Leatherman v. Tarrant County Narcotics Intelligence and Coordination Unit, 507 U.S. 163, 168 (1993) (emphasis supplied); cf. McNeil v. United States, 508 U.S. 106, 113 (1993) (procedural rules in civil litigation should not be interpreted so as to excuse mistakes by those who proceed without counsel); Burks v. City of Philadelphia, 904 F. Supp. 421, 424 (E.D. Pa. 1995) (pleading which represented a “gross

departure from the letter and the spirit of Rule 8(a)(2)” in failing to contain a short and plain statement of claims struck by District Court); Salahuddin v. Cuomo, 861 F.2d 40, 42 (2d Cir. 1988) (affirming dismissal of pro se civil rights complaint naming numerous defendants, setting forth numerous causes of action, and numbering fifteen pages and eighty-eight paragraphs). Here, the submissions made by Plaintiff are neither short nor plain: they show, if anything, that Plaintiff is not entitled to relief. Therefore, these submissions should be, at the very least, dismissed without prejudice pursuant to Rule 8. Correspondingly, in the event Plaintiff elects to execute his amended complaint, he should do it by stating his allegations in short and plain matter, without any resort to “Marrakush argot,” citations to legal sources having no relevance to Plaintiff’s factual predicate, pointless rhetoric, senselessly-picked Latin terms, irrelevant constitutional excerpts, etc. Cf. Advanta Corp. Sec. Litig., 180 F.3d 525, 534 (3d Cir. 1999) (quoting DiLeo v. Ernst & Young, 901 F.2d 624, 627 (7th Cir. 1990), for the observation that a pleading must indicate “the who, what, when, where, and how: the first paragraph of any newspaper story”). “A District courts should not have to read and decipher tomes disguised as pleadings.” Lindell v. Houser, 442 F.3d 1033, 1035 n.1 (7th Cir. 2006).

- b. Moreover, Rule 20(a)(2) of the Federal Rules of Civil Procedure limits the joinder of defendants, and Rule 18(a), governs the joinder of claims. See Fed. R. Civ. P. 18(a), 20(a)(2). Rule 20(a)(2) provides: “Persons . . . may be joined in one action as defendants if: (A) any right to relief is asserted against them jointly, severally,

or in the alternative with respect to or arising out of the same transaction, occurrence, or series of transactions or occurrences; and (B) any question of law or fact common to all defendants will arise in the action.” Fed. R. Civ. P. 20(a)(2)(A) and (B). Rule 18 (a) provides: “A party asserting a claim . . . may join, as independent or alternative claims, as many claims as it has against an opposing party.” Fed. R. Civ. P. 18(a). Wright & Miller's treatise on federal civil procedure explains that, where multiple defendants are named, the analysis under Rule 20 precedes that under Rule 18:

Rule 20 deals solely with joinder of parties and becomes relevant only when there is more than one party on one or both sides of the action. It is not concerned with joinder of claims, which is governed by Rule 18. Therefore, in actions involving multiple defendants Rule 20 operates independently of Rule 18 . . . Despite the broad language of Rule 18(a), plaintiff may join multiple defendants in a single action only if plaintiff asserts at least one claim to relief against each of them that arises out of the same transaction or occurrence and presents questions of law or fact common to all . . .

Charles Allen Wright, Arthur R. Miller, Mary Kay Kane, Federal Practice & Procedure Civil 3d §1655; see also United States v. Mississippi, 380 U.S. 128, 143 (1965); Ross v. Meagan, 638 F. 2d 646, 650 n.5 (3d Cir. 1981), overruled on other grounds by, Neitzke v. Williams, 490 U.S. 319, 328 (1989) (joinder of defendants is not permitted by Rule 20 unless both commonality and same transaction requirements are satisfied). Consequently, a civil plaintiff may not name more than one defendant in his original or amended complaint unless one claim against each additional defendant is transactionally related to the claim

against the first defendant and involves a common question of law or fact. See Fed. R. Civ. P. 20(a)(2). As the United States Court of Appeals for the Seventh Circuit once explained, even a prisoner may not join in one case all defendants against whom he may have a claim, unless the prisoner satisfies the dual requirements of Rule 20(a)(2):

Thus multiple claims against a single party are fine, but Claim A against Defendant 1 should not be joined with unrelated Claim B against Defendant 2. Unrelated claims against different defendants belong in different suits, not only to prevent the sort of morass that [a multi]-claim, [multi]-defendant suit produced but also to ensure that prisoners pay the required filing fees - for the Prison Litigation Reform Act limits to 3 the number of frivolous suits or appeals that any prisoner may file without prepayment of the required fees. 28 U.S.C. § 1915(g) . . . A buckshot complaint that would be rejected if filed by a free person - say, a suit complaining that A defrauded the plaintiff, B defamed him, C punched him, D failed to pay a debt, and E infringed his copyright, all in different transactions -should be rejected if filed by a prisoner.

George v. Smith, 507 F. 3d 605, 607 (7th Cir. 2007).

Here, Plaintiff's submissions hint at a panoply of transactions involving persons who had no relation to other transactions: all these transactions and named participants are merely "stitched" together by Plaintiff's overall assertion that his rights were, somehow, violated and/or that he found some transactions not to his liking. See, generally, Docket Entries Nos. 1 and 2. Since the Federal Rules of Civil Procedure do not allow such "stitching," Plaintiff's submissions are also subject to dismissal for failure to meet the requirements of Rules 18 and 20, and his amended complaint, if filed, should be executed in accordance with the requirements of Rules 18 and 20.

c. In addition to foregoing, a civil complaint, even that submitted by a pro se litigant, must meet the pleading requirements by stating sufficient factual heft. It had long been established that, while a court should “accept as true all of the [factual] allegations in the complaint and reasonable inferences that can be drawn therefrom, and view them in the light most favorable to the plaintiff,” Morse v. Lower Merion School Dist., 132 F.3d 902, 906 (3d Cir. 1997), the courts do not accept bald assertions, unsupported conclusions, unwarranted inferences, or sweeping legal conclusions cast in the form of factual allegations. See id. Addressing the clarifications as to the litigant’s pleading requirement stated in the United States Supreme Court in Bell Atl. Corp. v. Twombly, 550 U.S. 544 (2007), the Court of Appeals for the Third Circuit provided the courts in this Circuit with detailed and careful guidance as to what kind of allegations qualify as pleadings sufficient to pass muster under the Rule 8 standard. See Phillips v. County of Allegheny, 515 F.3d 224, 230-34 (3d Cir. 2008). Specifically, the Court of Appeals observed as follows:

“While a complaint . . . does not need detailed factual allegations, a plaintiff’s obligation [is] to provide the ‘grounds’ of his ‘entitle[ment] to relief’ [by stating] more than labels and conclusions, and a formulaic recitation of the elements of a cause of action” Twombly, 127 S. Ct. at 1964-65 . . . Rule 8 “requires a ‘showing,’ rather than a blanket assertion, of entitlement to relief.” Id. at 1965 n.3. . . . “[T]he threshold requirement of Rule 8(a)(2) [is] that the ‘plain statement [must] possess enough heft to ‘sho[w] that the pleader is entitled to relief.’” Id. at 1966. [Hence] “factual allegations must be enough to raise a right to relief above the speculative level.” Id. at 1965 & n.3. . . . [Indeed, it is not] sufficient to allege mere elements of

a cause of action; instead “a complaint must allege facts suggestive of the proscribed conduct.” Id.

Id. at 230-34 (original brackets removed).

This pleading standard was further refined by the United States Supreme Court in

Ashcroft v. Iqbal, 129 S. Ct. 1937 (2009), where the Court observed:

[In any civil action, t]he pleading standard . . . demands more than an unadorned [“]the-defendant- unlawfully-harmed-me[”] accusation. Twombly, 550 U.S.] at 555 A pleading that offers “labels and conclusions” or “a formulaic recitation of the elements of a cause of action will not do.” Id.] at 555. Nor does a complaint suffice if it tenders “naked assertion[s]” devoid of “further factual enhancement.” Id. at 557. . . . A claim has facial plausibility [only] when the plaintiff pleads factual content Id. at 556. [Moreover,] the plausibility standard . . . asks for more than a sheer possibility that a defendant has acted unlawfully. Id. [Indeed, even w]here a complaint pleads facts that are “merely consistent with” a defendant’s liability, [the so-alleging complaint still] “stops short of [showing] plausibility of ‘entitlement to relief.’” Id. at 557 (brackets omitted). [A fortiori,] the tenet that a court must accept as true all of the allegations contained in a complaint is inapplicable to legal conclusions [or to t]hreadbare recitals of the elements of a cause of action, supported by mere conclusory statements [i.e., by] legal conclusion[s] couched as a factual allegation [e.g.,] the plaintiffs’ assertion of an unlawful agreement [or] that [defendants] adopted a policy “‘because of,’ not merely ‘in spite of,’ its adverse effects upon an identifiable group.” . . . [W]e do not reject these bald allegations on the ground that they are unrealistic or nonsensical. . . . It is the conclusory nature of [these] allegations, rather than their extravagantly fanciful nature, that disentitles them to the presumption of truth. . . . [Finally,] the question [of sufficiency of] pleadings does not turn . . . the discovery process. Twombly, 550 U.S.] at 559 [The plaintiff] is not entitled to discovery [where the complaint alleges any of the elements] “generally,” [i.e., as] a conclusory allegation [since] Rule 8 does not [allow] pleading the bare elements of [the] cause of action [and] affix[ing] the label “general allegation” [in hope to develop facts through discovery].

Iqbal, 129 S. Ct. at 1949-54.

Here, Plaintiff's submissions are heavily laden with bold conclusions but contained just a handful of facts, thinly peppered over plentitude of self-serving conclusory statements. Therefore, Plaintiff's submissions are also subject to dismissal for failure to meet the pleading requirements, as detailed in Iqbal and Twombly, and Plaintiff's amended complaint, if filed, should be executed in a thoughtful and careful manner, in compliance with these pleading requirements.

5. Finally, to the degree the Court can distill the substance of Plaintiff's claims from the submissions at bar, the Court will screen these submissions on merit, weeding out the allegations that facially fail to state a cognizable claim: notwithstanding the payment of a filing fee, the Court is obligated to screen Plaintiff's submissions pursuant to 28 U.S.C. § 1915A. See Vega v. Kyler, 90 F. App'x 437 (3d Cir. Pa. 2004) (where the litigant pays filing fee, his civil rights complaint is subject to sua sponte review on merits under 28 U.S.C. § 1915A(b)); Vieux v. Smith, 2007 U.S. Dist. LEXIS 40859 (M.D. Pa. 2007); Padilla v. Beard, 2006 U.S. Dist. LEXIS 98622 (M.D. Pa. 2006). Here, Plaintiff, seemingly, named four Defendants: (a) William Gasborro ("Gasborro"), a Municipal Court Judge who presided over Plaintiff's criminal state proceedings; (b) Carie A. Crone ("Crone"), the Clerk of a Municipal Court; (c) James P. Grimley, Esq. ("Grimley"), an attorney handling DWI/DUI, minor drug offenses and analogous matters for the Municipal Court, acting as the prosecutor; (d) Officer C. Cavileer ("Cavileer"); and (e) unspecified "Colorable Officers" ("Officers"). See Docket Entry No. 1 at 2. The best the Court can surmise after carefully studying the patchy submissions at bar, Plaintiff was

prosecuted in Absecon Municipal Court for a certain minor penal offence, having Gasborro presiding over this criminal proceeding, Grimley representing the State during the same, Cavileer being present in the courtroom during certain points of this prosecution, and Crone processing and docketing the documents produced in connection with this prosecution. See, generally, Docket Entry No. 1. Plaintiff's allegations against Gasborro appear limited to: (a) Plaintiff's belief that Gasborro (and/or the Municipal Court) lacked jurisdiction to prosecute Plaintiff; (b) Plaintiff's disagreement with how Gasborro construed Plaintiff's submissions filed in that criminal matter and, seemingly, executed in the Marrakush/Moorish style/argot; (c) Plaintiff's opinion that Gasborro's evidential rulings were erroneous; (d) Plaintiff's dislike of the judgment entered by Gasborro; and (e) Plaintiff's speculations that Gasborro was unqualified to act as Plaintiff's tribunal. See id. Plaintiff's allegations against Grimley appear limited to: (a) Plaintiff's opinion that certain motions made by Grimley on behalf of the State were meritless; (b) Plaintiff's belief that Grimley erred in his positions as to the merits of State's case against Plaintiff and as to the nature of Plaintiff's motion executed in the Marrakush/Moorish style/argot; and (c) Plaintiff's impression that Grimley's representation of the State's interests was procedurally deficient. See id. Plaintiff's allegations against Cavileer are limited to the statement that, during a certain point of Plaintiff's criminal prosecution, Cavileer was physically standing between Plaintiff and Plaintiff's defense counsel, thus blocking Plaintiff's view of his counsel. See id. at 7. This Court was unable to locate *any* factual statements in the submissions at bar implicating Crone or the "Offices" in any wrongs or any actions. See, generally, id.

- a. To the degree Plaintiff intended to challenge Municipal Court's jurisdiction over his criminal prosecution and/or the propriety of Gasborro's designation as the tribunal presiding over Plaintiff's criminal proceedings, Plaintiff's claims are facially meritless. Regardless of Plaintiff's emotions, state courts of every level, including municipal courts, have proper jurisdiction to conduct civil and criminal proceedings.

[I]t is well-recognized . . . that such organizations as the Moorish American Nation and [similar imaginary creations, like] the Nation of Washitaw, are[] notorious organization[s] of scofflaws and ne'er-do-wells who attempt to benefit from the protections of federal and state law while simultaneously proclaiming their independence from and total lack of responsibility under those same laws. Sanders-Bey v. United States, 267 F. App'x 464, 466 (7th Cir.2008) (finding that "the Washitaw Nation . . . is not recognized by the United States government"); Bybee v. City of Paducah, 46 F. App'x 735, 736-37 (6th Cir.2002) (finding that the "Nation of Washitaw" is "fictional"); United States v. Gunwall, 1998 U.S.App. LEXIS 18596, at *11 (10th Cir. Aug. 12, 1998) (rejecting claim that the court had no jurisdiction over a member of the Washitaw as "frivolous")

El-Bey v. United States, 2009 U.S. Dist. LEXIS 33838 (M.D.N.C. Jan. 26, 2009); accord Tzdiquah Bah't Yisra-El v. City of Ferguson Mun. Court, 2011 U.S. Dist. LEXIS 55705 (E.D. Mo. May 24, 2011) (plaintiff's allegations that the state court lacked jurisdiction over him were frivolous); Carter El v. Keller, 2011 U.S. Dist. LEXIS 44966 (M.D.N.C. Apr. 26, 2011) (same); Jackson-El v. State & Fed. Plaintiffs in Gen., 2011 U.S. Dist. LEXIS 45332 (W.D. Mich. Apr. 26, 2011) (same); Tirado v. New Jersey, 2011 U.S. Dist. LEXIS 32337 (D.N.J. Mar. 28, 2011) (same); Burpee-El v. Warden, Fort Dix, 2010 U.S. Dist. LEXIS 118307

(D.N.J. Nov. 8, 2010) (same); Bank of Am. Nat'l Ass'n v. Derisme, 2010 U.S. Dist. LEXIS 82361 (D. Conn. Aug. 13, 2010) (same); Cohen v. Little Six, Inc., 543 N.W.2d 376 (Minn. Ct. App. 1996) (same). Analogously, to the extent Plaintiff seeks this Court's review of the outcome of his Municipal Court proceedings or of Gasborro's competency to preside over Plaintiff's criminal prosecution, this Court is wholly without a mandate to conduct such review. The "proper procedure dictates review through the state appellate process, not the federal system." Ephraim v. Asbury Park Mun. Court, 2011 U.S. Dist. LEXIS 58020, at *3-4 (D.N.J. May 31, 2011) (relying on E.B. v. Verniero, 119 F.3d 1077, 1090 (3d Cir. 1997)).⁵

- b. To the degree Plaintiff intended to assert that Gasborro's actions, in Gasborro's capacity as a Municipal Judge, violated Plaintiff's rights, Plaintiff's challenges are barred by absolute judicial immunity. The doctrine of judicial immunity provides that "judges are immune from suit under section 1983 for monetary damages arising from their judicial acts." Gallas v. Supreme Court of Pa., 211 F.3d 760, 768 (3d Cir. 2000); see also Mireles v. Waco, 502 U.S. 9 (1991) (per curiam). To

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First, the Third Circuit has held that a federal district court may not exercise jurisdiction over a municipal court proceeding such as the instant case involving a traffic citation. See Janciga v. Vora, 257 F. App'x 530, 530-531 (3d Cir. 2007) (dismissing appeal for a claim concerning a traffic citation); see also Pa. v. Vora, 204 F. App'x 134, 136 (3d Cir. 2006) (holding that a federal district court does not have jurisdiction over a state traffic court matter).

Ephraim, 2011 U.S. Dist. LEXIS 58020, at *4.

determine whether the judicial immunity doctrine applies, the Court must establish: (a) whether the judge's actions were "judicial" in nature; and (b) whether the judge acted in the "clear absence of all jurisdiction over the subject matter." Gallas, 211 F.3d at 768-69 (quoting Stump v. Sparkman, 435 U.S. 349, 356 n.6 (1978)). An act is judicial in nature if "it is a function normally performed by a judge" and if the parties "dealt with the judge in his judicial capacity." Stump, 435 U.S. at 362. Here, Plaintiff's allegations, while exceedingly patchy and heavily laden with self-serving bold conclusions, establish with complete certainty that Plaintiff challenges Gasborro's rulings entered in Gasborro's judicial capacity during the process when Gasborro was treated as the presiding tribunal. Plaintiff's displeasure or disagreements with Gasborro's rulings are of no import. "[A litigant's] allegations of bad faith [and] malice" cannot overcome [judicial] immunity." Abulkhair v. Rosenberg, 2012 U.S. App. LEXIS 494 (3d Cir. Jan. 10, 2012) (quoting Mireles, 502 U.S. at 11). Simply put, "an act does not become less judicial by virtue of an allegation of malice or corruption of motive," or that such action is "unfair" or "controversial." Gallas, 211 F.3d at 769; accord Stump, 435 U.S. at 363 ("[d]isagreement with the action taken by the judge . . . does not justify depriving the judge of his immunity"). Therefore, Plaintiff's claims against Gasborro will be dismissed with prejudice and such claims should *not* be raised in Plaintiff's amended complaint, if filed.

- b. Plaintiff's claims against Grimley are analogously deficient on their face, being barred by prosecutorial immunity. "[A] state prosecuting attorney who act[s]

within the scope of his duties in initiating and pursuing a criminal prosecution” is not amenable to suit under § 1983. See Imbler v. Pachtman, 424 U.S. 409, 410 (1976); accord Morton v. United States Attorney's Office, 208 Fed. App’x 1 (D.C. Cir. 2006) (applying prosecutorial immunity to federal prosecutors). Thus, a prosecutor’s appearance in court as an advocate of the state government and prosecutorial decisions as to presentation of evidence during such appearances are protected by absolute immunity. See Burns v. Reed, 500 U.S. 478, 492 (1991). Similarly, all other “acts undertaken by a prosecutor in preparing for the initiation of judicial proceedings or for trial, and which occur in the course of his role as an advocate for the State, are entitled to the protections of absolute immunity.” See Buckley v. Fitzsimmons, 509 U.S. 259, 273 (1993).⁶ Since Plaintiff’s submissions, while hard to decipher and heavily infused with irrelevant rhetoric, unambiguously indicate that Plaintiff’s challenges to Grimley’s actions are limited to Plaintiff’s displeasure with Grimley’s actions as a prosecutor, *i.e.*, strategic choices, procedural choices, statements of substantive legal conclusions, etc., Plaintiff’s allegations are facially barred by prosecutorial immunity. Therefore, Plaintiff’s claims against Grimley will be dismissed with prejudice and these claims should *not* be raised in Plaintiff’s amended complaint, if filed.

⁶ A prosecutor is not entitled to absolute immunity for actions undertaken in some *other* function. See Kalina v. Fletcher, 522 U.S. 118 (1997); Burns, 500 U.S. at 492-96; Buckley, 409 U.S. at 276-78; see also Yarris v. County of Delaware, 465 F.3d 129 (3d Cir. 2006). Here, Plaintiff’s submissions indicate, with certainty, that Plaintiff challenges only Grimley’s decisions made as an advocate of the State, *i.e.*, Grimley’s suppression motions, Grimley’s procedural applications, Grimley’s arguments as to substantive law, Grimley’s expressions of opinion as to the proper qualification of Plaintiff’s submissions made in Moorish/Marrakush argot, etc.

- c. Plaintiff's allegations against Cavileer are puzzling, being limited to the sole statement that, at one point during Plaintiff's criminal prosecution, Cavileer was physically standing between Plaintiff and his defense counsel, and either Cavileer or Plaintiff, or the defense counsel had to move in order for Plaintiff to see his defense counsel (or vice-versa). See Docket Entry No. 1, at 7. As stated, these allegations fail to allege any cognizable constitutional wrong, or a legal wrong of any kind. However, granted both the brevity and oddity of this challenge, the Court finds it warranted, out of abundance of caution, to dismiss this claim without prejudice, allowing Plaintiff an opportunity to state, clearly and concisely, Plaintiff's challenges against Cavileer. The Court stresses that, pursuant to Rule 8 and Iqbal, Plaintiff's statements should be simple and limited to factual points, free of self-serving bold conclusions, Moorish/Marrakush argot, irrelevant discussions of law (be it as it is perceived by Plaintiff or as Plaintiff desires the law to be, etc.)
- d. Plaintiff's challenges against Crone and Officers will analogously be dismissed without prejudice since Plaintiff's submissions appear wholly silent as to any Crone and/or Officers' actions. See, generally, Docket Entry No. 1. Therefore, as with Cavileer, Plaintiff will be allowed an opportunity to elaborate on the *facts* underlying his challenges, if any, against Crone and the Officers, provided that Plaintiff's amended pleading states these challenges in a simple and concise fashion required by Rule 8 and Iqbal, and in accordance with the requirements

posed by Rules 18 and 20, that is, in the event these claims are joined to each other or to those against Cavileer.

IT IS, THEREFORE, on this 24th day of May, 2012,

ORDERED that Plaintiff's submissions at bar, Docket Entries Nos. 1 and 2, are dismissed; and it is further

ORDERED that Plaintiff's challenges against Defendants Gasborro and Grimley are dismissed *with prejudice*, and the Clerk shall terminate these persons as Defendants in this matter; and it is further

ORDERED that Plaintiff's challenges against Defendants Crone, Cavileer and "Colorable Officers" are dismissed *without prejudice*; and it is further

ORDERED that the Clerk shall administratively terminate this action by making a new and separate entry on the docket reading, "CIVIL CASE TERMINATED"; and it is further

ORDERED that no statement made in this Memorandum Opinion and Order shall be construed as withdrawal of the Court's jurisdiction over this action, and administrative termination shall not be deemed a conclusive dismissal of the entirety of this matter; and it is further

ORDERED that Plaintiff may have this matter reopened in the event Plaintiff submits, within thirty days from the date of entry of this Memorandum Opinion and Order, Plaintiff's amended complaint stating, in a clear and concise fashion and without any Moorish/Marrakush argot, irrelevant rhetoric or discussion of law, *solely the facts* of Plaintiff's challenges against Defendants Crone, Cavileer and "Colorable Officers." Such amended pleading shall be executed in strict compliance with the requirements of Rules 8, 18 and 20. The Court stresses that

Plaintiff's submission of another untidy pleading would be deemed mockery of the Court and would result in a conclusive dismissal of this matter, and – if appropriate – the Court might consider sanctioning Plaintiff for submitting such amended pleading; and it is further

ORDERED that, in the event Plaintiff timely submits a properly executed amended complaint, the Court will direct the Clerk to reopen this matter and will screen Plaintiff's amended complaint on merits; and it is finally

ORDERED that the Clerk shall serve this Memorandum Opinion and Order upon Plaintiff by regular U.S. mail, and include in the said mailing a blank civil complaint form.

s/Robert B. Kugler

Robert B. Kugler

United States District Judge