

**UNITED STATES DISTRICT COURT
DISTRICT OF CONNECTICUT**

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|---|---|---------------------------------|
| JAMES F. GOLDBERG, individually | : | |
| and on behalf of others similarly situated, | : | |
| | : | |
| Plaintiffs, | : | CASE NO. |
| | : | |
| v. | : | |
| | : | |
| JOHN A. DANAHER, III, Commissioner, | : | <u>COMPLAINT</u> |
| Connecticut State Department of Public Safety, | : | |
| In his Individual and Official Capacities, | : | |
| ALBERT J. MASEK, JR., Commanding Officer: | : | |
| Connecticut State Department of Public Safety, | : | |
| In his Individual and Official Capacities, | : | |
| BARBARA MATTSON, Detective, | : | |
| Connecticut State Department of Public Safety, | : | |
| In her Individual Capacity, | : | |
| THOMAS KARANDA, Detective, | : | |
| Connecticut State Department of Public Safety, | : | |
| In his Individual Capacity, | : | |
| RONALD A. BASTURA, Sergeant, | : | |
| Connecticut State Department of Public Safety, | : | |
| In his Individual Capacity, | : | |
| SUSAN MAZZOCOLI, EXECUTIVE HEAD,: | : | |
| Connecticut State Department of Administrative: | : | |
| Services, State of Connecticut, | : | |
| In her Individual and Official Capacities, | : | |
| CHRISTOPHER R. ADAMS, Chairman, | : | |
| Connecticut State Board of Firearms Permit, | : | |
| Examiners, In his individual capacity, | : | DEMAND FOR TRIAL BY JURY |
| | : | |
| Defendants. | : | DECEMBER 27, 2007 |

PRELIMINARY STATEMENT

1. This action arises from an attack on the independence and authority of a civilian review board by a state law enforcement agency intent upon enforcing pistol permit 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. Without an independent and authoritative Board, the individual rights that the Board was established to protect are diminished and disrespected as empty guarantees.

4. This disrespect surfaces in the appointment of a Chairman to the Board who is unaware through nearly the first two (2) years of his term that state regulations exist to guide the Board’s functions.

5. This disrespect surfaces in the collaboration between the Board’s Chairman and its Executive Head to (a) deny the Board’s Secretary access to documents and (b) plot for the Secretary’s removal when the Secretary discovers the Board’s guiding regulations and with those regulations an authority over the DPS and independence from the DPS unknown and theretofore unexercised.

6. This disrespect surfaces in the arrogance of two (2) DPS detectives who attempt to meet with the Director of Boards and Commissions within the Office of the Governor to advocate their position that the Governor not reappoint the Board Secretary.

7. This disrespect surfaces in the Board Chairman’s and Executive Head’s encouragement and assistance to the two (2) DPS detectives in their attempts to remove the Board Secretary through secret meetings and conversations.

8. The Plaintiff James F. Goldberg and other individuals similarly situated have been deprived of rights secured by the Constitution and laws of the United States as a direct consequence of the DPS’s conduct.

9. The Board Chairman and Executive Head then denied Goldberg and other

individuals similarly situated meaningful and timely relief as the Board Chairman and its Executive Head collaborated with the DPS and rejected the Board Secretary's efforts to impose the Board regulations toward an independent and authoritative Board.

JURISDICTION

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

PARTIES

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

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

- 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.

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

14. The Governor appointed DPS Commissioner Danaher to serve as the chief executive officer of the Department of Public Safety having general jurisdiction over DPS affairs.

15. 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.

16. 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 DPS Commissioner Danaher.

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

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

19. DPS Commissioner Danaher delegates his responsibility to issue state permits to carry a pistol or revolver to the SFLU and its assigned members.

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

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

22. Detective Thomas Karanda (“Detective Karanda”) is a member of the DPS assigned to the SFLU at the rank of detective.

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

24. DPS Commissioner Danaher and Captain Masek are sued in their individual and official capacities

25. Detective Mattson, Detective Karanda, and Sergeant Bastura are sued in their

individual capacities.

26. Christopher R. Adams (“Chairman Adams”) serves as the Chairman of the Connecticut State Board of Firearms Permit Examiners (“Board”).

27. 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.

28. 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.

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

30. At least one (1) 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.

31. At least one (1) 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

32. The Governor appointed Defendant Christopher R. Adams (“Chairman Adams”) to the Board effective August, 2005.

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

34. The Board’s manager, Susan Mazzoccoli (“Mazzoccoli”), serves as the Board’s Executive Head for routine administrative and operational matters.

35. Chairman Adams is sued in his individual capacity.

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

37. During all times referenced in the Complaint, each of the individual Defendants acted under color of state law.

ALLEGATIONS OF FACTS

Goldberg’s State Permit Application

38. Goldberg applied, in April of 2007, to the Chief of Police of the Wethersfield Police Department, for a temporary state permit to carry a pistol or revolver, 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.

39. 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.

40. Commissioner indicating approval or denial by the Chief of Police of the temporary state permit.

41. The Chief of Police of the Wethersfield Police Department forwarded Goldberg’s approved application for a temporary state permit to the DPS Commissioner.

42. DPS Commissioner Danaher issued Goldberg a state permit to carry a pistol or revolver on May 17, 2007, under the authority of General Statutes § 29-28a(b).

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

43. 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").

44. 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."

45. 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.

46. The GPD confiscated then illegally took and withheld Goldberg's state permit to carry a pistol or revolver proximate in time to Goldberg's arrest on June 21, 2007.

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

48. 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.

49. 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 Pistol Permit

50. 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."

51. 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.

52. 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."

53. General Statutes § 29-32(b) provides that DPS Commissioner Danaher and his designated agents 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.

54. 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.

55. 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."

56. In the DPS Revocation Letter, DPS Commissioner Danaher, Captain Masek, and Detective Mattson condoned the GPD's wrongful taking and withholding of Goldberg's state

permit by conceding that they [DPS Commissioner Danaher, Captain Masek, and Detective Mattson] were aware that the state permit may have been “confiscated by ... a municipal police agency.”

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

58. DPS Commissioner Danaher, Captain Masek, and Detective Mattson 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 Court Criminal Case

59. 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 pistol permit, and the return of the pistol seized by the GPD on June 21, 2007.

60. 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.”

61. 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.

62. 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.

63. Judge Norko, by written order dated August 6, 2007, granted Goldberg's request that the GPD return Goldberg's pistol 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

64. In response to the DPS Revocation Letter dated June 27, 2007, Goldberg made timely request within ninety (90) days for hearing before the Board to appeal DPS Commissioner Danaher's revocation of his state permit.

65. Goldberg's hearing on the revocation of his state permit following an arrest for a charge later dismissed in criminal court is scheduled for May 14, 2009, twenty-two (22) months after the June 27, 2007, effective date of revocation and illegal taking and withholding of Goldberg's state permit by the GPD.

The Delay of Goldberg's Appeal to the Board

66. 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.

67. 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 (2) years and during this time had increased from an estimated wait time for hearing from fourteen (14) to sixteen (16) months.

68. For fiscal years ending June 30, 2001, and 2002, the Auditors determined that the estimated wait time for a hearing before the Board had increased from three (3) months to

fourteen (14) months as of January 23, 2003.

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

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

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

The DPS Unilateral Decisions to Return State Permits Prior to Hearing

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

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

74. 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).

75. DPS Commissioner Danaher and his designated agents, including, but not limited to, Captain Masek, Detective Mattson, Detective Karanda, and Sergeant Bastura, by engaging in the unlawful practice and procedure of returning revoked state permits to their owners prior to

hearing before the Board, have circumvented the exclusive authority of the Board to determine whether the facts support a finding that revocation was for just and proper cause.

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

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

78. DPS Commissioner Danaher and his designated agents, including, but not limited to, Captain Masek, Detective Mattson, Detective Karanda, and Sergeant Bastura, by engaging in the unlawful practice and procedure of returning revoked state permits to their owners prior to hearing before the Board, have used discretion not granted them under state law and opened the state permit revocation process to partiality, inconsistency, appearance of impropriety, and problems associated with the lack of oversight attendant to the unauthorized and unregulated discretion practiced by the DPS SFLU 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

79. The Governor 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.

80. 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.

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

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

83. 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.

84. 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.

85. Mazzoccoli informed Chairman Adams that she had discussed the schedule with Detective Mattson and learned that of the twenty (20) appeals scheduled, the SFLU had resolved twelve (12) appeals, with the possibility that two (2) more appeals would be resolved prior to hearing.

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

The Board Secretary's Regulatory Functions

87. 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."

88. 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.

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

90. 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

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

92. 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.

93. 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.

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

95. 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.

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

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

98. 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.

99. As Secretary, Kuck had the authority to review facts of an appeal and schedule

appeals for hearing.

100. Without this oversight by the Board Secretary, the DPS has been allowed to delay the return of state permits by up to twenty-two (22) months in cases in which the DPS knows that a hearing before the Board will result in the restoration of a state permit.

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

102. The SFLU'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 (16) to twenty-two (22) month hearing delay.

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

104. By the time the DPS settles cases on the day of hearing before the Board, the aggrieved person has been denied the pistol permit without evidence or basis in law for a fourteen (14) to twenty-two (22) month time period.

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

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

107. The ability of the SFLU 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.

108. The SFLU 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

109. Kuck in March, 2007, was attempting 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 new DPS Commissioner Danaher to discuss the backlog of appeals.

110. 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.

111. 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.

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

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

114. 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."

115. 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."

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

117. One of the reasons for the decrease in the number of appeals scheduled for hearing in April, 2007, was that Mazzoccoli faxed the list of forty (40) appellants to Detective Mattson for review on March 8, 2007.

118. 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.

119. State statutes and regulations provide no authority for DPS Commissioner Danaher or his designated agent to resolve appeals by reinstatement of state permits.

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

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

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

123. If Detective Mattson had agreed to Chairman Adams's and Mazzoccoli's request, then Detective Mattson would have made a representation to the Board that the three (3) cases referenced by Mazzoccoli had just 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.

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

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

126. 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.

127. In preparation for questions from the media in June of 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.

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

129. 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.

130. 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.”

131. If the Board allowed the Secretary to review the facts of each appeal and schedule the cases for hearing, 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 (22) months prior leaving only the cases not subject to resolution to be scheduled before the Board.

Part II – The Secretary’s Functions

132. Chairman Adams did not know that the Board was guided by fifteen (15) regulations until April 23, 2007, almost two (2) years subsequent to his appointment as the Chairman.

133. 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.”

134. In the Spring of 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.

135. Kuck then learned that Mazzocolli maintained an outdated compilation of Board regulations consisting of only the first four (4) or five (5) of the fifteen (15) regulations contained at section 29-32b-1 through 29-32b-15 of the Regulations.

136. On April 23, 2007, at 1:30 p.m., Kuck, upon learning that Mazzocolli 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.

137. Mazzocolli 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.

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

139. When Kuck learned about the Regulations and began to exercise his authority as Secretary to decrease the back log and preserve the rights afforded appellants under state statutes and regulation, Mazzocolli and Adams increased their discussions about removing Kuck as Secretary and preventing his reappointment to the Board.

Part III – The Backlog of Appeals

140. As part of his efforts to decrease the backlog, Kuck continued to ask Chairman Adams and Mazzocolli 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.

141. 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.

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

143. Chairman Adams, despite the fact that DPS Commissioner Danaher has been confirmed more than two (2) months prior still had not met with DPS Commissioner Danaher to work toward resolving the backlog issue.

144. 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."

145. 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 SFLU.

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

147. Chairman Adams repeatedly told Mazzoccoli to ignore Kuck.

148. 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

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

150. 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.

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

152. 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.

153. Mazzoccoli and Chairman Adams investigated Kuck’s YCGG participation which led Chairman Adams to congratulate Mazzoccoli for her “great sleauthing” to which Mazzoccoli responded that Chairman Adams should have seen what she [Mazzocolli] found during the divorce.

154. 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 (6) months.

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

156. 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.

157. 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

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

159. 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.

160. 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.

161. When Mazzoccoli informed Chairman Adams that Attorney 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

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

163. 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.

164. 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.

165. Mazzocoli 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.”

166. 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.

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

168. Mazzocoli sought Chairman Adams’ permission prior to releasing information about Board business to Kuck.

169. Mazzocoli, with the agreement of Chairman Adams, ignored Kuck’s requests for transcripts.

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

171. Mazzocoli even 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.

172. 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.

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

174. Later, 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!"

175. On June 15, 2007, Mazzaccoli 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."

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

177. Chairman Adams reminded Mazzocolli 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.

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

179. In July, 2007, Mazzoccoli reported to Chairman Adams that Detective Mattson

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

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

182. 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.

183. 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.”

184. 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.

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

186. On August 27, 2007, Kuck asked Mazzocolli to schedule a separate session as

187. Chairman Adams and Mazzocolli 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.

188. When Kuck contacted Mazzocolli for information about Board business, Mazzocolli hung up the phone on Kuck and told security to bar Kuck from the Board's offices.

189. Chairman Adams told Mazzocolli not to give Kuck any information.

Part VII – Kuck's Removal as Secretary

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

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

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

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

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

195. The Board conducted a vote at its Board meeting on October 11, 2007, and Kuck was replaced as Secretary by Attorney Corradino, the DPS representative on the Board.

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

VIOLATIONS AND CLAIMS

Count One

ILLEGAL SEIZURE OF PROPERTY

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

197. Plaintiff hereby incorporates by reference under Count One each and every paragraph numbered 1 through 196, above.

198. By means of the unlawful receipt of Goldberg's valid state permit between June 21, 2007, and June 27, 2007, the DPS and DPS Commissioner Danaher, Captain Masek, Detective Mattson, Detective Karanda, and Sergeant Bastura, acting in their individual capacities ("DPS Defendants"), committed the criminal act of larceny and condoned the GPD seizure of property that the GPD had no right to take or withhold from Goldberg.

199. By reason of their illegal receipt of unlawfully taken and withheld property from Goldberg, the DPS Defendants intentionally, or with deliberate indifference and callous disregard of Goldberg's rights, deprived Goldberg 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.

200. General Statutes § 29-32(b) authorizes DPS Commissioner Danaher 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).

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

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

203. The written notice of revocation from the SFLU 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 DPS Commissioner Danaher within five (5) days.

204. 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).

205. 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.

206. Until DPS Commissioner Danaher 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.

207. No law enforcement authority other than DPS Commissioner Danaher 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 DPS Commissioner Danaher or a delegate.

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

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

210. DPS Commissioner Danaher and his delegated representatives in the DPS SFLU, including Captain Masek, Detective Mattson, Detective Karanda, and Sergeant Bastura received Goldberg's state permit on or after June 21, 2007.

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

212. 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.

213. In acquiescing to the DPS's violation of Goldberg's Fourth Amendment right against illegal seizure of property and failing to exercise independence and authority over the DPS to stop such violations, Chairman Adams and Mazzacoli violated Goldberg's Fourth Amendment rights.

214. In failing to exercise independence and authority over the DPS revocation decisions, Chairman Adams and Mazzacoli denied Goldberg a timely and reasonable opportunity to challenge the DPS's conduct in violation of Goldberg's Fourth Amendment rights.

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

216. Wherefore Goldberg demands judgment against the DPS Defendants, 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, the return of his state permit, the return of the gun seized on June 21, 2007, by the GPD, and such other relief as this Court deems just, proper, and equitable.

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

217. Plaintiff hereby incorporates by reference under Count Two each and every paragraph numbered 1 through 196, above.

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

219. The DPS, in creating a backlog of cases which requires aggrieved individuals to wait between fourteen (14) and twenty-two (22) months for a hearing, has denied aggrieved individuals the opportunity to be heard at a meaningful time and in a meaningful manner.

220. DPS Commissioner Danaher has 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.

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

222. The nearly two (2) year delay between the revocation of Goldberg's state permit and his opportunity to be heard by administrative appeal violates due process.

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

224. The DPS Defendants intentionally, or with deliberate indifference and callous disregard of Goldberg's and others' rights, deprived Goldberg and others of their right to due process, in violation of the 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.

225. 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 Mazzaccoli allowed the DPS to accrue a backlog and thereby violated Goldberg'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.

226. In failing to exercise independence and authority over the DPS revocation decisions, Chairman Adams and Mazzaccoli violated Goldberg'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.

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

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

229. Wherefore Goldberg 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, an immediate hearing before the Board or the restoration of their state permits, and such other relief as this Court deems just, proper, and equitable.

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

230. Plaintiff hereby incorporates by reference under Count Three each and every paragraph numbered 1 through 196, above.

231. The DPS Defendants deprived Goldberg of due process when they revoked Goldberg's state permit without conducting an investigation to determine if the facts and circumstances warranted revocation.

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

233. The DPS Defendants deprived Goldberg of due process when they continued to schedule his hearing before the Board for May 14, 2009, even though the state misdemeanor criminal charge against Goldberg was dismissed on July 30, 2007, and the state court criminal judge had ordered the return of Goldberg's state permit.

234. The DPS Defendants intentionally, or with deliberate indifference and callous disregard of Goldberg's rights, deprived Goldberg of his right to due process, in violation of the Fifth and Fourteenth Amendments to the United States Constitution when they created and implemented complicated procedures and strict requirements for appellants to gain a hearing before the Board when no such requirements are found in state laws and regulations.

235. 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 Mazzaccoli allowed the DPS to impose unlawful requirements for appellants seeking review before the Board of their revocations.

236. In failing to exercise independence and authority over the DPS revocation decisions, Chairman Adams and Mazzaccoli violated Goldberg's due process rights.

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

238. Wherefore Goldberg has suffered damages and demands judgment against the DPS Defendants, 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, an immediate hearing before the Board or the

restoration of his state permit, and such other relief as this Court deems just, proper, and equitable.

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

239. Plaintiff hereby incorporates by reference under Count Four each and every paragraph numbered 1 through 196, above.

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

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

242. 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.

243. 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 its animus toward gun possession by persons not affiliated with law enforcement.

244. 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 Mazzaccoli allowed the DPS to violate Goldberg's right to due process.

245. In failing to exercise independence and authority over the DPS revocation decisions, Chairman Adams and Mazzacoli violated Goldberg's right to due process.

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

247. Wherefore Goldberg has suffered damages and demands judgment against the DPS Defendants, 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, an immediate hearing before the Board or the restoration of his state permit, and such other relief as this Court deems just, proper, and equitable.

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

248. Plaintiff hereby incorporates by reference under Count Five each and every paragraph numbered 1 through 96, above..

249. The Defendants have violated the Plaintiff's right to freedom of speech under the First Amendment to the United States Constitution as enforced by 42 U.S.C. § 1983.

250. 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.

251. The DPS Defendants' refused to return Goldberg'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 is arises from

retaliatory animus.

252. Goldberg has been deprived of his state permit in retaliation for the interviews he rendered to the media concerning his arrest and the DPS revocation of his state permit.

253. 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 Mazzaccoli allowed the DPS to withhold Goldberg's state permit based on retaliatory motives rather than just and proper cause.

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

255. Wherefore Goldberg has suffered damages and demands judgment against the DPS Defendants, 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, an immediate hearing before the Board or the restoration of his state permit, and such other relief as this Court deems just, proper, and equitable.

PRAYER FOR RELIEF

WHEREFORE, Plaintiffs claim judgment against the Defendants as follows:

1. Compensatory damages;
2. Punitive damages;
3. Attorney's fees and costs;
4. Prospective injunctive relief; and
5. An Order by the Court returning Goldberg's state permit to the Glastonbury Police Department so that the Glastonbury Police Department is able to comply with the July 30, 2007, order of the state criminal court to return the state permit to Goldberg;
6. An Order by the Court returning Goldberg's pistol to state permit to the Glastonbury Police Department so that the Glastonbury Police Department is able to comply with the July 30, 2007, order of the state criminal court to return the state permit to Goldberg;
7. DPS return the pistol seized from Goldberg on June 21, 2007, to it rightful owner; and
8. Such other relief in law or equity as the Court may deem appropriate.

Dated this 27th day of December, 2007, at Torrington, Connecticut.

PLAINTIFFS

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

BY: _____

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