

12-4497-CV

United States Court of Appeals for the Second Circuit

M. PETER KUCK and JAMES F. GOLDBERG,

Plaintiffs-Appellants,

v.

JOHN A. DANAHER III, *in his Individual Capacity*, **ALBERT J. MASEK**, *in his Individual Capacity*, **ALARIC FOX**, *in his Individual Capacity*, **BARBARA MATTSO****N**, *in her Individual Capacity*, **THOMAS KARANDA**, *in his Individual Capacity*, **RONALD A. BASTURA**, *in his Individual Capacity*, **CHRISTOPHER A. ADAMS**, *in his Individual Capacity*, **T. WILLIAM KNAPP**, *in his Official Capacity as Secretary, Connecticut State Board of Firearms Permit Examiners*, and **JOSEPH CORRADINO**, *in his Official Capacity as Chairman, Connecticut State Board of Firearms Permit Examiners*,

Defendants-Appellees.

On Appeal from the United States District Court
for the District of Connecticut (New Haven)

JOINT APPENDIX - VOLUME 1 (Pages A1 through A206)

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APPEAL,CLOSED,EFILE,LEAD

U.S. District Court
United States District Court for the District of Connecticut (New Haven)
CIVIL DOCKET FOR CASE #: 3:07-cv-01390-VLB

Kuck v. Danaher et al
Assigned to: Judge Vanessa L. Bryant
Cause: 42:1983 Civil Rights Act

Date Filed: 09/17/2007
Date Terminated: 10/18/2012
Jury Demand: Plaintiff
Nature of Suit: 440 Civil Rights: Other
Jurisdiction: Federal Question

Plaintiff

M. Peter Kuck
Ind & o/b/o others similarly situated

represented by **Rachel M. Baird**
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V.

Consol Plaintiff

James F. Goldberg
I, & o/b/o others similarly situated

represented by **Rachel M. Baird**
(See above for address)
LEAD ATTORNEY
ATTORNEY TO BE NOTICED

V.

Defendant

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Defendant

Albert J. Masek, Jr.
*I/O Commanding Ofcr CT Dept of
 Public Safety*

represented by **Clare E. Kindall**
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Robert J. Deichert
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LEAD ATTORNEY
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Robert D. Snook
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Defendant

James M. Thomas
/O CT State Depart of Public Safety
TERMINATED: 10/13/2011

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LEAD ATTORNEY
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Defendant

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TERMINATED: 09/29/2011

*LEAD ATTORNEY
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Defendant

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Defendant

Barbara Mattson
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Defendant

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Defendant

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ATTORNEY TO BE NOTICED*

Date Filed	#	Docket Text
09/17/2007	1	COMPLAINT against John A. Danaher, III, Albert J. Masek, Jr (Filing fee \$ 350 receipt number B014772), filed by M. Peter Kuck.(Bauer, J.) (Entered: 09/18/2007)
09/17/2007	2	Order on Pretrial Deadlines: Motions to Dismiss due on 12/17/2007.Amended Pleadings due by 11/16/2007.,Discovery due by 3/18/2008.,Dispositive Motions due by 4/17/2008.. Signed by Clerk on 9/17/07. (Bauer, J.) (Entered: 09/18/2007)
09/17/2007	3	ELECTRONIC FILING ORDER. Signed by Judge Vanessa L. Bryant on 9/17/2007. (Bauer, J.) Additional attachment(s) added on 9/20/2007 (Bauer, J.). (Entered: 09/18/2007)

09/18/2007		Summons Issued as to John A. Danaher, III, Albert J. Masek, Jr. (Bauer, J.) (Entered: 09/18/2007)
09/19/2007	4	ORDER RE: Judges Chambers Practices and Standing Orders. Counsel/Parties please see attached order. Signed by Judge Vanessa L. Bryant on 9/19/07. (Wood, R.) (Entered: 09/19/2007)
09/20/2007	5	Docket Entry Correction re 3 Electronic Filing Order: added attachment (Bauer, J.) (Entered: 09/20/2007)
10/31/2007	6	NOTICE of Appearance by Clare E. Kindall on behalf of John A. Danaher, III, Albert J. Masek, Jr (Kindall, Clare) (Entered: 10/31/2007)
10/31/2007	7	MOTION for Extension of Time until November 30, 2007 to respond to complaint by John A. Danaher, III, Albert J. Masek, Jr. (Kindall, Clare) (Entered: 10/31/2007)
11/05/2007	8	ORDER granting 7 MOTION for Extension of Time until November 30, 2007 to respond to complaint. Signed by Judge Vanessa L. Bryant on 11/5/07. (Lawlor, L.) (Entered: 11/05/2007)
11/05/2007		Answer deadline updated for John A. Danaher, III to 11/30/2007; Albert J. Masek, Jr to 11/30/2007. (Grady, B.) (Entered: 11/05/2007)
11/12/2007	9	SUMMONS Returned Executed by M. Peter Kuck. John A. Danaher, III served on 10/11/2007, answer due 11/30/2007. (Baird, Rachel) (Entered: 11/12/2007)
11/12/2007	10	SUMMONS Returned Executed by M. Peter Kuck. Albert J. Masek, Jr served on 10/11/2007, answer due 11/30/2007. (Baird, Rachel) (Entered: 11/12/2007)
11/12/2007	11	SUMMONS Returned Executed by M. Peter Kuck. John A. Danaher, III served on 11/1/2007, answer due 11/30/2007. (Baird, Rachel) (Entered: 11/12/2007)
11/12/2007	12	SUMMONS Returned Executed by M. Peter Kuck. Albert J. Masek, Jr served on 11/1/2007, answer due 11/30/2007. (Baird, Rachel) (Entered: 11/12/2007)
11/30/2007	13	MOTION to Dismiss by John A. Danaher, III, Albert J. Masek, Jr. Responses due by 12/21/2007 (Attachments: # 1 Memorandum in Support Motion to Dismiss)(Kindall, Clare) (Entered: 11/30/2007)
12/19/2007	14	First MOTION for Extension of Time to File Response/Reply as to 13 MOTION to Dismiss until January 20, 2008 by M. Peter Kuck. (Baird, Rachel) (Entered: 12/19/2007)
12/19/2007	15	ORDER granting 14 MOTION for Extension of Time to File Response/Reply as to 13 MOTION to Dismiss until January 20, 2008. Signed by Judge Vanessa L. Bryant on 12/19/07. (Lawlor, L.) (Entered: 12/19/2007)
12/19/2007		Reset Deadline as to 13 MOTION to Dismiss. Responses due by 1/20/2008 (Grady, B.) (Entered: 12/20/2007)
01/14/2008	16	First MOTION for Extension of Time until February 29, 2008 to File Parties'

		Planning Report 2 Order on Pretrial Deadlines by M. Peter Kuck. (Baird, Rachel) (Entered: 01/14/2008)
01/15/2008	17	ORDER granting 16 Motion for Extension of Time to file the Rule 26(f) report, until 2/25/08. Signed by Judge Vanessa L. Bryant on 1/15/08. (Wilson, J.) (Entered: 01/15/2008)
01/15/2008		Set Deadlines/Hearings: Rule 26 Meeting Report due by 2/25/2008 (Wood, R.) (Entered: 01/16/2008)
01/15/2008		Set Deadline: Rule 26 Meeting Report due by 2/25/2008 (Grady, B.) (Entered: 01/16/2008)
01/22/2008	18	Memorandum in Opposition re 13 MOTION to Dismiss filed by M. Peter Kuck. (Baird, Rachel) (Entered: 01/22/2008)
01/22/2008	19	First MOTION to Amend/Correct 1 Complaint by M. Peter Kuck. Responses due by 2/12/2008 (Attachments: # 1 Amended Complaint)(Baird, Rachel) (Entered: 01/22/2008)
01/22/2008	20	MOTION for Joinder of <i>Party Defendants</i> re 1 Complaint filed by M. Peter Kuck by M. Peter Kuck. (Attachments: # 1 Amended Complaint)(Baird, Rachel) (Entered: 01/22/2008)
02/05/2008	21	REPLY to Response to 13 MOTION to Dismiss filed by John A. Danaher, III, Albert J. Masek, Jr. (Attachments: # 1 Exhibit Bill no 307 & 2/28/06 hearing testimony)(Kindall, Clare) (Entered: 02/05/2008)
02/07/2008	22	First MOTION for Extension of Time until February 28, 2008 To Respond to plaintiff's motion to amend the complaint and motion for joinder by John A. Danaher, III, Albert J. Masek, Jr. (Kindall, Clare) (Entered: 02/07/2008)
02/07/2008	23	ORDER granting 22 Motion for Extension of Time for the defendants to respond to Motions 19 and 20 , until 2/28/08. Signed by Judge Vanessa L. Bryant on 2/7/08. (Wilson, J.) (Entered: 02/07/2008)
02/07/2008		Set/Reset Deadlines as to 20 MOTION for Joinder of <i>Party Defendants</i> re 1 Complaint filed by M. Peter Kuck, 19 First MOTION to Amend/Correct 1 Complaint. Responses due by 2/28/2008 (Wood, R.) (Entered: 02/08/2008)
02/27/2008	24	Consent MOTION for Extension of Time to File Response/Reply as to 20 MOTION for Joinder of <i>Party Defendants</i> re 1 Complaint filed by M. Peter Kuck, 19 First MOTION to Amend/Correct 1 Complaint until March 3, 2008 by John A. Danaher, III, Albert J. Masek, Jr. (Kindall, Clare) (Entered: 02/27/2008)
02/27/2008	25	ORDER granting 24 Motion for Extension of Time for the defendants to respond to Motions 19 and 20 , until 3/3/08. Signed by Judge Vanessa L. Bryant on 2/27/08. (Wilson, J.) (Entered: 02/27/2008)
02/27/2008		Reset Deadlines as to 19 First MOTION to Amend/Correct 1 Complaint, 20 MOTION for Joinder of <i>Party Defendants</i> re 1 Complaint. Responses due by 3/3/2008 (Grady, B.) (Entered: 02/28/2008)
03/03/2008	26	OBJECTION re 20 MOTION for Joinder of <i>Party Defendants</i> re 1 Complaint

		filed by M. Peter Kuck, 19 First MOTION to Amend/Correct 1 Complaint filed by John A. Danaher, III, Albert J. Masek, Jr. (Attachments: # 1 Exhibit Bill History, # 2 Exhibit Myer v Bakus, # 3 Exhibit Rolon v Henneman, # 4 Exhibit Gyadu v WCC)(Kindall, Clare) (Entered: 03/03/2008)
03/13/2008	27	First MOTION for Extension of Time until March 23, 2008 to File Reply Brief 26 Objection, by M. Peter Kuck. (Baird, Rachel) (Entered: 03/13/2008)
03/13/2008	28	First MOTION for Extension of Time until March 23, 2008 to File Reply Brief 26 Objection, by M. Peter Kuck. (Baird, Rachel) (Entered: 03/13/2008)
03/13/2008	29	ORDER granting 27 Motion for Extension of Time for the plaintiff to file a reply brief, until 3/24/08. 28 Motion for Extension of Time is duplicative of 27 . Signed by Judge Vanessa L. Bryant on 3/13/08. (Wilson, J.) (Entered: 03/13/2008)
03/13/2008		Reset Deadline as to 20 MOTION for Joinder of Party Defendants, re: 1 Complaint filed by M. Peter Kuck. Responses due by 3/24/2008 (Grady, B.) (Entered: 03/14/2008)
03/24/2008	30	Second MOTION for Extension of Time to File Response/Reply as to 20 MOTION for Joinder of Party Defendants re 1 Complaint filed by M. Peter Kuck, 19 First MOTION to Amend/Correct 1 Complaint until April 3, 2008 by M. Peter Kuck. (Baird, Rachel) (Entered: 03/24/2008)
03/24/2008	31	ORDER granting 30 Motion for Extension of Time for the plaintiff to file a reply brief, until 4/3/08. Signed by Judge Vanessa L. Bryant on 3/24/08. (Wilson, J.) (Entered: 03/24/2008)
04/03/2008	32	REPLY to Response to 20 MOTION for Joinder of Party Defendants re 1 Complaint filed by M. Peter Kuck, 19 First MOTION to Amend/Correct 1 Complaint filed by M. Peter Kuck. (Baird, Rachel) (Entered: 04/04/2008)
07/25/2008	33	ORDER denying as futile 19 plaintiff's Motion to Amend/Correct and 20 plaintiff's Motion for Joinder; and granting 13 defendants' Motion to Dismiss. See the attached memorandum of decision. The Clerk is directed to close this case. Signed by Judge Vanessa L. Bryant on 7/25/08. (Wilson, J.) (Entered: 07/25/2008)
07/25/2008	34	JUDGMENT entered in favor of Albert J. Masek, Jr, John A. Danaher, III. Signed by Clerk on 07/25/08. (Grady, B.) (Entered: 07/25/2008)
08/04/2008	35	MOTION for Reconsideration re 33 Order on Motion to Dismiss,, Order on Motion to Amend/Correct,, Order on Motion for Joinder, by M. Peter Kuck.Responses due by 8/25/2008 (Baird, Rachel) (Entered: 08/04/2008)
08/04/2008	36	Memorandum in Support re 35 MOTION for Reconsideration re 33 Order on Motion to Dismiss,, Order on Motion to Amend/Correct,, Order on Motion for Joinder, filed by M. Peter Kuck. (Baird, Rachel) (Entered: 08/04/2008)
08/12/2008	37	Consent MOTION for Extension of Time to File Response/Reply as to 35 MOTION for Reconsideration re 33 Order on Motion to Dismiss,, Order on Motion to Amend/Correct,, Order on Motion for Joinder, until September 5, 2008 by John A. Danaher, III, Albert J. Masek, Jr. (Kindall, Clare) (Entered: 08/12/2008)

		08/12/2008)
08/18/2008	38	ORDER granting 37 Motion for Extension of Time for the defendants to respond to 35 Motion for Reconsideration, until 9/5/08. Signed by Judge Vanessa L. Bryant on 8/18/08. (Wilson, J.) (Entered: 08/18/2008)
09/05/2008	39	Consent MOTION for Extension of Time until 09/12/2008 respond to the plaintiff's motion for reconsideration 35 MOTION for Reconsideration re 33 Order on Motion to Dismiss,, Order on Motion to Amend/Correct,, Order on Motion for Joinder, by John A. Danaher, III, Albert J. Masek, Jr. (Kindall, Clare) (Entered: 09/05/2008)
09/05/2008	40	ORDER granting 39 Motion for Extension of Time for the defendants to respond to 35 Motion for Reconsideration, until 9/12/08. Signed by Judge Vanessa L. Bryant on 9/5/08. (Wilson, J.) (Entered: 09/05/2008)
09/05/2008		Set/Reset Deadlines as to 35 MOTION for Reconsideration re 33 Order on Motion to Dismiss,, Order on Motion to Amend/Correct,, Order on Motion for Joinder,. Responses due by 9/12/2008 (Wood, R.) (Entered: 09/08/2008)
09/11/2008	41	OBJECTION re 35 MOTION for Reconsideration re 33 Order on Motion to Dismiss,, Order on Motion to Amend/Correct,, Order on Motion for Joinder, filed by John A. Danaher, III, Albert J. Masek, Jr. (Kindall, Clare) (Entered: 09/11/2008)
09/22/2008	42	First MOTION for Extension of Time until September 26, 2008 to File Reply Brief 41 Objection by M. Peter Kuck. (Baird, Rachel) (Entered: 09/22/2008)
09/22/2008	43	ORDER granting 42 Motion for Extension of Time for the plaintiff to file a reply, until 9/26/08. Signed by Judge Vanessa L. Bryant on 9/22/08. (Wilson, J.) (Entered: 09/22/2008)
09/26/2008	44	Second MOTION for Extension of Time until September 29, 2008 to File Reply Brief 41 Objection by M. Peter Kuck. (Baird, Rachel) (Entered: 09/26/2008)
09/29/2008	45	ORDER granting 44 Motion for Extension of Time. So ordered. Signed by Judge Vanessa L. Bryant on 9/29/2008. (Fontaine, L.) (Entered: 09/29/2008)
09/29/2008	46	REPLY to Response to 35 MOTION for Reconsideration re 33 Order on Motion to Dismiss,, Order on Motion to Amend/Correct,, Order on Motion for Joinder, filed by M. Peter Kuck. (Baird, Rachel) (Entered: 09/29/2008)
10/14/2008	47	ORDER denying 35 Motion for Reconsideration, as the plaintiff has not identified any controlling decisions or data that the Court overlooked and that would reasonably be expected to alter its previous conclusions. Signed by Judge Vanessa L. Bryant on 10/14/08. (Wilson, J.) (Entered: 10/14/2008)
11/03/2008	48	NOTICE OF APPEAL as to 34 Judgment, 47 Order on Motion for Reconsideration, 33 Order on Motion to Dismiss, Order on Motion to Amend/Correct, Order on Motion for Joinder by M. Peter Kuck. Filing fee \$455, receipt number H026816. (Attachments: # 1 Judgment, # 2 Notice of Electronic Filing, # 3 Memorandum of Decision)(Grady, B.) (Entered: 11/03/2008)

03/04/2009	49	ENTERED IN ERROR . . . Index to Record on Appeal by M. Peter Kuck re 48 Notice of Appeal,. For docket entries without a hyperlink, contact the court to arrange for the document(s) to be made available to you. (Baird, Rachel). On 03/05/09 this entry was re-entered as document #50 to link to docket entries (Grady, B.). (Entered: 03/04/2009)
03/04/2009	50	Index to Record on Appeal by M. Peter Kuck re 48 Notice of Appeal, 21 Reply to Response to Motion, 41 Objection, 20 MOTION for Joinder of Party Defendants re 1 Complaint filed by M. Peter Kuck, 13 MOTION to Dismiss, 36 Memorandum in Support of Motion, 19 First MOTION to Amend/Correct 1 Complaint, 34 Judgment, 46 Reply to Response to Motion, 35 MOTION for Reconsideration re 33 Order on Motion to Dismiss,, Order on Motion to Amend/Correct,, Order on Motion for Joinder,, 26 Objection, 32 Reply to Response to Motion, 47 Order on Motion for Reconsideration, 18 Memorandum in Opposition to Motion, 1 Complaint, 33 Order on Motion to Dismiss,, Order on Motion to Amend/Correct,, Order on Motion for Joinder,. For docket entries without a hyperlink, contact the court to arrange for the document(s) to be made available to you. (Grady, B.) (Entered: 03/05/2009)
03/23/2010	51	ENTERED IN ERROR . . . MANDATE of USCA dated 03/23/2010 affirming in part, vacating and remanding in part 48 Notice of Appeal. (Grady, B.) Modified on 3/24/2010 (Grady, B.). (Entered: 03/24/2010)
03/23/2010	52	ORDER of USCA as to 48 Notice of Appeal, filed by M. Peter Kuck. USCA Case Number 08-5368 (Grady, B.) (Entered: 03/24/2010)
04/21/2010	53	MANDATE of USCA dated 04/21/2010 affirming in part, vacating and remanding in part 48 Notice of Appeal(Grady, B.) (Entered: 04/21/2010)
05/19/2010	54	ORDER. Counsel for the parties are directed to confer and prepare a joint status report on or before 6/4/10. The report will address the relevant matters listed in Fed. R. Civ. P. 16(c). Signed by Judge Vanessa L. Bryant on 5/19/10. (Engel, J.) (Entered: 05/19/2010)
05/21/2010		Set Deadlines/Hearings: Status Report due by 6/4/2010 (Walker, J.) (Entered: 05/21/2010)
06/04/2010	55	NOTICE of Appearance by Robert D. Snook on behalf of John A. Danaher, III, Albert J. Masek, Jr (Snook, Robert) (Entered: 06/04/2010)
06/04/2010	56	Joint STATUS REPORT by John A. Danaher, III, Albert J. Masek, Jr. (Snook, Robert) (Entered: 06/04/2010)
08/03/2010	57	ORDER. In light of the passage of time since dismissal of the Plaintiff's complaint and the Second Circuit's decision affirming dismissal of the Plaintiff's substantive due process and First Amendment retaliation claims, the Court finds it to be in the interests of justice to permit the Plaintiff an opportunity to file an amended complaint alleging all relevant facts, including those that have occurred since July 25, 2008, and stating a single cause of action for violation of his right to procedural due process against the parties he contends are proper parties to this claim. See Fed. R. Civ. P. 15(a)(2) ("The court should freely give leave [to amend] when justice so requires."); Bradley v. Rell, - F. Supp. 2d -, 2010 WL 1257868, at *12 (N.D.N.Y. Mar.

		26, 2010) ("A party should be given leave to amend his complaint to add a new party when justice so requires."). The Plaintiff's amended complaint is due by 9/3/10. The Defendants may thereafter file, within the time limits prescribed by the Federal and Local Rules of Civil Procedure, a renewed motion to dismiss the amended complaint asserting any defenses that have not been rendered moot by the post-dismissal return of the Plaintiff's state permit and/or the Second Circuit's decision on appeal. In addition, the parties are directed to file a case management report pursuant to Fed. R. Civ. P. 26(f) and D. Conn. Loc. R. 26(f) by 8/20/10. Signed by Judge Vanessa L. Bryant on 8/3/10. (Engel, J.) (Entered: 08/03/2010)
08/09/2010		Set Deadlines/Hearings: Amended Pleadings due by 9/3/2010; Rule 26 Meeting Report due by 8/20/2010. (Walker, J.) (Entered: 08/09/2010)
08/20/2010	58	REPORT of Rule 26(f) Planning Meeting. (Baird, Rachel) (Entered: 08/20/2010)
08/23/2010	59	SCHEDULING ORDER. The parties' Rule 26(f) Report 58 is approved and the Court enters the following case management schedule: Discovery shall be completed by 10/31/11; dispositive motions due by 1/31/12; if no dispositive motions are filed, the Joint Trial Memorandum is due by 2/29/12 and Jury Selection shall take place on 4/3/12 at 9:30AM; if dispositive motions are filed, the Joint Trial Memorandum is due by 9/28/12 and Jury Selection shall take place on 11/6/12 at 9:30 AM. Signed by Judge Vanessa L. Bryant on 8/23/10. (Engel, J.) Modified on 8/24/2010 to create link to 58 (LaLone, L.). (Entered: 08/23/2010)
09/03/2010	60	AMENDED COMPLAINT against John A. Danaher, III, Albert J. Masek, Jr, filed by M. Peter Kuck.(Baird, Rachel) (Entered: 09/03/2010)
09/15/2010	61	ORDER of USCA: The costs are taxed in the amount of \$1,462 in favor of Appellant Peter M. Kuck and against John A. Danaher III, Albert Masek, and the State of Connecticut, re: 48 Notice of Appeal. USCA Case Number 08-5368-cv (Grady, B.) (Entered: 09/17/2010)
09/21/2010	62	Summons Issued as to Christopher R. Adams, Ronald A. Bastura, Alaric Fox, Thomas Karanda, Barbara Mattson, Susan Mazzocoli, M. Jodi Rell, James M. Thomas. Counsel receiving this electronic notice should download the attached summons for service in accordance with Fed.R.Civ.P. 4 and LR 4. (Grady, B.) (Entered: 09/21/2010)
10/07/2010	63	First MOTION for Extension of Time until November 30, 2010 to respond to 60 amended complaint by Christopher R. Adams, Ronald A. Bastura, John A. Danaher, III, Alaric Fox, Thomas Karanda, Albert J. Masek, Jr, Barbara Mattson, Susan Mazzocoli, M. Jodi Rell, James M. Thomas. (Snook, Robert) Modified on 10/8/2010 to create link to 60 (LaLone, L.) (Entered: 10/07/2010)
10/08/2010	64	ORDER granting 63 Defendants' Motion for Extension of Time until November 30, 2010 to respond to 60 amended complaint. Signed by Judge Vanessa L. Bryant on 10/8/10. (Engel, J.) Modified on 10/8/2010 to correct signed date to 10/8/10 and create link to 60 (LaLone, L.) (Entered: 10/08/2010)

10/08/2010		Answer deadline updated for Christopher R. Adams to 11/30/2010; Ronald A. Bastura to 11/30/2010; John A. Danaher, III to 11/30/2010; Alaric Fox to 11/30/2010; Thomas Karanda to 11/30/2010; Albert J. Masek, Jr to 11/30/2010; Barbara Mattson to 11/30/2010; Susan Mazzoccoli to 11/30/2010; M. Jodi Rell to 11/30/2010; James M. Thomas to 11/30/2010. (LaLone, L.) (Entered: 10/08/2010)
10/08/2010	65	MOTION for Extension of Time until 11/30/2010 to respond to 60 Amended Complaint by Christopher R. Adams, Ronald A. Bastura, John A. Danaher, III, Alaric Fox, Thomas Karanda, Albert J. Masek, Jr, Barbara Mattson, Susan Mazzoccoli, M. Jodi Rell, James M. Thomas. (Grady, B.) Modified on 10/12/2010 to add text (Grady, B.). (Entered: 10/12/2010)
10/13/2010	66	ORDER finding as moot 65 Defendants' Motion for Extension of Time, as this motion is duplicative of 63 Defendants' prior motion for extension of time which was granted by the Court on October 8, 2010. Signed by Judge Vanessa L. Bryant on 10/13/10. (Engel, J.) (Entered: 10/13/2010)
11/29/2010	67	NOTICE of Appearance by Robert J. Deichert on behalf of Christopher R. Adams, Ronald A. Bastura, John A. Danaher, III, Alaric Fox, Thomas Karanda, Albert J. Masek, Jr, Barbara Mattson, Susan Mazzoccoli, M. Jodi Rell, James M. Thomas (Deichert, Robert) (Entered: 11/29/2010)
11/29/2010	68	Second MOTION for Extension of Time until December 6, 2010 to respond to 60 Amended Complaint by Christopher R. Adams, Ronald A. Bastura, John A. Danaher, III, Alaric Fox, Thomas Karanda, Albert J. Masek, Jr, Barbara Mattson, Susan Mazzoccoli, M. Jodi Rell, James M. Thomas. (Deichert, Robert) (Entered: 11/29/2010)
11/30/2010	69	ORDER granting 68 Defendants' Motion for Extension of Time until December 6, 2010 to respond to Plaintiff's Amended Complaint. Signed by Judge Vanessa L. Bryant on 11/30/10. (Engel, J.) (Entered: 11/30/2010)
11/30/2010		Answer deadline updated for Christopher R. Adams to 12/6/2010; Ronald A. Bastura to 12/6/2010; John A. Danaher, III to 12/6/2010; Alaric Fox to 12/6/2010; Thomas Karanda to 12/6/2010; Albert J. Masek, Jr to 12/6/2010; Barbara Mattson to 12/6/2010; Susan Mazzoccoli to 12/6/2010; M. Jodi Rell to 12/6/2010; James M. Thomas to 12/6/2010. (LaLone, L.) (Entered: 11/30/2010)
12/06/2010	70	First MOTION to Dismiss by Christopher R. Adams, Ronald A. Bastura, John A. Danaher, III, Alaric Fox, Thomas Karanda, Albert J. Masek, Jr, Barbara Mattson, Susan Mazzoccoli, M. Jodi Rell, James M. Thomas. Responses due by 12/27/2010 (Attachments: # 1 Memorandum in Support)(Snook, Robert) (Entered: 12/06/2010)
12/27/2010	71	First MOTION for Extension of Time to File Response/Reply as to 70 First MOTION to Dismiss until January 26, 2011 by M. Peter Kuck. (Baird, Rachel) (Entered: 12/27/2010)
12/28/2010	72	ORDER denying without prejudice to refile 71 Motion for Extension of Time to File Response/Reply. Counsel are directed to comply with the electronic filing requirement included in Court's current version of the

		Chambers Practices, which are available on the District of Connecticut website. See http://www.ctd.uscourts.gov/vlb.html . Pursuant to the electronic filing requirement, pleadings and motions must be typewritten using Arial Bold 12 point font, double spaced, and comply with all applicable provisions of D. Conn. L. Civ. R. 10(a). All documents filed electronically should be published in PDF and filed in this format rather than scanned manually. Signed by Judge Vanessa L. Bryant on 12/28/10. (LaLone, L.) (Entered: 12/28/2010)
12/28/2010	73	First MOTION for Extension of Time to File Response/Reply as to 70 First MOTION to Dismiss until January 26, 2011 by M. Peter Kuck. (Baird, Rachel) (Entered: 12/28/2010)
01/03/2011	74	ORDER granting 73 Plaintiff's Motion for Extension of Time until January 26, 2011 to Respond to 70 Defendant's Motion to Dismiss the Amended Complaint. Signed by Judge Vanessa L. Bryant on 1/3/11. (Engel, J.) (Entered: 01/03/2011)
01/03/2011		Set/Reset Deadlines as to 70 First MOTION to Dismiss. Responses due by 1/26/2011 (LaLone, L.) (Entered: 01/04/2011)
01/26/2011	75	Second MOTION for Extension of Time to File Response/Reply as to 70 First MOTION to Dismiss until February 9, 2011 by M. Peter Kuck. (Baird, Rachel) (Entered: 01/26/2011)
01/27/2011	76	ORDER granting 75 Plaintiff's Motion for Extension of Time to Respond to 70 Defendants' Motion to Dismiss. Plaintiff's Response is now due by 2/9/11. Signed by Judge Vanessa L. Bryant on 1/27/11. (Engel, J.) (Entered: 01/27/2011)
01/28/2011		Set/Reset Deadlines as to 70 First MOTION to Dismiss. Responses due by 2/9/2011 (LaLone, L.) (Entered: 01/28/2011)
02/09/2011	77	Third MOTION for Extension of Time to File Response/Reply as to 70 First MOTION to Dismiss until March 11, 2011 by M. Peter Kuck. (Baird, Rachel) (Entered: 02/09/2011)
02/10/2011	78	ORDER granting 77 Plaintiff's Motion for Extension of Time until March 10, 2011 to Respond to 70 Defendants' Motion to Dismiss. No further extensions of this deadline will be granted. Signed by Judge Vanessa L. Bryant on 2/10/11. (Engel, J.) (Entered: 02/10/2011)
02/10/2011		Set/Reset Deadlines as to 70 First MOTION to Dismiss. Responses due by 3/10/2011 (LaLone, L.) (Entered: 02/16/2011)
03/10/2011	79	Memorandum in Opposition re 70 First MOTION to Dismiss filed by M. Peter Kuck. (Baird, Rachel) (Entered: 03/10/2011)
03/10/2011	86	MOTION to Dismiss by Christopher R. Adams, Ronald A. Bastura, John A. Danaher, III, Alaric Fox, Thomas Karanda, Albert J. Masek, Jr., Barbara Mattson, Susan Mazzoccoli, Jodi M. Rell, James J. Thomas. Responses due by 3/31/2011 (Attachments: # 1 Memorandum in Support)(Grady, B.) Modified on 8/17/2011 to correct filers (Grady, B.). (Entered: 08/17/2011)

03/10/2011	87	Memorandum in Opposition to 86 MOTION to Dismiss filed by James F. Goldberg. (Grady, B.) (Entered: 08/17/2011)
03/17/2011	80	First MOTION for Extension of Time to File Response/Reply as to 70 First MOTION to Dismiss until April 7, 2011 by Christopher R. Adams, Ronald A. Bastura, John A. Danaher, III, Alaric Fox, Thomas Karanda, Albert J. Masek, Jr, Barbara Mattson, Susan Mazzoccoli, M. Jodi Rell, James M. Thomas. (Snook, Robert) (Entered: 03/17/2011)
03/18/2011	81	ORDER granting 80 Defendants' Motion for Extension of Time until April 7, 2011 to Reply to Plaintiffs' Opposition to Motion to Dismiss. Signed by Judge Vanessa L. Bryant on 3/18/11. (Engel, J.) (Entered: 03/18/2011)
03/18/2011		Reset deadline as to 70 First MOTION to Dismiss. Responses due by 4/7/2011 (Grady, B.) (Entered: 03/18/2011)
04/06/2011	82	REPLY to Response to 70 First MOTION to Dismiss filed by Christopher R. Adams, Ronald A. Bastura, John A. Danaher, III, Alaric Fox, Thomas Karanda, Albert J. Masek, Jr, Barbara Mattson, Susan Mazzoccoli, M. Jodi Rell, James M. Thomas. (Snook, Robert) (Entered: 04/06/2011)
04/06/2011	88	REPLY to response to 86 MOTION to Dismiss filed by Christopher R. Adams, Ronald A. Bastura, John A. Danaher, III, Alaric Fox, Thomas Karanda, Albert J. Masek, Jr, Barbara Mattson, Susan Mazzoccoli, M. Jodi Rell, James M. Thomas. (Grady, B.) (Main Document 88 replaced on 8/18/2011) (Grady, B.). (Entered: 08/17/2011)
04/20/2011	83	RESPONSE re 70 First MOTION to Dismiss <i>Sur-reply</i> filed by M. Peter Kuck. (Baird, Rachel) (Entered: 04/20/2011)
04/20/2011	89	REPLY to response to 86 MOTION to Dismiss filed by James F. Goldberg. (Attachments: # 1 Exhibit)(Grady, B.) (Entered: 08/17/2011)
08/16/2011	84	MOTION to Consolidate Cases. Case to be consolidated with 3:07cv1911 (VLB) by Alaric Fox, Thomas Karanda, Albert J. Masek, Jr, Barbara Mattson, Susan Mazzoccoli, M. Jodi Rell, James M. Thomas. Responses due by 9/6/2011 (Snook, Robert) (Entered: 08/16/2011)
08/17/2011	85	ORDER granting 84 Motion to Consolidate Cases. Kuck v. Danaher, 3:07-cv-1390, will be consolidated with James F. Goldberg v. John A. Danaher III, et al, 3:07-cv-1911. Signed by Judge Vanessa L. Bryant on 8/17/2011. (Fernandez, Melissa) (Entered: 08/17/2011)
08/17/2011	90	Notice of Consolidation: Signed by Clerk on 08/17/2011. (Grady, B.) (Entered: 08/18/2011)
09/29/2011	91	ORDER granting in part and denying in part Defendants' 70 and 86 Motions to Dismiss. See Attached Memorandum of Decision. Signed by Judge Vanessa L. Bryant on 9/29/2011. (Fernandez, Melissa) (Entered: 09/29/2011)
09/29/2011		Set Deadlines/Hearings: Amended Pleadings due by 10/13/2011 (LaLone, L.) (Entered: 09/30/2011)
10/13/2011	92	AMENDED COMPLAINT (<i>Second</i>) against Christopher R. Adams, Ronald

		A. Bastura, John A. Danaher, III, Alaric Fox, Thomas Karanda, Albert J. Masek, Jr, Barbara Mattson, filed by M. Peter Kuck, James F. Goldberg. (Baird, Rachel) (Entered: 10/13/2011)
10/13/2011		Request for Clerk to issue summons as to T. William Knapp. (Baird, Rachel) (Entered: 10/13/2011)
10/13/2011		Request for Clerk to issue summons as to Joseph Corradino. (Baird, Rachel) (Entered: 10/13/2011)
10/14/2011	93	ELECTRONIC SUMMONS ISSUED in accordance with Fed. R. Civ. P. 4 and LR 4 as to *T. William Knapp* with answer to complaint due within *21* days. Attorney *Rachel M. Baird* *Law Offices of Rachel M. Baird* *Stonegate Professional Building, 379 Prospect Street* *Torrington, CT 06790-5239*. (Grady, B.) (Entered: 10/14/2011)
10/14/2011	94	ELECTRONIC SUMMONS ISSUED in accordance with Fed. R. Civ. P. 4 and LR 4 as to *Joseph Corradino* with answer to complaint due within *21* days. Attorney *Rachel M. Baird* *Law Offices of Rachel M. Baird* *Stonegate Professional Building, 379 Prospect Street* *Torrington, CT 06790-5239*. (Grady, B.) (Entered: 10/14/2011)
10/26/2011	95	First MOTION for Extension of Time until December 2, 2011 To File an Answer by Christopher R. Adams, Ronald A. Bastura, John A. Danaher, III, Alaric Fox, Thomas Karanda, Albert J. Masek, Jr, Barbara Mattson, Susan Mazzocoli, M. Jodi Rell, James M. Thomas. (Snook, Robert) Modified on 10/27/2011 to create link to 92 (LaLone, L.). (Entered: 10/26/2011)
10/27/2011	96	ORDER granting 95 Motion for Extension of Time until December 2, 2011 to file an answer. Signed by Judge Vanessa L. Bryant on 10/27/2011. (Fernandez, Melissa) (Entered: 10/27/2011)
10/27/2011		Answer deadline updated for Christopher R. Adams to 12/2/2011; Ronald A. Bastura to 12/2/2011; John A. Danaher, III to 12/2/2011; Alaric Fox to 12/2/2011; Thomas Karanda to 12/2/2011; Albert J. Masek, Jr to 12/2/2011; Barbara Mattson to 12/2/2011. (LaLone, L.) (Entered: 10/27/2011)
10/28/2011	97	Joint MOTION for Extension of Time until 02/29/2012 to complete discovery, to 05/31/2012 to file dispositive motions and to 06/30//2012 to file joint trial memorandum by James F. Goldberg, M. Peter Kuck. (Baird, Rachel) Modified on 10/31/2011 to add text (Grady, B.). (Entered: 10/28/2011)
11/01/2011	98	ORDER granting in part and denying in part 97 Motion for Extension of Time. The Court will set an amended scheduling order. Signed by Judge Vanessa L. Bryant on 11/1/2011. (Fernandez, Melissa) (Entered: 11/01/2011)
11/01/2011	99	AMENDED SCHEDULING ORDER: The Court sets the following amended case management deadlines: Discovery shall be completed by 2/29/2012; Dispositive Motions are due by 3/30/2012; if no Dispositive Motions are filed, the Joint Trial Memorandum, substantive motions and motions in limine, jury selection questions, voir dire and jury instructions are due by 4/30/2012 and Jury Selection will take place on 6/5/2012 at 09:30AM before

		Judge Vanessa L. Bryant; if Dispositive Motions are filed the Joint Trial Memorandum, substantive motions and motions in limine, jury selection questions, voir dire and jury instructions are due by 1/1/2013; and Jury Selection will take place on 2/5/2013 at 09:30AM before Judge Vanessa L. Bryant. Signed by Judge Vanessa L. Bryant on 11/1/2011. (Fernandez, Melissa) (Entered: 11/01/2011)
11/01/2011		Set Deadlines: Joint Trial Memorandum due by 4/30/2012 (LaLone, L.) (Entered: 02/15/2012)
11/23/2011	100	SUMMONS Returned Executed by M. Peter Kuck, James F. Goldberg. T. William Knapp served on 10/24/2011, answer due 11/14/2011. (Baird, Rachel) (Entered: 11/23/2011)
11/23/2011	101	SUMMONS Returned Executed by M. Peter Kuck, James F. Goldberg. Joseph Corradino served on 10/24/2011, answer due 11/14/2011. (Baird, Rachel) (Entered: 11/23/2011)
12/02/2011	102	ANSWER to 92 Amended Complaint with Special Defenses. by Christopher R. Adams, Ronald A. Bastura, Joseph Corradino, John A. Danaher, III, Alaric Fox, Thomas Karanda, T. William Knapp, Albert J. Masek, Jr, Barbara Mattson, Susan Mazzocchi, M. Jodi Rell, James M. Thomas.(Snook, Robert) (Entered: 12/02/2011)
03/30/2012	103	MOTION for Summary Judgment by John A. Danaher, III.Responses due by 4/20/2012 (Attachments: # 1 Memorandum in Support, # 2 Statement of Material Facts 56(a)1 Statement, # 3 Exhibit Exhibit List, # 4 Exhibit Exhibits 1 - 6, # 5 Exhibit Exhibits 7 - 12)(Snook, Robert) (Entered: 03/30/2012)
03/30/2012	104	First MOTION for Extension of Time until 04/29/2012 <i>To</i> file Motion for Summary Judgment by M. Peter Kuck. (Baird, Rachel) (Entered: 03/30/2012)
04/02/2012		Set Deadlines/Hearings: Joint Trial Memorandum due by 1/1/2013 Jury Selection set for 2/5/2013 09:30 AM in Courtroom Two, 450 Main St., Hartford, CT before Judge Vanessa L. Bryant (LaLone, L.) (Entered: 04/02/2012)
04/02/2012	105	NOTICE OF E-FILED CALENDAR: THIS IS THE ONLY NOTICE COUNSEL/THE PARTIES WILL RECEIVE.ALL PERSONS ENTERING THE COURTHOUSE MUST PRESENT PHOTO IDENTIFICATION. Jury Selection set for 2/5/2013 at 09:30 AM in Courtroom Two, 450 Main St., Hartford, CT before Judge Vanessa L. Bryant (LaLone, L.) (Entered: 04/02/2012)
04/02/2012	106	ORDER granting 104 Motion for Extension of Time until 04/29/2012 To file Motion for Summary Judgment. Signed by Judge Vanessa L. Bryant on 4/2/2012. (Fernandez, Melissa) (Entered: 04/02/2012)
04/02/2012		Set Deadlines: Dispositive Motions due by 4/29/2012 (LaLone, L.) (Entered: 04/02/2012)
04/20/2012	107	First MOTION for Extension of Time to File Response/Reply as to 103 MOTION for Summary Judgment until May 30, 2012 by M. Peter Kuck. (Baird, Rachel) (Entered: 04/20/2012)

04/23/2012	108	ORDER granting 107 Motion for Extension of Time to File Response/Reply as to MOTION for Summary Judgment until May 30, 2012. Signed by Judge Vanessa L. Bryant on 4/23/2012. (Fernandez, Melissa) (Entered: 04/23/2012)
04/23/2012	109	ORDER. All parties are asked to read and comply with the 4 Court's Chambers Practices, including the filing and discovery dispute resolution requirements. Failure to comply may result in the summary denial of relief sought in a non-compliant pleading. Signed by Judge Vanessa L. Bryant on 04/23/2012. (Grady, B.) (Entered: 04/23/2012)
04/23/2012		Set/Reset Deadlines as to 103 MOTION for Summary Judgment. Responses due by 5/30/2012 (LaLone, L.) (Entered: 04/23/2012)
04/30/2012	110	Second MOTION for Extension of Time until May 29, 2012 <i>to file Motion for Summary Judgment</i> by M. Peter Kuck. (Baird, Rachel) (Entered: 04/30/2012)
05/01/2012	111	ORDER granting 110 Motion for Extension of Time until May 29, 2012 to file Motion for Summary Judgment. No further extensions will be granted. Signed by Judge Vanessa L. Bryant on 5/1/2012. (Fernandez, Melissa) (Entered: 05/01/2012)
05/01/2012		Set Deadlines/Hearings: Dispositive Motions due by 5/29/2012 (D'Onofrio, B.) (Entered: 05/01/2012)
05/29/2012	112	Second MOTION for Extension of Time to File Response/Reply as to 103 MOTION for Summary Judgment until June 8, 2012 by James F. Goldberg, M. Peter Kuck. (Baird, Rachel) (Entered: 05/29/2012)
05/30/2012	113	ORDER granting 112 Motion for Extension of Time to File Response/Reply as to MOTION for Summary Judgment until June 8, 2012. Signed by Judge Vanessa L. Bryant on 5/30/2012. (Fernandez, Melissa) (Entered: 05/30/2012)
05/30/2012		Set/Reset Deadlines as to 103 MOTION for Summary Judgment. Responses due by 6/8/2012 (LaLone, L.) (Entered: 05/30/2012)
06/08/2012	114	Third MOTION for Extension of Time to File Response/Reply as to 103 MOTION for Summary Judgment until June 18, 2012 by James F. Goldberg, M. Peter Kuck. (Baird, Rachel) (Entered: 06/08/2012)
06/11/2012	115	ORDER granting 114 Motion for Extension of Time to File Response/Reply as to MOTION for Summary Judgment until June 18, 2012. Signed by Judge Vanessa L. Bryant on 6/11/2012. (Fernandez, Melissa) (Entered: 06/11/2012)
06/11/2012		Set/Reset Deadlines as to 103 MOTION for Summary Judgment. Responses due by 6/18/2012 (LaLone, L.) (Entered: 06/12/2012)
06/18/2012	116	Memorandum in Opposition re 103 MOTION for Summary Judgment filed by James F. Goldberg, M. Peter Kuck. (Attachments: # 1 Statement of Material Facts, # 2 Affidavit By M. Peter Kuck)(Baird, Rachel) (Entered: 06/18/2012)
06/18/2012	117	NOTICE of Manual Filing by James F. Goldberg, M. Peter Kuck re 116 Memorandum in Opposition to Motion (Baird, Rachel) Modified on 6/19/2012 to add text (Grady, B.). (Entered: 06/18/2012)

06/19/2012	118	Local Rule 56(a)2 Statement to accompany 116 Memorandum in Opposition to 103 MOTION for Summary Judgment, re: EXHIBITS 1-25 by M. Peter Kuck. (Attachments: # 1 Exhibit EX 1, # 2 Exhibit EX 2, # 3 Exhibit EX 3, # 4 Exhibit EX 4, # 5 Exhibit EX 5, # 6 Exhibit EX 6, # 7 Exhibit EX 7, # 8 Exhibit EX 8, # 9 Exhibit EX 9, # 10 Exhibit EX 10, # 11 Exhibit EX 11, # 12 Exhibit EX 12, # 13 Exhibit EX 13, # 14 Exhibit EX 14, # 15 Exhibit EX 15, # 16 Exhibit EX 16, # 17 Exhibit EX 17, # 18 Exhibit EX 18, # 19 Exhibit EX 19, # 20 Exhibit EX 20, # 21 Exhibit EX 21, # 22 Exhibit EX 22, # 23 Exhibit EX 23, # 24 Exhibit EX 24, # 25 Exhibit EX 25)(Baird, Rachel) Modified on 6/20/2012 to add text (Grady, B.). (Entered: 06/19/2012)
06/19/2012	119	Local Rule 56(a)2 Statement to accompany 116 Memorandum in Opposition to 103 MOTION for Summary Judgment, re: EXHIBITS 26-46 by M. Peter Kuck. (Attachments: # 1 Exhibit EX 26, # 2 Exhibit EX 27, # 3 Exhibit EX 28, # 4 Exhibit EX 29, # 5 Exhibit EX 30, # 6 Exhibit EX 31, # 7 Exhibit EX 32, # 8 Exhibit EX 33, # 9 Exhibit EX 34, # 10 Exhibit EX 35, # 11 Exhibit EX 36, # 12 Exhibit EX 37, # 13 Exhibit EX 38, # 14 Exhibit EX 39, # 15 Exhibit EX 40, # 16 Exhibit EX 41, # 17 Exhibit EX 42, # 18 Exhibit EX 43, # 19 Exhibit EX 44, # 20 Exhibit EX 45, # 21 Exhibit EX 46)(Baird, Rachel) Modified on to change add 6/20/2012 (Grady, B.). (Entered: 06/19/2012)
06/19/2012	120	CERTIFICATE OF SERVICE by M. Peter Kuck re 119 Exhibit,, 118 Exhibit,, 116 Memorandum in Opposition to Motion (Baird, Rachel) (Entered: 06/19/2012)
06/28/2012	121	REPLY to Response to 103 MOTION for Summary Judgment filed by Christopher R. Adams, Ronald A. Bastura, Joseph Corradino, John A. Danaher, III, Alaric Fox, Thomas Karanda, T. William Knapp, Albert J. Masek, Jr, Barbara Mattson. (Snook, Robert) (Entered: 06/28/2012)
10/16/2012	122	ORDER granting 103 Motion for Summary Judgment. See attached memorandum of decision. The Clerk is directed to enter judgment in favor of Defendants and close the case. Signed by Judge Vanessa L. Bryant on 10/16/2012. (Fernandez, Melissa) (Entered: 10/16/2012)
10/18/2012	123	JUDGMENT entered in favor of Alaric Fox, Albert J. Masek, Jr, Barbara Mattson, Christopher R. Adams, John A. Danaher, III, Joseph Corradino, Ronald A. Bastura, T. William Knapp, Thomas Karanda against James F. Goldberg, M. Peter Kuck. For Appeal Forms please go to the following website: http://www.ctd.uscourts.gov/forms.html . Signed by Clerk on 10/18/12. (LaLone, L.) (Entered: 10/18/2012)
10/18/2012		JUDICIAL PROCEEDINGS SURVEY: The following link to the confidential survey requires you to log into CM/ECF for SECURITY purposes. Once in CM/ECF you will be prompted for the case number. Although you are receiving this survey through CM/ECF, it is hosted on an independent website called SurveyMonkey. Once in SurveyMonkey, the survey is located in a secure account. The survey is not docketed and it is not sent directly to the judge. To ensure anonymity, completed surveys are held up to 90 days before they are sent to the judge for review. We hope you will

		take this opportunity to participate, please click on this link: https://ecf.ctd.uscourts.gov/cgi-bin/Dispatch.pl?survey (LaLone, L.) (Entered: 10/18/2012)
11/08/2012	124	NOTICE OF APPEAL as to 122 Order on Motion for Summary Judgment by James F. Goldberg, M. Peter Kuck. Filing fee \$ 455, receipt number 0205-2681861. (Attachments: # 1 Appendix Decision Granting Summary Judgment, # 2 Appendix Judgment)(Baird, Rachel) (Entered: 11/08/2012)

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UNITED STATES DISTRICT COURT
DISTRICT OF CONNECTICUT

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

Plaintiffs,

v.

JOHN A. DANAHER III, former Commissioner,
Connecticut State Department of Public Safety,
In his Individual Capacity,

JAMES M. THOMAS, Commissioner,
Connecticut State Department of Public Safety,
In his Official Capacity,

M. JODI RELL, Governor, State of Connecticut,
In her Individual and Official Capacities,

ALARIC FOX, Captain,
Connecticut State Department of Public Safety,
In his Individual Capacity,

ALBERT J. MASEK, JR., former Commanding Officer,
Connecticut State Department of Public Safety,
In his Individual Capacity,

BARBARA MATTSO, 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, former Sergeant,
Connecticut State Department of Public Safety,
In his Individual Capacity,

SUSAN MAZZOCOLI, Executive Head,
Connecticut State Department of Administrative
Services,

In her Individual and Official Capacities,
CHRISTOPHER R. ADAMS, former Chairman,
Connecticut State Board of Firearms Permit
Examiners,

In his Individual Capacity,

Defendants.

CASE NO.: 3:07-CV-1390-VLB

TRIAL BY JURY DEMANDED

SEPTEMBER 3, 2010

AMENDED COMPLAINT

Preliminary Statement

1. This action arises from an attack upon the independence and authority of a civilian review board by a state law enforcement agency intent upon enforcing state firearms laws according to the agency's interpretation of individual rights, regardless of state statutes, regulations, or constitutional principles to the contrary.

2. In this case, the civilian review board is the Connecticut State Board of Firearms Permit Examiners ("Board") and the state law enforcement agency is the Connecticut State Department of Public Safety (DPS).

3. The Plaintiff M. Peter Kuck and other individuals similarly situated have been deprived rights secured by the United States Constitution as a direct consequence of the Defendants' conduct, joint and several.

Jurisdiction

4. This Court has jurisdiction of the 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

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

6. Former Governor John G. Rowland appointed Kuck 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. Kuck served as the Board's duly elected Secretary from prior to October 2003 until October 11, 2007.

8. Kuck 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 individuals who, similar to Kuck, have been aggrieved by the denial of their right to lawfully carry a pistol or revolver in the state of Connecticut based exclusively on a DPS determination of “lack of suitability.”

9. Kuck 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 individuals who, similar to Kuck:

- a. have been aggrieved by the refusal to renew a permit to carry a pistol or revolver issued by the state of Connecticut;
- b. filed 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.

10. Defendant John A. Danaher III was the Commissioner of the Connecticut State Department of Public Safety (“DPS Commissioner Danaher”) at all times relevant to the claims set forth in Counts One through Three, inclusive, and is sued in his individual capacity.

11. Defendant James A. Thomas is the Commissioner of the Connecticut State Department of Public Safety (“DPS Commissioner Thomas”) and is substituted for former DPS Commissioner Danaher as a Defendant in his official capacity.

12. Governor M. Jodi Rell (“Governor Rell”) appointed DPS Commissioner Danaher and DPS Commissioner Thomas to serve as the chief executive officer of the

Department of Public Safety having general jurisdiction over DPS affairs.

13. Governor Rell is sued in her individual and official capacities.

14. The DPS 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.

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

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

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

18. The DPS Commissioner delegates his responsibility to issue, revoke, and renew state permits to carry a pistol or revolver to the SLFU and its assigned members.

19. Defendant Alaric Fox ("Lieutenant Fox") is a member of the DPS attached to the SLFU and reporting to DPS Commissioner Danaher at all times relevant to the claims set forth in Counts One through Three, inclusive.

20. Defendant Albert J. Masek, Jr. ("Captain Masek") supervised the SLFU and was the Commanding Officer of Special Investigations and Support for the Division of State Police at all times relevant to the claims set forth in Counts One through Three, inclusive.

21. Defendant Barbara Mattson ("Detective Mattson") is a member of the DPS assigned to the SLFU at the rank of detective at all times relevant to the claims set forth

in Counts One through Three, inclusive.

22. Detective Thomas Karanda (“Detective Karanda”) is a member of the DPS formerly assigned to the SLFU at the rank of detective at all times relevant to the claims set forth in Counts One through Three, inclusive.

23. Sergeant Ronald A. Bastura (“Sergeant Bastura”) was a member of the DPS serving as the SLFU's Executive Officer at the rank of sergeant at all times relevant to the claims set forth in Counts One through Three, inclusive.

24. The State of Connecticut, DPS Commissioner Danaher, Lieutenant Fox, Captain Masek, Detective Mattson, Detective Karanda, and Sergeant Bastura are sued in their individual capacities and are referenced hereinafter as the “DPS Defendants” to include allegations against the State of Connecticut, DPS Commissioner Danaher, Lieutenant Fox, Captain Masek, Detective Mattson, Detective Karanda, and Sergeant Bastura.

25. Christopher R. Adams (“Chairman Adams”) served as the Chairman of the Board through July 17, 2008, at all times relevant to the claims set forth in Counts One through Three, inclusive.

26. The Board was established in 1967 by state statute within the DPS 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.

27. The Board, because it is assigned to the DPS 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 DPS 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.

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

29. At least one member is appointed from each of the nominations submitted by the DPS 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.

30. At least one member of the Board must be a lawyer licensed to practice in Connecticut to act as Chairman of the Board during the hearing of appeals brought before the Board.

31. The Governor appointed Chairman Adams to the Board effective August 2005.

32. The Board maintains an office in Hartford, Connecticut, for conducting its day-to-day business staffed by a manger.

33. The Board's manager, Susan Mazzoccoli ("Mazzoccoli"), serves as the Board's Executive Head for routine administrative and operational matters.

34. Chairman Adams is sued in his individual capacity.

35. Mazzoccoli is sued in her individual and official capacities.

36. At all times alleged in the Amended Complaint, each of the individual Defendants acted under color of state law.

Allegations of Fact

The Denial of Kuck's State Permit Renewal Application

37. A permit to carry a pistol or revolver in the state of Connecticut ("state permit") expires five years after the date such state permit is issued or renewed.

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

39. The SLFU demanded that Kuck submit a birth certificate or United States passport for renewal.

40. Kuck discussed with Sergeant Bastura, the SFLU Executive Officer, the DPS authority to demand the submission of a birth certificate or United States passport as a condition for state permit renewal.

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

42. The submission of a United States passport or birth certificate is not a requirement under General Statutes §§ 29-28(b), 29-30 for state permit renewal.

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

44. The DPS did not require that Kuck provide a birth certificate, United States passport, or voter registration card with any of the ensuing state permit renewals until

his renewal application submitted on or about March 19, 2007.

45. The DPS does not require the submission of a birth certificate or United States passport with every state permit renewal application.

46. 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(b), was rejected.

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

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

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

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

51. Kuck's state permit expired on April 16, 2007.

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

53. Captain Masek responded to Kuck that DPS sent Kuck a renewal form

and instructions pursuant to General Statutes § 29-30(f) and that Kuck had failed to provide the documentation required for renewal.

54. Captain Masek instructed Kuck 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."

55. The DPS Defendants, acting through the DPS Legal Affairs Unit, and Captain Masek, failed to provide Kuck any basis in law for the DPS application demand that Kuck provide a birth certificate, United States passport, or voter registration card as a condition for state permit renewal pursuant to General Statutes § 29-30.

56. 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 DPS clarify the basis for the SFLU policy.

57. 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.

58. The SLFU 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.

59. Kuck was entitled to renewal of his state permit in April 2007.

Kuck's Appeal to the Board

60. Kuck filed a timely appeal to the Board from the DPS refusal to renew his

state permit.

61. Detective Mattson informed the Board of the SLFU's cause for refusal to renew Kuck's state permit as: "App refused to produce to Connecticut State Police his birth certificate, United States passport or voters [sic] registration card upon renewal of his permit."

62. The Board heard Kuck's appeal on October 9, 2008, and found:

- a. Kuck was "denied renewal of his state pistol permit by the Commissioner of Public Safety ... on April 16, 2007 for failure to provide proof that he was not an illegal alien resident of the United States."
- b. Kuck "provided the issuing authority with a list of registered voters in the town of West Hartford provided by the Registrars of Voters of that town prior to the commencement of the hearing."
- c. "The issuing authority knew of no other evidence of the appellant's unsuitability other than his failure to furnish proof of citizenship at the time of renewal."

63. Kuck never provided the DPS Defendants or the Board a United States passport or voter registration card prior to or since the October 9, 2008, Board decision.

64. With the exception of his initial application for a state permit in 1982, Kuck never provided the DPS Defendants a birth certificate.

65. The Board did not receive the list of registered voters into evidence at the October 9, 2008, hearing.

66. The DPS Defendants, in renewing Kuck's state permit following the October 9, 2008, Board hearing, recorded into the official DPS SLFU database that

Kuck's citizenship had been verified by the Board when in fact it was the Board's finding that the DPS had verified Kuck's citizenship through a voter registration list submitted to the DPS, not the Board.

67. The DPS Defendants, in renewing Kuck's state permit following the October 9, 2008, Board hearing, recorded into the official DPS SLFU database that Kuck's citizenship had been verified by his birth certificate on December 11, 2008.

68. Kuck never provided the DPS Defendants his birth certificate after the initial issuance of his state permit in 1982.

69. Kuck moved for a rehearing before the Board to correct the Board's findings of fact.

70. Despite Detective Mattson's representation to the Board in stating the cause for the DPS Defendants' refusal to renew Kuck's state permit, the DPS Defendants did possess Kuck's birth certificate as indicated in the SLFU's database.

71. For this reason, Kuck could not have been denied renewal of his state permit by the DPS Defendants on April 16, 2007, for failure to provide his birth certificate, United States passport, or voter registration card.

72. The Board, finding that Kuck was not an aggrieved party after its October 8, 2008, decision reversing the DPS Defendants' refusal to renew Kuck's state permit, declined to rule on Kuck's motion to correct the finding of the Board.

The Delay of Kuck's Appeal to the Board

73. In a May 14, 2007, letter to DPS Commissioner Danaher, the Board, through Chairman Adams and at Kuck's insistence, in his capacity as the Board's Secretary, expressed concern about the backlog of appeals scheduled to be heard by

the Board and the waiting period for appellants.

74. The May 14, 2007, letter to DPS 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 to sixteen months.

75. 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 months to fourteen months as of January 23, 2003.

76. For fiscal years ending June 30, 2003, and 2004, the Auditors noted that the backlog as of May 30, 2005, was fourteen months.

77. In May, 2007, the estimated wait time for hearing before the Board was seventeen months.

78. The Board, in its May 14, 2007, letter to DPS Commissioner Danaher, invited DPS to work with the Board to expedite the appeals process.

79. The Auditors audit the books and accounts of each officer, department, commission, board and court of the State government to examine the performance in order to determine effectiveness in achieving expressed legislative purpose.

80. The Auditors’ findings are reported to the Governor, the State Comptroller, the joint standing committee of the General Assembly having cognizance of matters relating to appropriations and the budgets of State agencies, and the Legislative Program Review and Investigations Committee.

81. Governor Rell received the auditors’ reports indicating that the DPS contributed to the backlog of the appeals waiting for hearing before the Board by not

reviewing and then settling the majority of the cases until the month of the scheduled hearing.

82. The Auditors told Governor Rell that state permits could have been returned sooner if the DPS has reviewed the cases prior to the scheduled hearing.

The DPS Unilateral Decisions to Return State Permits Prior to Hearing

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

84. 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).

85. DPS Commissioner Danaher and his designated agents, including, but not limited to, Lieutenant Fox, 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 circumvented the scrutiny of the Board to determine whether the facts support a finding that revocation was for just and proper cause.

86. DPS Commissioner Danaher and his designated agents, including, but not limited to, Lieutenant Fox, 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 concealed and secreted revocations from the civilian scrutiny and review of the Board.

87. DPS Commissioner Danaher and his designated agents, including, but not limited to, Lieutenant Fox , 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 condoned and promoted the revocation of state permits having no basis in fact and without any just and proper cause.

88. DPS Commissioner Danaher and his designated agents, including, but not limited to, Lieutenant Fox , 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 SLFU in determining whether revoked state permits should be returned to their holders prior to the civilian scrutiny of the Board.

The Secretary, the Chairman, and the Executive Head of the Board

89. The Governor of the State of Connecticut appointed Kuck to serve on the Board of Firearms Permit Examiners in 1998 by nomination of Ye Connecticut Gun Guild, Inc. (YCGG) pursuant to General Statutes § 29-32b.

90. The stated purposes of YCGG 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 firearm owners.

91. Kuck served as the Board Secretary, by election of the Board, from prior to October 2003 until October 11, 2007.

92. The Board Secretary is responsible for all secretarial duties defined in sections 29-32b-5 through 29-32b-15 of the Regulations of Connecticut State Agencies (“Regulations”), including:

- a. Accepting appeals to the Board.
- b. Conducting a thorough inquiry of the facts of the appeal.
- 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.

93. In May 2006, Kuck, in his capacity as Board Secretary, began to question the reason for the backlog of appeals waiting for hearing before the Board.

94. In anticipation of the June 2006 Board meeting and in response to Kuck’s insistence that the Board address the backlog, Chairman Adams asked Mazzoccoli for an estimate of the number of appeals scheduled for hearing at the June 2006 Board meeting.

95. Mazzoccoli informed Chairman Adams that she had discussed the schedule with Detective Mattson and learned that of the twenty appeals scheduled the SLFU had resolved twelve appeals with the possibility that two more appeals would be resolved prior to hearing.

96. Chairman Adams condoned the SLFU's unlawful circumvention of the hearing process and informed Mazzoccoli that her report sounded good.

The Board Secretary's Regulatory Functions

97. General Statutes § 29-32b(c) provides that a person aggrieved by a DPS 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."

98. 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.

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

100. The Board, while such appeal is pending, may request such additional information from the appellant and from the DPS as it deems reasonably necessary to conduct a fair and impartial hearing, and shall require of the DPS 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.

101. 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.

102. As Board Secretary, Kuck was denied the authority to review facts appeals and schedule appeals for hearing.

103. Without this oversight by the Board Secretary, the DPS has been allowed to delay the return of state permits by up to twenty-two months in cases in which the DPS knows that a hearing before the Board will result in the restoration of a state permit.

104. The DPS Defendants' abuse of its ability to ignore state permit issuance, revocation, and renewal statutes is apparent in the number of state permits returned without hearing before the Board after a sixteen to twenty-two month hearing delay.

105. The DPS Defendants, knowing that they revoke state permits without evidence or basis in law, withhold case statements and positions from the Board until just prior to the scheduled hearing and then settle cases on the day of hearing because the DPS Defendants know that the cases are without evidence or basis in law.

106. By the time the DPS Defendants settle cases on the day of hearing before the Board, the aggrieved person has been denied the state permit without evidence or basis in law for a fourteen to twenty-two month time period.

107. The Board Secretary's authority to review the facts and schedule appeals operates as a check and balance on the DPS Defendants' revocation authority.

108. The ability of the DPS Defendants to revoke state permits and then return them to their holders without review by the Board of the facts has resulted in a pattern and practice of allowing law enforcement agencies and the DPS Defendants to revoke state permits without concern for the law or the intent of the legislative bodies that represent the people.

109. The SLFU has operated as a rogue unit within the DPS without oversight or regard for the law or the individual rights of state permit holders.

110. On March 10, 1998, Inspector Michael Beal ("Beal"), a retired state trooper rehired to work in the SLFU, drafted a letter of resignation to his supervisor, Captain Manfred Brideau, informing the DPS of unlawful practices condoned by the DPS that Beal, despite his best efforts, had been unable to quell.

111. Inspector Beal wrote that it was his responsibility to address the common practice among local police officers of confiscating state permits from individuals when the law gave local law enforcement officers no right to do so if a state permit was validly held.

112. Beal termed this practice "constructive revocation" which was not authorized under the law.

113. On January 3, 2008, Beal met with DPS Commissioner Danaher, Lieutenant Fox, and a former DPS law enforcement officer to discuss the delay in appeals filed with the Board for hearing.

114. At the meeting, Lieutenant Fox told DPS Commissioner Danaher and Beal that a state permit was a privilege and that he [Lieutenant Fox] had adopted the "conservative" side and a "take the permit" preference in carrying out the delegation of the DPS Commissioner's authority to issue, revoke, and renew state permits.

115. DPS Commissioner Danaher did not correct or oppose Lieutenant Fox's statements of position.

116. During the meeting, DPS Commissioner Danaher asked Beal for his [Beal's] definition of suitability.

117. Lieutenant Fox defined suitability as the standard set by law enforcement authorities.

118. In a subsequent written communication with DPS Commissioner Danaher, Beal warned DPS Commissioner Danaher that taking guidance from Lieutenant Fox on state permit issues had misdirected the DPS.

Chairman Adams and Mazzoccoli's Collaboration with DPS

Part I – Manipulation of the Number of Cases Heard By the Board

119. Kuck attempted in March 2007 to identify the reasons for the backlog in appeals to the Board and asked Chairman Adams whether Chairman Adams had scheduled a meeting with the recently appointed DPS Commissioner Danaher to discuss the backlog of appeals.

120. Chairman Adams informed Kuck that DPS 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.

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

122. In April 2007, Mazzoccoli informed Chairman Adams that the number of hearings scheduled for the upcoming April 2007 Board meeting numbered six.

123. Chairman Adams told Mazzoccoli that Kuck would “flip” when he learned that only six appeals were scheduled for hearing and asked Mazzoccoli if DPS would add more appeals to the schedule.

124. Although it was too late for Mazzoccoli to send timely notices to appellants

for April 2007 hearings, she told Chairman 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.”

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

126. Chairman Adams then asked Mazzoccoli how the number of cases scheduled for hearing in April 2007 had decreased from forty to six over the course of the prior few weeks.

127. 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 appellants to Detective Mattson for review on March 8, 2007.

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

129. Following a conversation with Detective Mattson, Mazzoccoli told Chairman Adams that Detective Mattson was refusing to add three more cases to the April 2007 agenda.

130. Detective Mattson was concerned that Kuck would sense that she was not being truthful if she did as Mazzoccoli and Chairman Adams asked.

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

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

133. 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 DPS, 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 meetings for fiscal year 2006-07 and that during this period two-hundred and forty-nine cases were reviewed and heard by the Board.

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

135. 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.

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

137. Chairman Adams was irritated with the attention brought by Kuck to the backlog issue.

138. In addition to the information about the number of cases “resolved” before the Board, Chairman Adams asked Mazzoccoli for information about the degree of the backlog when he became Board Chairman in August of 2005, about the length of Board members’ services, and anything else that Mazzoccoli believed a reporter might ask.

139. Chairman 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.”

140. If the DPS Defendants, Chairman Adams, and Mazzoccoli had not denied Kuck the opportunity to review the facts of each appeal and schedule the cases for hearing while he was Secretary, then the majority of the cases of revocation lacking just or proper cause as demonstrated by the DPS resolution of the cases just prior to Board meetings would have been resolved some twenty-two months prior leaving only the cases not subject to resolution to be scheduled before the Board.

Part II – The Secretary’s Functions

141. Chairman Adams did not know that the Board was guided by fifteen regulations until April 23, 2007, almost two years subsequent to his appointment as the Chairman.

142. The revelation that the Board had regulations was initiated by a brief email on April 13, 2007, from Chairman Adams to Mazzoccoli asking if the Board had “Bylaws.”

143. In Spring 2007, Kuck, having no legal background or training, without the support of the Board Chairman 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.

144. Kuck then learned that Mazzoccoli maintained an outdated compilation of Board regulations consisting of only the first four or five of the fifteen regulations contained at section 29-32b-1 through 29-32b-15 of the Regulations.

145. On April 23, 2007, at 1:30 p.m., Kuck, 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 to Mazzoccoli.

146. Mazzoccoli then emailed Chairman 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.

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

148. When Kuck 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 regulation, Mazzoccoli and Adams increased their

discussions about removing Kuck as Secretary and preventing his reappointment to the Board.

Part III – The Backlog of Appeals

149. As part of his efforts to decrease the backlog, Kuck continued to ask Chairman Adams and Mazzoccoli if either had received any response from DPS Commissioner Danaher to the Board's May 14, 2007, letter requesting a dialogue to decrease the backlog of appeals.

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

151. Kuck indicated to Mazzoccoli that he believed the DPS was deliberately delaying a response.

152. Chairman Adams, despite the fact that DPS Commissioner Danaher had been confirmed as DPS Commissioner more than two months prior, still had not met with DPS Commissioner Danaher to work toward resolving the backlog issue.

153. In response to Mazzoccoli and in direct sabotage of the Secretary's regulatory functions, Chairman Adams told Mazzoccoli on June 25, 2007, not to contact DPS, stating furthermore: "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."

154. When Chairman Adams told Mazzoccoli that Kuck needed to be reminded that all he [Kuck] was authorized to do was to keep track of minutes, Chairman 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 Kuck's efforts to decrease the backlog and exert civilian oversight on the revocation activities of the SLFU.

155. Mazzoccoli continued to report and block each effort by Kuck to resolve the backlog and exert civilian oversight on the SLFU's revocation activities.

156. Chairman Adams repeatedly told Mazzoccoli to ignore Kuck.

157. When Mazzoccoli apologized to Chairman Adams for reporting to him about each attempt by Kuck to do his job as secretary, Chairman 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."

Part IV – Efforts to Remove Kuck as Secretary and Prevent his Reappointment

158. In April 2007, Chairman Adams and Mazzoccoli initiated contacts with Maryann Boord, the Director of Boards and Commissions within the Office of the Governor.

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

160. Together Chairman Adams and Mazzoccoli worked on drafting a letter to the Office of the Governor to oppose and sabotage Kuck's reappointment to the Board.

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

162. Mazzoccoli and Chairman Adams investigated Kuck's YCGG participation which led Chairman Adams to congratulate Mazzoccoli for her "great sleuthing."

163. The draft letter to the Governor's office represented that Chairman Adams had previously met with the DPS 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 months.

164. The backlog was not reduced by six months at any time during the year 2007.

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

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

Part V – Chairman Adams and Mazzoccoli Prevent Kuck from Performing His Duties

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

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

169. As the May 2007, Board meeting approached, Mazzoccoli and Chairman Adams discussed whether the letter to the DPS Commissioner Danaher regarding the backlog had been drafted by the DPS nominated Board member Joseph T. Corradino (“Corradino”).

170. When Mazzoccoli informed Chairman Adams that Corradino intended to bring the letter to the May 2007, Board meeting, Chairman 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.”

Part VI – The DPS Joins Chairman Adams and Mazzoccoli in seeking the Assistance of the Governor’s Office

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

172. Mazzoccoli informed Chairman Adams on May 11, 2007, that officers were incensed at Kuck for refusing to accept evidence of alcohol intoxication based on certain horizontal gaze nystagmus (HGN) tests without corroborating blood alcohol content (BAC) tests.

173. Kuck 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.

174. Mazzoccoli told Chairman 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.”

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

176. On May 14, 2007, Mazzoccoli again discussed Kuck’s removal from the Board with Director Boord.

177. Mazzoccoli sought Chairman Adams’ permission prior to releasing information about Board business to Kuck.

178. Mazzoccoli, with the agreement of Chairman Adams, ignored Kuck’s requests for transcripts.

179. Chairman Adams told Mazzoccoli on May 16, 2007, that Kuck did not have the authority as Secretary that Kuck thought he had despite Chairman Adams’ recently acquired knowledge 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.”

180. Mazzoccoli requested permission from Chairman Adams prior to providing Kuck a letter sent to DPS Commissioner Danaher dated May 14, 2007, addressing the backlog and the DPS imposed requirement that state permit holders present a voter registration card, passport, or birth certificate prior to renewal of a state permit.

181. On May 24, 2007, Chairman Adams asked Mazzoccoli if Kuck had a day

job because Kuck needed to spend more time at his day job.

182. Chairman Adams commented to Mazzoccoli that Kuck needed to take a valium.

183. In July 2007, Chairman Adams and Mazzoccoli engaged in a conversation using their state email addresses about Chairman Adams' purchase of a new house causing Chairman 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!"

184. 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."

185. In July 2007, Mazzoccoli and Chairman Adams continued to discuss preventing Kuck's reappointment to the Board with Director Boord's cooperation.

186. Chairman Adams told Mazzoccoli to remind Director Boord that time was of the essence because Kuck'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.

187. On July 17, 2007, Mazzoccoli wrote to Chairman Adams that Kuck would never be removed because Director Boord was leaving her position in the Governor's office.

188. In July 2007, Mazzoccoli reported to Chairman 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 names in nomination for Kuck's position on the Board as the YCGG representative.

189. Detective Mattson holds and expresses the opinion while acting under color of state law that guns should not be possessed by persons not affiliated with law enforcement.

190. Detective Karanda threatened Kuck at a November 8, 2006, Board meeting.

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

192. Detective Karanda then asked Kuck if he [Kuck] had heard about a previous antiques arms show in Hartford and when Kuck 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."

193. 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.

194. Following Detective Mattson's and Detective Karanda's aborted meeting

with Director Boord, Mazzoccoli told Chairman 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.”

195. On August 27, 2007, Kuck 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.”

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

197. When Kuck contacted Mazzoccoli for information about Board business, Mazzoccoli hung up the phone on Kuck and told security to bar Kuck from the Board’s offices.

198. Chairman Adams told Mazzoccoli not to give Kuck any information.

Part VII – Kuck’s Removal as Secretary

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

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

201. At the October 2007 Board meeting, with Mazzoccoli present, Kuck demanded that the document relied upon by Mazzoccoli at the September 2007 meeting be included in the September 2007 minutes, and the approval of the September 2007 minutes was tabled.

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

203. Kuck’s motion passed and the September 13, 2007, minutes were adopted with Mazzoccoli’s multiple-page document attached.

204. The Board conducted a vote at its Board meeting on October 11, 2007, and Kuck was replaced as Secretary by Board member Corradino.

VIOLATIONS AND CLAIMS

Count One

DENIAL OF RIGHT TO KEEP AND BEAR ARMS

Second and Fourteenth Amendments to the United States Constitution

(42 U.S.C. § 1983)

Against DPS Defendants

205. Plaintiff hereby incorporates by reference under Count One each and every paragraph numbered 1 through 204, above.

206. The DPS Defendants’ refusal to renew Plaintiff’s state permit based on a lack of suitability violated the Second Amendment to the United States Constitution.

207. General Statutes § 29-28(b) lists ten factors reviewed by state and local agencies for determination of a person's eligibility to obtain or hold a temporary or state permit to carry pistols or revolvers.

208. The statute also requires "suitability." Conn. Gen. Stat. § 29-28(b).

209. A person is denied a state permit even if he or she meets all ten of the eligibility factors but is not deemed suitable.

210. A person is disqualified from holding a state permit if he or she is suitable but does not meet one or more of the eligibility factors.

211. Only a suitable person who meets all ten eligibility factors may hold a state permit.

212. Plaintiff met all ten eligibility factors.

213. Plaintiff's fundamental constitutional right to keep and bear arms in self-defense was contingent upon holding a state permit that requires he be found "suitable" by the DPS Defendants.

214. In determining suitability, the DPS Defendants exercised discretion absent any parameters set forth under state law.

215. The "right to keep and bear arms" is "among those fundamental rights necessary to our system of ordered liberty." McDonald v. City of Chicago, Illinois, ___ U.S. ___, 130 S.Ct. 3020, 3042 (2010).

216. A fundamental right, such as the right to keep and bear arms, is "enforced against the States under the Fourteenth Amendment according to the same standards that protect those personal rights against federal encroachment." McDonald, 130 S.Ct. at 3111.

217. While “longstanding regulatory measures” such as “prohibitions on the possession of firearms by felons and the mentally ill,” “laws forbidding the carrying of firearms in sensitive places such as schools and government buildings, or laws imposing conditions and qualifications on the commercial sale of arms” are not imperiled by incorporation, limitations on the legislative freedom and policy choices of the States and restrictions on “experimentation and local variations” are necessary consequences of the “enshrinement of constitutional rights.” Id. at 3050, 3047 (quoting District of Columbia v. Heller, 554 U.S. ___, 128 S.Ct. 2783, 2816-17, 171 L.Ed.2d 637 (2008)).

218. The April 2007 refusal by the DPS Defendants to renew Plaintiff’s state permit was based upon the DPS Defendants’ determination that Plaintiff was not suitable to hold a state permit.

219. The vague principle of suitability in General Statutes § 29-28(b), which has no statutory definition and is subject to a myriad of interpretations among reasonable individuals, is the essence of the freedoms exercised by the state legislature and the policy choices of the DPS Defendants’ now subject to limitations necessitated by an individual’s fundamental right to keep and bear arms.

220. The discretion exercised by the DPS Defendants in refusing to renew Plaintiff’s state permit violated the Second Amendment.

221. Wherefore, Plaintiff and other individuals similarly situated have suffered damages and demand judgment against the DPS Defendants for compensatory damages, and further demand judgment against each of the DPS Defendants, jointly

and severally, for punitive damages, plus the costs of this action, and such other relief as this Court deems just, proper, and equitable.

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

222. Plaintiff hereby incorporates by reference under Count Two each and every paragraph numbered 1 through 204, 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. The DPS Defendants, in creating a backlog of cases which requires aggrieved individuals to wait between fourteen and twenty-two months for a hearing, have denied aggrieved individuals the opportunity to be heard at a meaningful time and in a meaningful manner.

225. DPS Commissioner Danaher failed to respond to the Board's efforts to decrease the backlog despite the recommendation of the Auditors that the DPS take specific action or risk denying appellants their right to a hearing.

226. In acquiescing to the DPS Defendants' method of delaying appeals for as long as possible then resolving appeals just prior to hearing, so that the process itself becomes the punishment, even under facts and circumstances where no punishment was ever warranted, Chairman Adams and Mazzoccoli deprived Plaintiff and others similarly situated the Fifth and Fourteenth Amendments due process right to be heard at a meaningful time and in a reasonable manner.

227. The denial of the due process right to be heard at a meaningful time and in a reasonable manner deprived Plaintiff the Second Amendment right to keep and bear arms.

228. The nearly eighteen month imposition of a *de facto* suspension of Plaintiff's state permit by the DPS Defendants, made possible by the delay between the expiration date of his state permit and his opportunity to be heard by the Board, violates due process.

229. The delay between the DPS Defendants' refusal to renew state permits held by individuals similarly situated to Plaintiff and their opportunity to be heard violates due process.

230. 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, Chairman Adams and Mazzoccoli allowed the DPS Defendants to accrue a backlog and thereby violated Plaintiff's due process rights and the due process rights of others similarly situated awaiting hearing on their appeal.

231. In failing to exercise independence and authority over the DPS Defendants' revocation decisions, Chairman Adams and Mazzoccoli violated Plaintiff's due process rights and the due process rights of others similarly situated awaiting hearing on their appeal.

232. In disregarding the Auditors' reports of the DPS Defendants' backlog of cases and failing to exercise independence and authority over the DPS Defendants to correct the backlog, Governor Rell violated Plaintiff's due process rights and the due process rights of others similarly situated awaiting hearing on their appeal.

233. The practice and procedure of delaying appeals to punish state permit holders by *de facto* suspensions, pending the return of their state permits just prior to hearing before the Board, is an outrageous and knowing violation of clearly established law.

234. 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 States Constitution.

235. Wherefore, Plaintiff and other individuals similarly situated have suffered damages and demand judgment against the DPS Defendants, Chairman Adams, and Mazzoccoli, jointly and severally, and Governor Rell, for compensatory damages, and further demand judgment against each of the Defendants, jointly and severally, for punitive damages, plus the costs of this action, and such other relief as this Court deems just, proper, and equitable.

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

236. Plaintiff hereby incorporates by reference under Count Three each and every paragraph numbered 1 through 204, above.

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

238. The right to appeal to the Board from the DPS Defendants' imposition of

arbitrary requirements for a state permit renewal is rendered meaningless by the unreasonable wait period for such a hearing.

239. The right to appeal to the Board is rendered meaningless when the Board cannot or will not take action on matters brought to its attention demonstrating that the DPS Defendants refused to renew Plaintiff's state permit on the grounds that Plaintiff was not suitable because he would not produce a birth certificate when the DPS Defendants had the Plaintiff's birth certificate in their possession during the entirety of Plaintiff's state permit *de facto* suspension from April 2007 through October 8, 2008.

240. By creating arbitrary requirements and then creating a delay in the process for appeal from the imposition of the arbitrary requirements, DPS Commissioner Danaher, Lieutenant Fox, 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.

241. The right to appeal to the Board from DPS Commissioner Danaher's, Lieutenant Fox'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.

242. 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, Chairman Adams, and Mazzoccoli allowed DPS Commissioner Danaher, Lieutenant Fox, Captain Masek, Detective Mattson, Detective Karanda, Sergeant Bastura to violate Plaintiff's right to due process.

243. In addition to the violation of his Fifth and Fourteenth Amendment rights, Governor Rell, Chairman Adams, Mazzoccoli, DPS Commissioner Danaher, Lieutenant Fox, 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.

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

245. Wherefore, Plaintiff has suffered damages and demands judgment against Governor Rell, DPS Commissioner Danaher, Lieutenant Fox, Captain Masek, Detective Mattson, Detective Karanda, Sergeant Bastura, Chairman 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, and such other relief as this Court deems just, proper, and equitable.

PRAYER FOR RELIEF

WHEREFORE, Plaintiffs claim judgment against the Defendants as stated in Counts One through Three, inclusive, and as follows:

1. Compensatory damages;
2. Punitive damages;
3. Attorney's fees and costs;
4. Prospective injunctive relief against the Connecticut State Department of Public Safety, including, but not limited to, Court oversight to protect the right of Connecticut citizens to keep and bear arms; and
5. Such other relief in law or equity as the Court may deem appropriate.

Dated this 3rd day of September, 2010, 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 September 3, 2010, a copy of the foregoing Amended Complaint was filed electronically. 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

Preliminary Statement

1. This action arises from an attack upon the independence and authority of a civilian review board by a state law enforcement agency intent upon enforcing state firearms laws according to the agency's interpretation of individual rights, regardless of state statutes, regulations, or constitutional principles to the contrary.

2. In this case, the civilian review board is the Connecticut State Board of Firearms Permit Examiners ("Board") and the state law enforcement agency is the Connecticut State Department of Public Safety (DPS).

3. The Plaintiff James F. Goldberg and other individuals similarly situated have been deprived rights secured by the United States Constitution as a direct consequence of the Defendants' conduct, joint and several.

Jurisdiction

4. This Court has jurisdiction of the 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

5. Plaintiff James F. Goldberg ("Goldberg") is an adult citizen of the United States with residence in Wethersfield, Connecticut and Glastonbury, Connecticut.

6. Goldberg 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 individuals who, similar to Goldberg, have been aggrieved by the denial of their right to lawfully carry a pistol or revolver in the state of Connecticut based exclusively on a DPS determination of "lack of suitability."

7. Goldberg brings Counts Two and Five, 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 individuals who, similar to Goldberg:

- a. have been aggrieved by the revocation of a permit to carry a pistol or revolver issued by the state of Connecticut;
- b. filed timely appeal to the Board in accordance with Connecticut General Statutes (“General Statutes”), § 29-32b; and
- c. were denied or are being denied a reasonable and timely opportunity to be heard.

8. Goldberg brings Count Three, 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 individuals who, similar to Goldberg:

- a. have been aggrieved by the revocation of a permit to carry a pistol or revolver issued by the state of Connecticut without an investigation or request for such revocation from a law enforcement agency;
- b. filed timely appeal to the Board in accordance with Connecticut General Statutes (“General Statutes”), § 29-32b; and
- c. were denied or are being denied a reasonable and timely opportunity to be heard.

9. Goldberg brings Count Four, 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 individuals who, similar to Goldberg:

- a. have been aggrieved by the denial, based exclusively on information erased by operation of law, of the right to lawfully carry a pistol or revolver

in the state of Connecticut;

- b. filed timely appeal to the Board in accordance with Connecticut General Statutes (“General Statutes”), § 29-32b; and
- c. were denied or are being denied a reasonable and timely opportunity to be heard.

10. Defendant John A. Danaher III was the Commissioner of the Connecticut State Department of Public Safety (“DPS Commissioner Danaher”) at all times relevant to the claims set forth in Counts One through Seven, inclusive, and is sued in his individual capacity.

11. Defendant James A. Thomas is the Commissioner of the Connecticut State Department of Public Safety (“DPS Commissioner Thomas”) and is substituted for former DPS Commissioner Danaher as a Defendant in his official capacity.

12. Governor M. Jodi Rell (“Governor Rell”) appointed DPS Commissioner Danaher and DPS Commissioner Thomas to serve as the chief executive officer of the Department of Public Safety having general jurisdiction over DPS affairs.

13. Governor Rell is sued in her individual and official capacities.

14. The DPS 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.

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

16. The Division of State Police has two distinct operational offices which are

the Office of Field Operations and the Office of Administrative Services.

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

18. The DPS Commissioner delegates his responsibility to issue, revoke, and renew state permits to carry a pistol or revolver to the SLFU and its assigned members.

19. Defendant Alaric Fox ("Lieutenant Fox") is a member of the DPS attached to the SLFU and reporting to DPS Commissioner Danaher at all times relevant to the claims set forth in Counts One through Six, inclusive.

20. Defendant Albert J. Masek, Jr. ("Captain Masek") supervised the SLFU and was the Commanding Officer of Special Investigations and Support for the Division of State Police at all times relevant to the claims set forth in Counts One through Seven, inclusive.

21. Defendant Barbara Mattson ("Detective Mattson") is a member of the DPS assigned to the SLFU at the rank of detective at all times relevant to the claims set forth in Counts One through Seven, inclusive.

22. Detective Thomas Karanda ("Detective Karanda") is a member of the DPS formerly assigned to the SLFU at the rank of detective at all times relevant to the claims set forth in Counts One through Seven, inclusive.

23. Sergeant Ronald A. Bastura ("Sergeant Bastura") was a member of the DPS serving as the SLFU's Executive Officer at the rank of sergeant at all times relevant to the claims set forth in Counts One through Seven, inclusive.

24. The State of Connecticut, DPS Commissioner Danaher, Lieutenant Fox, Captain Masek, Detective Mattson, Detective Karanda, and Sergeant Bastura are sued

in their individual capacities and are referenced hereinafter as the “DPS Defendants” to include allegations against the State of Connecticut, DPS Commissioner Danaher, Lieutenant Fox, Captain Masek, Detective Mattson, Detective Karanda, and Sergeant Bastura.

25. Christopher R. Adams (“Chairman Adams”) served as the Chairman of the Connecticut State Board of Firearms Permit Examiners (“Board”) through July 17, 2008, at all times relevant to the claims set forth in Counts One through Seven, inclusive.

26. The Board was established in 1967 by state statute within the DPS 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.

27. The Board, because it is assigned to the DPS 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 DPS 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.

28. The Governor appoints seven Board members to serve during the Governor’s term and until the members’ successors are appointed and qualify.

29. At least one member is appointed from each of the nominations submitted

by the DPS 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.

30. At least one member of the Board must be a lawyer licensed to practice in Connecticut to act as Chairman of the Board during the hearing of appeals brought before the Board.

31. The Governor appointed Chairman Adams to the Board effective August 2005.

32. The Board maintains an office in Hartford, Connecticut, for conducting its day-to-day business staffed by a manger.

33. The Board's manager, Susan Mazzoccoli ("Mazzoccoli"), serves as the Board's Executive Head for routine administrative and operational matters.

34. Chairman Adams is sued in his individual capacity.

35. Mazzoccoli is sued in her individual and official capacities.

36. At all times alleged in the Amended Complaint, each of the individual Defendants acted under color of state law.

Allegations of Fact

Goldberg's State Permit Application

37. Goldberg applied in April 2007 to the Chief of Police of the Wethersfield Police Department (WPD) for a temporary state permit to carry a pistol or revolver ("state permit"), pursuant to General Statutes § 29-28(b), with the intent to complement Goldberg's qualifications and credentials for employment in the security and personal protection services.

38. General Statutes § 29-28(b) mandates that a Chief of Police in receipt of an application for a temporary state permit forward a copy of the application to the DPS Commissioner indicating approval or denial by the Chief of Police of the temporary state permit.

39. The WPD Chief of Police forwarded Goldberg's approved application for a temporary state permit to the DPS Commissioner.

40. DPS Commissioner Danaher issued Goldberg a state permit on May 17, 2007, under the authority of General Statutes § 29-28a(b).

June 21, 2007, Glastonbury Police Department On-Site Arrest of Goldberg

41. The Glastonbury Police Department (GPD) received a report during the evening of June 21, 2007, through the 9-1-1 nationwide emergency number line of a "suspicious person" in the vicinity of 2855 Main Street at the Chili's Restaurant in Glastonbury, Connecticut ("Chili's Restaurant").

42. GPD sworn officers dispatched to Chili's Restaurant on June 21, 2007, alleged by on-site arrest that Goldberg violated General Statutes § 53a-181 which prohibits the offense of "Breach of peace in the second degree: Class B misdemeanor."

43. The GPD confiscated then unlawfully took and withheld Goldberg's pistol proximate in time to Goldberg's arrest and logged the pistol as evidence on June 21, 2007.

44. The GPD confiscated then illegally took and withheld Goldberg's state permit proximate in time to Goldberg's arrest on June 21, 2007.

45. The GPD, with intent to deprive Goldberg of property, wrongfully took, obtained, and withheld Goldberg's state permit on June 21, 2007, in violation of the

General Statutes which prohibit the offense of larceny as defined under section 53a-119.

46. The GPD released Goldberg from custody on June 21, 2007, upon a five-hundred United States dollars (\$500.00) bond without surety conditioned upon Goldberg's appearance in the superior court for the judicial district of Hartford at Manchester ("state criminal court") to answer the charge of breach of peace in the second degree.

47. The circumstances of Goldberg's arrest are described more fully in a complaint filed on November 21, 2007, in the matter of James F. Goldberg v. Town of Glastonbury, et al., Docket No. 3:07-CV-01733 (SRU), pending before the United States District Court for the District of Connecticut.

The DPS Receipt of Goldberg's Stolen State Permit

48. GPD Lieutenant Dennis Woessner forwarded a letter to Detective Mattson dated June 25, 2007, consisting of one sentence in its body: "Enclosed is the case we spoke about on the phone. Thanks for all your help."

49. Detective Mattson, acting as DPS Commissioner Danaher's designated representative, informed Goldberg by letter dated June 27, 2007 ("DPS Revocation Letter") that DPS Commissioner Danaher revoked Goldberg's state permit effective immediately.

50. The DPS Revocation Letter informed Goldberg that the DPS decision to revoke his state permit was "a result of your [Goldberg's] involvement in an incident investigated by: Glastonbury Police Department, Case Number: 07-009576, Date 06/21/2007."

51. General Statutes § 29-32(b) provides that the DPS Commissioner and/or his designated agent may revoke a state permit or temporary state permit based upon the commissioner's own investigation or upon the request of any law enforcement agency.

52. The DPS Revocation Letter did not reference any investigation by DPS Commissioner Danaher or any request by the GPD for revocation of Goldberg's state permit.

53. The DPS Revocation Letter demanded that Goldberg, if he could not immediately return the state permit or no longer possessed the state permit, execute an affidavit identifying the reason why Goldberg could not return the state permit even if the state permit was "confiscated by the State Police or a municipal police agency."

54. In the DPS Revocation Letter, DPS Commissioner Danaher, Captain Masek, Sergeant Bastura, Detective Mattson, and Detective Karanda condoned the GPD's wrongful taking and withholding of Goldberg's state permit by conceding that they [DPS Commissioner Danaher, Sergeant Bastura, Captain Masek, Detective Mattson, and Detective Karanda] were aware that the state permit may have been "confiscated by ... a municipal police agency."

55. DPS Commissioner Danaher, Sergeant Bastura, Captain Masek, Detective Mattson, and Detective Karanda did not receive Goldberg's stolen state permit with the purpose of returning the stolen state permit to Goldberg.

56. DPS Commissioner Danaher, Captain Masek, Sergeant Bastura, Detective Mattson, and Detective Karanda received Goldberg's state permit with the purpose of revoking and withholding the state permit pending a unilateral DPS decision

to return the state permit to Goldberg, with or without conditions, or a decision by the Board ordering restoration of Goldberg's state permit.

Dismissal of Goldberg's State Criminal Court Case

57. Goldberg, represented by counsel, appeared in state criminal court on July 30, 2007, before The Honorable Raymond R. Norko ("Judge Norko") and moved for dismissal of the case, the return of his state permit, and the return of the pistol seized by the GPD on June 21, 2007.

58. Judge Norko ruled upon Goldberg's motions orally from the bench on July 30, 2007, as follows: "All right, the court will recognize a nolle; grant the dismissal. Return the permit as requested by counsel; forfeit the weapon at this particular period of time."

59. Judge Norko, by written order dated August 6, 2007, granted Goldberg's motion to dismiss the criminal case arising from Goldberg's June 21, 2007, arrest by the GPD.

60. Judge Norko, by written order dated August 6, 2007, denied Goldberg's request, without comment, for the return of the gun seized by the GPD on June 21, 2007.

61. Judge Norko, by written order dated August 6, 2007, granted Goldberg's request that the GPD return Goldberg's state permit to Goldberg but stated: "This court is not ordering the return of the permit if it has been seized by any agency other than the Glastonbury Police Department."

Goldberg's Timely Appeal to the Board

62. In response to the DPS Revocation Letter dated June 27, 2007, Goldberg made timely request within ninety days for hearing before the Board to appeal DPS Commissioner Danaher's revocation of his state permit.

63. Goldberg's hearing on the revocation of his state permit following an arrest for a charge later dismissed in criminal court was scheduled for May 14, 2009, twenty-two months after the June 27, 2007, effective date of revocation and the June 21, 2007, illegal taking and withholding of Goldberg's state permit by the GPD.

64. As an alternative remedy to mitigate the harm imposed by the twenty-two month wait period for a hearing to appeal the revocation of his state permit, Goldberg applied to the Chief of the Wethersfield Police Department, James Cetran ("Chief Cetran"), for a temporary state permit to carry a pistol or revolver on January 29, 2008.

65. Chief Cetran assigned Detective Michael J. Connolly Jr. to investigate Goldberg's application for a temporary state permit.

66. Chief Cetran notified Goldberg that his application for a temporary state permit was approved on February 4, 2008.

67. On February 21, 2008, Goldberg received notice by certified letter ("Notice") from DPS Commissioner Danaher informing Goldberg that his temporary permit was revoked effective immediately.

68. The Notice demanded that Goldberg return the temporary state permit issued to him by Chief Cetran by no later than five days following receipt of the Notice or be subject to arrest for violation of a Class C misdemeanor.

69. The Notice stated: "Please be advised that your above-referenced Temporary State Permit to Carry Pistols and Revolvers ('your temporary permit') is hereby revoked, for cause, pursuant to Connecticut General Statutes Section 29-28a(b) and 29-32(b)."

70. The Notice cited two circumstances as cause for the revocation: (a) First, Goldberg's "involvement in the June 21, 2007 incident referenced in my June 27, 2007 correspondence to you, a copy of which is enclosed herein." (b) Second, Goldberg's "state pistol permit was revoked based upon the June 21, 2007 incident and is currently under appeal with the Board of Firearms Permit Examiners."

71. All information pertaining to the June 21, 2007, "incident" referenced in the Notice were erased by operation of state statute upon dismissal of the state criminal court case on July 30, 2007. Conn. Gen. Stat. § 54-142a(a).

72. DPS Commissioner Danaher's reliance on the June 21, 2007, "incident" as cause for revocation and reference thereto in the Notice directly violated state law which provides: "The clerk of the court or any person charged with retention and control of erased records by the Chief Court Administrator or any criminal justice agency having information contained in such erased records shall not disclose to anyone the existence of such erased records or information pertaining to any charge erased under any provision of this part, except as otherwise provided in this chapter." Conn. Gen. Stat. § 54-142c(a).

73. DPS Commissioner Danaher revoked Goldberg's state permit and his temporary state permit on the basis of an "arrest" resolved by dismissal.

74. Upon dismissal of Goldberg's state criminal court case on July 30, 2007, DPS Commissioner Danaher was prohibited by state law from disclosing information pertaining to the charge made against Goldberg on July 21, 2007.

75. Despite this prohibition, DPS Commissioner Danaher informed Goldberg on February 21, 2008, that his temporary state permit was revoked based on information pertaining to the charge made against Goldberg on July 21, 2007.

76. Former DPS Commissioner Danaher knew that he was prohibited by operation of law from disclosing any information about the June 21, 2007, "incident" to the Board, yet he revoked Goldberg's state permit on February 21, 2007, based on the information.

77. DPS Commissioner Danaher's knowing violation of the law was malicious and motivated by an intent that Goldberg wait twenty-two months or more before DPS reinstatement of the state permit prior to hearing before the Board.

78. Goldberg moved for an expedited hearing before the Board to appeal the June 27, 2007, and February 21, 2008, revocations of his state permits and mitigate his damages.

79. The Board heard argument on Goldberg's motion for expedited appeal on March 13, 2008.

80. Lieutenant Fox, as DPS Commissioner Danaher's designated representative, objected to an expedited hearing stating:

5/09 assuming it's that far away is from this month 14 months away and therefore whether you hear this case next month or whether you hear this 14 months from now we will know what action you took which I would footnote for you I do not think is dispositive of the resolution of the federal action. You will in either case hear and resolve this matter

before that matter proceeds to adjudication in the federal court system. The due process rights are implicated I submit to you that no due process rights are implicated and if those rights are in fact implicated a 5/09 resolution of this case satisfies whatever if any and let me be clear I don't find them invoked but if there are due process rights at play 5/09 satisfies whatever obligation the state and this Board has to Mr. Goldberg. In fact the civil suit itself which will judge arguably loftier issues, broader issues than what this Board will focus on which is narrow in scope won't be resolved by 5/09. If the Board's decision to delay the 5/09 is a violation of Mr. Goldberg's due process rights then the US District Court is grossly derelict in violating those same rights due and owing if any to Mr. Goldberg.

81. The Board denied Goldberg's motion for expedited hearing on March 13, 2008, because each and every appellant was subject to delay and the delay imposed upon Goldberg was no greater than the delay imposed upon any other appellant waiting twenty-four months for hearing.

82. The cause for the delay of each and every appellant's hearing before the Board was DPS Commissioner Danaher, Lieutenant Fox, Sergeant Bastura, Captain Masek, Detective Mattson, Detective Karanda, Chairman Adams, Mazzoccoli, and Governor Rell.

83. Upon information and belief, DPS Commissioner Danaher's revocation of Goldberg's temporary state permit on February 21, 2008, was one of the few instances, if not the only instance, of a DPS Commissioner questioning and overruling the investigation and findings of a local Chief of Police pertaining to the issuance of a temporary state permit.

84. DPS Commissioner Danaher's conduct in revoking Goldberg's temporary state permit issued after a comprehensive investigation and written report by Chief Cetran and in treating Goldberg differently than any other person similarly situated was

motivated by retaliation for the exercise of Goldberg's First Amendment rights in speaking to the media about the DPS violation of the due process rights of state permit holders who have been denied meaningful opportunity to be heard and for redress.

85. Goldberg's Complaint in the instant matter filed on December 27, 2007, was dismissed on July 25, 2008.

86. DPS Commissioner Danaher reinstated Goldberg's state permit on September 22, 2008, stating: "A review of the facts and circumstances of the incident involving your Connecticut Permit to Carry Pistols and Revolvers has been completed. Effective upon your receipt of this notice, your permit is reinstated."

87. State law provides that the DPS Commissioner may revoke a state permit or temporary state permit based upon "the commissioner's own investigation or upon the request of any law enforcement agency." Conn. Gen. Stat. § 29-32(b).

88. The Glastonbury Police Department did not request the June 27, 2007, or February 21, 2008, revocations of Goldberg's state permit and temporary state permit, respectively.

89. DPS Commissioner Danaher did not complete a review of the facts and circumstances of the June 21, 2007, "incident" at Chili's Restaurant in Glastonbury until September 22, 2008.

90. The absence of a request from the Glastonbury Police Department or an investigation performed by the DPS Commissioner, preceding the June 27, 2007, and February 21, 2008, revocations, was contrary to law which requires one or the other as a prior condition of revocation. Conn. Gen. Stat. § 29-32(b).

91. On March 10, 1998, Inspector Michael Beal ("Beal"), a retired state trooper rehired to work in the SLFU, drafted a letter of resignation to his supervisor, Captain Manfred Brideau, informing the DPS of unlawful practices condoned by the DPS that Beal, despite his best efforts, had been unable to quell.

92. Inspector Beal wrote that it was his responsibility to address the common practice among local police officers of confiscating state permits from individuals when the law gave local law enforcement officers no right to do so if a state permit was validly held.

93. Beal termed this practice "constructive revocation" which was not authorized under the law.

94. On January 3, 2008, Beal met with DPS Commissioner Danaher, Lieutenant Fox, and a former DPS law enforcement officer to discuss the delay in appeals filed with the Board for hearing.

95. At the meeting, Lieutenant Fox told DPS Commissioner Danaher and Beal that a state permit was a privilege and that he [Lieutenant Fox] had adopted the "conservative" side and a "take the permit" preference in carrying out the delegation of the DPS Commissioner's authority to issue, revoke, and renew state permits.

96. DPS Commissioner Danaher did not correct or oppose Lieutenant Fox's statements of position.

97. During the meeting, DPS Commissioner Danaher asked Beal for his [Beal's] definition of suitability.

98. Lieutenant Fox defined suitability as the standard set by law enforcement authorities.

99. In a subsequent written communication with DPS Commissioner Danaher, Beal warned DPS Commissioner Danaher that taking guidance from Lieutenant Fox on state permit issues had misdirected the DPS.

The Delay of Goldberg's Appeal to the Board

100. In a May 14, 2007, letter to DPS Commissioner Danaher, the Board, through Chairman Adams and at the insistence of the Board's Secretary, M. Peter Kuck ("Kuck"), expressed concern about the backlog of appeals scheduled to be heard by the Board and the waiting period for appellants.

101. The May 14, 2007, letter to DPS 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 to sixteen months.

102. 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 months to fourteen months as of January 23, 2003.

103. For fiscal years ending June 30, 2003, and 2004, the Auditors noted that the backlog as of May 30, 2005, was fourteen months.

104. In May, 2007, the estimated wait time for hearing before the Board was seventeen months.

105. The Board, in its May 14, 2007, letter to DPS Commissioner Danaher, invited DPS to work with the Board to expedite the appeals process.

106. The Auditors audit the books and accounts of each officer, department, commission, board and court of the State government to examine the performance in

order to determine effectiveness in achieving expressed legislative purpose.

107. The Auditors' findings are reported to the Governor, the State Comptroller, the joint standing committee of the General Assembly having cognizance of matters relating to appropriations and the budgets of State agencies, and the Legislative Program Review and Investigations Committee.

108. Governor Rell received the auditors' reports indicating that the DPS contributed to the backlog of the appeals waiting for hearing before the Board by not reviewing and then settling the majority of the cases until the month of the scheduled hearing.

109. The Auditors told Governor Rell that state permits could have been returned sooner if the DPS has reviewed the cases prior to the the scheduled hearing.

The DPS Unilateral Decisions to Return State Permits Prior to Hearing

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

111. 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).

112. DPS Commissioner Danaher and his designated agents, including, but not limited to, Lieutenant Fox, 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 circumvented the scrutiny of the Board to determine whether the facts support a finding that revocation was for just and proper cause.

113. DPS Commissioner Danaher and his designated agents, including, but not limited to, Lieutenant Fox, 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 concealed and secreted revocations from the civilian scrutiny and review of the Board.

114. DPS Commissioner Danaher and his designated agents, including, but not limited to, Lieutenant Fox, 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 condoned and promoted the revocation of state permits having no basis in fact and without any just and proper cause.

115. DPS Commissioner Danaher and his designated agents, including, but not limited to, Lieutenant Fox, 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 SLFU in determining whether revoked state permits should be returned to their holders prior to the civilian scrutiny of the Board.

The Secretary, the Chairman, and the Executive Head of the Board

116. The Governor of the State of Connecticut appointed Kuck to serve on the Board of Firearms Permit Examiners in 1998 by nomination of Ye Connecticut Gun Guild, Inc. (YCGG) pursuant to General Statutes § 29-32b.

117. The stated purposes of YCGG 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 firearm owners.

118. Kuck served as the Board Secretary, by election of the Board, from prior to October 2003, until October 11, 2007.

119. The Board Secretary is responsible for all secretarial duties defined in sections 29-32b-5 through 29-32b-15 of the Regulations of Connecticut State Agencies (“Regulations”), including:

- a. Accepting appeals to the Board.
- b. Conducting a thorough inquiry of the facts of the appeal.
- 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.

120. In May 2006, Kuck, in his capacity as Board Secretary, began to question the reason for the backlog of appeals waiting for hearing before the Board.

121. In anticipation of the June 2006 Board meeting and in response to Kuck's insistence that the Board address the backlog, Chairman Adams asked Mazzoccoli for an estimate of the number of appeals scheduled for hearing at the June 2006 Board meeting.

122. Mazzoccoli informed Chairman Adams that she had discussed the schedule with Detective Mattson and learned that of the twenty appeals scheduled, the SLFU had resolved twelve appeals, with the possibility that two more appeals would be resolved prior to hearing.

123. Chairman Adams condoned the SLFU's unlawful circumvention of the hearing process and informed Mazzoccoli that her report sounded good.

The Board Secretary's Regulatory Functions

124. General Statutes § 29-32b(c) provides that a person aggrieved by a DPS 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."

125. 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.

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

127. The Board, while such appeal is pending, may request such additional information from the appellant and from the DPS as it deems reasonably necessary to

conduct a fair and impartial hearing, and shall require of the DPS 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.

128. Failure or refusal of the DPS to furnish such written statement, or to supply the appellant with an application, at least ten days prior to the hearing shall because for the Board to grant the relief sought, forthwith and without further hearing.

129. 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.

130. In its August 17, 2007, Notice of Hearing to Goldberg, the Board told Goldberg that the hearing date of May 14, 2009, was tentative and cautioned Goldberg that his name would not be added to the hearing waiting list until Goldberg returned a questionnaire and arrest history form to the Board.

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

132. 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.

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

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

135. 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.

136. As Board Secretary, Kuck was denied the authority to review facts of appeals and schedule appeals for hearing.

137. Without this oversight by the Board Secretary, the DPS has been allowed to delay the return of state permits by up to twenty-two months in cases in which the DPS knows that a hearing before the Board will result in the restoration of a state permit.

138. The SLFU's abuse of its ability to ignore state revocation statutes is apparent in the number of state permits returned without hearing before the Board after a sixteen to twenty-two month hearing delay.

139. The SLFU, 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 DPS knows that the cases are without evidence or basis in law.

140. By the time the DPS settles cases on the day of hearing before the Board, the aggrieved person has been denied the state permit without evidence or basis in law for a fourteen to twenty-two month time period.

141. The Board Secretary's authority to review the facts and schedule appeals operates as a check and balance on the SLFU's revocation authority.

142. The ability of the SLFU to revoke state permits and then return them to their holders without review by the Board of the facts has resulted in a pattern and

practice of allowing law enforcement agencies and the DPS to revoke state permits without concern for the law or the intent of the legislative bodies that represent the people.

143. The SLFU has operated as a rogue unit within the DPS without oversight or regard for the law or the individual rights of state permit holders.

Chairman Adams and Mazzoccoli's Collaboration with DPS

Part I – Manipulation of the Number of Cases Heard By the Board

144. Kuck attempted in March 2007 to identify the reasons for the backlog in appeals to the Board and asked Chairman Adams whether Chairman Adams had scheduled a meeting with the recently appointed DPS Commissioner Danaher to discuss the backlog of appeals.

145. Chairman Adams informed Kuck that DPS 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.

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

147. In April 2007, Mazzoccoli informed Chairman Adams that the number of hearings scheduled for the upcoming April 2007 Board meeting numbered six.

148. Chairman Adams told Mazzoccoli that Kuck would “flip” when he learned that only six appeals were scheduled for hearing and asked Mazzoccoli if DPS would add more appeals to the schedule.

149. Although it was too late for Mazzoccoli to send timely notices to appellants

for April 2007 hearings, she told Chairman 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.”

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

151. Chairman Adams then asked Mazzoccoli how the number of cases scheduled for hearing in April 2007 had decreased from forty to six over the course of the prior few weeks.

152. 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 appellants to Detective Mattson for review on March 8, 2007.

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

154. Following a conversation with Detective Mattson, Mazzoccoli told Chairman Adams that Detective Mattson was refusing to add three more cases to the April 2007 agenda.

155. Detective Mattson was concerned that Kuck would sense that she was not being truthful if she did as Mazzoccoli and Chairman Adams asked.

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

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

158. 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 DPS, 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 meetings for fiscal year 2006-07 and that during this period two-hundred and forty-nine cases were reviewed and heard by the Board.

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

160. 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.

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

162. Chairman Adams was irritated with the attention brought by Kuck to the backlog issue.

163. In addition to the information about the number of cases “resolved” before the Board, Chairman Adams asked Mazzoccoli for information about the degree of the backlog when he became Board Chairman in August of 2005, about the length of Board members’ services, and anything else that Mazzoccoli believed a reporter might ask.

164. Chairman 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.”

165. If the DPS Defendants, Chairman Adams, and Mazzoccoli had not denied Kuck the opportunity to review the facts of each appeal and schedule the cases for hearing while he was Secretary, then the majority of the cases of revocation lacking just or proper cause as demonstrated by the DPS resolution of the cases just prior to Board meetings would have been resolved some twenty-two months prior leaving only the cases not subject to resolution to be scheduled before the Board.

Part II – The Secretary’s Functions

166. Chairman Adams did not know that the Board was guided by fifteen regulations until April 23, 2007, almost two years subsequent to his appointment as the Chairman.

167. The revelation that the Board had regulations was initiated by a brief email on April 13, 2007, from Chairman Adams to Mazzoccoli asking if the Board had “Bylaws.”

168. In Spring 2007, Kuck, having no legal background or training, without the support of the Board Chairman 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.

169. Kuck then learned that Mazzoccoli maintained an outdated compilation of Board regulations consisting of only the first four or five of the fifteen regulations contained at section 29-32b-1 through 29-32b-15 of the Regulations.

170. On April 23, 2007, at 1:30 p.m., Kuck, 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 to Mazzoccoli.

171. Mazzoccoli then emailed Chairman 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.

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

173. When Kuck 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 regulation, Mazzoccoli and Adams increased their

discussions about removing Kuck as Secretary and preventing his reappointment to the Board.

Part III – The Backlog of Appeals

174. As part of his efforts to decrease the backlog, Kuck continued to ask Chairman Adams and Mazzoccoli if either had received any response from DPS Commissioner Danaher to the Board's May 14, 2007, letter requesting a dialogue to decrease the backlog of appeals.

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

176. Kuck indicated to Mazzoccoli that he believed the DPS was deliberately delaying a response.

177. Chairman Adams, despite the fact that DPS Commissioner Danaher had been confirmed as DPS Commissioner more than two months prior, still had not met with DPS Commissioner Danaher to work toward resolving the backlog issue.

178. In response to Mazzoccoli and in direct sabotage of the Secretary's regulatory functions, Chairman Adams told Mazzoccoli on June 25, 2007, not to contact DPS, stating furthermore: "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."

179. When Chairman Adams told Mazzoccoli that Kuck needed to be reminded that all he [Kuck] was authorized to do was to keep track of minutes, Chairman 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 Kuck's efforts to decrease the backlog and exert civilian oversight on the revocation activities of the SLFU.

180. Mazzoccoli continued to report and block each effort by Kuck to resolve the backlog and exert civilian oversight on the SLFU's revocation activities.

181. Chairman Adams repeatedly told Mazzoccoli to ignore Kuck.

182. When Mazzoccoli apologized to Chairman Adams for reporting to him about each attempt by Kuck to do his job as secretary, Chairman 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."

Part IV – Efforts to Remove Kuck as Secretary and Prevent his Reappointment

183. In April 2007, Chairman Adams and Mazzoccoli initiated contacts with Maryann Boord, the Director of Boards and Commissions within the Office of the Governor.

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

185. Together Chairman Adams and Mazzoccoli worked on drafting a letter to the Office of the Governor to oppose and sabotage Kuck's reappointment to the Board.

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

187. Mazzoccoli and Chairman Adams investigated Kuck's YCGG participation which led Chairman Adams to congratulate Mazzoccoli for her "great sleuthing."

188. The draft letter to the Governor's office represented that Chairman Adams had previously met with the DPS 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 months.

189. The backlog was not reduced by six months at any time during the year 2007.

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

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

Part V – Chairman Adams and Mazzoccoli Prevent Kuck from Performing His Duties

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

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

194. As the May 2007, Board meeting approached, Mazzoccoli and Chairman Adams discussed whether the letter to the DPS Commissioner Danaher regarding the backlog had been drafted by the DPS nominated Board member Joseph T. Corradino (“Corradino”).

195. When Mazzoccoli informed Chairman Adams that Corradino intended to bring the letter to the May 2007, Board meeting, Chairman 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.”

Part VI – DPS Joins Chairman Adams and Mazzoccoli in seeking the Assistance of the Governor’s Office

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

197. Mazzoccoli informed Chairman Adams on May 11, 2007, that officers were incensed at Kuck for refusing to accept evidence of alcohol intoxication based on certain horizontal gaze nystagmus (HGN) tests without corroborating blood alcohol content (BAC) tests.

198. Kuck 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.

199. Mazzoccoli told Chairman 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.”

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

201. On May 14, 2007, Mazzoccoli again discussed Kuck’s removal from the Board with Director Boord.

202. Mazzoccoli sought Chairman Adams’ permission prior to releasing information about Board business to Kuck.

203. Mazzoccoli, with the agreement of Chairman Adams, ignored Kuck’s requests for transcripts.

204. Chairman Adams told Mazzoccoli on May 16, 2007, that Kuck did not have the authority as Secretary that Kuck thought he had despite Chairman Adams’ recently acquired knowledge 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.”

205. Mazzoccoli requested permission from Chairman Adams prior to providing Kuck a letter sent to DPS Commissioner Danaher dated May 14, 2007, addressing the backlog and the DPS imposed requirement that state permit holders present a voter registration card, passport, or birth certificate prior to renewal of a state permit.

206. On May 24, 2007, Chairman Adams asked Mazzoccoli if Kuck had a day

job because Kuck needed to spend more time at his day job.

207. Chairman Adams commented to Mazzoccoli that Kuck needed to take a valium.

208. In July 2007, Chairman Adams and Mazzoccoli engaged in a conversation using their state email addresses about Chairman Adams' purchase of a new house causing Chairman 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!"

209. 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."

210. In July 2007, Mazzoccoli and Chairman Adams continued to discuss preventing Kuck's reappointment to the Board with Director Boord's cooperation.

211. Chairman Adams told Mazzoccoli to remind Director Boord that time was of the essence because Kuck'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.

212. On July 17, 2007, Mazzoccoli wrote to Chairman Adams that Kuck would never be removed because Director Boord was leaving her position in the Governor's office.

213. In July 2007, Mazzoccoli reported to Chairman 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 names in nomination for Kuck's position on the Board as the YCGG representative.

214. Detective Mattson holds and expresses the opinion while acting under color of state law that guns should not be possessed by persons not affiliated with law enforcement.

215. Detective Karanda threatened Kuck at a November 8, 2006, Board meeting.

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

217. Detective Karanda then asked Kuck if he [Kuck] had heard about a previous antiques arms show in Hartford and when Kuck 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."

218. 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.

219. Following Detective Mattson's and Detective Karanda's aborted meeting

with Director Boord, Mazzoccoli told Chairman 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.”

220. On August 27, 2007, Kuck 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.”

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

222. When Kuck contacted Mazzoccoli for information about Board business, Mazzoccoli hung up the phone on Kuck and told security to bar Kuck from the Board’s offices.

223. Chairman Adams told Mazzoccoli not to give Kuck any information.

Part VII – Kuck’s Removal as Secretary

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

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

226. At the October 2007 Board meeting, with Mazzoccoli present, Kuck demanded that the document relied upon by Mazzoccoli at the September 2007 meeting be included in the September 2007 minutes, and the approval of the September 2007 minutes was tabled.

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

228. Kuck’s motion passed and the September 13, 2007, minutes were adopted with Mazzoccoli’s multiple-page document attached.

229. The Board conducted a vote at its Board meeting on October 11, 2007, and Kuck was replaced as Secretary by Board member Corradino.

VIOLATIONS AND CLAIMS

Count One

DENIAL OF RIGHT TO KEEP AND BEAR ARMS

Second and Fourteenth Amendments to the United States Constitution

(42 U.S.C. § 1983)

Against DPS Defendants

230. Plaintiff hereby incorporates by reference under Count One each and every paragraph numbered 1 through 229, above.

231. The DPS Defendants’ revocation of Plaintiff’s state permit based on a lack of suitability violated the Second Amendment to the United States Constitution.

232. General Statutes § 29-28(b) lists ten factors reviewed by state and local agencies for determination of a person's eligibility to obtain or hold a temporary or state permit to carry pistols or revolvers.

233. The statute also requires "suitability." Conn. Gen. Stat. § 29-28(b).

234. A person is denied a state permit even if he or she meets all ten of the eligibility factors but is not deemed suitable.

235. A person is disqualified from holding a state permit if he or she is suitable but does not meet one or more of the eligibility factors.

236. Only a suitable person who meets all ten eligibility factors may hold a state permit.

237. Plaintiff's fundamental constitutional right to keep and bear arms in self-defense was contingent upon holding a state permit that requires he be found "suitable" by the DPS Defendants.

238. In determining suitability, the DPS Defendants exercised discretion absent any parameters set forth under state law.

239. The "right to keep and bear arms" is "among those fundamental rights necessary to our system of ordered liberty." McDonald v. City of Chicago, Illinois, ___ U.S. ___, 130 S.Ct. 3020, 3042 (2010).

240. A fundamental right, such as the right to keep and bear arms, is "enforced against the States under the Fourteenth Amendment according to the same standards that protect those personal rights against federal encroachment." McDonald, 130 S.Ct. at 3111.

241. While “longstanding regulatory measures” such as “prohibitions on the possession of firearms by felons and the mentally ill,” “laws forbidding the carrying of firearms in sensitive places such as schools and government buildings, or laws imposing conditions and qualifications on the commercial sale of arms” are not imperiled by incorporation, limitations on the legislative freedom and policy choices of the States and restrictions on “experimentation and local variations” are necessary consequences of the “enshrinement of constitutional rights.” Id. at 3050, 3047 (quoting District of Columbia v. Heller, 554 U.S. ___, 128 S.Ct. 2783, 2816-17, 171 L.Ed.2d 637 (2008)).

242. The June 27, 2007, and February 21, 2008, revocations were based upon the DPS Defendants’ determination that Plaintiff was not suitable to hold a state permit.

243. The vague principle of suitability in General Statutes §§ 29-28(b), which has no statutory definition and is subject to a myriad of interpretations among reasonable individuals, is the essence of the freedoms exercised by the state legislature and the policy choices of the DPS Defendants’ now subject to limitations necessitated by an individual’s fundamental right to keep and bear arms.

244. The discretion exercised by the DPS Defendants in revoking Plaintiff’s state permit violated the Second Amendment.

245. Wherefore, Plaintiff and other individuals similarly situated have suffered damages and demand judgment against the DPS Defendants for compensatory damages, and further demand judgment against each of the DPS Defendants, jointly and severally, for punitive damages, plus the costs of this action, and such other relief as this Court deems just, proper, and equitable.

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

246. Plaintiff hereby incorporates by reference under Count Two each and every paragraph numbered 1 through 229, above.

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

248. The DPS Defendants, in creating a backlog of cases which requires aggrieved individuals to wait between fourteen and twenty-two months for a hearing, have denied aggrieved individuals the opportunity to be heard at a meaningful time and in a meaningful manner.

249. DPS Commissioner Danaher failed to respond to the Board's efforts to decrease the backlog despite the recommendation of the Auditors that the DPS take specific action or risk denying appellants their right to a hearing.

250. In acquiescing to the DPS Defendants' method of delaying appeals for as long as possible then resolving appeals just prior to hearing, so that the revocation process itself becomes the punishment, even under facts and circumstances where no punishment was ever warranted, Chairman Adams and Mazzoccoli deprived Plaintiff and others similarly situated the Fifth and Fourteenth Amendment due process right to be heard at a meaningful time and in a reasonable manner.

251. The denial of the due process right to be heard at a meaningful time and in a reasonable manner deprived Plaintiff the Second Amendment right to keep and bear arms.

252. The nearly fifteen month imposition of a *de facto* suspension of Plaintiff's state permit by the DPS Defendants, made possible by the two year delay between the revocation of his state permit and his opportunity to be heard by administrative appeal, violates due process.

253. The delay between the revocation of state permits held by individuals similarly situated to Plaintiff and their opportunity to be heard violates due process.

254. The DPS Defendants intentionally, or with deliberate indifference and callous disregard of Plaintiff's and others' rights, deprived Plaintiff and others of their right to due process, in violation of the Second, Fifth, and Fourteenth Amendments to the United States Constitution, when they perpetrated and then enforced unlawful revocations until such time when the revocations were subject to the Board's scrutiny.

255. In failing to implement the Board Regulations that were adopted to guide the Board's hearings and in preventing Kuck from fulfilling his duties as Board Secretary, Chairman Adams and Mazzoccoli allowed the DPS Defendants to accrue a backlog and thereby violated Plaintiff's due process rights and the due process rights of others similarly situated awaiting hearing on their appeal from the revocation of a state permit.

256. In failing to exercise independence and authority over the DPS Defendants' revocation decisions, Chairman Adams and Mazzoccoli violated Plaintiff's due process rights and the due process rights of others similarly situated awaiting hearing on their appeal from the revocation of a state permit.

257. In disregarding the Auditors' reports of the DPS Defendants' backlog of cases and failing to exercise independence and authority over the DPS Defendants to

correct the backlog, Governor Rell violated Plaintiff's due process rights and the due process rights of others similarly situated awaiting hearing on their appeal on the revocation of a state permit.

258. The practice and procedure of delaying appeals to punish state permit holders by *de facto* suspensions, pending the return of their state permits just prior to hearing before the Board, is an outrageous and knowing violation of clearly established law.

259. 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 States Constitution.

260. Wherefore, Plaintiff and other individuals similarly situated have suffered damages and demand judgment against the DPS Defendants, Chairman Adams, and Mazzoccoli, jointly and severally, and Governor Rell, for compensatory damages, and further demand judgment against each of the Defendants, jointly and severally, for punitive damages, plus the costs of this action, and such other relief as this Court deems just, proper, and equitable.

Count Three
DENIAL OF PROCEDURAL DUE PROCESS
Second, Fifth, and Fourteenth Amendments to the United States Constitution
(42 U.S.C. § 1983)
Against DPS Defendants, Chairman Adams, and Mazzoccoli

261. Plaintiff hereby incorporates by reference under Count Three each and every paragraph numbered 1 through 229, above.

262. The DPS Defendants deprived Plaintiff due process when they revoked

Plaintiff's state permit without conducting an investigation to determine if the facts and circumstances warranted revocation.

263. The DPS Defendants deprived Plaintiff due process when they relied solely on Plaintiff's arrest as cause for revocation of his state permit.

264. In failing to exercise independence and authority over the DPS Defendants' revocation decisions and actively preventing the Board Secretary from exercising independence and authority over the DPS Defendants' revocation decisions, Chairman Adams and Mazzoccoli violated Plaintiff's due process rights.

265. 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 States Constitution.

266. Wherefore, Plaintiff and other individuals similarly situated have suffered damages and demand judgment against the DPS Defendants, Chairman Adams, and Mazzoccoli, jointly and severally, for compensatory damages, and further demand judgment against each of the Defendants, jointly and severally, for punitive damages, plus the costs of this action, and such other relief as this Court deems just, proper, and equitable.

Count Four
DENIAL OF PROCEDURAL DUE PROCESS
Second, Fifth and Fourteenth Amendments to the United States Constitution
(42 U.S.C. § 1983)
Against DPS Defendants

267. Plaintiff hereby incorporates by reference under Count Four each and every paragraph numbered 1 through 229, above.

268. The DPS Defendants' cause for the June 27, 2007, and February 21, 2008, revocations was an "incident" that occurred on June 21, 2007.

269. Following the July 30, 2007, dismissal of the state criminal court proceeding pertaining to the "incident," the DPS Defendants were prohibited by state law from disclosing any information, whether in documentary or testamentary form, pertaining to the June 21, 2007, "incident."

270. Despite knowing on July 30, 2007, that it had no disclosable evidence to present to the Board at the time of hearing, the DPS Defendants did not reinstate Plaintiff's state permit until September 22, 2008, nearly fifteen months after revocation.

271. The DPS Defendants intentionally, or with deliberate indifference and callous disregard of Plaintiff's and others' rights, deprived Plaintiff and others of their right to due process, in violation of the Second, Fifth, and Fourteenth Amendments to the United States Constitution when the DPS Defendants relied on information pertaining to statutorily erased information as grounds for revocation, knowing that such information could not lawfully be disclosed to the Board at hearing.

272. Wherefore, Plaintiff and other individuals similarly situated have suffered damages and demand judgment against the DPS Defendants, jointly and severally, for compensatory damages, and further demand judgment against each of the DPS

Defendants, jointly and severally, for punitive damages, plus the costs of this action, and such other relief as this Court deems just, proper, and equitable.

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

273. Plaintiff hereby incorporates by reference under Count Five each and every paragraph numbered 1 through 229, above.

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

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

276. The wait period for a hearing before the Board is created by the DPS Defendants' imposition of unwarranted revocations and its failure to review, process, and prepare the appeal documentation for Board review.

277. By creating arbitrary requirements and then creating a delay in the process for appeal from the imposition of the arbitrary requirements, the DPS Defendants have substantially infringed upon state law based upon an animus toward gun possession by persons not affiliated with law enforcement.

278. In failing to implement the Board Regulations that were adopted to guide the Board's hearings and in preventing Kuck from fulfilling his duties as Board

Secretary, Chairman Adams and Mazzoccoli allowed the DPS to violate Plaintiff's right to due process.

279. In failing to exercise independence and authority over the DPS revocation decisions, Chairman Adams and Mazzoccoli violated Plaintiff's right to due process.

280. In disregarding the Auditors' reports of the DPS Defendants' backlog of cases and failing to exercise independence and authority over the DPS to correct the backlog, Governor Rell violated Plaintiff's due process rights and the due process rights of others similarly situated awaiting hearing on their appeal from the revocation of a state permit.

281. 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 States Constitution.

282. Wherefore, Plaintiff and other individuals similarly situated have suffered damages and demand judgment against the DPS Defendants, Governor Rell, Chairman Adams, and Mazzoccoli, jointly and severally, for compensatory damages, and further demand judgment against each of the Defendants, jointly and severally, for punitive damages, plus the costs of this action, and such other relief as this Court deems just, proper, and equitable.

Count Six

FIRST AMENDMENT RETALIATION

First and Fourteenth Amendments to the United States Constitution (42 U.S.C. § 1983)
Against All Defendants

283. Plaintiff hereby incorporates by reference under Count Six each and every paragraph numbered 1 through 229, above.

284. The DPS Defendants 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.

285. Plaintiff spoke out to the media regarding the violation of his Fourth Amendment, Fifth Amendment, and Fourteenth Amendment rights following the dismissal of his state court criminal case on July 30, 2007.

286. The DPS Defendants' refusal to return Plaintiff's state permit following the dismissal of his state court criminal case, when a dismissal of a misdemeanor criminal court case results in the return of state permits to other individuals similarly situated, arose from the DPS Defendants' retaliatory animus against Plaintiff.

287. Plaintiff was deprived his state permit in retaliation for the interviews he rendered to the media concerning his arrest and the DPS Defendants' revocation of his state permit.

288. In failing to implement the Board Regulations that were adopted to guide the Board's hearings and in preventing Kuck from fulfilling his duties as Board Secretary, Chairman Adams and Mazzoccoli allowed the DPS Defendants' to withhold Plaintiff's state permit based on retaliatory motives rather than just and proper cause.

289. In failing to exercise independence and authority over the DPS Defendants' revocation decisions, Chairman Adams and Mazzoccoli allowed the DPS Defendants to withhold Plaintiff's state permit based on retaliatory motives rather than just and proper cause.

290. In disregarding the Auditors' reports of the DPS Defendants' backlog of cases and failing to exercise independence and authority over the DPS to correct the

backlog, Governor Rell allowed the DPS Defendants' to withhold Plaintiff's state permit based on retaliatory motives rather than just and proper cause.

291. Wherefore, Plaintiff has suffered damages and demands judgment against the DPS Defendants, Governor Rell, Chairman 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, and such other relief as this Court deems just, proper, and equitable.

Count Seven
ILLEGAL SEIZURE OF PROPERTY
Fourth and Fourteenth Amendments to the United States Constitution
(42 U.S.C. § 1983)
Against DPS Defendants

292. Plaintiff hereby incorporates by reference under Count Seven each and every paragraph numbered 1 through 229, above.

293. By means of the unlawful receipt of Plaintiff's valid state permit between June 21, 2007, and June 27, 2007, the DPS Defendants conspired with the Glastonbury Police Department to commit the criminal act of larceny and condoned the GPD seizure of property that the GPD had no right to take or withhold from Plaintiff.

294. By reason of their illegal receipt of unlawfully taken and withheld property from Plaintiff, the DPS Defendants intentionally, or with deliberate indifference and callous disregard of Plaintiff's rights, deprived Plaintiff of his right to be free of unreasonable and unlawful seizures of his property, in violation of the Fourth and Fourteenth Amendments to the United States Constitution.

295. General Statutes § 29-32(b) authorizes a DPS Commissioner to revoke any state permit or temporary 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).

296. In accordance with General Statutes § 4-8, the DPS Commissioner delegates the authority to revoke a state permit or a temporary state permit to the SLFU and its assigned members.

297. The SLFU, acting on behalf of the DPS Commissioner, provides written notice to any person whose state permit or temporary state permit is revoked.

298. The written notice of revocation from the SLFU notifies the holder that the state permit or temporary state permit is revoked immediately and demands that the holder deliver the state permit or temporary state permit to the DPS Commissioner within five days.

299. 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).

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

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

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

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

304. The Glastonbury Police Department illegally took and withheld Plaintiff's lawfully held and valid state permit on June 21, 2007, in violation of the Fourth Amendment.

305. The DPS Defendants received Plaintiff's state permit on or after June 21, 2007.

306. The DPS Defendants maintain a practice and procedure of receiving from municipal police agencies unlawfully taken and withheld state permits.

307. The practice and procedure of receiving unlawfully taken and withheld property from its rightful owner is an outrageous and knowing violation of clearly established law.

308. In addition to the violation of his Fourth 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 States Constitution.

309. Wherefore, Plaintiff demands judgment against the DPS Defendants, jointly and severally, for compensatory damages, and further demands judgment against each of the DPS Defendants, jointly and severally, for punitive damages, plus the costs of this action, and such other relief as this Court deems just, proper, and equitable.

PRAYER FOR RELIEF

WHEREFORE, Plaintiffs claim judgment against the Defendants as stated in Counts One through Seven, inclusive, and as follows:

1. Compensatory damages;
2. Punitive damages;
3. Attorney's fees and costs;
4. Prospective injunctive relief against the Connecticut State Department of Public Safety, including, but not limited to, Court oversight to protect the right of Connecticut citizens to keep and bear arms; and
5. Such other relief in law or equity as the Court may deem appropriate.

Dated this 3rd day of September, 2010, at Torrington, Connecticut.

PLAINTIFFS
JAMES F. GOLDBERG, 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 September 3, 2010, a copy of the foregoing Amended Complaint was filed electronically. 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

MOTION TO DISMISS

Pursuant to Fed. R. Civ. Pro. 12(b)(1), 12(b)(6), the defendants, John A. Danaher, III, Commissioner of Public Safety and Albert J. Masek, Jr., Commanding Officer of the Special Licensing and Firearms Unit, Department of Public Safety, sued in their official and individual capacities, hereby move to dismiss the plaintiff's complaint in its entirety. The plaintiff lacks standing. Moreover, the plaintiff has failed to state a claim for which relief can be granted with respect to his claims regarding procedural due process, substantive due process and First Amendment retaliation. The plaintiff's claims are also barred by qualified immunity, and to the extent he seeks monetary damages from these officials in their official capacities, his claims are barred by operation of the Eleventh Amendment.

A memorandum of law accompanies this motion.

DEFENDANTS, JOHN A. DANAHER III,
JAMES M. THOMAS, M. JODI RELL,
ALARIC FOX, ALBERT J. MASEK, JR.,
BARBARA MATTSON, THOMAS
KARANDA, RONALD A. BASTURA,
SUSAN MAZZOCCOLI, CHRISTOPHER
R. ADAMS AND ALBERT J. MASEK, JR.
in their Official and Individual Capacities

RICHARD BLUMENTHAL
ATTORNEY GENERAL

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CERTIFICATION

I hereby certify that on December 6, 2010, a true and accurate copy of the foregoing Motion to Dismiss was filed electronically. Parties may access this filing through the Court's system. Pursuant to the Court's standing order, a courtesy paper copy of this memorandum also was sent by first-class mail, postage prepaid, to the court's chambers.

/s/ Robert D. Snook

Robert D. Snook
Assistant Attorney General

UNITED STATES DISTRICT COURT
DISTRICT OF CONNECTICUT

JAMES F. GOLDBERG, individually
and on behalf of others similarly situated,

Plaintiffs

v.

JOHN A. DANAHER III, former Commissioner,
Connecticut State Department of Public Safety,
In his Individual Capacity,

JAMES M. THOMAS, Commissioner,
Connecticut State Department of Public Safety,
In his Official Capacity,

M.JODI RELL, Governor, State of Connecticut,
In her Individual and Official Capacities,

ALARIC FOX, Captain,
Connecticut State Department of Public Safety,
In his Individual Capacity,

ALBERT J. MASEK, JR., former Commanding
Officer, Connecticut State Department of Public
Safety, In his Individual Capacity,

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, former Sergeant,
Connecticut State Department of Public Safety,
In his Individual Capacity,

SUSAN MAZZOCCOLI, Executive Head,
Connecticut State Department of Administrative
Services,

In her Individual and Official Capacities,
CHRISTOPERH R. ADAMS, former Chairman,
Connecticut State Board of Firearms Permit
Examiners,

In his Individual Capacity

Defendants.

CIVIL ACTION NO.:
3:07cv1911(VLB)

DECEMBER 6, 2010

DEFENDANTS' MOTION TO DISMISS

Pursuant to Fed. R. Civ. Pro. 12(b)(1) and 12(b)(6), the defendants, John Danaher III, Albert Masek, Jr., Barbara Mattson, Thomas Karanda, Ronald Bastura, Susan Mazzoccoli and Christopher Adams, sued in various capacities (collectively, the "State Defendants"), hereby move to dismiss plaintiff's claims in their entirety because plaintiff lacks standing, absolute immunity, and qualified immunity; and plaintiff has failed to state a claim upon which relief may be granted.

A memorandum in support accompanies this motion.

DEFENDANTS, JOHN A. DANAHER
III, JAMES THOMAS, M. JODI RELL,
ALARIC FOX, ALBERT J. MASEK,
JR., BARBARA MATTSON, THOMAS
KARANDA, RONALD BASTURA,
SUSAN MAZZOCCOLI AND
CHRISTOPHER ADAMS

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/s/ Robert D. Snook
Robert D. Snook
Assistant Attorney General

SECOND AMENDED COMPLAINT

Preliminary Statement

1. This action arises from the abdication of independence and authority by a civilian review board to a state law enforcement agency intent upon enforcing state firearms laws according to the agency's interpretation of individual rights, regardless of state statutes, regulations, or constitutional principles to the contrary.

2. The civilian review board is the Connecticut State Board of Firearms Permit Examiners ("Board") and the state law enforcement agency is the Connecticut State Department of Public Safety (DPS).

3. The Plaintiffs M. Peter Kuck, James F. Goldberg, and other individuals similarly situated have been deprived rights secured by the United States Constitution as a direct consequence of the Defendants' conduct, joint and several.

Jurisdiction

4. This Court has jurisdiction of the Second 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

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

6. Former Governor John G. Rowland appointed Kuck 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. Kuck served as the Board’s duly elected Secretary from prior to October 2003 until October 11, 2007.

8. Kuck 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 individuals who, similar to Kuck:

- a. have been aggrieved by the refusal to renew a permit to carry a pistol or revolver issued by the state of Connecticut;**
- b. filed 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.**

9. Goldberg 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 individuals who, similar to Goldberg:

- d. have been aggrieved by the revocation of a permit to carry a pistol or revolver issued by the state of Connecticut;**
- e. filed timely appeal to the Board in accordance with Connecticut General Statutes (“General Statutes”), § 29-32b; and**
- f. were denied or are being denied a reasonable and timely opportunity to be heard.**

10. Goldberg brings Count Three, 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 individuals who, similar to Goldberg:

- a. have been aggrieved by the revocation of a permit to carry a pistol or revolver issued by the state of Connecticut without an investigation or request for such revocation from a law enforcement agency;
- b. filed timely appeal to the Board in accordance with Connecticut General Statutes (“General Statutes”), § 29-32b; and
- c. were denied or are being denied a reasonable and timely opportunity to be heard.

11. Defendant John A. Danaher III was the Commissioner of the Connecticut State Department of Public Safety (“DPS Commissioner Danaher”) at all times relevant to the claims set forth in Counts One, Two, Three, and Four, inclusive, and is sued in his individual capacity.

12. The DPS 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.

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

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

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

16. The DPS Commissioner delegates his responsibility to issue, revoke, and renew state permits to carry a pistol or revolver to the SLFU and its assigned members.

17. Defendant Alaric Fox (“Lieutenant Fox”) is a member of the DPS attached to the SLFU and reporting to DPS Commissioner Danaher at all times relevant to the claims set forth in claims set forth in Counts One, Two, Three, and Four, inclusive, and is sued in his individual capacity.

18. Defendant Albert J. Masek, Jr. (“Captain Masek”) supervised the SLFU and was the Commanding Officer of Special Investigations and Support for the Division of State Police at all times relevant to the claims set forth in Counts One, Two, Three, and Four, inclusive, and is sued in his individual capacity.

19. Defendant Barbara Mattson (“Detective Mattson”) is a member of the DPS assigned to the SLFU at the rank of detective at all times relevant to the claims set forth in Counts One, Two, Three, and Four, inclusive, and is sued in her individual capacity.

20. Defendant Thomas Karanda (“Detective Karanda”) is a member of the DPS formerly assigned to the SLFU at the rank of detective at all times relevant to the claims set forth in Counts One, Two, Three, and Four, inclusive, and is sued in his individual capacity.

21. Sergeant Ronald A. Bastura (“Sergeant Bastura”) was a member of the DPS serving as the SLFU's Executive Officer at the rank of sergeant at all times relevant to the claims set forth in Counts One, Two, Three, and Four, inclusive, and is sued in his individual capacity.

22. DPS Commissioner Danaher, Lieutenant Fox, Captain Masek, Detective Mattson, Detective Karanda, and Sergeant Bastura are sued in their individual capacities and are referenced hereinafter as the “DPS Defendants.”

23. Christopher R. Adams (“Adams”) served as the Chairman of the Board from August 2005 through July 17, 2008, at all times relevant to the claims set forth in Counts One, Two, Three, and Four, inclusive, and is sued in his individual capacity.

24. Defendant Joseph T. Corradino (“Corradino”) is the Chairman of the Connecticut State Board of Firearms Permit Examiners and is sued in his official capacity for prospective injunctive relief as set forth in the Plaintiffs’ Prayer for Relief.

25. Defendant T. William Knapp (“Secretary Knapp”) is the Secretary of the Connecticut State Board of Firearms Permit Examiners and is sued in his official capacity for prospective injunctive relief as set forth in the Plaintiffs’ Prayer for Relief.

26. The Board was established in 1967 by state statute within the DPS 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.

27. Effective July 31, 2011, pursuant to Public Act 11-48, § 58, the Board

is established with the Connecticut State Office of Governmental Accountability.

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

29. At least one member is appointed from each of the nominations submitted by the DPS 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.

30. At least one member of the Board must be a lawyer licensed to practice in Connecticut to act as Chairman of the Board during the hearing of appeals brought before the Board.

31. At all times alleged in the Amended Complaint, each of the individual Defendants acted under color of state law.

Allegations of Fact

The Denial of Kuck's State Permit Renewal Application

32. A permit to carry a pistol or revolver in the state of Connecticut ("state permit") expires five years after the date such state permit is issued or renewed.

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

34. The SLFU demanded that Kuck submit a birth certificate or United States passport for renewal.

35. Kuck discussed with Sergeant Bastura, the SFLU Executive Officer,

the DPS authority to demand the submission of a birth certificate or United States passport as a condition for state permit renewal.

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

37. The submission of a United States passport or birth certificate is not a requirement under General Statutes §§ 29-28(b), 29-30 for state permit renewal.

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

39. The DPS did not require that Kuck provide a birth certificate, United States passport, or voter registration card with any of the ensuing state permit renewals until his renewal application submitted on or about March 19, 2007.

40. The DPS does not require the submission of a birth certificate or United States passport with every state permit renewal application.

41. 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(b), was rejected.

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

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

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

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

46. Kuck's state permit expired on April 16, 2007.

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

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

49. Captain Masek instructed Kuck 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."

50. The DPS Defendants, acting through the DPS Legal Affairs Unit, and Captain Masek, failed to provide Kuck any basis in law for the DPS application

demand that Kuck provide a birth certificate, United States passport, or voter registration card as a condition for state permit renewal pursuant to General Statutes § 29-30.

51. 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 DPS clarify the basis for the SFLU policy.

52. 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.

53. The SLFU 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.

54. Kuck was entitled to renewal of his state permit in April 2007.

Kuck's Appeal to the Board

55. Kuck filed a timely appeal to the Board from the DPS refusal to renew his state permit.

56. Detective Mattson informed the Board of the SLFU's cause for refusal to renew Kuck's state permit as: "App refused to produce to Connecticut State Police his birth certificate, United States passport or voters [sic] registration card upon renewal of his permit."

57. The Board heard Kuck's appeal on October 9, 2008, and found:

- a. Kuck was "denied renewal of his state pistol permit by the

Commissioner of Public Safety ... on April 16, 2007 for failure to provide proof that he was not an illegal alien resident of the United States.”

- b. Kuck “provided the issuing authority with a list of registered voters in the town of West Hartford provided by the Registrars of Voters of that town prior to the commencement of the hearing.”**
- c. “The issuing authority knew of no other evidence of the appellant’s unsuitability other than his failure to furnish proof of citizenship at the time of renewal.”**

58. Kuck never provided the DPS Defendants or the Board a United States passport or voter registration card prior to or since the October 9, 2008, Board decision.

59. With the exception of his initial application for a state permit in 1982, Kuck never provided the DPS Defendants a birth certificate.

60. The Board did not receive the list of registered voters into evidence at the October 9, 2008, hearing.

61. The DPS Defendants, in renewing Kuck’s state permit following the October 9, 2008, Board hearing, recorded into the official DPS SLFU database that Kuck’s citizenship had been verified by the Board when in fact it was the Board’s finding that the DPS had verified Kuck’s citizenship through a voter registration list submitted to the DPS, not the Board.

62. The DPS Defendants, in renewing Kuck’s state permit following the October 9, 2008, Board hearing, recorded into the official DPS SLFU database that

Kuck's citizenship had been verified by his birth certificate on December 11, 2008.

63. Kuck never provided the DPS Defendants his birth certificate after the initial issuance of his state permit in 1982.

64. Kuck moved for a rehearing before the Board to correct the Board's findings of fact.

65. Despite Detective Mattson's representation to the Board in stating the cause for the DPS Defendants' refusal to renew Kuck's state permit, the DPS Defendants did possess Kuck's birth certificate as indicated in the SLFU's database.

66. For this reason, Kuck could not have been denied renewal of his state permit by the DPS Defendants on April 16, 2007, for failure to provide his birth certificate, United States passport, or voter registration card.

67. The Board, finding that Kuck was not an aggrieved party after its October 8, 2008, decision reversing the DPS Defendants' refusal to renew Kuck's state permit, declined to rule on Kuck's motion to correct the finding of the Board.

Goldberg's State Permit Application

68. Goldberg applied in April 2007 to the Chief of Police of the Wethersfield Police Department (WPD) for a temporary state permit to carry a pistol or revolver ("state permit"), pursuant to General Statutes § 29-28(b), with the intent to complement Goldberg's qualifications and credentials for employment in the security and personal protection services.

69. General Statutes § 29-28(b) mandates that a Chief of Police in receipt of an application for a temporary state permit forward a copy of the application to the DPS Commissioner indicating approval or denial by the Chief of Police of the temporary state permit.

70. The WPD Chief of Police forwarded Goldberg's approved application for a temporary state permit to the DPS Commissioner.

71. DPS Commissioner Danaher issued Goldberg a state permit on May 17, 2007, under the authority of General Statutes § 29-28a(b).

June 21, 2007, Glastonbury Police Department On-Site Arrest of Goldberg

72. The Glastonbury Police Department (GPD) received a report during the evening of June 21, 2007, through the 9-1-1 nationwide emergency number line of a "suspicious person" in the vicinity of 2855 Main Street at the Chili's Restaurant in Glastonbury, Connecticut ("Chili's Restaurant").

73. GPD sworn officers dispatched to Chili's Restaurant on June 21, 2007, alleged by on-site arrest that Goldberg violated General Statutes § 53a-181 which prohibits the offense of "Breach of peace in the second degree: Class B misdemeanor."

74. The GPD confiscated then unlawfully took and withheld Goldberg's pistol proximate in time to Goldberg's arrest and logged the pistol as evidence on June 21, 2007.

75. The GPD confiscated then illegally took and withheld Goldberg's state permit proximate in time to Goldberg's arrest on June 21, 2007.

76. The GPD, with intent to deprive Goldberg of property, wrongfully took, obtained, and withheld Goldberg's state permit on June 21, 2007, in violation of the General Statutes which prohibit the offense of larceny as defined under section 53a-119.

77. The GPD released Goldberg from custody on June 21, 2007, upon a five-hundred United States dollars (\$500.00) bond without surety conditioned upon Goldberg's appearance in the superior court for the judicial district of Hartford at Manchester ("state criminal court") to answer the charge of breach of peace in the second degree.

78. The circumstances of Goldberg's arrest are described more fully in a complaint filed on November 21, 2007, in the matter of James F. Goldberg v. Town of Glastonbury, et al., Docket No. 3:07-CV-01733 (SRU), pending before the United States District Court for the District of Connecticut.

The DPS Receipt of Goldberg's Stolen State Permit

79. GPD Lieutenant Dennis Woessner forwarded a letter to Detective Mattson dated June 25, 2007, consisting of one sentence in its body: "Enclosed is the case we spoke about on the phone. Thanks for all your help."

80. Detective Mattson, acting as DPS Commissioner Danaher's designated representative, informed Goldberg by letter dated June 27, 2007 ("DPS Revocation Letter") that DPS Commissioner Danaher revoked Goldberg's state permit effective immediately.

81. The DPS Revocation Letter informed Goldberg that the DPS decision to revoke his state permit was "a result of your [Goldberg's] involvement in an

incident investigated by: Glastonbury Police Department, Case Number: 07-009576, Date 06/21/2007.”

82. General Statutes § 29-32(b) provides that the DPS Commissioner and/or his designated agent may revoke a state permit or temporary state permit based upon the commissioner's own investigation or upon the request of any law enforcement agency.

83. The DPS Revocation Letter did not reference any investigation by DPS Commissioner Danaher or any request by the GPD for revocation of Goldberg's state permit.

84. The DPS Revocation Letter demanded that Goldberg, if he could not immediately return the state permit or no longer possessed the state permit, execute an affidavit identifying the reason why Goldberg could not return the state permit even if the state permit was “confiscated by the State Police or a municipal police agency.”

85. In the DPS Revocation Letter, DPS Commissioner Danaher, Captain Masek, Sergeant Bastura, Detective Mattson, and Detective Karanda condoned the GPD's wrongful taking and withholding of Goldberg's state permit by conceding that they [DPS Commissioner Danaher, Sergeant Bastura, Captain Masek, Detective Mattson, and Detective Karanda] were aware that the state permit may have been “confiscated by ... a municipal police agency.”

86. DPS Commissioner Danaher, Sergeant Bastura, Captain Masek, Detective Mattson, and Detective Karanda did not receive Goldberg's stolen state permit with the purpose of returning the stolen state permit to Goldberg.

87. DPS Commissioner Danaher, Captain Masek, Sergeant Bastura, Detective Mattson, and Detective Karanda received Goldberg's state permit with the purpose of revoking and withholding the state permit pending a unilateral DPS decision to return the state permit to Goldberg, with or without conditions, or a decision by the Board ordering restoration of Goldberg's state permit.

Dismissal of Goldberg's State Criminal Court Case

88. Goldberg, represented by counsel, appeared in state criminal court on July 30, 2007, before The Honorable Raymond R. Norko ("Judge Norko") and moved for dismissal of the case, the return of his state permit, and the return of the pistol seized by the GPD on June 21, 2007.

89. Judge Norko ruled upon Goldberg's motions orally from the bench on July 30, 2007, as follows: "All right, the court will recognize a nolle; grant the dismissal. Return the permit as requested by counsel; forfeit the weapon at this particular period of time."

90. Judge Norko, by written order dated August 6, 2007, granted Goldberg's motion to dismiss the criminal case arising from Goldberg's June 21, 2007, arrest by the GPD.

91. Judge Norko, by written order dated August 6, 2007, denied Goldberg's request, without comment, for the return of the gun seized by the GPD on June 21, 2007.

92. Judge Norko, by written order dated August 6, 2007, granted Goldberg's request that the GPD return Goldberg's state permit to Goldberg but

stated: “This court is not ordering the return of the permit if it has been seized by any agency other than the Glastonbury Police Department.”

Goldberg’s Timely Appeal to the Board

93. In response to the DPS Revocation Letter dated June 27, 2007, Goldberg made timely request within ninety days for hearing before the Board to appeal DPS Commissioner Danaher’s revocation of his state permit.

94. Goldberg’s hearing on the revocation of his state permit following an arrest for a charge later dismissed in criminal court was scheduled for May 14, 2009, twenty-two months after the June 27, 2007, effective date of revocation and the June 21, 2007, illegal taking and withholding of Goldberg’s state permit by the GPD.

95. As an alternative remedy to mitigate the harm imposed by the twenty-two month wait period for a hearing to appeal the revocation of his state permit, Goldberg applied to the Chief of the Wethersfield Police Department, James Cetran (“Chief Cetran”), for a temporary state permit to carry a pistol or revolver on January 29, 2008.

96. Chief Cetran assigned Detective Michael J. Connolly Jr. to investigate Goldberg’s application for a temporary state permit.

97. Chief Cetran notified Goldberg that his application for a temporary state permit was approved on February 4, 2008.

98. On February 21, 2008, Goldberg received notice by certified letter (“Notice”) from DPS Commissioner Danaher informing Goldberg that his temporary permit was revoked effective immediately.

99. The Notice demanded that Goldberg return the temporary state permit issued to him by Chief Cetran by no later than five days following receipt of the Notice or be subject to arrest for violation of a Class C misdemeanor.

100. The Notice stated: "Please be advised that your above-referenced Temporary State Permit to Carry Pistols and Revolvers ('your temporary permit') is hereby revoked, for cause, pursuant to Connecticut General Statutes Section 29-28a(b) and 29-32(b)."

101. The Notice cited two circumstances as cause for the revocation: (a) First, Goldberg's "involvement in the June 21, 2007 incident referenced in my June 27, 2007 correspondence to you, a copy of which is enclosed herein." (b) Second, Goldberg's "state pistol permit was revoked based upon the June 21, 2007 incident and is currently under appeal with the Board of Firearms Permit Examiners."

102. All information pertaining to the June 21, 2007, "incident" referenced in the Notice were erased by operation of state statute upon dismissal of the state criminal court case on July 30, 2007. Conn. Gen. Stat. § 54-142a(a).

103. DPS Commissioner Danaher's reliance on the June 21, 2007, "incident" as cause for revocation and reference thereto in the Notice directly violated state law which provides: "The clerk of the court or any person charged with retention and control of erased records by the Chief Court Administrator or any criminal justice agency having information contained in such erased records shall not disclose to anyone the existence of such erased records or information

pertaining to any charge erased under any provision of this part, except as otherwise provided in this chapter.” Conn. Gen. Stat. § 54-142c(a).

104. DPS Commissioner Danaher revoked Goldberg’s state permit and his temporary state permit on the basis of an “arrest” resolved by dismissal.

105. Upon dismissal of Goldberg’s state criminal court case on July 30, 2007, DPS Commissioner Danaher was prohibited by state law from disclosing information pertaining to the charge made against Goldberg on July 21, 2007.

106. Despite this prohibition, DPS Commissioner Danaher informed Goldberg on February 21, 2008, that his temporary state permit was revoked based on information pertaining to the charge made against Goldberg on July 21, 2007.

107. Former DPS Commissioner Danaher knew that he was prohibited by operation of law from disclosing any information about the June 21, 2007, “incident” to the Board, yet he revoked Goldberg’s state permit on February 21, 2007, based on the information.

108. DPS Commissioner Danaher’s knowing violation of the law was malicious and motivated by an intent that Goldberg wait twenty-two months or more before DPS reinstatement of the state permit prior to hearing before the Board.

109. Goldberg moved for an expedited hearing before the Board to appeal the June 27, 2007, and February 21, 2008, revocations of his state permits and mitigate his damages.

110. The Board heard argument on Goldberg's motion for expedited appeal on March 13, 2008.

111. Lieutenant Fox, as DPS Commissioner Danaher's designated representative, objected to an expedited hearing stating:

5/09 assuming it's that far away is from this month 14 months away and therefore whether you hear this case next month or whether you hear this 14 months from now we will know what action you took which I would footnote for you I do not think is dispositive of the resolution of the federal action. You will in either case hear and resolve this matter before that matter proceeds to adjudication in the federal court system. The due process rights are implicated I submit to you that no due process rights are implicated and if those rights are in fact implicated a 5/09 resolution of this case satisfies whatever if any and let me be clear I don't find them invoked but if there are due process rights at play 5/09 satisfies whatever obligation the state and this Board has to Mr. Goldberg. In fact the civil suit itself which will judge arguably loftier issues, broader issues than what this Board will focus on which is narrow in scope won't be resolved by 5/09. If the Board's decision to delay the 5/09 is a violation of Mr. Goldberg's due process rights then the US District Court is grossly derelict in violating those same rights due and owing if any to Mr. Goldberg.

112. The Board denied Goldberg's motion for expedited hearing on March 13, 2008, because each and every appellant was subject to delay and the delay imposed upon Goldberg was no greater than the delay imposed upon any other appellant waiting twenty-four months for hearing.

113. The cause for the delay of each and every appellant's hearing before the Board was DPS Commissioner Danaher, Lieutenant Fox, Sergeant Bastura, Captain Masek, Detective Mattson, Detective Karanda, Chairman Adams, Mazzoccoli, and Governor Rell.

114. Upon information and belief, DPS Commissioner Danaher's revocation of Goldberg's temporary state permit on February 21, 2008, was one of the few instances, if not the only instance, of a DPS Commissioner questioning and overruling the investigation and findings of a local Chief of Police pertaining to the issuance of a temporary state permit.

115. DPS Commissioner Danaher's conduct in revoking Goldberg's temporary state permit issued after a comprehensive investigation and written report by Chief Cetran and in treating Goldberg differently than any other person similarly situated was motivated by retaliation for the exercise of Goldberg's First Amendment rights in speaking to the media about the DPS violation of the due process rights of state permit holders who have been denied meaningful opportunity to be heard and for redress.

116. Goldberg's Complaint in the instant matter filed on December 27, 2007, was dismissed on July 25, 2008.

117. DPS Commissioner Danaher reinstated Goldberg's state permit on September 22, 2008, stating: "A review of the facts and circumstances of the incident involving your Connecticut Permit to Carry Pistols and Revolvers has been completed. Effective upon your receipt of this notice, your permit is reinstated."

118. State law provides that the DPS Commissioner may revoke a state permit or temporary state permit based upon "the commissioner's own investigation or upon the request of any law enforcement agency." Conn. Gen. Stat. § 29-32(b).

119. The Glastonbury Police Department did not request the June 27, 2007, or February 21, 2008, revocations of Goldberg's state permit and temporary state permit, respectively.

120. DPS Commissioner Danaher did not complete a review of the facts and circumstances of the June 21, 2007, "incident" at Chili's Restaurant in Glastonbury until September 22, 2008.

121. The absence of a request from the Glastonbury Police Department or an investigation performed by the DPS Commissioner, preceding the June 27, 2007, and February 21, 2008, revocations, was contrary to law which requires one or the other as a prior condition of revocation. Conn. Gen. Stat. § 29-32(b).

122. On March 10, 1998, Inspector Michael Beal ("Beal"), a retired state trooper rehired to work in the SLFU, drafted a letter of resignation to his supervisor, Captain Manfred Brideau, informing the DPS of unlawful practices condoned by the DPS that Beal, despite his best efforts, had been unable to quell.

123. Inspector Beal wrote that it was his responsibility to address the common practice among local police officers of confiscating state permits from individuals when the law gave local law enforcement officers no right to do so if a state permit was validly held.

124. Beal termed this practice "constructive revocation" which was not authorized under the law.

125. On January 3, 2008, Beal met with DPS Commissioner Danaher, Lieutenant Fox, and a former DPS law enforcement officer to discuss the delay in appeals filed with the Board for hearing.

126. At the meeting, Lieutenant Fox told DPS Commissioner Danaher and Beal that a state permit was a privilege and that he [Lieutenant Fox] had adopted the "conservative" side and a "take the permit" preference in carrying out the delegation of the DPS Commissioner's authority to issue, revoke, and renew state permits.

127. DPS Commissioner Danaher did not correct or oppose Lieutenant Fox's statements of position.

128. During the meeting, DPS Commissioner Danaher asked Beal for his [Beal's] definition of suitability.

129. Lieutenant Fox defined suitability as the standard set by law enforcement authorities.

130. In a subsequent written communication with DPS Commissioner Danaher, Beal warned DPS Commissioner Danaher that taking guidance from Lieutenant Fox on state permit issues had misdirected the DPS.

The Delay of Plaintiffs' Appeals to the Board

131. In a May 14, 2007, letter to DPS Commissioner Danaher, the Board, through Chairman Adams and at Kuck's insistence, in his capacity as the Board's Secretary, expressed concern about the backlog of appeals scheduled to be heard by the Board and the waiting period for appellants.

132. The May 14, 2007, letter to DPS 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 to sixteen

months.

133. 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 months to fourteen months as of January 23, 2003.

134. For fiscal years ending June 30, 2003, and 2004, the Auditors noted that the backlog as of May 30, 2005, was fourteen months.

135. In May, 2007, the estimated wait time for hearing before the Board was seventeen months.

136. The Board, in its May 14, 2007, letter to DPS Commissioner Danaher, invited DPS to work with the Board to expedite the appeals process.

137. The Auditors audit the books and accounts of each officer, department, commission, board and court of the State government to examine the performance in order to determine effectiveness in achieving expressed legislative purpose.

138. The Auditors' findings are reported to the Governor, the State Comptroller, the joint standing committee of the General Assembly having cognizance of matters relating to appropriations and the budgets of State agencies, and the Legislative Program Review and Investigations Committee.

139. Governor Rell received the auditors' reports indicating that the DPS contributed to the backlog of the appeals waiting for hearing before the Board by not reviewing and then settling the majority of the cases until the month of the scheduled hearing.

140. The Auditors told Governor Rell that state permits could have been

returned sooner if the DPS has reviewed the cases prior to the scheduled hearing.

The DPS Unilateral Decisions to Return State Permits Prior to Hearing

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

142. 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).

143. DPS Commissioner Danaher and his designated agents, including, but not limited to, Lieutenant Fox, 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 circumvented the scrutiny of the Board to determine whether the facts support a finding that revocation was for just and proper cause.

144. DPS Commissioner Danaher and his designated agents, including, but not limited to, Lieutenant Fox, 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 concealed and secreted revocations from the civilian scrutiny and review of the Board.

145. DPS Commissioner Danaher and his designated agents, including, but not limited to, Lieutenant Fox , 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 condoned and promoted the revocation of state permits having no basis in fact and without any just and proper cause.

146. DPS Commissioner Danaher and his designated agents, including, but not limited to, Lieutenant Fox , 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 SLFU in determining whether revoked state permits should be returned to their holders prior to the civilian scrutiny of the Board.

The Secretary, the Chairman, and the Executive Head of the Board

147. The Governor of the State of Connecticut appointed Kuck to serve on the Board of Firearms Permit Examiners in 1998 by nomination of Ye Connecticut Gun Guild, Inc. (YCGG) pursuant to General Statutes § 29-32b.

148. The stated purposes of YCGG 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 firearm owners.

149. Kuck served as the Board Secretary, by election of the Board, from prior to October 2003 until October 11, 2007.

150. The Board Secretary is responsible for all secretarial duties defined in sections 29-32b-5 through 29-32b-15 of the Regulations of Connecticut State Agencies (“Regulations”), including:

- a. Accepting appeals to the Board.**
- b. Conducting a thorough inquiry of the facts of the appeal.**
- 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.**

151. In May 2006, Kuck, in his capacity as Board Secretary, began to question the reason for the backlog of appeals waiting for hearing before the Board.

152. In anticipation of the June 2006 Board meeting and in response to

Kuck's insistence that the Board address the backlog, Chairman Adams asked Mazzoccoli for an estimate of the number of appeals scheduled for hearing at the June 2006 Board meeting.

153. Mazzoccoli informed Chairman Adams that she had discussed the schedule with Detective Mattson and learned that of the twenty appeals scheduled the SLFU had resolved twelve appeals with the possibility that two more appeals would be resolved prior to hearing.

154. Chairman Adams condoned the SLFU's unlawful circumvention of the hearing process and informed Mazzoccoli that her report sounded good.

The Board Secretary's Regulatory Functions

155. General Statutes § 29-32b(c) provides that a person aggrieved by a DPS 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."

156. 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.

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

158. The Board, while such appeal is pending, may request such additional information from the appellant and from the DPS as it deems reasonably necessary to conduct a fair and impartial hearing, and shall require of the DPS 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.

159. 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.

160. As Board Secretary, Kuck was denied the authority to review facts appeals and schedule appeals for hearing.

161. Without this oversight by the Board Secretary, the DPS has been allowed to delay the return of state permits by up to twenty-two months in cases in which the DPS knows that a hearing before the Board will result in the restoration of a state permit.

162. The DPS Defendants' abuse of its ability to ignore state permit issuance, revocation, and renewal statutes is apparent in the number of state permits returned without hearing before the Board after a sixteen to twenty-two month hearing delay.

163. The DPS Defendants, knowing that they revoke state permits without evidence or basis in law, withhold case statements and positions from the Board until just prior to the scheduled hearing and then settle cases on the day of hearing because the DPS Defendants know that the cases are without evidence or basis in law.

164. By the time the DPS Defendants settle cases on the day of hearing before the Board, the aggrieved person has been denied the state permit without evidence or basis in law for a fourteen to twenty-two month time period.

165. The Board Secretary's authority to review the facts and schedule

appeals operates as a check and balance on the DPS Defendants' revocation authority.

166. The ability of the DPS Defendants to revoke state permits and then return them to their holders without review by the Board of the facts has resulted in a pattern and practice of allowing law enforcement agencies and the DPS Defendants to revoke state permits without concern for the law or the intent of the legislative bodies that represent the people.

167. The SLFU has operated as a rogue unit within the DPS without oversight or regard for the law or the individual rights of state permit holders.

168. On March 10, 1998, Inspector Michael Beal ("Beal"), a retired state trooper rehired to work in the SLFU, drafted a letter of resignation to his supervisor, Captain Manfred Brideau, informing the DPS of unlawful practices condoned by the DPS that Beal, despite his best efforts, had been unable to quell.

169. Inspector Beal wrote that it was his responsibility to address the common practice among local police officers of confiscating state permits from individuals when the law gave local law enforcement officers no right to do so if a state permit was validly held.

170. Beal termed this practice "constructive revocation" which was not authorized under the law.

171. On January 3, 2008, Beal met with DPS Commissioner Danaher, Lieutenant Fox, and a former DPS law enforcement officer to discuss the delay in appeals filed with the Board for hearing.

172. At the meeting, Lieutenant Fox told DPS Commissioner Danaher and

Beal that a state permit was a privilege and that he [Lieutenant Fox] had adopted the "conservative" side and a "take the permit" preference in carrying out the delegation of the DPS Commissioner's authority to issue, revoke, and renew state permits.

173. DPS Commissioner Danaher did not correct or oppose Lieutenant Fox's statements of position.

174. During the meeting, DPS Commissioner Danaher asked Beal for his [Beal's] definition of suitability.

175. Lieutenant Fox defined suitability as the standard set by law enforcement authorities.

176. In a subsequent written communication with DPS Commissioner Danaher, Beal warned DPS Commissioner Danaher that taking guidance from Lieutenant Fox on state permit issues had misdirected the DPS.

Chairman Adams and Mazzoccoli's Collaboration with DPS

Part I – Manipulation of the Number of Cases Heard By the Board

177. Kuck attempted in March 2007 to identify the reasons for the backlog in appeals to the Board and asked Chairman Adams whether Chairman Adams had scheduled a meeting with the recently appointed DPS Commissioner Danaher to discuss the backlog of appeals.

178. Chairman Adams informed Kuck that DPS 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.

179. Chairman Adams informed Kuck that the backlog was "trending

down” over time and that, although the backlog was important, Chairman Adams was busy through the current legislative session.

180. In April 2007, Mazzoccoli informed Chairman Adams that the number of hearings scheduled for the upcoming April 2007 Board meeting numbered six.

181. Chairman Adams told Mazzoccoli that Kuck would “flip” when he learned that only six appeals were scheduled for hearing and asked Mazzoccoli if DPS would add more appeals to the schedule.

182. Although it was too late for Mazzoccoli to send timely notices to appellants for April 2007 hearings, she told Chairman 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.”

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

184. Chairman Adams then asked Mazzoccoli how the number of cases scheduled for hearing in April 2007 had decreased from forty to six over the course of the prior few weeks.

185. 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 appellants to Detective Mattson for review on March 8, 2007.

186. Detective Mattson left phone messages for Mazzoccoli on March 9,

2007, updating Mazzoccoli with DPS plans to resolve certain appeals by reinstatement, issuance, or barring the state permits.

187. Following a conversation with Detective Mattson, Mazzoccoli told Chairman Adams that Detective Mattson was refusing to add three more cases to the April 2007 agenda.

188. Detective Mattson was concerned that Kuck would sense that she was not being truthful if she did as Mazzoccoli and Chairman Adams asked.

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

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

191. 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 DPS, 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 meetings for fiscal year 2006-07 and that during this period two-hundred and forty-nine cases were reviewed and heard by the Board.

192. The actual number of cases presented to the Board for review or

hearing during fiscal year 2006-07 was forty.

193. 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.

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

195. Chairman Adams was irritated with the attention brought by Kuck to the backlog issue.

196. In addition to the information about the number of cases “resolved” before the Board, Chairman Adams asked Mazzoccoli for information about the degree of the backlog when he become Board Chairman in August of 2005, about the length of Board members’ services, and anything else that Mazzoccoli believed a reporter might ask.

197. Chairman 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.”

198. If the DPS Defendants, Chairman Adams, and Mazzoccoli had not denied Kuck the opportunity to review the facts of each appeal and schedule the cases for hearing while he was Secretary, then the majority of the cases of revocation lacking just or proper cause as demonstrated by the DPS resolution of the cases just prior to Board meetings would have been resolved some twenty-two months prior leaving only the cases not subject to resolution to be scheduled before the Board.

Part II – The Secretary’s Functions

199. Chairman Adams did not know that the Board was guided by fifteen regulations until April 23, 2007, almost two years subsequent to his appointment as the Chairman.

200. The revelation that the Board had regulations was initiated by a brief email on April 13, 2007, from Chairman Adams to Mazzoccoli asking if the Board had “Bylaws.”

201. In Spring 2007, Kuck, having no legal background or training, without the support of the Board Chairman 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.

202. Kuck then learned that Mazzoccoli maintained an outdated compilation of Board regulations consisting of only the first four or five of the fifteen regulations contained at section 29-32b-1 through 29-32b-15 of the Regulations.

203. On April 23, 2007, at 1:30 p.m., Kuck, 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 to Mazzoccoli.

204. Mazzoccoli then emailed Chairman 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.

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

206. When Kuck 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 regulation, Mazzoccoli and Adams increased their discussions about removing Kuck as Secretary and preventing his reappointment to the Board.

Part III – The Backlog of Appeals

207. As part of his efforts to decrease the backlog, Kuck continued to ask Chairman Adams and Mazzoccoli if either had received any response from DPS Commissioner Danaher to the Board's May 14, 2007, letter requesting a dialogue to decrease the backlog of appeals.

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

209. Kuck indicated to Mazzoccoli that he believed the DPS was deliberately delaying a response.

210. Chairman Adams, despite the fact that DPS Commissioner Danaher had been confirmed as DPS Commissioner more than two months prior, still had not met with DPS Commissioner Danaher to work toward resolving the backlog issue.

211. In response to Mazzoccoli and in direct sabotage of the Secretary's regulatory functions, Chairman Adams told Mazzoccoli on June 25, 2007, not to contact DPS, stating furthermore: "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."

212. When Chairman Adams told Mazzoccoli that Kuck needed to be reminded that all he [Kuck] was authorized to do was to keep track of minutes, Chairman 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 Kuck's efforts to decrease the backlog and exert civilian oversight on the revocation activities of the SLFU.

213. Mazzoccoli continued to report and block each effort by Kuck to resolve the backlog and exert civilian oversight on the SLFU's revocation activities.

214. Chairman Adams repeatedly told Mazzoccoli to ignore Kuck.

215. When Mazzoccoli apologized to Chairman Adams for reporting to him about each attempt by Kuck to do his job as secretary, Chairman 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.”

Part IV – Efforts to Remove Kuck as Secretary and Prevent his Reappointment

216. In April 2007, Chairman Adams and Mazzoccoli initiated contacts with Maryann Boord, the Director of Boards and Commissions within the Office of the Governor.

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

218. Together Chairman Adams and Mazzoccoli worked on drafting a letter to the Office of the Governor to oppose and sabotage Kuck’s reappointment to the Board.

219. Chairman Adams and Mazzoccoli tried to find out personal information about Kuck to present to the Governor’s office as cause not to reappoint him.

220. Mazzoccoli and Chairman Adams investigated Kuck’s YCGG participation which led Chairman Adams to congratulate Mazzoccoli for her “great sleuthing.”

221. The draft letter to the Governor's office represented that Chairman Adams had previously met with the DPS 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 months.

222. The backlog was not reduced by six months at any time during the year 2007.

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

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

Part V – Chairman Adams and Mazzoccoli Prevent Kuck from Performing His Duties

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

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

227. As the May 2007, Board meeting approached, Mazzoccoli and Chairman Adams discussed whether the letter to the DPS Commissioner Danaher regarding the backlog had been drafted by the DPS nominated Board member

Joseph T. Corradino.

228. When Mazzoccoli informed Chairman Adams that Corradino intended to bring the letter to the May 2007, Board meeting, Chairman 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.”

Part VI – The DPS Joins Chairman Adams and Mazzoccoli in seeking the Assistance of the Governor’s Office

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

230. Mazzoccoli informed Chairman Adams on May 11, 2007, that officers were incensed at Kuck for refusing to accept evidence of alcohol intoxication based on certain horizontal gaze nystagmus (HGN) tests without corroborating blood alcohol content (BAC) tests.

231. Kuck 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.

232. Mazzoccoli told Chairman 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.”

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

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

235. Mazzoccoli sought Chairman Adams' permission prior to releasing information about Board business to Kuck.

236. Mazzoccoli, with the agreement of Chairman Adams, ignored Kuck's requests for transcripts.

237. Chairman Adams told Mazzoccoli on May 16, 2007, that Kuck did not have the authority as Secretary that Kuck thought he had despite Chairman Adams' recently acquired knowledge 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."

238. Mazzoccoli requested permission from Chairman Adams prior to providing Kuck a letter sent to DPS Commissioner Danaher dated May 14, 2007, addressing the backlog and the DPS imposed requirement that state permit holders present a voter registration card, passport, or birth certificate prior to renewal of a state permit.

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

240. Chairman Adams commented to Mazzoccoli that Kuck needed to

take a valium.

241. In July 2007, Chairman Adams and Mazzoccoli engaged in a conversation using their state email addresses about Chairman Adams' purchase of a new house causing Chairman 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!"

242. 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."

243. In July 2007, Mazzoccoli and Chairman Adams continued to discuss preventing Kuck's reappointment to the Board with Director Boord's cooperation.

244. Chairman Adams told Mazzoccoli to remind Director Boord that time was of the essence because Kuck'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.

245. On July 17, 2007, Mazzoccoli wrote to Chairman Adams that Kuck would never be removed because Director Boord was leaving her position in the Governor's office.

246. In July 2007, Mazzoccoli reported to Chairman 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 names in nomination for Kuck's position on the Board as the YCGG representative.

247. Detective Mattson holds and expresses the opinion while acting under color of state law that guns should not be possessed by persons not affiliated with law enforcement.

248. Detective Karanda threatened Kuck at a November 8, 2006, Board meeting.

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

250. Detective Karanda then asked Kuck if he [Kuck] had heard about a previous antiques arms show in Hartford and when Kuck 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."

251. 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.

252. Following Detective Mattson's and Detective Karanda's aborted meeting with Director Boord, Mazzoccoli told Chairman 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.”

253. On August 27, 2007, Kuck 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.”

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

255. When Kuck contacted Mazzoccoli for information about Board business, Mazzoccoli hung up the phone on Kuck and told security to bar Kuck from the Board’s offices.

256. Chairman Adams told Mazzoccoli not to give Kuck any information.

Part VII – Kuck’s Removal as Secretary

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

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

259. At the October 2007 Board meeting, with Mazzoccoli present, Kuck demanded that the document relied upon by Mazzoccoli at the September 2007 meeting be included in the September 2007 minutes, and the approval of the September 2007 minutes was tabled.

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

261. Kuck’s motion passed and the September 13, 2007, minutes were adopted with Mazzoccoli’s multiple-page document attached.

262. The Board conducted a vote at its Board meeting on October 11, 2007, and Kuck was replaced as Secretary by Board member Corradino.

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)**

By Kuck and Individuals Similarly Situated Against Adams, Corradino, and Knapp

263. Plaintiff hereby incorporates by reference under Count One each and every paragraph numbered 1 through 262, above.

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

265. The Defendants, in creating a backlog of cases which requires

aggrieved individuals to wait between fourteen and twenty-two months for a hearing, have denied aggrieved individuals the opportunity to be heard at a meaningful time and in a meaningful manner.

266. DPS Commissioner Danaher failed to respond to the Board's efforts to decrease the backlog despite the recommendation of the Auditors that the DPS take specific action or risk denying appellants their right to a hearing.

267. In acquiescing to the DPS Defendants' method of delaying appeals for as long as possible then resolving appeals just prior to hearing, so that the process itself becomes the punishment, even under facts and circumstances where no punishment was ever warranted, Adams deprived Plaintiff and others similarly situated the Fifth and Fourteenth Amendments due process right to be heard at a meaningful time and in a reasonable manner.

268. The denial of the due process right to be heard at a meaningful time and in a reasonable manner deprived Plaintiff the Second Amendment right to keep and bear arms.

269. The nearly eighteen month imposition of a *de facto* suspension of Plaintiff's state permit by the DPS Defendants, made possible by the delay between the expiration date of his state permit and his opportunity to be heard by the Board, violates due process.

270. The delay between the DPS Defendants' refusal to renew state permits held by individuals similarly situated to Plaintiff and their opportunity to be heard violates due process.

271. 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, Adams allowed the DPS Defendants to accrue a backlog and thereby violated Plaintiff's due process rights and the due process rights of others similarly situated awaiting hearing on their appeal.

272. In failing to exercise independence and authority over the DPS Defendants' revocation decisions, Adams violated Plaintiff's due process rights and the due process rights of others similarly situated awaiting hearing on their appeal.

273. The practice and procedure of delaying appeals to punish state permit holders by *de facto* suspensions, pending the return of their state permits just prior to hearing before the Board, is an outrageous and knowing violation of clearly established law.

274. 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 States Constitution.

275. Wherefore, the Plaintiff and other individuals similarly situated have suffered damages and demand judgment against Adams for compensatory damages and further demand judgment against Chairman Corradino and Secretary Knapp, in their official capacities, for prospective relief as set forth in the Plaintiffs' Prayer for Relief, plus the costs of this action, and such other relief as this Court deems just, proper, and equitable.

Count Two
DENIAL OF PROCEDURAL DUE PROCESS
Second, Fifth, and Fourteenth Amendments to the United States Constitution
(42 U.S.C. § 1983)
By Goldberg and Individuals Similarly Situated Against Adams, Corradino, and Knapp

276. Plaintiff hereby incorporates by reference under Count One each and every paragraph numbered 1 through 262, above.

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

278. The Defendants, in creating a backlog of cases which requires aggrieved individuals to wait between fourteen and twenty-two months for a hearing, have denied aggrieved individuals the opportunity to be heard at a meaningful time and in a meaningful manner.

279. DPS Commissioner Danaher failed to respond to the Board's efforts to decrease the backlog despite the recommendation of the Auditors that the DPS take specific action or risk denying appellants their right to a hearing.

280. In acquiescing to the DPS Defendants' method of delaying appeals for as long as possible then resolving appeals just prior to hearing, so that the process itself becomes the punishment, even under facts and circumstances where no punishment was ever warranted, Adams deprived Plaintiff and others similarly situated the Fifth and Fourteenth Amendments due process right to be heard at a meaningful time and in a reasonable manner.

281. The denial of the due process right to be heard at a meaningful time and in a reasonable manner deprived Plaintiff the Second Amendment right to keep and bear arms.

282. The nearly eighteen month imposition of a *de facto* suspension of Plaintiff's state permit by the DPS Defendants, made possible by the delay between the expiration date of his state permit and his opportunity to be heard by the Board, violates due process.

283. The delay between the DPS Defendants' refusal to renew state permits held by individuals similarly situated to Plaintiff and their opportunity to be heard violates due process.

284. 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, Adams allowed the DPS Defendants to accrue a backlog and thereby violated Plaintiff's due process rights and the due process rights of others similarly situated awaiting hearing on their appeal.

285. In failing to exercise independence and authority over the DPS Defendants' revocation decisions, Adams violated Plaintiff's due process rights and the due process rights of others similarly situated awaiting hearing on their appeal.

286. The practice and procedure of delaying appeals to punish state permit holders by *de facto* suspensions, pending the return of their state permits just prior to hearing before the Board, is an outrageous and knowing violation of clearly established law.

287. 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 States Constitution.

288. Wherefore, the Plaintiff and other individuals similarly situated have suffered damages and demand judgment against Adams for compensatory damages and further demand judgment against Chairman Corradino and Secretary Knapp, in their official capacities, for prospective relief as set forth in the Plaintiffs' Prayer for Relief, plus the costs of this action, and such other relief as this Court deems just, proper, and equitable.

Count Three
DENIAL OF PROCEDURAL DUE PROCESS
Second, Fifth, and Fourteenth Amendments to the United States Constitution
(42 U.S.C. § 1983)
By Goldberg and Individuals Similarly Situated Against the DPS Defendants

289. Plaintiff hereby incorporates by reference under Count Three each and every paragraph numbered 1 through 262, above.

290. The DPS Defendants deprived Plaintiff due process when they revoked Plaintiff's state permit without conducting an investigation to determine if the facts and circumstances warranted revocation.

291. The DPS Defendants deprived Plaintiff due process when they relied solely on Plaintiff's arrest as cause for revocation of his state permit.

292. In failing to exercise independence and authority over the DPS Defendants' revocation decisions and actively preventing the Board Secretary from exercising independence and authority over the DPS Defendants' revocation decisions, Chairman Adams and Mazzoccoli violated Plaintiff's due process rights.

293. 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 States Constitution.

294. Wherefore, Plaintiff and other individuals similarly situated have suffered damages and demand judgment against the DPS Defendants, Chairman Adams, and Mazzoccoli, jointly and severally, for compensatory damages, and further demand judgment against each of the Defendants, jointly and severally, for punitive damages, plus the costs of this action, and such other relief as this Court deems just, proper, and equitable.

Count Four
ILLEGAL SEIZURE OF PROPERTY
Fourth and Fourteenth Amendments to the United States Constitution
(42 U.S.C. § 1983)
By Goldberg Against the DPS Defendants

295. Plaintiff hereby incorporates by reference under Count Four each and every paragraph numbered 1 through 262, above.

296. By means of the unlawful receipt of Plaintiff's valid state permit between June 21, 2007, and June 27, 2007, the DPS Defendants conspired with the Glastonbury Police Department to commit the criminal act of larceny and condoned the GPD seizure of property that the GPD had no right to take or withhold from Plaintiff.

297. By reason of their illegal receipt of unlawfully taken and withheld property from Plaintiff, the DPS Defendants intentionally, or with deliberate indifference and callous disregard of Plaintiff's rights, deprived Plaintiff of his

right to be free of unreasonable and unlawful seizures of his property, in violation of the Fourth and Fourteenth Amendments to the United States Constitution.

298. General Statutes § 29-32(b) authorizes a DPS Commissioner to revoke any state permit or temporary 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).

299. In accordance with General Statutes § 4-8, the DPS Commissioner delegates the authority to revoke a state permit or a temporary state permit to the SLFU and its assigned members.

300. The SLFU, acting on behalf of the DPS Commissioner, provides written notice to any person whose state permit or temporary state permit is revoked.

301. The written notice of revocation from the SLFU notifies the holder that the state permit or temporary state permit is revoked immediately and demands that the holder deliver the state permit or temporary state permit to the DPS Commissioner within five days.

302. 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).

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

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

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

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

307. The Glastonbury Police Department illegally took and withheld Plaintiff's lawfully held and valid state permit on June 21, 2007, in violation of the Fourth Amendment.

308. The DPS Defendants received Plaintiff's state permit on or after June 21, 2007.

309. The DPS Defendants maintain a practice and procedure of receiving from municipal police agencies unlawfully taken and withheld state permits.

310. The practice and procedure of receiving unlawfully taken and withheld property from its rightful owner is an outrageous and knowing violation of clearly established law.

311. In addition to the violation of his Fourth 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 States Constitution.

312. Wherefore, Plaintiff demands judgment against the DPS Defendants, jointly and severally, for compensatory damages, and further demands judgment against each of the DPS Defendants, jointly and severally, for punitive damages, plus the costs of this action, and such other relief as this Court deems just, proper, and equitable.

PRAYER FOR RELIEF

WHEREFORE, Plaintiffs claim judgment against the Defendants as stated in Counts One, Two, Three, and Four and relief as follows:

1. Compensatory damages;
2. Punitive damages;
3. Attorney's fees and costs;
4. Prospective injunctive relief against the Connecticut State Board of Firearms Permit Examiners Chairman Corradino and Secretary Knapp including, but not limited to, Court oversight of the Board's scheduling of appeals to protect the rights of Connecticut citizens to keep and bear arms; and
5. Such other relief in law or equity as the Court may deem appropriate.

Dated this 13th day of October, 2011, at Torrington, Connecticut.

PLAINTIFFS

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

**JAMES F. GOLDBERG, 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 October 13, 2011, a copy of the foregoing Second Amended Complaint was filed electronically. 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

Paragraph 7 – Admitted that Plaintiff Kuck was Secretary of the Board but, as for the dates, Defendants have insufficient knowledge to admit or deny and leave the plaintiffs to their proof.

Paragraph 8 – This paragraph is a legal statement to which no response is required.

Paragraph 9 - This paragraph is a legal statement to which no response is required.

Paragraph 10 - This paragraph is a legal statement to which no answer is required.

Paragraph 11 – Admitted. Defendant Danaher was Commissioner from March 5, 2007 to May 10, 2010.

Paragraph 12 – Admitted to the extent that DPS was so constituted until the reorganization of July 1, 2011.

Paragraph 13 – Admitted to the extent that this is an accurate description until the reorganization of July 1, 2011.

Paragraph 14 – Admitted in part. There have been several iterations over recent years; but, for the relevant period described in this action, this is correct.

Paragraph 15 – Admitted.

Paragraph 16 - Admitted.

Paragraph 17 – Admitted in part. Defendant Fox was involved in some SLFU matters, arguing BFPE cases during parts of the 2002 to 2004 time frame. From November 23, 2007 to April 1, 2008, Defendant Fox was the Executive

Officer of the Special Investigations and Support Services Unit but argued SLFU BFPE cases during that time and a few months after.

Paragraph 18 – Admitted.

Paragraph 19 – Admitted.

Paragraph 20 – Admitted

Paragraph 21 – Admitted.

Paragraph 22 – This is a description of Plaintiffs' action and no response is required.

Paragraph 23 – Admitted.

Paragraph 24 – Admitted.

Paragraph 25 – Admitted.

Paragraph 26 – The enabling legislation to the Board speaks for itself and no response is required.

Paragraph 27 – Admitted, except the date should be July 1, 2011.

Paragraph 28 – Admitted.

Paragraph 29 – Admitted.

Paragraph 30 – Admitted.

Paragraph 31 – This is a statement of plaintiffs' case and no response is required.

Paragraph 32 – Admitted.

Paragraph 33 – Defendants have insufficient information to admit or deny the specific facts alleged and leave plaintiff to his proof.

Paragraph 34 – Admitted with the exception that proof of citizenship or legal residency was required.

Paragraph 35 – Defendants have insufficient information to admit or deny the specific facts alleged and leave Plaintiff to his proof.

Paragraph 36 – Defendants have insufficient information to admit or deny the specific facts alleged and leave Plaintiff to his proof.

Paragraph 37 – The text of General Statutes §29-28(b) speaks for itself and no response is required.

Paragraph 38 – Admitted to the extent that proof of citizenship or legal residency was required – not necessarily a birth certificate.

Paragraph 39 – Admitted in part. Prior to 2001, proof of citizenship or legal residency was required on the initial application only. Subsequent to September 11, 2001, and largely implemented in early 2002, the database was changed to require proof of citizenship or legal residency upon renewal. Once that had been proven, no subsequent renewals required such proof unless there had been a change in citizenship or legal residency.

Paragraph 40 – Admitted in part. Prior to 2001, proof of citizenship or legal residency was required on the initial application only. Subsequent to September 11, 2001, and largely implemented in early 2002, the database was changed to require proof of citizenship or legal residency upon renewal. Once that had been proven, no subsequent renewals required such proof unless there had been a change in citizenship or legal residency.

Paragraph 41 – Matter of public record which speaks for itself.

Paragraph 42 – The text of May 14, 2007 letter speaks for itself and no response is necessary.

Paragraph 43 – The text of May 14, 2007 letter speaks for itself and no response is necessary.

Paragraph 44 – Denied. DPS responded in a letter dated September 14, 2007 but noted therein that defendant Commissioner’s practice was not to engage in any ex parte communications with the Board.

Paragraph 45 – Denied.

Paragraph 46 – Defendants have insufficient information to admit or deny and leaves plaintiffs to their proof.

Paragraph 47 – Admitted.

Paragraph 48 – Admitted.

Paragraph 49 – Any such letter speaks for itself and no response is required.

Paragraph 50 – Denied.

Paragraph 51 – Defendant has insufficient information regarding the alleged YCGG letter which would predate defendant Adam’s tenure on the Board and leaves plaintiff to his proof.

Paragraph 52 – Any such letter speaks for itself, otherwise this is only a statement of third party’s opinion and no response is necessary.

Paragraph 53 – Admitted as to the requirement to provide proof of citizenship or legal residency, otherwise denied.

Paragraph 54 – Denied.

KUCK: APPEAL TO THE BOARD

Paragraph 55 – Defendant neither admits nor denies but leaves plaintiffs to their proof.

Paragraph 56 – Admitted.

Paragraph 57 – The text of the Board’s Decision speaks for itself and no response is necessary.

Paragraph 58 – The Plaintiff himself did not provide the voter registration list, the Board obtained it from counsel.

Paragraph 59 – Denied. In 1982, permits were issued by local police and DPS would not have received proof of citizenship.

Paragraph 60 – The record of the Board’s proceeding speaks for itself and no response is required.

Paragraph 61 – The text of any such database speaks for itself and no response is required.

Paragraph 62 – The text of any such database speaks for itself and no response is required.

Paragraph 63 – Admitted with the exception noted above in paragraph 58.

Paragraph 64 – Board’s record speaks for itself and no response is required.

Paragraph 65 – Admitted to the extent that DPS informed the Board that plaintiff declined to provide proof of citizenship.

Paragraph 66 – This is a legal conclusion and no response is required.

Paragraph 67 – The Board’s record speaks for itself and no response is required.

GOLDBERG: PERMIT APPLICATION

Paragraph 68 – Defendant neither admits nor denies but leaves plaintiffs to their proof.

Paragraph 69 – General Statute §29-28(b) speaks for itself and no response is required.

Paragraph 70 – Admitted except Commissioner Danaher did not receive the application personally for it would have gone directly to SLFU.

Paragraph 71 – Defendant has insufficient information to admit or deny and leaves plaintiff to his proof.

GOLDBERG: ARREST JUNE 21, 2007

Paragraph 72 – The defendants have no information regarding the actions of the Glastonbury Police Department and leave the plaintiffs to their proof.

Paragraph 73 – The defendants have no information regarding the actions of the Glastonbury Police Department and leave the plaintiffs to their proof.

Paragraph 74 – Admitted as to the fact of taking plaintiff’s pistol; denied as to being “unlawful.”

Paragraph 75 – Admitted as to the fact of taking plaintiff’s permit; denied as to being “illegal.”

Paragraph 76 – Denied.

Paragraph 77 – Defendants have insufficient knowledge of GPD actions to admit or deny and leave plaintiff to his proof.

Paragraph 78 – This matter is no longer pending but was decided in favor of the Defendant Glastonbury Police Department.

Paragraph 79 – Admitted.

Paragraph 80 – Admitted.

Paragraph 81 – Admitted to the extent that the partial quoted statement is in the revocation letter.

Paragraph 82 – General Statute §29-32(b) speaks for itself and no response is required.

Paragraph 83 – The text of any letter speaks for itself and no response is required.

Paragraph 84 – The text of any letter speaks for itself and no response is required.

Paragraph 85 – Denied as to the allegation of a “wrongful taking”, otherwise the text of any letter speaks for itself and no response is required.

Paragraph 86 – Denied.

Paragraph 87 – Admitted that DPS received the state permit in order to conduct an investigation as required by law and decide to revoke or return the permit on its own or as directed by the Board.

DISMISSAL OF GOLDBERG’S CRIMINAL CASE

Paragraph 88 – Defendant has insufficient information regarding this separate action and leaves plaintiffs to their proof.

Paragraph 89 – Defendant has insufficient information regarding this separate action and leaves plaintiffs to their proof.

Paragraph 90 – Defendant has insufficient information regarding this separate action and leaves plaintiffs to their proof.

Paragraph 91 – The Judge’s order speaks for itself and no response is required.

Paragraph 92 – The Judge’s order speaks for itself and no response is required.

GOLDBERG’S APPEAL TO THE BOARD

Paragraph 93 – Admitted.

Paragraph 94 – Admitted as to the date of the hearing, otherwise denied.

Paragraph 95 – Admitted as to the attempt to secure a permit from a different municipal police agency, otherwise denied.

Paragraph 96 – Defendant has no knowledge regarding the alleged actions of Chief Cetran.

Paragraph 97 – Defendant has no knowledge regarding the alleged actions of the Wethersfield Police Department.

Paragraph 98 – Admitted that SLFU notified plaintiff of the revocation.

Paragraph 99 – Admitted.

Paragraph 100 – The text of the letter speaks for itself and no response is required.

Paragraph 101 – The text of the letter speaks for itself and no response is required.

Paragraph 102 – This is a legal conclusion and no response is required.

Paragraph 103 – Denied.

Paragraph 104 – Defendant admits that plaintiff’s permit was revoked but denies the rest.

Paragraph 105 – This is a legal conclusion and no response is necessary.

Paragraph 106 – Defendant denies that there was any prohibition of the Commissioner’s action and otherwise relies on the Commissioner’s written reasons for the revocation.

Paragraph 107 – Admitted as to the fact that plaintiff’s permit was revoked, otherwise denied.

Paragraph 108 – Denied.

Paragraph 109 – Admitted as to the dates, otherwise denied.

Paragraph 110 – Admitted.

Paragraph 111 – Defendant has insufficient information to identify the source of this quote and therefore cannot admit or deny and leaves the plaintiff to his proof.

Paragraph 112 – Admitted that the motion was denied, otherwise the record of the Board hearing speaks for itself and no response is required.

Paragraph 113 – Denied.

Paragraph 114 – Denied. SLFU revoked the permit for the reasons outlined in the notice.

Paragraph 115 – Denied.

Paragraph 116 – Defendants have insufficient information to admit or deny and leave plaintiff to his proof.

Paragraph 117 – Admitted except that SLFU reinstated the permit.

Paragraph 118 – Conn. Gen. Stat. §29-32(b) speaks for itself and no response is required.

Paragraph 119 – Denied.

Paragraph 120 – Denied.

Paragraph 121 – Denied.

Paragraph 122 – The March 10, 1998 letter speaks for itself and no response is required.

Paragraph 123 – Defendant has no knowledge of the specific facts alleged in this paragraph and leaves the plaintiff to his proof.

Paragraph 124 – Admitted that the quoted words appear in the referenced letter.

Paragraph 125 – Defendant admits that there was a meeting but otherwise has no knowledge of the date or other facts alleged in this paragraph and leaves the plaintiff to his proof.

Paragraph 126 – Defendant cannot verify the words quoted in this paragraph and leaves the plaintiff to his proof.

Paragraph 127 – Defendant Commissioner Danaher did not comment during the meeting on any position taken by his subordinates on this issue.

Paragraph 128 – Defendant has no knowledge of the specific facts alleged and leaves the plaintiff to his proof.

Paragraph 129 – Denied.

Paragraph 130 – Defendant has no knowledge of the facts alleged and leaves the plaintiff to his proof.

DELAY OF PLAINTIFF'S APPEALS TO THE BOARD

Paragraph 131 – The text of the May 14, 2007 letter speaks for itself and no response is required.

Paragraph 132 – The text of the May 14, 2007 letter speaks for itself and no response is required.

Paragraph 133 – The alleged report speaks for itself and no response is required.

Paragraph 134 – The alleged report speaks for itself and no response is required.

Paragraph 135 – Defendant cannot verify the facts alleged in this paragraph and leave plaintiffs to their proof.

Paragraph 136 – The May 14, 2007 letter speaks for itself and no response is necessary.

Paragraph 137 – The Auditors' power and responsibilities are listed by statute.

Paragraph 138 – The Auditors' power and responsibilities are listed by statute.

Paragraph 139 – Denied.

Paragraph 140 – Defendants have insufficient information as to anything the Auditors told Governor.

DPS DECISION TO RETURN PERMITS PRIOR TO HEARING.

Paragraph 141 – Denied.

Paragraph 142 – Admitted.

Paragraph 143 – Denied.

Paragraph 144 – Denied.

Paragraph 145 – Denied.

Paragraph 146 – Denied.

SECURITY CHAIRMAN OF EXECUTIVE HEAD OF BOARD

Paragraph 147 – Admitted, except defendants have insufficient information regarding the date plaintiff was appointed.

Paragraph 148 – Defendant has insufficient information to admit or deny.

Paragraph 149 – Admitted except defendants cannot verify the date Kuck began to serve.

Paragraph 150 – The text of the regulations speak for themselves and no response is required.

Paragraph 151 – Defendant has no information about plaintiff’s thoughts or actions at this time.

Paragraph 152 – Admitted that defendant Adams sought information regarding the number of appeals scheduled, otherwise denied.

Paragraph 153 – Defendants have insufficient information to admit or deny the specific facts alleged and leave the plaintiffs to their proof.

THE BOARD SECURITY FUNCTIONS

Paragraph 154 – Denied.

Paragraph 155 – Admitted.

Paragraph 156 – Administrative appeals before the Board are governed by statute, which speaks for itself and no further response is required.

Paragraph 157 – Administrative appeals before the Board are governed by statute, which speaks for itself, and no further response is required.

Paragraph 158 – Generally accurate.

Paragraph 159 – The statutes and regulations speak for themselves, and no further response is required.

Paragraph 160 – Denied as to Kuck’s authority to review facts; scheduling of appeals was generally left to the Executive Director at the time.

Paragraph 161 – Denied.

Paragraph 162 – Denied.

Paragraph 163 – Denied.

Paragraph 164 – Denied.

Paragraph 165 – Denied.

Paragraph 166 – Denied.

Paragraph 167 – Denied.

Paragraph 168 – The letter of Mr. Beal speaks for itself, otherwise denied.

Paragraph 169 - The letter of Mr. Beal speaks for itself, otherwise denied.

Paragraph 170 – Admitted that the quoted words appear in the letter.

Paragraph 171 – Admitted to the extent that a meeting occurred but insufficient knowledge of the date.

Paragraph 172 – Defendant cannot verify the words quoted in this paragraph and leaves plaintiff to his proof.

Paragraph 173 – The Commissioner did not comment during the meeting on any position taken by his subordinates on this issue.

Paragraph 174 – Defendants have insufficient information to admit or deny and leave plaintiff to his proof.

Paragraph 175 – Denied.

Paragraph 176 – Any writing from Mr. Beal to the Commissioner speaks for itself, otherwise denied.

ALLEGATIONS OF ADAM’S COLLABORATION WITH DPS

Paragraph 177 – Defendant lacks knowledge of plaintiff’s intentions or actions and leaves the plaintiff to his proof.

Paragraph 178 – Admitted.

Paragraph 179 – Admitted that defendant Adams informed Kuck that the backlog was decreasing, otherwise denied.

Paragraph 180 – Defendants have insufficient knowledge of the specific facts alleged to admit or deny and leave plaintiff to his proof.

Paragraph 181 – Admitted to the extent that efforts were made to add appeals to the schedule, otherwise denied.

Paragraph 182 – The text of any emails referenced to in this paragraph speaks for itself and no response is required.

Paragraph 183 – The text of any emails referenced to in this paragraph speaks for itself and no response is required.

Paragraph 184 – The text of any emails referenced to in this paragraph speaks for itself and no response is required.

Paragraph 185 – The defendants have insufficient information to admit or deny and leave the plaintiffs to their proof.

Paragraph 186 – The defendants have insufficient information to admit or deny and leave the plaintiffs to their proof.

Paragraph 187 – Admitted.

Paragraph 188 – The defendants have insufficient information to admit or deny and leave the plaintiffs to their proof.

Paragraph 189 – Denied.

Paragraph 190 – This paragraph is mere speculation without basis and no response is necessary.

Paragraph 191 – Denied.

Paragraph 192 – Denied.

Paragraph 193 – Denied. Defendants do not agree with these numbers.

Paragraph 194 – Admitted to the extent that the Board was attempting to get an accurate account of its entire docket.

Paragraph 195 – Admitted.

Paragraph 196 – Admitted to the extent that Adams sought information to respond to press inquiries.

Paragraph 197 – The text of any emails speaks for itself and no response is required.

Paragraph 198 – Speculative conclusion and no response is required.

SECRETARY'S FUNCTIONS

Paragraph 199 – Denied.

Paragraph 200 – Denied.

Paragraph 201 – Defendant has no information as to the plaintiff’s actions in this regard and leaves the plaintiff to his proof.

Paragraph 202 – Denied.

Paragraph 203 – Admitted. The Plaintiff sent Defendant Mazzoccoli a set of the regulations which she already had.

Paragraph 204 – Defendants admit that Mazzoccoli notified Adams that she had a complete set of regulations and that there were no Bylaws. Otherwise, denied.

Paragraph 205 – Denied.

Paragraph 206 – Denied.

BACKLOG OF APPEALS

Paragraph 207 – Admitted.

Paragraph 208 – Admitted.

Paragraph 209 – Insufficient information to admit or deny and leaves plaintiff to his proof.

Paragraph 210 – Admitted that no such meeting occurred with Commissioner Danaher in his first two months.

Paragraph 211 – Defendants deny any sabotage. Otherwise, the text of any email speaks for itself and no response is required.

Paragraph 212 – Defendants deny sabotage and otherwise have insufficient knowledge of the specific facts alleged to respond.

Paragraph 213 – Denied.

Paragraph 214 – Admitted to extent that Defendant Adams was talking about specific and limited circumstances.

Paragraph 215 – The text of any email speaks for itself and no response is required.

EFFORTS TO REMOVE KUCK

Paragraph 216 – Admitted.

Paragraph 217 – Defendant has insufficient knowledge to admit or deny this allegation and leaves plaintiff to his proof.

Paragraph 218 – Denied.

Paragraph 219 – Denied.

Paragraph 220 – Admitted that Adams sought information regarding YCGG but Defendants have insufficient information to identify the source of this quote to admit or deny and leave the Plaintiff to his proof.

Paragraph 221 – Any such draft letter speaks for itself and no response is required.

Paragraph 222 – Defendants have insufficient information to admit or deny and leave plaintiff to his proof.

Paragraph 223 – Defendants have insufficient information regarding the alleged “writing” to respond.

Paragraph 224 – This may refer to an email and, if so, the text of such an email speaks for itself.

Paragraph 225 – Admitted except for the allegation that Mazzoccoli denied the request.

Paragraph 226 – Denied.

Paragraph 227 – Admitted.

Paragraph 228 – Defendants have insufficient information to identify the source of this quote to admit or deny and leave the plaintiff to his proof.

DPS JOINS ADAMS & MAZZOCCOLI IN SEEKING ASISTANCE FROM THE GOVERNOR’S OFFICE

Paragraph 229 – Admitted.

Paragraph 230 –Admitted, other than the dates for which Defendants have insufficient information to respond.

Paragraph 231 – Defendant has insufficient information to admit or deny why plaintiff acted in this manner.

Paragraph 232 – Admitted that defendant Mazzaccoli recalls the general facts alleged in this paragraph but if the quote is from an email, such email speaks for itself and no response is required.

Paragraph 233 – Denied.

Paragraph 234 – Defendants have insufficient knowledge to respond and leave the Plaintiff to his proof.

Paragraph 235 – Denied.

Paragraph 236 – Denied. Other than court-ordered transcripts, any transcription of audio tapes was discretionary and generally denied for budget reasons.

Paragraph 237 – Admitted except that the text of the regulation stands for itself.

Paragraph 238 – Denied.

Paragraph 239 – Admitted.

Paragraph 240 – Denied.

Paragraph 241 – Any such email speaks for itself and no response is required.

Paragraph 242 – Any such email speaks for itself and no response is required.

Paragraph 243 – Denied.

Paragraph 244 – Any such email speaks for itself and no response is required.

Paragraph 245 – Any such email speaks for itself and no response is required.

Paragraph 246 – Admit that there were attempts to meet with Director of the Board, otherwise insufficient knowledge to admit or deny.

Paragraph 247 – Denied. Defendants note that the mental processes of state officials is privileged.

Paragraph 248 – Denied.

Paragraph 249 – Admitted that a conversation occurred between Detective Karanda and Plaintiff Kuck. Defendant Karanda has no recollection of which gun show was discussed.

Paragraph 250 – Denied.

Paragraph 251 – Denied.

Paragraph 252 – The text of any such writing speaks for itself and no response is required.

Paragraph 253 – The text of any such writing speaks for itself and no response is required.

Paragraph 254 – Denied.

Paragraph 255 – Denied.

Paragraph 256 – Denied.

KUCK REMOVAL

Paragraph 257 – Denied.

Paragraph 258 – Admitted as to the existence of the executive session, otherwise Defendants rely on the administrative record which speaks for itself and no response is necessary.

Paragraph 259 – Admitted as to the existence of the executive session, otherwise Defendants rely on the administrative record which speaks for itself and no response is necessary.

Paragraph 260 – Admitted.

Paragraph 261 – Admitted.

Paragraph 262 – Admitted.

COUNT 1

Paragraph 263 – The answers to paragraphs 1 through 262 set out previously are hereby incorporated and made answers to paragraph 264 through 275 of the First Count, as if fully set forth herein.

Paragraph 264 – The text of General Statute §29-32b(d) stands for itself and no response is required.

Paragraph 265 – Denied.

Paragraph 266 – Denied.

Paragraph 267 – Denied.

Paragraph 268 – Denied.

Paragraph 269 – Denied.

Paragraph 270 – This is a legal conclusion and no response is required.

Paragraph 271 – Denied.

Paragraph 272 – Denied.

Paragraph 273 – Denied.

Paragraph 274 – This is a legal conclusion and no response is required.

Paragraph 275 – No response required.

COUNT 2

Paragraph 276 – The answers to paragraphs 1 through 262 set out previously are hereby incorporated and made the answers to paragraphs 276 through 288 of the Second Count, as if fully set forth herein.

Paragraph 277 – The text of General Statute §29-32b(d) speaks for itself and no response is required.

Paragraph 278 – Denied.

Paragraph 279 – Denied.

Paragraph 280 – Denied.

Paragraph 281 – This is a legal conclusion and does not require a response.

Paragraph 282 – This is a legal conclusion and does not require a response.

Paragraph 283 – This is a legal conclusion and does not require a response.

Paragraph 284 – Denied.

Paragraph 285 – This is a legal conclusion and no response is required.

Paragraph 286 – Denied.

Paragraph 287 – This is a legal conclusion and no response is required.

Paragraph 288 – This is a legal conclusion and no response is required.

COUNT 3

Paragraph 289 – The answers to paragraphs 1 through 262 set out previously are hereby incorporated and made the answers to paragraphs 289 through 294 of the Third Count, as if fully set forth herein.

Paragraph 290 – Denied.

Paragraph 291 – Denied.

Paragraph 292 – Denied.

Paragraph 293 – This is a legal conclusion and no response is required.

Paragraph 294 – This is a legal conclusion and no response is required.

Paragraph 294 – Denied.

COUNT 4

Paragraph 295 – The answers to paragraphs 1 through 262 set out previously are hereby incorporated and made the answers to paragraphs 295 through 311 of the Fourth Count, as if fully set forth herein.

Paragraph 296 – Denied.

Paragraph 297 – Denied.

Paragraph 298 – The statute speaks for itself and no response is required.

Paragraph 299 – The statute speaks for itself and no response is required.

Paragraph 300 – Admitted.

Paragraph 301 – Admitted.

Paragraph 302 – This is a legal conclusion and no response is required.

Paragraph 303 – This is a legal conclusion and no response is required.

Paragraph 304 – This is a legal conclusion and no response is required.

Paragraph 305 – This is a legal conclusion and no response is required.

Paragraph 306 – This is a legal conclusion and no response is required.

Paragraph 307 – Denied.

Paragraph 308 – Admitted.

Paragraph 309 – Denied.

Paragraph 310 – Denied.

Paragraph 311 – This is a legal conclusion and no response is required.

DEFENDANTS SPECIAL DEFENSES

First Special Defense

The Second Amended Complaint fails to state a claim upon which relief could be granted.

Second Special Defense

There court lacks jurisdiction over some or all of the claims alleged in this case pursuant to the Eleventh Amendment and otherwise.

Third Special Defense

Some or all of the claims are moot.

Fourth Special Defense

Monetary relief against individual defendants is banned by the doctrine of qualified immunity.

Fifth Special Defense

Relief against individual defendants is banned by absolute immunity.

Sixth Special Defense

Defendants are protected by the immunities established by Conn. Gen. Stat. §4-165

Seventh Special Defense

Plaintiffs have failed to exhaust administrative remedies.

DEFENDANTS

**GEORGE JEPSEN
ATTORNEY GENERAL**

BY: */s/ Robert D. Snook*
Robert D. Snook
Assistant Attorney General
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Robert.Snook@ct.gov

CERTIFICATION

I hereby certify that on December 2, 2011, a copy of the foregoing Answer was filed electronically. Notice of this filing will be sent by e-mail to all parties by operation of the Court's electronic filing system. Parties may access this filing through the Court's system.

/s/ Robert D. Snook _____

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**UNITED STATES DISTRICT COURT
DISTRICT OF CONNECTICUT**

M. PETER KUCK, individually	:
and on behalf of others similarly situated	: CIVIL ACTION NO.
<i>Plaintiff</i>	: 3:07cv1390 (VLB)
	:
v.	:
	:
JOHN A. DANAHER, III, et al	:
<i>Defendants</i>	:
	:
	: MARCH 30, 2012

DEFENDANTS' MOTION FOR SUMMARY JUDGMENT

The defendants in the above-captioned matter hereby move for summary judgment for the reasons set forth in the accompanying memorandum of law, Rule 56(a)1 Statement, Exhibits and Declarations.

Respectfully Submitted,

**DEFENDANT
John A. Danaher, III**

**BY: /s/ Robert D. Snook
Robert D. Snook
Assistant Attorney General**

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Their Attorney

CERTIFICATION

I hereby certify that on March 30, 2012, a copy of the foregoing Defendant's Motion for Summary Judgment was filed electronically. Notice of this filing will be sent by e-mail to all parties by operation of the Court's electronic filing system. Parties may access this filing through the Court's system.

/s/ Robert D. Snook
Robert D. Snook

UNITED STATES DISTRICT COURT
DISTRICT OF CONNECTICUT

M. PETER KUCK, et al.,	:	
	:	
Plaintiffs,	:	CIVIL CASE NO: 3:07-CV-1390(VLB)
	:	
V.	:	
	:	
JOHN A. DANAHER III, et al.,	:	
	:	
Defendants.	:	NOVEMBER 8, 2012

NOTICE OF APPEAL

M. Peter Kuck and James F. Goldberg (“Plaintiffs”), by and through their attorney Rachel M. Baird, hereby provide notice and submit their appeal to the United States Court of Appeals for the Second Circuit from the Memorandum of Decision Granting Defendants’ Motion for Summary Judgment and the Judgment entered on October 18, 2012.

A final Judgment was ordered and signed by the Clerk in favor of the Defendants on October 18, 2012.

In accordance with Rule 4(a)(1) of the Federal Rules of Appellate Procedure the Plaintiffs file this timely appeal.

A copy of the Decision and Judgment is attached.

**PLAINTIFFS
M. PETER KUCK
JAMES F. GOLDBERG**

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

I HEREBY CERTIFY THAT on November 8, 2012, a copy of the foregoing appeal was filed electronically. 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**