

**UNITED STATES DISTRICT COURT
DISTRICT OF CONNECTICUT**

M. PETER KUCK, individually	:	
and on behalf of others similarly situated,	:	
	:	
Plaintiffs,	:	CASE NO.: 3:07-CV-1390-VLB
	:	
v.	:	
	:	
M. JODI RELL, Governor, State of Connecticut,	:	<u>AMENDED COMPLAINT</u>
In her Individual and Official Capacities,	:	
JOHN A. DANAHER, III, Commissioner,	:	
Connecticut State Department of Public Safety,	:	
In his Individual and Official Capacities,	:	
ALBERT J. MASEK, JR., Commanding Officer,	:	
Connecticut State Department of Public Safety,	:	
In his Individual and Official Capacities,	:	
BARBARA MATTSON, Detective,	:	
Connecticut State Department of Public Safety,	:	
In her Individual Capacity,	:	
THOMAS KARANDA, Detective,	:	
Connecticut State Department of Public Safety,	:	
In his Individual Capacity,	:	
RONALD A. BASTURA, Sergeant,	:	
Connecticut State Department of Public Safety,	:	
In his Individual Capacity,	:	
SUSAN MAZZOCCOLI, Executive Head,	:	
Connecticut State Department of Administrative	:	
Services, State of Connecticut,	:	
In her Individual and Official Capacities,	:	
CHRISTOPHER R. ADAMS, Connecticut	:	
State Board of Firearms Permit Examiners,	:	
In his Individual Capacity,	:	TRIAL BY JURY DEMANDED
	:	
Defendants.	:	JANUARY 22, 2008

PRELIMINARY STATEMENT

1. This action arises from Governor M. Jodi Rell's unlawful appointment of Christopher R. Adams to the position of Chairperson of the Board of Firearms Permit Examiners for a term coterminous with her term or until the appointment of a successor in violation of state statutes and regulations mandating that the Board elect its Chairperson biennially.

2. Adams, in his position as Governor Rell's unlawfully appointed Chairperson, in combination with the Board's Executive Head, Susan Mazzocoli, has undermined and diminished the independence and authority of the Board to review and oversee the Connecticut State Department of Public Safety's exercise of its authority.

3. Governor Rell's seminal appointment of Adams to serve as Chairperson and her deliberate indifference to the Board's malfunction have allowed and continue to allow the Connecticut State Department of Public Safety to abuse the authority granted it under state law.

JURISDICTION

4. The District of Connecticut has jurisdiction over the instant Amended Complaint pursuant to 28 U.S.C. § 1331, 28 U.S.C. § 1343(a)(3), (4), and 42 U.S.C. §§ 1983, 1988.

PARTIES

Plaintiff M. Peter Kuck

5. Plaintiff M. Peter Kuck ("Plaintiff") is an adult citizen of the United States with a residence in West Hartford, Connecticut.

6. Former-Governor John G. Rowland appointed Plaintiff to the Connecticut State Board of Firearms Permit Examiners ("Board") in 1998 by nomination of Ye Connecticut Gun Guild, Inc. (YCGG) pursuant to Connecticut General Statutes ("General Statutes"), § 29-32b.

7. Plaintiff served as the Board's duly elected Secretary from prior to October, 2003, until October 11, 2007.

8. Plaintiff brings Count One, in accordance with Rule 23(b)(1), (2), and (3) of the Federal Rules of Civil Procedure, on his behalf and on behalf of all persons who, similar to Plaintiff:

- a. hold or have held a state permit issued by the Department and were required to

submit a birth certificate, United States passport, or voter registration card to the Department for renewal of such state permit; or

- b. have held a state permit issued by the Department and were denied renewal of such state permit for failure to submit a birth certificate, United States passport, or voter registration card to the Department.

9. Plaintiff brings Count Two, in accordance with Rule 23(b)(1), (2), and (3) of the Federal Rules of Civil Procedure, on his behalf and on behalf of all persons who, similar to Plaintiff:

- a. have been aggrieved by any refusal to renew a state permit or certificate under the provisions of General Statutes §§ 29-28 and 29-36f; and
- b. filed a timely appeal to the Board in accordance with General Statutes § 29-32b; and
- c. were denied or are being denied a reasonable and timely opportunity to be heard.

Governor M. Jodi Rell

10. Governor M. Jodi Rell (“Governor Rell”) served as Governor Rowland’s Lieutenant Governor from January 4, 1995, through July 1, 2004, when she assumed her present position of Governor upon Governor Rowland’s resignation from office.

11. As Governor, Governor Rell is vested by state statute with the supreme executive power of the state.

12. As Governor, Governor Rell may personally or through any authorized agent, investigate into, and take any proper action concerning, any matter involving the enforcement of the laws of the state and the protection of its citizens.

Commissioner John A. Danaher, III

13. John A. Danaher, III, is the Commissioner of the Connecticut State Department of Public Safety (“Commissioner Danaher”) and is sued in his official and individual capacities.

14. Governor Rell appointed Commissioner Danaher to serve as the Chief Executive Officer of the Connecticut State Department of Public Safety (“Department”) having general jurisdiction over Department affairs.

15. The Department is comprised of three principal divisions which include (a) the Division of State Police, (b) the Division of Fire, Emergency and Building Services, and (c) the Division of Scientific Services.

16. The Division of State Police, the Division of Fire, Emergency and Building Services, and the Division of Scientific Services, and several other Department sections, report directly to Commissioner Danaher.

17. The Division of State Police has two distinct operational offices which are the Office of Field Operations and the Office of Administrative Services.

18. The Office of Administrative Services includes the Special Licensing and Firearms Unit (SLFU).

Special Licensing and Firearms Unit Defendants

19. Defendant Albert J. Masek, Jr. (“Captain Masek”) is the Commanding Officer of Special Investigations and Support for the Division of State Police.

20. Captain Masek supervises the SLFU.

21. Defendant Barbara Mattson (“Detective Mattson”) is a member of the Department assigned to the SFLU at the rank of detective.

22. Defendant Thomas Karanda (“Detective Karanda”) is a member of the

Department assigned to the SFLU at the rank of detective.

23. Defendant Ronald A. Bastura (“Sergeant Bastura”) is a member of the Department serving as the SFLU’s Executive Officer at the rank of detective.

Christopher R. Adams and Susan Mazzoccoli

24. Defendant Christopher R. Adams (“Adams”), an attorney licensed to practice in Connecticut, has acted as the Board’s Chairperson since August 12, 2005.

25. Defendant Susan Mazzoccoli (“Mazzoccoli”) serves as the Board’s Executive Head for routine administrative and operational matters.

26. Mazzoccoli is assigned to the Connecticut State Department of Administrative Services and is supervised directly by Governor Rell.

Section 1983 Capacity for Suit

27. Governor Rell, Commissioner Danaher, Captain Masek, and Mazzoccoli are sued only in their individual capacities for compensatory and punitive damages but in both their individual capacities and their official capacities for injunctive relief and attorney’s fees.

28. Detective Mattson, Detective Karanda, Sergeant Bastura, and Adams are sued in their individual capacities.

29. During all times referenced in the Amended Complaint, the Defendants acted under color of state legislation, custom, and usage to subject or cause the Plaintiff to be subjected to the deprivation of rights secured by the federal Constitution and laws.

ALLEGATIONS OF FACT

Plaintiff’s State Permit Renewal Application and Appeal to the Board

30. A permit to carry a pistol or revolver in the state of Connecticut (“state permit”) expires five (5) years after the date such state permit becomes effective.

31. On or about March 19, 2007, Plaintiff personally submitted his application to the Department in Middletown, Connecticut, for the renewal of his state permit prior to its April 16, 2007, expiration date.

32. The Department demanded that Plaintiff submit a birth certificate or United States passport for renewal.

33. Plaintiff discussed with Sergeant Bastura, the SFLU Executive Officer, the Department's authority to demand the submission of a birth certificate or United States passport as a condition for renewing a state permit.

34. Sergeant Bastura told Plaintiff that since September 11, 2001, it was SFLU policy to demand a United States passport or birth certificate as a condition for renewing a state permit.

35. The submission of a United States passport or birth certificate was never a requirement for renewal of a state permit.

36. When Plaintiff applied for his first state permit in 1982, the process required that he submit a birth certificate as proof of United States citizenship.

37. The Department did not require that Plaintiff provide a birth certificate, United States passport, or voter registration card with any of his five (5) year state permit renewal applications until the renewal application submitted on or about March 19, 2007.

38. The Department does not require the submission of a birth certificate, United States passport, or voter registration card with every state permit renewal application.

39. In the February, 2006, session of the state General Assembly, language in Raised Bill No. 307 that would have imposed a requirement that a birth certificate, naturalization certificate or valid United States passport be required for citizens of the United States making application for a temporary state permit under General Statutes §§ 29-28 was rejected.

40. In a May 14, 2007, letter to Commissioner Danaher, Adams told Commissioner Danaher that General Statutes § 29-30 did not require the presentation of any one particular type of identification.

41. In his May, 14, 2007, letter to Commissioner Danaher, Adams asked Commissioner Danaher to reference a federal law or regulation that would require a particular type of identification as a condition for the renewal of a state permit.

42. Commissioner Danaher never responded to Adams' requests in the May 14, 2007, letter.

43. Sergeant Bastura knew on March 19, 2007, when he informed Plaintiff of the SFLU policy conditioning the renewal of a state permit upon the submission of a United States passport or birth certificate that the policy violated the law.

44. Plaintiff's state permit expired on April 16, 2007.

45. On April 17, 2007, Plaintiff requested information from Captain Masek about the SFLU's denial of Plaintiff's state permit renewal.

46. Captain Masek responded to Plaintiff that the Department sent Plaintiff a renewal form and instructions pursuant to General Statutes § 29-30(f) and that Plaintiff had failed to provide the documentation required for renewal.

47. Captain Masek instructed Plaintiff by letter dated April 26, 2007: "Enclosed please find another copy of the instruction sheet, which states the documentation that DPS will accept for establishing one's United States citizenship or legal residency. For establishing citizenship, we require the submission of a birth certificate, United States passport or voter registration card."

48. The Department, acting through its Legal Affairs Section, and Captain Masek, has failed to provide Plaintiff any basis in law for the Department demand that Plaintiff provide a birth certificate, United States passport, or voter registration card as a condition for renewal of a pistol permit pursuant to General Statutes § 29-30.

49. In June, 2005, the Board, upon receipt of a letter from YCGG questioning the SFLU's lawful basis for demanding United States passports as a condition for renewal of a state permit, requested that the Department clarify the basis for the SFLU policy.

50. The YCGG informed the Board in its June, 2005, letter that the demand for United States passports was an arbitrary and possibly illegal change in state permit renewal requirements.

51. The SFLU informed the Board in 2005 that the SFLU had requested United States passports since September 11, 2001, but that no one would be denied renewal if a United States passport was not produced.

52. Plaintiff has a clear entitlement to the renewal of his pistol permit.

53. The Department has not issued a renewal of Plaintiff's pistol permit.

54. Plaintiff filed a timely appeal to the Board from the Department refusal to renew his pistol permit.

55. The Board, by notice to Plaintiff dated April 20, 2007, scheduled a hearing on Plaintiff's appeal for November 13, 2008.

The Board of Firearms Permit Examiners

The Board's Authority and Composition

56. The Board was established in 1967 by state statute within the Department for administrative purposes only to hear appeals from persons aggrieved (a) by any refusal to issue

or renew a permit or certificate under the provisions of General Statutes §§ 29-28 and 29-36f, or (b) by any limitation or revocation of a permit or certificate issued under any of said sections, or (c) by a refusal or failure of any issuing authority to furnish an application as provided in General Statutes § 29-28a.

57. The Board, because it is assigned to the Department for administrative purposes only, is required to: (1) Exercise any quasi-judicial, rule-making or regulatory authority, licensing and policy-making functions which it may have independent of the Department and without approval or control of the department; (2) prepare its budget, if any, and submit its budgetary requests through the department; and (3) hire its own personnel or enter into contracts, if authorized by law, or if the general assembly provides or authorizes the expenditure of funds.

58. The Governor appoints seven (7) Board members to serve during the Governor's term and until the members' successors are appointed and qualify.

59. At least one (1) member of the Board is appointed from each of the nominations submitted by the Department Commissioner, the Connecticut State Association of Chiefs of Police, the Commissioner of Environmental Protection, The Connecticut State Rifle and Revolver Association, Inc., and Ye Connecticut Gun Guild, Inc.

60. The stated purposes of Ye Connecticut Gun Guild, Inc. are (a) to establish and maintain in Connecticut a permanent organization for the promotion of friendship among, and for the mutual benefit of, persons interested in the collection, preservation, and use of arms and accessories and (2) to take a united stand in opposing legislation or regulation at any level of government which may be injurious to the collection, preservation, possession, or use of firearms by responsible collectors, shooters, sportsmen, and other firearms owners.

61. At least one (1) member of the Board must be a lawyer licensed to practice in Connecticut to act as Chairperson of the Board during the hearing of appeals brought before the Board.

62. If the Chairperson of the Board is not an attorney then a member of the Board who is an attorney must act as the Chairperson during the hearing of appeals before the Board.

63. Governor Rell appointed Adams Chairperson of the Board of Firearms permit Examiners effective August 12, 2005, to serve for a term coterminous with her term or until a successor is appointed and qualified.

64. The Regulations of Connecticut State Agencies (“Regulations”) require that the Board elect its Chairperson and Secretary biennially.

65. Section 29-32b-4a states: “The Board shall elect its officers biennially. Officers shall serve for a period of twenty four months or until their successors take office, and there shall be no limit placed upon the number of terms, consecutive or non-consecutive an individual may serve.”

66. In appointing Adams to a term coterminous with her own term, Governor Rell divested the Board of its regulatory mandate to hold a biennial election for the Chairperson.

67. Adams called for an election in October, 2007, only after Plaintiff’s Complaint in the instant action was filed.

68. The Board elected Adams as Chairperson on October 11, 2007.

69. The Department’s representative on the Board, Attorney Corradino, replaced Plaintiff as Secretary in the election held on October 11, 2007.

70. Governor Rell’s unlawful appointment of Adams as Chairperson on August 12, 2005, and the failure to hold a biennial election renders any action taken by the Board under

Adams's tenure subject to challenge.

The Function of the Board Secretary

71. The Board Secretary is responsible for all secretarial duties defined in sections 29-32b-5 through 29-32b-15 of the Regulations, including:

- a. Accepting appeals to the Board.
- b. Conducting a thorough inquiry of the facts of the appeal. When the Secretary determines that the information obtained relative to the appeal is sufficient to permit the conduct of a fair and impartial hearing, the Secretary shall set a date for a hearing and give reasonable notice of the time and place of the hearing to the appellant and to the issuing authority.
- c. Determining the manner in which a verbatim transcript of each hearing held before the Board is maintained.
- d. Compelling attendance at hearings by subpoena.
- e. Postponing, recessing, or rescheduling hearings at the Secretary's discretion when the Board is not in session.

72. General Statutes § 29-32b(c) provides that a person aggrieved by a Department revocation action may file with the Board a "clear and concise statement of the facts on which he relies for relief, and shall state the relief sought by the appellant."

73. The Board's receipt of the statement by a person seeking the restoration of a state permit ("appellant") begins the appeals process and no appeal may be rejected for informality.

74. State statutes and regulations provide flexibility and discretion to the Board Secretary so that state permits revoked without apparent just and proper cause may be scheduled forthwith for hearing.

75. As Secretary, Plaintiff had the authority to review facts of an appeal and schedule appeals for hearing.

76. The Board Secretary's authority to review the facts and schedule appeals operates as a check and balance and to prevent the Department's abuse of its authority to issue, revoke, or deny renewal of state permits.

77. In preventing the Plaintiff from performing his duties as Secretary, Adams and Mazzoccoli divested the Board of its oversight of the Department's exercise of its authority to issue, revoke, or deny renewal of state permits.

The Backlog of Appeals

78. Plaintiff continuously urged Adams to demand that the Department provide an explanation for the backlog of appeals.

79. As the May, 2007, Board meeting approached, Mazzoccoli and Adams discussed whether the letter to Commissioner Danaher that Plaintiff had demanded regarding the backlog had been drafted by Board member Joseph T. Corradino ("Attorney Corradino").

80. When Mazzoccoli informed Adams that Attorney Corradino intended to bring the letter to the May, 2007, Board meeting, Adams responded: "WTF? I left a message for him and he hasn't called me back. Maybe I should be paranoid" to which Mazzoccoli responded: "Session paranoia, ... lack of sleep? Did you call the phone number [number redacted]? He has your back because the letter needs your signature."

81. In the May 14, 2007, letter to Commissioner Danaher, Adams, acting on behalf of the Board and at Plaintiff's continuous urging, expressed concern to Commissioner Danaher about the backlog of cases to be heard by the Board.

82. The May 14, 2007, letter to Commissioner Danaher cited an audit performed by

the Auditors of Public Accounts (“Auditors”) which found that the backlog had been a concern for at least two years and during this time had increased from an estimated wait time for hearing from fourteen (14) to sixteen (16) months.

83. The May 14, 2007, letter to Commissioner Danaher invited Commissioner Danaher to work with the Board to expedite the appeals process.

84. For fiscal years ending June 30, 2001, and 2002, the Auditors determined that the estimated wait time for a hearing before the Board had increased from three (3) months to fourteen (14) months as of January 23, 2003.

85. For fiscal years ending June 30, 2003, and 2004, the auditors noted that the backlog as of May 30, 2005, was fourteen (14) months.

86. In May, 2007, the estimated wait time for hearing before the Board was seventeen (17) months.

87. In June, 2007, the estimated wait time for hearing before the Board was twenty-two (22) months.

The Defendants’ Culpability for the Backlog of Appeals

Adams and Mazzoccoli Prevented Plaintiff from Performing Board Secretary Functions

88. In the Spring of 2007, Plaintiff, having no legal background or training, without the support of the Board Chairperson and its Executive Head, and still attempting to discover what authority he had, if any, to address the backlog, learned that Regulations to guide the Board existed.

89. Adams’s revelation that the Board was guided by Regulations was initiated by an inquiry on April 13, 2007, from Adams to Mazzoccoli asking if the Board had “Bylaws.”

90. Plaintiff then learned that Mazzoccoli maintained an outdated compilation of

Board Regulations consisting of only the first four (4) or five (5) of the fifteen (15) regulations contained at section 29-32b-1 through 29-32b-15.

91. On April 23, 2007, at 1:30 p.m., Plaintiff, upon learning that Mazzoccoli did not have the complete set of Regulations and in fact did not have the Regulations referencing the duties of the Board Secretary, emailed the complete set of Regulations contained in section 29-32b-1 through 29-32b-15.

92. Mazzoccoli then emailed Adams on April 23, 2007, at 2:25 p.m., to inform him, first, that the Board did not have Bylaws, and second, the Board had Regulations numbered 29-32b-5 through 29-32b-15 in addition to the outdated sections 29-32b-1 through 29-32b-4 on file in the Board's office.

93. Adams became aware, for the first time, on April 23, 2007, that the Board had Regulations it was mandated to follow.

94. When Plaintiff learned about the Regulations and began to exercise his authority as Secretary to decrease the backlog and preserve the rights afforded appellants under state statutes and regulations, Mazzoccoli and Adams increased their discussions about removing Plaintiff as Secretary and preventing his reappointment to the Board.

95. Mazzoccoli apologized to Adams for reporting to him about each attempt by Plaintiff to perform his duties as Board Secretary, and Adams responded on April 24, 2007: "And PLEASE - no need to apologize. YOU are not the one 'bothering me with this during session' - Peter is. He's either clueless about my schedule right now, so self-centered he's unaware, or explicitly attempting to manipulate the fact that I'm in session and taking this opportunity to push his agenda. I sincerely hope it's not the 3rd thing, but fear it may be."

96. On May 4, 2007, Plaintiff requested that Mazzoccoli forward a copy of the Board Regulations to all the Board members, which Mazzoccoli denied.

97. On May 8, 2007, in direct violation of the Board Regulations, Mazzoccoli refused to provide Plaintiff a transcript of the previous Board meeting and Adams, agreeing that he and Mazzoccoli would use the budget as an excuse, approved Mazzoccoli's unlawful refusal.

98. As part of his efforts to decrease the backlog and under his authority as Board Secretary, Plaintiff continued to ask Adams and Mazzoccoli if either had received any response from Commissioner Danaher to the Board's May 14, 2007, letter requesting a dialogue to decrease the backlog of appeals.

99. Plaintiff asked Mazzoccoli to make inquiry of the Department to determine the status of any response to the Board's May 14, 2007, letter, and to indicate to the Department that the Board Secretary was making the request.

100. On May 14, 2007, Mazzoccoli again discussed Plaintiff's removal from the Board with Director Boord.

101. Adams told Mazzoccoli on May 16, 2007, that Plaintiff did not have the authority as Secretary that Plaintiff thought he had despite Adams's recently gained awareness that Board Regulations existed and that section 29-32b-3 of the Regulations provided: "The Secretary of the Board of Firearms Permit Examiners shall be responsible for all secretarial duties defined in sections 29-32b-5 through 29-32b-15."

102. Mazzoccoli even requested permission from Adams prior to providing Plaintiff the May 14, 2007, letter to Commissioner Danaher addressing the backlog and the Department imposed requirement that state permit holders present a voter registration card, passport, or birth certificate prior to renewal of a state permit.

103. Plaintiff told Mazzoccoli that he believed the Department was deliberately delaying a response.

104. On May 24, 2007, Adams asked Mazzoccoli if Plaintiff had a day job because Kuck needed to spend more time at his day job.

105. Adams commented to Mazzoccoli that Plaintiff “needed to take a valium.”

106. In direct sabotage of the Secretary’s regulatory functions and Plaintiff’s request, Adams told Mazzoccoli on June 25, 2007, not to contact the Department about its response to the May 14, 2007, letter, stating: “I spoke to them [DPS] a couple of weeks ago and the commissioner’s office is drafting a response. No offense to secretaries, but the fact that ‘the Secretary wants to know’ is irrelevant. He [Kuck] needs to be reminded that ALL he gets to do is keep track of minutes.”

107. When Adams told Mazzoccoli that Plaintiff needed to be reminded that all he [Kuck] was authorized to do was to keep track of minutes, Adams, knowing that Board regulations existed and knowing that section 29-32b-3 of the Regulations placed responsibility on the Secretary for all secretarial duties defined in sections 29-32b-5 through 29-32b-15, sabotaged Plaintiff’s efforts to decrease the backlog and exert civilian oversight on the revocation activities of the SFLU.

108. Mazzoccoli continued to report and block each effort by Plaintiff to resolve the backlog and exert civilian oversight on the SFLU’s revocation activities.

109. Mazzoccoli sought Adams’s permission prior to releasing information about Board business to Plaintiff.

110. Mazzoccoli, with the agreement of Adams, ignored Plaintiff’s requests for transcripts.

111. Adams repeatedly told Mazzoccoli to ignore Plaintiff.

Efforts by Adams and Mazzoccoli to Remove Plaintiff as Secretary and Prevent his Reappointment

112. In April, 2007, Adams and Mazzoccoli initiated contacts with Maryann Boord, Governor Rell's Director of Boards and Commissions in the Office of the Governor.

113. Previously, by letter dated January 25, 2007, Plaintiff, in response to an inquiry from Director Boord, indicated to Director Boord that he wished to continue his service on the Board.

114. Together, Adams and Mazzoccoli drafted a letter to the Office of the Governor to oppose and subvert Plaintiff's reappointment to the Board.

115. Adams and Mazzoccoli tried to find out personal information about Plaintiff to present to the Governor's office as cause to not reappoint him.

116. Mazzoccoli and Adams investigated Plaintiff's YCGG participation which led Adams to congratulate Mazzoccoli for her "great sleuthing" to which Mazzoccoli responded that Adams should have seen what she [Mazzoccoli] found during the divorce.

117. The draft letter to the Governor's office represented that Adams had previously met with Department staff and a compromise was reached "to review double the amount of cases every other month, which as a result has reduced the backlog six (6) months."

118. The backlog was not in fact reduced by six (6) months at any time during the year 2007.

119. Mazzoccoli defended the Department against Plaintiff's efforts to reduce the backlog, writing to the Governor's office that the review of appeal cases is just small part of Department duties and the Department did not have the time or manpower to better address the issue.

120. Adams reviewed Mazzoccoli's draft letter to the Governor with approval and indicated he would look at it more closely and meet with Mazzoccoli.

Efforts by the Department, Adams, and Mazzoccoli to Prevent Plaintiff's Reappointment to the Board

121. Adams did not attend the May 10, 2007, Board meeting.

122. Mazzoccoli informed Adams on May 11, 2007, that police officers were incensed at Plaintiff for refusing to accept evidence of alcohol intoxication based on horizontal gaze nystagmus (HGN) tests in an appeal without corroborating blood alcohol content (BAC) tests.

123. Plaintiff based his refusal on the December 6, 2006, report by the Connecticut State Office of the Attorney General documenting efforts by law enforcement to misrepresent HGN tests and manipulate motor vehicle operators into refusing the BAC tests.

124. Mazzoccoli told Adams: "Our relationship with DPS has been further damaged and there are at least 3 local officers who are very angry with a remark made by Peter [Kuck]. Every officer in the room made an audible groan and one officer asked if he could have a copy of the transcript. I received a call from Maryann Boord at home and spoke with her this morning I told her about some of what Peter [Kuck] did yesterday."

125. Trooper Seth Mancini, an attorney employed by the Department, told Plaintiff that Plaintiff would be sorry that he was unwilling to accept the HGN test as evidence and wanted BAC tests to corroborate intoxication.

126. Later, in July, 2007, Adams and Mazzoccoli engaged in a conversation using their state email addresses about Adams's purchase of a new house causing Adams to comment: "Looks like Deb and I may be closing on our new house on the 12th! YAY! But that means I won't be able to make it to the BFPE - BOO! What's the backup date? Happy Friday!"

127. On June 15, 2007, Mazzoccoli reported to Adams that "Det. Karanda said he

believes Peter is no longer objective and should be removed from the Board. He also told me that Sgt. Rosado had spoken with you yesterday. I feel like a school kid passing rumors, and it bothers me that it has become so unprofessional, but I want to keep you informed.”

128. In July, 2007, Mazzoccoli and Adams continued to discuss preventing Plaintiff’s reappointment to the Board with Director Boord’s cooperation.

129. Adams reminded Mazzoccoli to remind Director Boord that time was of the essence because Plaintiff’s appeal of the nonrenewal of his own state permit was coming up before the Board even though it was not scheduled for hearing until November 13, 2008.

130. On July 17, 2007, Mazzoccoli wrote to Adams that Plaintiff would never be removed because Director Boord was leaving her position in the Governor’s office.

131. In July, 2007, Mazzoccoli reported to Adams that Detective Mattson and Detective Karanda attempted to meet with Director Boord at the Governor’s office but Director Boord convinced the detectives that she had enough information and would send a letter to the YCGG requesting a list of three (3) names in nomination for Plaintiff’s position on the Board as the YCGG representative.

132. Detective Mattson holds the express opinion that guns should not be possessed by persons not affiliated with law enforcement.

133. Detective Karanda threatened Plaintiff at a November 8, 2006, Board meeting.

134. The discussion preceding the threat occurred when Detective Karanda approached Plaintiff at a Board meeting on November 11, 2006, to inform Plaintiff that Detective Karanda was aware that Plaintiff and/or the YCGG had a scheduled gun show the upcoming weekend.

135. Detective Karanda then asked Plaintiff if he [Plaintiff] had heard about a previous antiques arms show in Hartford and when Plaintiff indicated that he had, Detective Karanda said,

“well we went too easy on those guys, and next time we will drag them out in handcuffs.”

136. Detective Karanda concluded the discussion with a threat by stating in a loud voice that he [Detective Karanda] had better not see anyone at the Guild show with price tags on any pistols or he [Detective Karanda], if the individuals did not have a local permit to sell, notwithstanding any posted sign limiting sales to Federal Firearms License holders only, would drag them out in cuffs.

137. Following Detective Mattson’s and Detective Karanda’s aborted meeting with Director Boord in July, 2007, Mazzoccoli told Adams that she wished “Maryann” [Director Boord] was not leaving her position in the Governor’s office because Mazzoccoli did not believe that anything would “be done about Peter [Kuck] now that Maryann [Director Boord] is leaving.”

The September 13, October 11, November 8, and December 13, 2007, Board Meetings

138. On August 27, 2007, Plaintiff asked Mazzoccoli to schedule a separate session as follows: “Please schedule a separate session after our regular hearing. The agenda for this special session will consist of a frank discussion regarding the SLFU’s failure to respond to our request of May 14th in regards to the backlog and other issues as well as our setting a date for the consideration of a declaratory ruling. I intend to schedule a meeting to go forward with the request for a declaratory ruling that is before us. I intend to do so under the authority granted the board secretary under Section 29-32b(7) of our regulations.”

139. Adams and Mazzoccoli ignored Plaintiff’s August 27, 2007, request and together decided not to respond to Plaintiff’s request for information concerning the September 13, 2007, Board meeting and scheduled appeals.

140. When Plaintiff contacted Mazzoccoli for information about Board business, Mazzoccoli hung up the phone on Plaintiff and told security to bar Plaintiff from the Board's offices.

141. Adams told Mazzoccoli not to give Plaintiff any information.

142. On September 10, 2007, Mazzoccoli told Adams that if a new Secretary was elected all their problems would go away.

143. At the September 13, 2007, Board meeting, during an "executive session" convened by Adams, Mazzoccoli read from a multiple-page document detailing her dissatisfaction with Kuck.

144. The September 13, 2007, executive session was illegal under the state Freedom of Information Act because Plaintiff is not a state employee so the session did not regard a personnel matter.

145. Mazzoccoli and Adams deliberately omitted Mazzoccoli's statement from the September 13, 2007, agenda so that the public would not have access to its content.

146. Plaintiff filed his Complaint in the above-captioned matter on September 17, 2007, and provided notice to the Board on September 18, 2007.

147. The Board conducted a vote at its Board meeting on October 11, 2007, and Plaintiff was replaced as Secretary by Attorney Corradino, the Department's representative on the Board.

148. The Board conducted a vote at its Board meeting on October 11, 2007, and Adams was elected Chairperson.

149. At the October, 2007, Board meeting, with Mazzoccoli present, Plaintiff moved that the document relied upon by Mazzoccoli at the September, 2007, meeting be included in the September, 2007, minutes.

150. Plaintiff's request to include Mazzoccoli's statement in the September 13, 2007, minutes caused the approval of the minutes to be tabled at the October, 2007, Board meeting.

151. At the November, 2007, Board meeting, with Mazzoccoli present, Plaintiff moved that the document relied upon by Mazzoccoli at the September 13, 2007, meeting be included in the September 13, 2007, minutes.

152. Plaintiff's motion passed and the September 13, 2007, minutes were adopted with Mazzoccoli's multiple-page document to be attached.

153. When Plaintiff requested the entirety of the September 13, 2007, minutes on December 13, 2007, including the multiple-page document relied upon by Mazzoccoli, at the September 13, 2007, Board meeting, Mazzoccoli claimed to have destroyed the document.

The Department's Intention to Usurp the Board's Authority and Cause Delay

The Department's Unilateral Decisions to Return State Permits Prior to Hearing

154. Commissioner Danaher and his designated agents, including, but not limited to, Captain Masek, Detective Mattson, Detective Karanda, and Sergeant Bastura, have maintained an unlawful practice and procedure of returning revoked state permits to their holders prior to hearing before the Board.

155. Commissioner Danaher or any of his designated agents, including, but not limited to, Captain Masek, Detective Mattson, Detective Karanda, and Sergeant Bastura, have no lawful authority to return a revoked state permit to its holder until the Board orders, after hearing, the restoration of the state permit.

156. The Board, in deciding whether to order the restoration of a state permit, inquires into and determines the facts, *de novo*, and unless the Board finds that revocation would be for just and proper cause, the Board orders the state permit restored to its holder in accordance with General Statutes § 29-32b(b).

157. Commissioner Danaher and his designated agents, including, but not limited to, Captain Masek, Detective Mattson, Detective Karanda, and Sergeant Bastura, by engaging in the unlawful practice and procedure of returning revoked state permits to their owners prior to a hearing before the Board, have circumvented the exclusive authority of the Board to determine whether the facts support a finding that revocation was for just and proper cause.

158. Commissioner Danaher and his designated agents, including, but not limited to, Captain Masek, Detective Mattson, Detective Karanda, and Sergeant Bastura, by engaging in the unlawful practice and procedure of returning revoked state permits to their owners prior to a hearing before the Board, have concealed and secreted revocations from the civilian scrutiny and review of the Board.

159. Commissioner Danaher and his designated agents, including, but not limited to, Captain Masek, Detective Mattson, Detective Karanda, and Sergeant Bastura, by engaging in the unlawful practice and procedure of returning revoked state permits to their owners prior to a hearing before the Board, have condoned and promoted the revocation of state permits revocations having no basis in fact and without any just and proper cause.

160. Commissioner Danaher and his designated agents, including, but not limited to, Captain Masek, Detective Mattson, Detective Karanda, and Sergeant Bastura, by engaging in the unlawful practice and procedure of returning revoked state permits to their owners prior to hearing before the Board, have used discretion not granted them under state law and opened the

state permit revocation process to partiality, inconsistency, appearance of impropriety, and problems associated with the lack of oversight attendant to the unauthorized and unregulated discretion practiced by the SFLU in determining whether revoked state permits should be returned to their holders prior to the civilian scrutiny of the Board.

161. While the Department has the authority to revoke a state permit pursuant to General Statutes § 29-32(b), it does not have the authority that the Board possesses to restore a revoked state permit pursuant to General Statutes § 29-32b(b).

162. The SFLU's practice of revoking state permits and then returning them to their holders without review by the Board of the facts underlying the revocation has resulted in a pattern and practice of allowing law enforcement agencies and the Department to revoke state permits without concern for the law or the intent of the duly elected legislature.

The Department's Pattern and Practice of Disregard for the Law

163. General Statutes § 29-32(b) authorizes Commissioner Danaher to revoke any state permit upon conviction of the holder for a felony, statutorily specified misdemeanors, or upon the occurrence of any event which would have disqualified the holder from being issued the state permit or temporary state permit pursuant to General Statutes § 29-28(b).

164. In accordance with General Statutes § 4-8, Commissioner Danaher delegates the authority to revoke a state permit to the SFLU and its assigned members.

165. The SFLU, acting on behalf of Commissioner Danaher, provides written notice to any person whose state permit or temporary state permit is revoked.

166. The written notice of revocation from the SFLU notifies the holder that the state permit is revoked immediately and demands that the holder deliver the state permit or temporary state permit to Commissioner Danaher within five (5) days.

167. Prior to the October 1, 2001, effective date of Public Act 01-30, § 8, any authority issuing a permit for the carrying of any pistol or revolver had the authority to revoke the permit upon conviction of the holder for a felony, statutorily specified misdemeanors, or upon the occurrence of any event which would have disqualified the holder from being issued the state permit or temporary state permit pursuant to General Statutes § 29-28(b).

168. Subsequent to the October 1, 2001, effective date of Public Act 01-30, § 8, only the Department Commissioner or delegated Department employees, may revoke a state permit.

169. Until Commissioner Danaher or a delegate provides written notification to the holder that the state permit has been revoked by the Commissioner, the holder possesses a valid state permit or temporary state permit.

170. No law enforcement authority other than Commissioner Danaher or a delegate has any authority under law to seize or confiscate a state permit from its holder until and unless the state permit or temporary state permit has been revoked by Commissioner Danaher or a delegate.

171. A revocation of a state permit or temporary state permit does not become effective until Commissioner Danaher or a delegate provides written notice to the state permit holder in accordance with General Statutes § 29-32(b).

172. Since or before March 10, 1998, when an inspector within the SFLU submitted an internal memorandum of resignation to his supervisor (“Internal Memorandum”), the Department has known, and operated with the knowledge, that it carried out its authority under state law to issue, renew, and revoke state pistol permits by unlawful means.

173. The Internal Memorandum gave notice to the Department that the common practice by Connecticut municipal police agency officers of taking state permits from individuals and either retaining the state permits or forwarding them to the SFLU, when the state permits

were held in legal possession of the individuals, was not within the statutory authority of the municipal police agency officers.

174. Despite the Internal Memorandum's characterization of the practice as potential illegal activity, an attorney working from within the Department, Sergeant Christopher Arciero, was ordered to draft and distribute a memorandum to the municipal police agency chiefs encouraging their agencies to confiscate state permits and forward them to the Department in a timely manner.

175. In Sergeant Arciero's memorandum to the municipal police agency chiefs, the Department encouraged the municipal police agencies to take lawfully held state permits and thereby commit the criminal offense of larceny.

176. In Sergeant Arciero's memorandum to the municipal police agency chiefs, the Department provided notice that the Department would accept possession of the stolen state permits once forwarded to the Department by the municipal police agencies.

177. In resigning his position as an inspector with the Department, the author of the Internal Memorandum stated that he thought it his responsibility to bring "any potential illegal activity" to the attention of his supervisors.

178. The author of the Internal Memorandum informed his supervisor that the Department's refusal to follow the law was the cause of his resignation.

179. Commissioner Danaher, Captain Masek, Detective Mattson, Detective Karanda, and Sergeant Bastura continue to maintain the unlawful practice and procedure of receiving from municipal police agencies unlawfully taken and withheld valid state permits.

Manipulation of the Number of Cases Heard By the Board

180. In March, 2007, Plaintiff attempted to identify the reasons for the backlog in

appeals to the Board and asked Adams whether Adams had scheduled a meeting with the new Department Commissioner to discuss the backlog of appeals.

181. Adams informed Plaintiff that Commissioner Danaher was confirmed just on the Tuesday preceding March 22, 2007, and that the Board was doing as much as possible to reduce the backlog of appeals.

182. Adams informed Plaintiff that the backlog was “trending down” over time and that, although the backlog was important, Adams was busy through the current legislative session.

183. In April, 2007, Mazzoccoli informed Adams that the number of hearings scheduled for the upcoming April, 2007, Board meeting numbered six (6).

184. Adams told Mazzoccoli that Plaintiff would “flip” when he learned that only six (6) appeals were scheduled for hearing and asked Mazzoccoli if the Department would add more appeals to the schedule.

185. Although it was too late for Mazzoccoli to send timely notices to appellants for April, 2007, hearings, she told Adams: “Too late to send hearing notices, but I can adjust the agenda to show cases resolved at the meeting instead of prior to the meeting. I can easily adjust 3 cases, 040-06, 073-06 and 278-05, that were just issued permits last week. Let me know and I will change the agenda and call Det. Mattson. I’m positive she won’t mind.”

186. Adams approved Mazzoccoli’s plan by responding: “Yes, please do that since it’ll be a more accurate reflection of what we’ve accomplished.”

187. Adams then asked Mazzoccoli how the number of cases scheduled for hearing in April, 2007, had decreased from forty (40) to six (6) over the course of the prior few weeks.

188. One of the reasons for the decrease in the number of appeals scheduled for

hearing in April, 2007, was that Mazzoccoli faxed the list of forty (40) appellants to Detective Mattson for review on March 8, 2007.

189. Detective Mattson left phone messages for Mazzoccoli on March 9, 2007, updating Mazzoccoli with the Department plans to resolve certain appeals by reinstatement, issuance, or barring the state permits.

190. State statutes and regulations provide no authority for Commissioner Danaher or his delegates to resolve appeals by reinstatement of state permits.

191. Following a conversation with Detective Mattson, Mazzoccoli told Adams that Detective Mattson refused to add three (3) more cases to the April, 2007, agenda.

192. Detective Mattson was concerned that Plaintiff would sense that she was not being truthful if she did as Mazzoccoli and Adams asked.

193. Adams and Mazzoccoli failed to convince Detective Mattson to falsify records and lie to the Board.

194. If Detective Mattson had agreed to Adams's and Mazzoccoli's request, then Detective Mattson would have made a representation to the Board that the three (3) cases referenced by Mazzoccoli had just been resolved and should be taken off the agenda when in fact the cases had been resolved prior to the Board meeting and been placed back on the agenda by Mazzoccoli and Adams to make it appear that the Board was doing more work at Board meetings.

195. In their continued effort to make it appear as though the Board was hearing numerous appeals, when in fact the Board had abdicated its authority to the Department, Mazzoccoli misrepresented the number of appeals reviewed and heard by the Board to be included in The Digest of Administrative Reports when she reported to DAS employee Cindy

Rusczyk that the Board had held eleven (11) meetings for fiscal year 2006-07 and that during this period two-hundred-forty-nine (249) cases were reviewed and heard by the Board.

196. The actual number of cases presented to the Board for review or hearing during fiscal year 2006-07 was forty (40).

197. In previous fiscal years, the number of new appeals, the number of appeals resolved, and the number of appeals resolved at hearings before the Board included for:

- a. FY 2005-06: 281 New Appeals; 281 Appeals Resolved; 72 Appeals presented to Board.
- b. FY 2004-05: 295 New Appeals; 265 Appeals Resolved; 76 Appeals presented to Board.
- c. FY 2003-04: 300 New Appeals; 166 Appeals Resolved; 52 Appeals presented to Board.
- d. FY 2002-03: 299 New Appeals; 150 Appeals Resolved; 43 Appeals presented to Board.
- e. FY 2001-02: 313 New Appeals; 109 Appeals Resolved; 39 Appeals presented to Board.

198. In preparation for questions from the media in June, 2007, Mazzoccoli and Adams agreed to present the number of new appeals and the number of appeals resolved without providing the far smaller number of cases actually presented to the Board.

199. Adams was irritated with the attention brought by Plaintiff to the backlog issue.

200. In addition to the information about the number of cases “resolved” before the Board, Adams asked Mazzoccoli for information about the degree of the backlog when he became Board Chairperson in August of 2005, about the length of Board members’ services, and

anything else that Mazzoccoli believed a reporter might ask.

201. Adams commented to Mazzoccoli in this same email concerning the media: “He [Kuck] has no business pushing anybody to do anything. A reminder of what the role of secretary includes might be in order - and it ain't much.”

202. If Adams and Mazzoccoli had not unlawfully prevented Plaintiff, in his position as Secretary, from reviewing the facts of each appeal and scheduling the cases for hearing, then the majority of the cases of revocation lacking just or proper cause as demonstrated by the Department’s resolution of the cases just prior to Board meetings, would have been resolved some twenty-two (22) months prior leaving only the cases not subject to resolution to be scheduled for timely hearing before the Board.

The Relationship Between the Defendants’ Conduct and the Delay in Hearings

203. General Statutes § 29-32b(c) provides that a person aggrieved by a Department revocation action may file with the Board a “clear and concise statement of the facts on which he relies for relief, and shall state the relief sought by the appellant.”

204. The Board’s receipt of the statement by a person seeking the restoration of a state permit (“appellant”) begins the appeals process and no appeal may be rejected for informality.

205. The Board must set a time and place for the appellant to be heard within ten (10) days of its receipt of the appeal.

206. The Board, while such appeal is pending, may request such additional information from the appellant and from the Department as it deems reasonably necessary to conduct a fair and impartial hearing, and shall require of the Department from whose decision or action the appeal is being sought a statement in writing setting forth the reasons for such failure, refusal, revocation, or limitation.

207. Failure or refusal of the Department to furnish such written statement, or to supply the appellant with an application, at least ten (10) days prior to the hearing shall be cause for the Board to grant the relief sought, forthwith and without further hearing.

208. The Board does not have any statutory authority to deny an appellant relief based upon the appellant's failure or refusal to submit additional information requested by the Board.

209. In its notice of hearing to an appellant, the Board informs appellants of a tentative hearing date and cautions the appellant that his or her name will not be added to the hearing waiting list until an appellant's questionnaire and arrest history form are returned to the Board.

210. State statutes and regulations do not provide for tentative hearing dates before the Board.

211. State statutes and regulations do not require that an appellant remain on a hearing waiting list pending the submission of a questionnaire and arrest history form to the Board.

212. State statutes do require that the Board provide an appellant with a hearing date within ten (10) days of the Board's receipt of a request for hearing regardless of whether a questionnaire and arrest history form are submitted.

213. State statutes and regulations do not require that appeals be heard in the order in which they are received by the Board.

214. State statutes and regulations provide flexibility and discretion to the Board Secretary so that state permits revoked without apparent just and proper cause may be scheduled forthwith for hearing.

215. As Secretary, Plaintiff had the authority to review facts of an appeal and schedule appeals for hearing.

216. Without this oversight by the Board Secretary, the Department has been allowed

to delay the return of state permits by up to twenty-two (22) months in cases in which the Department knows that a hearing before the Board will result in the restoration of a state permit.

217. The legislative intent that the Board oversee the revocation decisions of the SFLU is apparent in the absence of any authority granted to the SFLU to return revoked state permits without an order of the Board after review and hearing.

218. The SFLU's abuse of its authority to revoke state permits is apparent in the number of state permits returned without a Board hearing after a sixteen (16) to twenty-two (22) month hearing delay.

219. The SFLU, knowing that it revokes state permits without evidence or basis in law, withholds its case statements and positions from the Board until just prior to the scheduled hearing and then settles cases on the day of hearing because the Department knows that the cases are without evidence or bases in law.

220. By the time the Department settles cases on the day of hearing before the Board, the aggrieved person has been denied the pistol permit without evidence or basis in law for a sixteen (16) to twenty-two (22) month time period.

221. The Department's abuse of its statutory authority and intentional delay in preparing and submitting information to the Board for review have created a *de facto* state permit waiting and suspension period not contemplated under the law but used by the Department as a procedural mechanism to punish citizens for transgressing policies that the Department has implemented or supports but which have no bases in the law.

VIOLATIONS AND CLAIMS

Count One

DENIAL OF PROCEDURAL DUE PROCESS

Second, Fifth, and Fourteenth Amendments to the United States Constitution (42 U.S.C. § 1983)

222. Plaintiff hereby incorporates by reference under Count One each and every paragraph numbered 1 through 221, above.

223. General Statutes § 29-32b(d) provides that the Board shall hold hearings at such places and times as its discretion reasonably determines.

224. Commissioner Danaher, Captain Masek, Detective Mattson, Detective Karanda, and Sergeant Bastura, in creating a backlog of cases which requires aggrieved individuals to wait between fourteen (14) and twenty-two (22) months for a hearing, have denied aggrieved individuals the opportunity to be heard at a meaningful time and in a meaningful manner.

225. Adams and Mazzoccoli, in preventing the Board Secretary from performing his regulatory and statutory duties, have condoned and encouraged Commissioner Danaher's, Captain Masek's, Detective Mattson's, Detective Karanda's, and Sergeant Bastura's intentional disregard for the law and abuse of the authority granted them to issue, revoke, and renew state permits.

226. Governor Rell's appointment of Adams, her deliberate indifference to the Board Regulations that require an election of the Chairperson by other Board members every two years, and her failure to supervise Mazzoccoli caused the Board to malfunction and the Department to exploit the Board's malfunction to the detriment of Connecticut residents' state and federal Constitutional rights.

227. In addition to the violation of his Fifth and Fourteenth Amendment rights, the Defendants deprived Plaintiff of property and liberty interests guaranteed under Article First, § 15, of the Connecticut Constitution and the Second Amendment to the United State Constitution.

228. The acts and omissions of the Defendants were intentional and were inspired by malice.

229. Wherefore Plaintiff has suffered damages and demands judgment against Governor Rell, Commissioner Danaher, Captain Masek, Detective Mattson, Detective Karanda, Sergeant Bastura, Adams, and Mazzoccoli, jointly and severally, for compensatory damages, and further demands judgment against each of the Defendants, jointly and severally, for punitive damages, plus the costs of this action, an immediate hearing before the Board or the immediate restoration/renewal of his state permit, and such other relief as this Court deems just, proper, and equitable.

Count Two
DENIAL OF SUBSTANTIVE DUE PROCESS
Second, Fifth and Fourteenth Amendments to the United States Constitution
(42 U.S.C. § 1983)

230. Plaintiff hereby incorporates by reference under Count Two each and every paragraph numbered 1 through 221, above.

231. The SFLU's imposition of barriers to gun possession in contravention of representative legislation is so outrageously arbitrary as to constitute a gross abuse of governmental authority.

232. The right to appeal to the Board from the SFLU's imposition of arbitrary requirements for a state permit renewal is rendered meaningless by the unreasonable wait period for such a hearing.

233. By creating arbitrary requirements and then creating a delay in the process for appeal from the imposition of the arbitrary requirements, Commissioner Danaher, Captain Masek, Detective Mattson, Detective Karanda, and Sergeant Bastura have substantially infringed upon state law based upon their animus toward gun possession by persons not affiliated with law enforcement.

234. The right to appeal to the Board from Commissioner Danaher's, Captain Masek's, Detective Mattson's, Detective Karanda's, and Sergeant Bastura's imposition of arbitrary requirements for state permit renewal is rendered meaningless by the unreasonable wait period for such a hearing.

235. In failing to implement the Board Regulations that were adopted to guide the Board's hearings and in preventing Plaintiff from fulfilling his duties as Board Secretary, Governor Rell, Adams, and Mazzoccoli allowed Commissioner Danaher, Captain Masek, Detective Mattson, Detective Karanda, Sergeant Bastura to violate Plaintiff's right to due process.

236. In addition to the violation of his Fifth and Fourteenth Amendment rights, Governor Rell, Adams, Mazzoccoli, Commissioner Danaher, Captain Masek, Detective Mattson, Detective Karanda, and Sergeant Bastura deprived Plaintiff of property and liberty interests guaranteed under Article First, § 15, of the Connecticut Constitution and the Second Amendment to the United States Constitution.

237. The acts and omissions of the Defendants were intentional and were inspired by malice.

238. Wherefore Plaintiff has suffered damages and demands judgment against Governor Rell, Commissioner Danaher, Captain Masek, Detective Mattson, Detective Karanda, Sergeant Bastura, Adams, and Mazzoccoli jointly and severally, for compensatory damages, and further demands judgment against each of the Defendants, jointly and severally, for punitive damages, plus the costs of this action, an immediate hearing before the Board or the immediate restoration/renewal of his state permit, and such other relief as this Court deems just, proper, and equitable.

Count Three
FIRST AMENDMENT RETALIATION
First and Fourteenth Amendments to the United States Constitution
(42 U.S.C. § 1983)

239. Plaintiff hereby incorporates by reference under Count Three each and every paragraph numbered 1 through 221, above.

240. Commissioner Danaher, Captain Masek, Detective Mattson, Detective Karanda, Sergeant Bastura, Adams, and Mazzoccoli have violated the Plaintiff's right to freedom of speech under the First Amendment to the United States Constitution as enforced by 42 U.S.C. § 1983.

241. Plaintiff has an interest as a resident, state permit holder, and an appointed member of the Board in the lawful and timely processing of aggrieved persons' appeals to the Board from decisions of the Department's denial of applications for issuance or renewal of state permits or the revocation of state permits that is protected by the First Amendment.

242. The Department, acting through Detective Karanda, threatened and harassed Plaintiff based upon Plaintiff's statements that, in substance, the Board is independent and not a mere "rubber stamp" for Department actions on pistol permits.

243. The Department, acting through Detective Karanda, threatened and harassed Plaintiff based upon Plaintiff's statements that, in substance, the Department's evidence and testimony in some cases supporting its decisions to deny issuance or renewal of pistol permits, or to revoke pistol permits, is not credible.

244. Plaintiff's exercise of his First Amendment rights has been chilled by the Department's threatening and harassing conduct toward him at the November, 2006, Board meeting and the arbitrary denial of his pistol permit renewal.

245. The acts and omissions of the Defendants were intentional and were inspired by malice.

246. As a direct and proximate result of the acts and omissions of the Defendants, the Plaintiff suffered fear, anxiety, and the deprivation of his right to freedom of speech.

247. Wherefore Plaintiff has suffered damages and demands judgment against Governor Rell, Commissioner Danaher, Captain Masek, Detective Mattson, Detective Karanda, Sergeant Bastura, Adams, and Mazzoccoli, jointly and severally, for compensatory damages, and further demands judgment against each of these Defendants, jointly and severally, for punitive damages, plus the costs of this action, an immediate hearing before the Board or the immediate restoration/renewal of his state permit, and such other relief as this Court deems just, proper, and equitable.

PRAYER FOR RELIEF

WHEREFORE, Plaintiff claims judgment against the Defendants as follows:

1. Compensatory damages;
2. Punitive damages;
3. Attorney's fees and costs;
4. Prospective injunctive relief;
5. An Order by the Court that the Department restore/renew Plaintiff's state permit forthwith; and
6. Such other relief in law or equity as the Court may deem appropriate.

Dated this 22nd day of January, 2008, at Torrington, Connecticut.

PLAINTIFFS
M. PETER KUCK, individually
and on behalf of others similarly situated

BY: /s/ Rachel M. Baird
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CERTIFICATION OF SERVICE

I HEREBY CERTIFY THAT on January 22, 2008, a copy of the foregoing Amended Complaint was filed electronically as Exhibit 1 to Plaintiff's Notice of Amended Complaint, or, Alternately, Request for Leave to Amend Complaint. Notice of this filing will be sent by email to all parties by operation of the Court's electronic filing system. Parties may access this filing through the Court's system.

/s/ Rachel M. Baird _____
Rachel M. Baird
Commissioner of the Superior Court