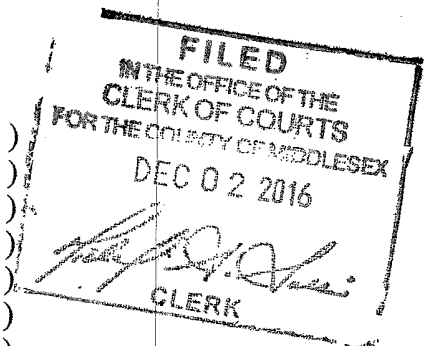
COMMONWEALTH OF MASSACHUSETTS
TRIAL COURT
SUPERIOR COURT DEPARTMENT

Middlesex, ss

Docket No.: 16-3452



JOSEPH A. JAKUTTIS,
an individual,

Plaintiff

v.

TOWN OF DRACUT, MASSACHUSETTS,
a municipal corporation and public employer,
DAVID J. CHARTRAND, Jr.,
in his individual and official capacity,
MICHAEL V. O'HANLON,
in his individual capacity,
JOHN DOE 1 (a pseudonym),
in his individual capacity,
JOHN DOE 2, (a pseudonym),
in his individual capacity,

Defendants

COMPLAINT
AND
DEMAND FOR JURY TRIAL

(Including Civil RICO Claim)

INTRODUCTION

This "Introduction" section is an outline of the complaint for the convenience of the court and is not intended as part of the complaint itself and is not intended to be answered.

The claims against the various Defendants for damages are for the following causes of action, all specified in detail in the Complaint below:

I. 42 U.S.C., § 1983 (Joseph Jakuttis v. All Defendants) (First Amendment: free speech violation) - (alternatively against Defendant O'Hanlon, First Amendment Violation as a federal agent, via a *Bivens* claim).

II. M.G.L. c.12 § 11H and 11I (state civil rights claim) (free speech rights) (Joseph Jakuttis v. All Defendants, excluding Town of Dracut).

III. Whistleblower Act – M.G.L. c. 149, § 185 (Joseph Jakuttis v. Town of Dracut only).

IV. Intentional Interference with Advantageous Economic Relationship (Joseph Jakuttis v. Chartrand, Doe1 and Doe2, only).

V. Intentional Interference with Contractual Relations and/or Advantageous Relationship (Joseph Jakuttis v. Defendant John Doe2 and Defendant O'Hanlon, only).

VI. Intentional Infliction of Emotional Distress (Joseph Jakuttis v. All Defendants, excluding Town of Dracut).

VII. Civil Conspiracy (Joseph Jakuttis v. All Defendants, excluding Town of Dracut).

VIII. 18 U.S.C. § 1962(c) and § 1964(c), Civil RICO (Joseph Jakuttis v. All Defendants, excluding Town of Dracut).

IX. 18 U.S.C. § 1962(d) and § 1964(c), Civil RICO Conspiracy (Joseph Jakuttis v. All Defendants excluding Town of Dracut)

INTRODUCTORY STATEMENT OF THE CASE

This case comes before the court because the Plaintiff, a police officer and detective for the Town of Dracut, Massachusetts, and an officer for the DEA working on a special drug task force, was removed from the DEA task force and removed from the detective unit on the Dracut police department and demoted to patrolman in retaliation for the Plaintiff coming forward with information which implicated two Dracut police officers in serious criminal activities involving the illegal use, sale, purchase, possession and otherwise handling of controlled substances, including heroin and cocaine, often while on the job and while conducting undercover operations with a drug informant. The Plaintiff obtained the information implicating the two Dracut police officers from a confidential drug informant, and although not witnessing the alleged illegal activity himself, the Plaintiff felt compelled and obligated as a citizen to report the alleged criminal activity (as relayed by the confidential informant) to the federal government, which he did.

After he provided the information to the federal government, a series of retaliatory actions and events transpired, including threats, intimidation, harassment and coercion, all in an effort to silence the Plaintiff and thwart any further inquiry into the matter and to punish him for such revelation by demotion within the DPD and loss of job position with the DEA.

Although there are several Counts, the primary claims include Free Speech Violations (42 U.S.C. § 1983); Whistleblowing Retaliation (M.G.C. c.149 § 185); and Civil RICO violations (18 U.S.C. § 1964(c)).

COMPLAINT

THE PARTIES

1. The Plaintiff, Joseph A. Jakuttis, is an individual person residing in Deerfield, New Hampshire, and is currently employed as a member of the police department in Dracut, Massachusetts, but is currently out on sick/disability leave.
2. The Defendant, Town of Dracut, is a municipal corporation duly incorporated under the laws of the Commonwealth of Massachusetts, with a principal place of business at 62 Arlington St., Dracut, Massachusetts, and was and is the employer of the Plaintiff, Joseph Jakuttis.
3. The Defendant, David Chartrand, is an individual person residing in Dracut, Middlesex County, Massachusetts, and at all times material to this complaint was employed as a member of the police department in Dracut, Massachusetts, and is currently officially the Deputy Chief of the Dracut Police Department ("DPD").
4. The Defendant, Michael O'Hanlon, is an individual person residing in Andover, Middlesex County, Massachusetts, and at all times material to this Complaint was employed by the United States Department of Justice officially as an agent for the Drug Enforcement Agency ("DEA"), a federal agency.
5. The Defendant, John Doe1[1], is an individual person residing in Dracut, Middlesex County, MA, and at all times material to this Complaint was and is employed as a member of the police department in Dracut, Massachusetts.
6. The Defendant, John Doe2[2], is an individual person residing in Lowell, Middlesex County, Massachusetts, and at all times material to this Complaint was and is employed as a member of the Massachusetts State Police.

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[1] John Doe1 is a pseudonym for a Dracut police officer, and he is named as such and not by actual name because of certain allegations of criminal activity of one or more officers, including John Doe1, and in the event this matter is resolved timely, out of courtesy the Plaintiff is naming him as such, but will be amending the Complaint to name said officer. **

[2] John Doe2 is a pseudonym for a State Police Officer, and he is named as such and not by actual name because of certain allegations which suggest a close relationship with one or more persons who may have engaged in criminal activity, and out of courtesy in the event of a timely resolution to this matter, the Plaintiff is naming him as such, but will be amending the Complaint to name said officer. **

BACKGROUND

7. The Plaintiff, Joseph Jakuttis, was appointed as a police officer in the Town of Dracut on or about June 1, 1998, after successfully completing the police academy training.
8. Shortly thereafter Jakuttis was elevated to detective within the DPD.
9. The then Chief of Police was the one who promoted the Plaintiff to detective.
10. Officer Jakuttis' responsibilities as a detective were numerous, but were primarily focused on performing drug and narcotic investigations.
11. Detective Jakuttis' job performance was exemplary, and in March, 2005, he received the Dracut Police Department's "Officer of the Year 2004" award, and in December, 2005, he received a letter of commendation from the Massachusetts Executive Office for Public Safety for "outstanding job performance and courageous actions in identifying a drug cartel operation in and around Dracut," citing that Detective Jakuttis is "an exceptional member of the law enforcement community and a credit to the Dracut Police Department." He also in that year was nominated for the prestigious George L. Hanna Memorial Award for Bravery.
12. On or about May 22, 2002, Plaintiff Jakuttis, Defendant Chartrand (a detective at the time prior to being appointed Deputy Chief), a third officer (a member of the Massachusetts State Police, not the Defendant in this case) and a fourth officer (a member of the Postal Inspector's office) participated in the seizure of approximately 35 pounds of high-grade marijuana.

** Copies of the Complaint filed with the court have been served on John Doe1 and Doe2 along with a Complaint naming them with their actual names (which will be filed as an Amended Complaint in short order) and they are each aware that they are the particularly named defendants in this matter as John Doe1 and John Doe2, and have been informed that an Amended Complaint will be filed substituting their actual identities in place of the Doe references, and are on notice of all claims.

13. This "evidence" (the 35 pounds of marijuana), was initially stored in the evidence room inside the Dracut police department building, along with 120 pounds of marijuana from a separate seizure.

14. The 35 pounds of marijuana from the Jakuttis/Chartrand seizure mentioned above was sealed in air- tight wrap when seized, but the 120-pound seizure was not in air-tight wrap.

15. After some time in the evidence room within the police department building, the marijuana in the non-air-tight containers began to smell, so it was moved to an "evidence trailer" behind the police department building, as was the 35 pounds of marijuana seized by Detectives Jakuttis and Chartrand.

16. This "evidence trailer" was one of two trailers in the back of the police department building used to store a variety of evidence from different cases, as well as stolen bicycles.

17. The trailer used to store the marijuana was a new (second) trailer and the marijuana was the first evidence to be placed in that trailer.

18. The evidence trailer that contained the marijuana was secured with two padlocks which required separate keys to unlock.

19. Access to the trailers were restricted to members of the detective bureau of the DPD, although most employees knew where one or more of the keys were kept.

20. On or about April 17, 2003, Defendant Chartrand, still a detective at this point, went to the second trailer to return some evidence from a separate case that had been removed from the trailer for an ongoing court case.

21. On April 17, 2003, when said evidence for the ongoing court case was returned as mentioned above, Defendant Chartrand noticed that the two padlocks on the trailer had been cut, and upon entering the trailer Chartrand noticed that the marijuana was missing.

22. After an inventory of the trailer was taken, it was confirmed that the only evidence missing were the 35 pounds of marijuana from the Jakuttis/Chartrand seizure and the 120 pounds from the other seizure.

23. After the theft, the Middlesex County District Attorney's office ("DA's office") was contacted to investigate the theft, and a criminal investigation began, with the DA's office assigning a Massachusetts State Police Lieutenant to head the investigation.

24. As the investigation began, it was requested by the state police or the DA's office that all members of the DPD detective unit voluntarily take a polygraph (lie detector) test regarding their knowledge of or participation in the theft of the marijuana.

25. The DA's office, at this time during the criminal investigation, would not grant transactional immunity for anyone taking the polygraph test, so most of the department refused to take the polygraph test.

26. Only two detectives agreed to voluntarily take the test – Detective Jakuttis (the Plaintiff) and Detective Chartrand (the Defendant).

27. Both Plaintiff Jakuttis and Defendant Chartrand passed the polygraph test.

28. In no small part because of passing the test, Plaintiff Jakuttis and Defendant Chartrand were chosen to work with the state police in the criminal investigation of the theft of the marijuana.

29. On November 20, 2006, however, prior to any conclusion of the investigation, Plaintiff Jakuttis suffered a severe physical injury while working in an undercover capacity and went out on leave until May 2, 2009, at which time he was medically retired from the DPD because of that injury.

30. Plaintiff Jakuttis ultimately recovered from his injury and was reinstated on the DPD as an officer on August 13, 2012 and performed additional work as a detective, but did not resume

any investigation of the theft of the marijuana because the investigations had concluded in his absence.

31. While Plaintiff Jakuttis was out of work between 2006 and 2012, however, the investigation into the theft of the marijuana from the Dracut police did continue, but did not result in any criminal charges, and the Middlesex District Attorney's office officially closed the case and informed the then Dracut Chief of Police, Kevin Richardson, of such by way of a letter dated November 11, 2008.

32. In or about November, 2008, following receipt of the notice that the criminal investigation was over, Chief Richardson of the DPD requested an "internal investigation" of the 2003 marijuana theft with the assistance of the North Eastern Massachusetts Law Enforcement Council's Internal Investigation Unit ("NEMLEC").

33. The NEMLEC internal investigation was headed by Chief Alfred Donovan (Ret.) of the Tewksbury Police.

34. The final report from the NEMLEC was issued on or about April 19, 2010, approximately a year and a half after being initiated. By this time, the statute of limitations had run on any criminal charges related to the 2003 theft of the marijuana from the Dracut Police Department.

35. This final report from the NEMLEC, despite being started near the expiration of the statute of limitations for the crime, and finishing after the expiration of the statute of limitations, is a thorough and detailed account of the circumstances surrounding the theft, including information regarding the possible knowledge and/or participation in the crime by not only various civilians, but also some of the Dracut Police Department officers and/or personnel.

36. The final conclusion of the NEMLEC report was that the perpetrators of the crime were known to the Dracut police, and that the perpetrators may have had the assistance of at least two

Dracut police officers, Dracut Officer 1 (DO1)[3] and Dracut Officer 2 (DO2). In this Complaint those two officers are simply referred to as DO1 and DO2. DO1 is still employed at the DPD; DO2 is retired. They are not defendants in this Complaint.

37. That report also pointed to a prime civilian suspect in the case.

38. That prime civilian suspect has a familial relation with DO1 (his brother).

39. A second report on the Dracut Police was commissioned by the Town of Dracut itself for a risk assessment of the Dracut Police Department. This "risk assessment" report/project was conducted by Municipal Resources Inc., ("MRI"), located in Meredith, New Hampshire, and was completed in October, 2015, just over one year ago. It is a ninety (90) page report.

40. The scope of the MRI project was to review the manner in which law enforcement services were provided within the town of Dracut from a risk management, as well as an operational, perspective.

41. Over a period of several months, a team of MRI police consultants spent considerable time meeting with staff, reviewing documents, analyzing data, and inspecting on-site operations. In addition, MRI provided all employees with an opportunity to provide input through the distribution of an internal survey instrument and one-on-one interviews.

42. One important aspect of that MRI report is that it found that there was a perception by several officers that there was a group of officers who were considered "cronies, friends and favorites" of management, and that those outside that circle were "ruled by fear and intimidation."

43. Plaintiff Jakuttis became one of those ruled by fear and intimidation as a result of the actions of the Defendants taken in retaliation for the Plaintiff exercising his United States Constitution

[3] Because of the criminal nature of the allegations in the NEMLEC report, and despite the expiration of the statute of limitations, the identities of those police officers mentioned in the report as most likely being involved in the theft of the marijuana are not being mentioned in this Complaint, out of courtesy.

First Amendment rights and his rights under Article 16 of the Declaration of Rights of the Inhabitants of the Commonwealth of Massachusetts, as well as his rights under the Massachusetts Whistleblower Act, M.G.L. c. 149, § 185, all of which shall be more fully alleged and articulated below.

Plaintiff Assigned to DEA Unit

44. In or about August, 2013, approximately one year after returning to the DPD following his medical retirement and recovering from his injuries, Detective Jakuttis was selected as the first ever non-funded[4] Task Force Officer in the Northeast District of the Drug Enforcement Administration, and was assigned to the Cross-Borders Initiative office ("CBI") of the DEA in Lowell, Massachusetts.

45. The CBI (located in Lowell at the time, now in Andover) is a joint venture between the DEA, state and local law enforcement, and the U.S Attorneys from Maine, New Hampshire, Vermont, and Massachusetts, established to address the use of Lawrence and Lowell as drug supply centers for northern New England.[5]

46. In his role as a member of the CBI team, Detective Jakuttis was still an employee of the Town of Dracut, and was paid his salary from the Town of Dracut.

47. During his time as a member of the CBI team, Detective Jakuttis spent the majority of his time working directly with or within the CBI unit but also still functioned as a detective within and for the DPD during "down time" or during his time off from the CBI, and this detective work for the DPD was primarily focused on narcotic/controlled substance crime.

[4] A "non-funded" task force officer works with the DEA on a particular case or specific cases, rather than working "in general" within the DEA's CBI unit, and does not receive extra compensation from the DEA, although he would receive credentials, a gas card, and some expenses.

[5] DEA website: https://www.justice.gov/archive/ndic/pubs/658/overview.htm

48. Detective Jakuttis was selected as a member of the CBI because of his reputation as an honest, hard-working and ethical police officer, and Detective Jakuttis was realizing his longtime dream of becoming a highly active law enforcement detective in combating the illegal sale and trafficking of narcotics and dangerous drugs to protect the public from the overwhelming epidemic of narcotic and drug trafficking and community drug abuse and addiction. This dream would soon evaporate at the hands of the Defendants.

Free Speech and Whistleblower Content/Information Received by Plaintiff

49. On or about January 16, 2015, Detective Jakuttis was engaged in a DPD undercover operation with an officer from the Lowell Police Department.[6] Jakuttis and the Lowell officer were utilizing two confidential sources. At the end of this operation, one of the confidential sources ("CS")[7] was being debriefed by Detective Jakuttis in Jakuttis' vehicle, while the Lowell officer gave the other confidential source a ride back to that source's vehicle.

50. During the debriefing with CS, CS told Detective Jakuttis "I have to tell you something." CS then proceeded to give unsolicited information to Detective Jakuttis regarding some disturbing information about two fellow Dracut police officers at the DPD.

51. These two fellow Dracut police officers mentioned in paragraph 50 above are *not* the two officers referenced earlier in this Complaint as DO1 and DO2. The two police officers mentioned in paragraph 50 above are Defendant John Doe1 and another Dracut police officer referred to in this Complaint as Dracut Officer 3 ("DO3"), but that officer is not a defendant in this case at this time.

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[6] This Lowell officer was also a member of the DEA's CBI representing the Lowell Police Department, but the undercover operation mentioned in paragraph 49 was not a CBI case.

[7] CS is well known to Plaintiff Jakuttis and the DPD as CS had been used on many undercover operations, and worked a great deal with the Plaintiff prior to the Plaintiff going out following his injury. Plaintiff Jakuttis was the first police officer CS worked with when CS began as an informant for the DPD.

52. John Doe1 and DO3 are still employed as police officers in the DPD.

53. The information which CS revealed to Detective Jakuttis (which will be discussed below) was subsequently revealed by Detective Jakuttis to several officers in the CBI unit, including federal law enforcement officers. It was also revealed to the Plaintiff's supervisor from the DPD, Defendant Chartrand, after a formal interview of CS at the CBI office on February 18, 2015, with three detectives present, where CS reiterated his accounts of the events that he revealed to Detective Jakuttis on January 16, 2015.

54. Present at this formal interview of CS on February 18, 2015, were officers from the CBI unit including Special Agent (SA) Willoughby, who is an officer from the DEA, Defendant John Doe2 and Plaintiff Jakuttis.

Info Provided by CS to Detective Jakuttis on January 16, 2015

55. CS had worked with Detective Jakuttis in the past, and the operation on January 16, 2015, resulting in the debriefing was the first time the two had worked on an operation with Jakuttis being CS's handler since Jakuttis was injured in 2006.

56. After CS told Detective Jakuttis that he "had something to tell him," he proceeded to reveal information of events that had occurred while Detective Jakuttis was out of work.

57. CS told Detective Jakuttis that during the time Jakuttis was out on disability that he (CS) used to "party" with John Doe1 and DO3. Detective Jakuttis asked CS what he meant by that.

58. CS then went on to say that John Doe1 and DO3, and occasionally a third unknown male, brought "whores" to CS's apartment and that they all had sex and consumed drugs together. CS stated to Detective Jakuttis that "they would all get fuxxxx-up and those guys would bang the chicks" in CS's bedrooms.

59. CS stated that some years ago, John Doe1 arrived at CS's apartment and asked CS to obtain some cocaine and heroin for them.

60. CS told Detective Jakuttis that CS thought that John Doe1 was "setting him up" and possibly arrest him if he actually ordered the drugs, so CS questioned John Doe1 about that, and John Doe1 said he would share the drugs with CS if he got some from one of CS's regular sources.

61. CS told Detective Jakuttis that CS then produced a "Percocet"[8] pill, crushed it, and told John Doe1 that he would place the order if John Doe1 snorted the crushed pill right then.

62. John Doe1 snorted the crushed pill, and CS subsequently ordered an "eight ball" of cocaine and one gram of heroin from one of CS's drug suppliers.

63. When the drugs arrived John Doe1 paid for them and CS consumed the heroin and John Doe1 consumed an amount of the cocaine.

64. CS told Detective Jakuttis that John Doe1 took the remaining cocaine with him when he left CS's apartment.

65. CS told Detective Jakuttis that he found that encounter strange, but that he trusted John Doe1 after that and that the two developed a symbiotic relationship in which CS would allow John Doe1 "and company" (various individuals, sometimes including DO3) to use CS's apartment in return for free narcotics, which usually consisted of one gram of heroin and an eight ball of cocaine. CS told Detective Jakuttis this occurred roughly two or three times a month over an eight month to one-year period; being the time that CS was being used for undercover operations.

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[8] Drug users and dealers on the street often refer to oxycodone tablets as, "Perc 5's," Perc 10's," or "Perc 30's," referring to the amount of oxycodone in the tablet. While they use the term Percocet or Perc in referring to the tablets, particularly the "Perc 30," they are often refereeing to straight oxycodone tablets, which are much smaller than an actual Percocet tablet and more easily snorted when crushed. Percocet tablets contain not just oxycodone, but an additional non-prescription drug (acetaminophen (Tylenol®)) and there is no such thing as a Perc-30 (meaning 30mg of the narcotic oxycodone in the tablet). The pill Doe1 snorted was most likely just straight oxycodone.

66. CS then continued to detail other events at CS's apartment with John Doe1 and his companions and mentioned that John Doe1 would pay for the drugs when they arrived and that he remembers on two occasions that John Doe1 actually handed the money himself directly to the dealer as they all stood in the kitchen area of CS's apartment.

67. CS told Detective Jakuttis that on one occasion at CS's apartment John Doe1 came over in the afternoon in an undercover police vehicle and asked CS to place an order for some cocaine and heroin for them, and that John Doe1 gave CS a Fentanyl[9] patch as they waited in CS's apartment for the dealer to arrive.

68. CS placed the order and then sucked on the Fentanyl patch.

69. When the drugs arrived, John Doe1 and CS consumed an amount of each, and shortly thereafter CS suffered an overdose and became ill.

70. CS was in and out of consciousness and said that he remembered being carried by John Doe1 from inside the apartment to outside and then driving CS to the hospital "near the rotary in Lowell" in John Doe1's undercover police vehicle.

71. CS told Detective Jakuttis that John Doe1 assisted CS into the hospital and told hospital personnel that he (John Doe1) "found him walking in the area" and saw that he (CS) potentially needed medical attention, and that CS remembers John Doe1 leaving the hospital directly after that.

[9] Fentanyl is a powerful synthetic opioid 50 to 100 times more potent than morphine and is available in different forms, but most commonly as a "patch" that is worn on the skin. The amount of drug in the patch is designed to be delivered into the bloodstream slowly through the skin, over a three (3) day period. The patch is commonly abused on the street by opioid addicts by sucking on the patch to get the drug into the system quickly – an extremely dangerous method of using Fentanyl and the source of numerous overdoses and deaths.

72. CS said that John Doe1 called CS the following day and asked how he was doing, and also that at some point in time John Doe1 yelled at CS and said the he was never going to give CS a Fentanyl patch again.

73. CS told Detective Jakuttis that at one point during this period of time that John Doe1 and CS were both involved in an undercover DEA directed operation targeting a street level dealer that CS knew. John Doe1 was working in an undercover capacity and CS had introduced John Doe1 as a "friend" to buy some cocaine from the individual.

74. The investigation lasted for several weeks and was focused at CS's apartment in Dracut.

75. CS said that several DEA funded/controlled buys of cocaine had transpired within CS's apartment, and that on one occasion the dealer gave John Doe1 three or four extra free one gram bags of cocaine during a transaction, and that after the dealer left the apartment John Doe1 "motioned" to CS not to speak or say anything (according to CS to avoid being detected by an attached recording device). John Doe1 then showed CS the extra cocaine and took it and placed it in the bathroom over or in the medicine cabinet.

76. CS told Detective Jakuttis that the extra free cocaine was hidden in the bathroom over the medicine cabinet during the event and not submitted as case evidence, and that sometime after the conclusion of that controlled purchase John Doe1 returned to CS's apartment and the two of them consumed the cocaine.

77. CS also recounted several instances where CS had a prescription bottle of Percocet from a medical prescription issued to CS, and that CS would sell the bottle of Percocet (sometimes 20 or 30 pills at a time) to John Doe1 for $5.00 per pill. These transactions occurred in the parking lots of an apartment complex in Dracut, the Heritage Night Club on Pleasant Street, and Brox Industries, in Dracut.

78. CS told Detective Jakuttis that John Doe1 would arrive either in an unmarked police vehicle or in his own personal vehicle, described as possibly a Black Chevy or GMC truck.

79. CS said he would peel the label that had CS's name on it and would then give the bottle to John Doe1 in exchange for the money.

80. On two different occasions during these Percocet prescription transactions CS had different females present in CS's vehicle during the transaction. CS told Detective Jakuttis that both these females recognized John Doe1 and told CS that he was "crazy" to sell drugs to a police officer.

81. Detective Jakuttis, during this January 16, 2015 disclosure of events by CS, asked CS whether or not CS had told anyone, including other law enforcement officers, of all this.

82. CS responded that he had not.

83. Detective Jakuttis then asked why CS had not told John Doe2 (Defendant John Doe2 in this Complaint), as CS was working with Detective John Doe2 in Jakuttis' absence from work.

84. CS replied that he did not trust John Doe2 not to tell John Doe1 and DO3 because CS believed that John Doe2, John Doe1 and DO3 were all friends.

85. Detective Jakuttis asked CS if he was being completely truthful, and CS said "yes," but that he would only tell the information to Detective Jakuttis and nobody else, and that he was afraid of John Doe1 and DO3 and feared for his (CS's) safety if it was revealed.

86. Detective Jakuttis told CS that he would most likely have to tell this information to other officers in the future, and CS said he would think about it.

87. The conversation on January 16, 2015, ended here, and CS exited Detective Jakuttis' vehicle and returned to his own vehicle.

88. Following this discussion with CS, Detective Jakuttis met with the Lowell officer and Detective Jakuttis informed him of the conversation with CS. Detectives Jakuttis and the Lowell officer decided to meet with Detective John Doe2 (Defendant John Doe2) and arrange a formal interview with CS at a later date regarding the allegations he had just made.

89. That formal interview with CS occurred at the CBI office in Lowell, MA, on February 18, 2015, and will be discussed later.

Additional Information Received Beyond Info from CS

90. On January 30, 2015, approximately two weeks after CS revealed the alleged illegal activity of John Doe1 and DO3 and prior to the formal interview of CS in February, Detective Jakuttis was present at the U.S. Attorney's office in Boston on an unrelated matter. This was a "proffer hearing" involving a narcotics distribution defendant, referred to in this Complaint as a Boston Confidential Source, or "BCS".

91. Present at this January 30, 2015 hearing/meeting were an Assistant U.S. Attorney, Special Agent Willoughby of the DEA, Defendant John Doe2 (Mass State Police), Plaintiff Jakuttis, and BCS and his attorney.

92. At this January 30, 2015 meeting at the U.S. Attorney's office, prior to the meeting starting and prior to all persons entering the room, in the room were Special Agent Willoughby, John Doe2 and Detective Jakuttis, all members of the CBI unit in Lowell.

93. Prior to everyone else entering, Detective John Doe2 became visibly aggressive toward Detective Jakuttis, and as Detective Jakuttis took out his notebook and pen or pencil, John Doe2 demanded, in an intimidating manner, that he (John Doe2) be the only person to take notes and no one else needed to record the information. Willoughby, John Doe2 and Jakuttis

are all members of the CBI and John Doe2 did not make this demand on the others when they eventually entered the room.

94. It is normal practice that all present would take notes, but Detective Jakuttis has known John Doe2 since they were young children, and Detective Jakuttis attributed John Doe2's strange reaction as to perhaps John Doe2 having a bad day or some personal problem, and decided not to question him on this, and therefore Detective Jakuttis and Willoughby did not take notes. The Assistant U.S. Attorney and BCS's attorney did take notes, along with John Doe2.

95. Defendant John Doe2 is and was good friends with John Doe1 and DO3, and they regularly associate not only in a working capacity but also socially as a group.

96. During this January 30, 2015 hearing/meeting, BCS reported knowledge of multiple individuals involved in the distribution of narcotics, including a Dracut police officer. He named this officer who happened to be DO3. BCS stated that DO3 was a participant in a variety of criminal activities, including the consumption and sale of illegal narcotics.

97. It was revealed by BCS at this January 30, 2015 meeting that BCS's wife is friends with DO3's wife, and that he (BCS) met DO3 through his (BCS's) wife, and received information from his wife, and that information included DO3 using drugs at a concert in New Hampshire where DO3, BCS and their wives were present, and on one occasion BCS's wife saw a drug deal at DO3's house.

Official "Disclosure" to "Public Body"

98. On or about February 2, 2015, while at a meeting at the CBI office in Lowell, Plaintiff Jakuttis revealed the information that CS had told him approximately two weeks earlier on January 16, 2016. Also discussed at that meeting was the information that was obtained from BCS at the proffer hearing in Boston on January 30, 2015. Present at the CBI office during this meeting on

February 2, 2015, were SA Willoughby, Defendant O'Hanlon[10], Defendant John Doe2 and Plaintiff Jakuttis.

99. As a result of this meeting, it was determined that a formal interview with CS would be conducted at the CBI office. Defendant O'Hanlon at this point ordered all CBI office personnel to "stay away" from the accused Dracut officers (John Doe1 and DO3) and that those accused officers were not to be involved in any future OCDETF cases.[11] O'Hanlon also told the personnel not to even have lunch with the accused officers pending any investigation into the matter. O'Hanlon at this meeting used the term "off limits" in referring to staying away from John Doe1 and DO3, and he was furious that he was allowed to sit at lunch with DO3 several days earlier prior to receiving the information about the BCS proffer hearing and CS's information provided to Plaintiff Jakuttis.

100. Sometime after this February 2, 2015 meeting at the CBI office and being told that John Doe1 and DO3 were "off limits," but prior to the formal interview of CS on February 18, 2015, several officers from the CBI unit went to lunch, including Defendant John Doe2 and Plaintiff Jakuttis. Unbeknownst to Detective Jakuttis, Defendant John Doe2 had invited John Doe1 and DO3 to the lunch. When being seated, John Doe2 gave the number of people to the waitress or hostess and said "we're waiting for two more," and John Doe1 and DO3 arrived shortly thereafter at the lunch after the other officers had already been seated.

101. The lunch was very uncomfortable for the Plaintiff with Defendants John Doe2 and John Doe1 sitting next to each other and glaring at Detective Jakuttis making snide comments to Detective

[10] Defendant O'Hanlon is the DEA agent in charge of the CBI unit of the DEA sitting in Lowell, now in Andover.
[11] OCDETF is the Organized Crime Drug Enforcement Task Force of the DEA.

Jakuttis, including John Doe1 making a comment that Detective Jakuttis would never get a vehicle that was to become available for use.[12]

102. This was the beginning of the retaliation, hostility, intimidation and harassment by the Defendants against Plaintiff Jakuttis for bringing to light the allegations against John Doe1 and DO3, and it would only get worse.

103. Thus, it was only after the Plaintiff revealed the information from CS implicating John Doe1 and DO3 in alleged illegal activity that the harassment, threats, intimidation, coercion and retaliation by the Defendants took root and progressed, which shows the causal connection between the exercise of the free speech and whistle blowing and the retaliatory acts and adverse employment action.

104. The formal interview with CS regarding the allegations against John Doe1 and DO3 by CS took place on February 18, 2015 at the CBI office in Lowell.

105. Present at this Feb. 18, 2015 meeting were SA Willoughby, Defendant John Doe2 and Plaintiff Jakuttis.

106. At the outset of the meeting, Defendant John Doe2 again demanded in an intimidating and hostile manner that he be the only person to record notes of the interview.

107. SA Willoughby and Detective Jakuttis looked across the table at each other looking dumbfounded, as if to say "what's with that again?" and the two shook their heads in disbelief of this strange behavior of Defendant John Doe2.

108. Defendant John Doe2 directly and intentionally controlled the entire interview and its complete record keeping through intense intimidation.

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[12] Detectives often used or were assigned vehicles which were seized in operations and which became available basically as Dracut Police (or Town of Dracut) property. At this time Detective Jakuttis did not have a department provided vehicle and had to use his own personal vehicle for work and operational purposes, and the reference to Jakuttis not getting the vehicle was referring to a seized vehicle that would have been available for Jakuttis to use.

109. This demand of being the only one to take notes of the interview of CS and controlling the interview was a conflict of interest because Defendant John Doe2 knew that a bulk of the information was regarding allegations of his two friends (John Doe1 and DO3) engaging in criminal activity.

110. The February 18, 2015 interview of CS reiterated and formalized the information CS had provided to Detective Jakuttis on January 16, 2015, with substantially the same information as told to Detective Jakuttis, but also revealed additional information regarding the association of John Doe1 with a known area resident with a lengthy criminal record, and that this area resident associates with another local resident (referred hereafter as "Subject 1", or "S1") who has been the subject of numerous local and federal narcotic investigations and who is a suspected high-level narcotics trafficker. The Plaintiff has independent knowledge that the area resident who associates with John Doe1 also associates with DO3.

111. After the February 18, 2015 formal interview of CS, on that same day, Deputy Chartrand was contacted and informed of the information provided by CS, and the Deputy at some point went to the CBI office to discuss the matter. Present at this meeting was Defendant Chartrand, Defendant O'Hanlon, SA Willoughby, Defendant John Doe2 and Plaintiff Jakuttis.

112. During this meeting, it was determined that the information obtained from the January 30, 2015, meeting with BCS and that day's (February 18, 2016) meeting with CS would be gathered and forwarded to the Public Corruption unit of the DEA.

113. A report of the information was generated by John Doe2, who had controlled both interviews of BCS and CS and was the only one among the CBI officers to take any notes by John Doe2's design, and that information was forwarded to the Public Corruption unit of the DEA.

114. Subsequently, in or about May, 2015, information was received by Defendant O'Hanlon that the Public Corruption Unit would not be conducting an investigation of the matter.

115. On March 6, 2015, Detective Jakuttis was ordered to respond to the DPD for a meeting with ICE[13] personnel to discuss Jakuttis' assistance on a case.

116. The meeting mentioned above was to discuss an active narcotics distribution organization involving S1, the person mentioned in paragraph 110 above. At this meeting were Defendant Chartrand, Defendant John Doe1, Plaintiff Jakuttis, and two officers from ICE, a female, "N.L." and male, "J.S."

117. Detective Jakuttis informed the officers at the meeting mentioned in paragraph 116 above that he had been investigating the drug distribution organization for roughly a year and a half and had developed a wealth of knowledge and intelligence regarding that organization.

118. Detective Jakuttis also informed the officers that the investigation was recently put on hold due to his transfer to the CBI unit, but that he brought the case with him when he transferred to the CBI unit and presented it to Defendant John Doe2, who re-opened the case through the federal agency, and that two DEA funded and controlled purchases of narcotics had been completed using a confidential informant previously handled by Detective Jakuttis, and that the investigation had appeared to be developing into a substantial case, but for some unknown reason the case was closed by Defendant John Doe2.

119. At this meeting mentioned above, Detective Jakuttis was instructed by Defendant Chartrand to copy all the case evidence that he had, and to provide copies of the same to Officer N.L. who was going to be re-opening the case at the federal level through ICE.

[13] The federal Immigration and Customs Enforcement agency.

120. During the month of May, 2015, in the late morning, Detective Jakuttis met with Officer N.L. at a location in Dracut, MA, with the purpose of transferring the case documents and to discuss a starting direction for the investigation. The meeting with Officer N.L. was brief, but Detective Jakuttis informed Officer N.L. that the main target, S1, was well known in the area and the owner of a car lot, and known for giving low prices to law enforcement officers, and as a result had many friends and acquaintances who were police officers in local police departments, including Lowell and Dracut.

121. Detective Jakuttis informed Officer N.L. that because of S1's local contacts with law enforcement it would benefit the investigation if she approached it from an out-of-town angle (meaning not involving local officers if possible).

122. Detective Jakuttis, during this meeting with Officer N.L., did not mention any officers' names nor discuss the contents of the packet with Officer N.L..

123. In or about May, 2015, Defendant Chartrand met with or spoke to a member of the FBI regarding the information on John Doe1 and DO3 which was revealed in the interviews of BCS and CS, and Chartrand revealed that the FBI agent informed him that the FBI would assist Dracut in any investigation, but for some unknown reason the FBI would not conduct their own investigation. No investigation was undertaken by Chartrand.

124. From this point on, Detective Jakuttis did not receive any official information regarding the status of any investigation, or of any type of administrative follow-up, regarding the allegations against John Doe1 and DO3, other than being told there would be no investigation.

125. Sometime in June, 2015, Detective Jakuttis and Officers N.L. and J.S. (the two officers taking over the investigation of the distribution ring involving S1) met in the parking lot of the CBI in

Lowell so that Detective Jakuttis could answer a few questions regarding the received intelligence package Jakuttis turned over relative to that investigation.

126. In this parking lot meeting, Officer N.L. was seeking assistance from the Dracut police in identifying an unknown male that had been seen with the case target (S1).

127. Detective Jakuttis reminded Officer N.L. that S1 had friends/associates within the local law enforcement world, and that it was not sound to involve them on any level. Again, no specific names were given by Detective Jakuttis regarding S1's "friends/associates" in the area law enforcement field. The Plaintiff's goal was to prevent the investigation being compromised in the event that one of the law enforcement officers with a relationship or friendship (whether past or present) with S1 got involved to the point where S1 would be tipped off either inadvertently or intentionally. Additionally, the Plaintiff was trying to avoid any difficulty for the law enforcement personnel who have a relationship with S1, including John Doe1, DO3, and another law enforcement officer, by not revealing the names of those individuals but just telling officer N.L. to use an out-of-town angle.

128. Officer N.L. agreed and said she would use other means to try to identify the male individual.

129. In the information packet, there was also information regarding an Asian female who was an identified associate with the criminal organization being investigated. She functioned as a money supplier for the members of the group, and she had a dating relationship with Defendant John Doe1 in the past.

130. Officer N.L. had specific questions regarding this female, and Detective Jakuttis answered her questions and the dating relationship with "a Dracut police officer" was discussed, but Defendant John Doe1 was not named specifically by Detective Jakuttis as that officer, just that it was a Dracut Police officer.

131. When the meeting with N.L. and J.S. was ending, Defendant John Doe2 exited the CBI location and saw Detective Jakuttis, and Officers N.L. and J.S., but didn't engage them in any conversation, and drove off in his vehicle glaring at them.

132. Two days after this June, 2015, meeting in the CBI parking lot, Officer N.L. called Detective Jakuttis and told him that Defendant John Doe2 had spoken with her and was basically interrogating her regarding the meeting. She also stated that she felt very uncomfortable and was wondering what John Doe2's problem was.

133. Several days later, while in the CBI office, Defendant John Doe2 was aggressive, intimidating and overbearing and began to interrogate Detective Jakuttis about the meeting in the parking lot, just as he had "interrogated" Officer N.L.

134. Detective Jakuttis felt threatened and intimidated and attempted to avoided this confrontation by electing not to discuss anything, not knowing if Defendant John Doe2 would become upset and report back to his friend, John Doe1, that there was an investigation into S1 which included the mention of a relationship between the Asian woman and "someone in the police department," which Detective Jakuttis knew John Doe1 would know that "someone" was he.

135. The glares and staring and aggressive attitude and behavior from Defendant John Doe2 toward Detective Jakuttis continued to escalate and began to cause a great deal of stress and anxiety for Detective Jakuttis.

136. On July 10, 2015, Defendant John Doe2 contacted Detective Jakuttis on his cell phone and began to yell and swear at him, accusing Detective Jakuttis of telling Officer N.L. that John Doe1 and DO3 were "dirty cops and couldn't be trusted." Defendant John Doe2 told Detective Jakuttis that he learned this from a "friend" who worked with Officer N.L.

137. During this phone call from Defendant John Doe2, Detective Jakuttis was on a field investigation and told John Doe2 that he would have to talk to him later, and the phone call ended.

138. Later that evening Detective Jakuttis called Defendant John Doe2 and the two agreed to meet the following day at the CBI office to discuss Defendant John Doe2's issues.

139. At a later date, Detective Jakuttis was told by two CBI officers that the July 10, 2015, phone call from Defendant John Doe2 to Detective Jakuttis was made from the CBI office, and that before or after he made the call, Defendant John Doe2 was yelling obscenities and swearing regarding Detective Jakuttis and that he also punched a file cabinet.

140. On July 11, 2015, Detective Jakuttis and Defendant John Doe2 met at the CBI office for what Detective Jakuttis thought would be a conversation to perhaps clear the air and resolve any issues that Defendant John Doe2 may be having with Detective Jakuttis' role and function in exposing the possibility of more corruption in the Dracut Police Department, but this meeting actually turned into a two-hour interrogation by Defendant John Doe2 of Detective Jakuttis.

141. During this July 11, 2015, "interrogation" of Detective Jakuttis, Defendant John Doe2 was loud, aggressive, intimidating, threatening and hostile toward Detective Jakuttis, and at one point the stress and pressure from Defendant John Doe2 caused Detective Jakuttis to break down in tears.

142. On two occasions during this interrogation, Defendant John Doe2 threatened and intimidated Detective Jakuttis by saying on two separate times: "I don't believe you, I'm going to the boss and have you kicked out of here." He then called Detective Jakuttis a "rat" and said he was going to have Officers N.L. and J.S. ordered to the office to meet with the O'Hanlon (Defendant) to find out more about the meeting in parking lot between Jakuttis, N.L. and J.S.

143. Also during this July 11, 2015, interrogation, Defendant John Doe2 informed Detective Jakuttis that he (John Doe2) had spoken with Deputy Chartrand (Defendant Chartrand) and John Doe1 and that they informed him (John Doe2) that there would be no investigation into the allegations from CS.

144. Detective Jakuttis then told Defendant John Doe2 that if he felt the need to go to the boss (O'Hanlon) then "so be it," but that he (Jakuttis) hadn't done anything wrong.

145. From this point forward, besides being hostile, intimidating and threatening toward Detective Jakuttis, Defendant John Doe2 also began to discredit Detective Jakuttis and his ongoing investigations.

146. On August 6, 2015, at approximately 10:45 a.m., Detective Jakuttis met with Defendant O'Hanlon at the CBI office in Lowell. A conversation took place relative to the parking lot meeting between Jakuttis, N.L. and J.S., and Detective Jakuttis explained that he was asked to provide more information regarding the investigation N.L. and J.S. were handling, and that he didn't feel the need to inform Defendant John Doe2 of such, particularly where it may place Defendant John Doe2 in a difficult or compromising positon because of John Doe2's friendship with John Doe1 and DO3 and their potential relationship with the target and others in the investigation.

147. Defendant O'Hanlon informed Detective Jakuttis that in the future if Detective Jakuttis was going to be meeting with other agencies that he (O'Hanlon) was to be informed of any such meetings in advance. Detective Jakuttis agreed.

148. At this point, Detective Jakuttis explained to Defendant O'Hanlon about the harassment, threats and intimidation he was receiving for the past several months from Defendant John Doe2.

149. Defendant O'Hanlon's response was simply, "try to get along."

150. A few days later Defendant John Doe2 was again harassing and intimidating Detective Jakuttis by asking him if he had been in touch with CS recently. Detective Jakuttis responded "no," and Defendant John Doe2 called Jakuttis a liar.

151. It is not common practice for agents working on cases to inform each other of every single angle they were working on or each and every conversation in minute detail, just to inform each other regarding pertinent conversations or developments as the particular case progresses.

152. On August 19, 2015, at approximately 2:00 p.m., there was a meeting at the CBI in Lowell, in Defendant O'Hanlon's office, to discuss again Defendant John Doe2's issue that he wasn't invited to the meeting with Jakuttis, N.L. and J.S. at the CBI parking lot. Present in this meeting were Detective Jakuttis, Defendants John Doe2 and O'Hanlon, and another agent, Glen Coletti.

153. During this meeting, Detective Jakuttis explained that Defendant John Doe2 had been harassing him for approximately six months, and that it has to do with the allegations against John Doe2's friends, John Doe1 and DO3.

154. Detective Jakuttis also complained in this meeting that Defendant John Doe2 had directly threatened him on two occasions by calling him (Jakuttis) a "rat" and that he would "go to the boss and have him kicked out of the unit."

155. At this point, after Detective Jakuttis complained about the harassment from John Doe2, Defendant John Doe2 started swearing and calling Jakuttis a liar and sprang from his chair and continued swearing as he headed toward the office door.

156. Defendant O'Hanlon directed John Doe2 to calm down and return to his seat, and as he was returning to his seat Defendant John Doe2 called Detective Jakuttis a "fucking liar."

157. As the meeting continued, Defendant John Doe2 seemed to calm down a bit and Defendant O'Hanlon just said for Jakuttis and John Doe2 to "get along" from that point forward. Defendant John Doe2 reluctantly shook Detective Jakuttis' hand with John Doe2 having a threatening and intimidating look on his face sneering at Jakuttis.

158. Following this meeting, Defendant John Doe2 continued to treat Detective Jakuttis with distain and would avoid answering questions or answer with quick curt answers and would often give intimidating and threatening glares and stares at Detective Jakuttis, instilling a great deal of stress, tension, anxiety and fear into Detective Jakuttis.

159. Despite Defendant John Doe2's efforts to interfere with Detective Jakuttis' position within the CBI unit and to get him removed therefrom, Detective Jakuttis was appointed as a "funded"[14] member of the CBI unit.

160. To memorialize this appointment as a funded member of the CBI unit, on August 24, 2015, a two-year contract was executed between the DEA and the DPD, with Plaintiff Jakuttis being the beneficiary of this contractual arrangement as the DPD officer assigned to the DEA task force.

The Haverhill Incident

161. It is not uncommon for there to be overlap with suspects or targets of criminal activity being involved with more than one criminal group, with each group being investigated by different law enforcement teams.

[14] The difference between a "funded" position in the CBI and a "non-funded" is that as a funded member Detective Jakuttis was paid overtime up to approximately $18,000.00 per year from the DEA for his work on the unit beyond his base salary that was paid by the Dracut Police Department. Although as a "non-funded" member he would have a gas card and be allowed some expenses, his duties were limited to a specific case that he was chosen to work on and was not eligible for general overtime from the DEA. As a "funded" member of the CBI unit, beside the overtime he could receive, he would have general responsibilities within the CBI unit and was not limited to a particular case, and had expanded duties and responsibilities.

162. It is also common for a suspect or target of one investigation, because of this overlap, to be arrested by a different investigative unit investigating a different criminal element or organization.

163. This overlap did in fact occur on or about October 6, 2015, with Detective Jakuttis being a member of one CBI team and Defendant John Doe2 being a member of a different team, investigating different groups.

164. This event of October 6, 2015, occurred in the town of Haverhill. Detective Jakuttis was working with a particular CBI officer, and during a mobile/stationary surveillance[15] Detective Jakuttis and his partner for this surveillance followed a vehicle within Haverhill, MA, and the other officer determined that the two should approach the suspect vehicle when the occupants got out. They did, and an arrest of two individuals for violations of the Controlled Substance Act occurred, with Detective Jakuttis participating in the arrest.

165. While the other officer was taking one of the arrestees to the Haverhill Police Department, Detective Jakuttis remained at the location awaiting a narcotics detection dog.

166. While waiting, a crowd of citizens had gathered watching the events.

167. With the crowd present, several other units/officers had arrived, including officers from the Haverhill Police Department, the Essex Sherriff Department, Defendant O'Hanlon and Defendant John Doe2.

168. When Defendant John Doe2 arrived he immediately ran over to where Detective Jakuttis was and began to shout and swear at him loudly because apparently one of the individuals arrested was the target of an active case of Defendant John Doe2.

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[15] "Mobile/Stationary" surveillance is where the officers may be in a vehicle watching a location and someone is exiting a building or location and leaves, or someone arrives at the location and then leaves, and the officers then leave the location to follow.

169. The arrest of one of Defendant John Doe2's case suspects was not intended to interfere with Defendant John Doe2's case and was done without Detective Jakuttis' knowledge that the suspect was one of Defendant John Doe2's targets.

170. While Defendant John Doe2 was in the middle of this uncalled for and irrational tirade and outrageous display of contempt for Detective Jakuttis in view of the general public and Defendant O'Hanlon, O'Hanlon just stood by and said nothing, allowing John Doe2's tirade to continue, and with deliberate indifference overtly condoned and encouraged such harassment and intimidation of the Plaintiff by John Doe2.

171. Defendant John Doe2's public tirade included going back and forth from the suspects' vehicle to where Detective Jakuttis was standing, all the while swearing and berating Detective Jakuttis with Defendant O'Hanlon acquiescently standing by watching the enraged and out of control John Doe2 in silence.

172. When the officers, including Defendant O'Hanlon and Detective Jakuttis, arrived at the Haverhill Police Department for booking of the arrestees, Detective Jakuttis approached Defendant O'Hanlon in an attempt to discuss Defendant John Doe2's behavior, and O'Hanlon rebuffed Detective Jakuttis in a dismissive manner.

173. Defendant John Doe2's actions against Detective Jakuttis were clearly extreme and outrageous conduct, intentional, malicious, willful and wanton, and in bad faith, as was all other retaliatory and harassing, intimidating and threatening actions of Defendant John Doe2 against Detective Jakuttis, and was intended to cause harm to Detective Jakuttis and did cause harm. The reason for the hostility, intimidation, harassment, coercion, threats and other abusive treatment by John Doe2 was because Plaintiff Jakuttis revealed the alleged illegal activity of John Doe2's friends (John Doe1 and DO3).

The Vehicle Incident

174. As being assigned to an investigative unit of the DEA, individuals are mandated to be supplied a vehicle from their supporting department (in this case, the Dracut Police Department) for official business use.

175. Although Detective Jakuttis was initially assigned a vehicle from the DPD after being assigned to the DEA, that vehicle became non-functional in September of 2014, and from that point on Detective Jakuttis was using his own personal vehicle for work purposes, riding with other officers, or borrowing vehicles from other agencies, such as the Lowell Police Department, Middlesex County Sherriff's Department or State Police.

176. Finally, on October 15, 2015, after approximately one year of using his own vehicle and after John Doe1 had made comments that Detective Jakuttis wouldn't get a vehicle (at the lunch, mentioned previously), and after the harassment, threats and intimidation of Detective Jakuttis had been ongoing, a vehicle was finally provided to Detective Jakuttis.

177. This vehicle was provided by Defendant John Doe1, and was further retaliation, intimidation and harassment against Detective Jakuttis because of the condition of the vehicle.

178. The vehicle was issued and "checked over" by Defendant John Doe1. The then Chief of Police, Kevin Richardson, told Detective Jakuttis that John Doe1 had checked over the vehicle and told the Chief that the vehicle "was in good condition."

179. Upon receipt of the vehicle, Detective Jakuttis discovered that the vehicle was in anything but "good condition." It had extremely high mileage, and a plethora of mechanical issues.

180. The tires of the vehicle were all unserviceable with barely any tread, making the vehicle actually dangerous to drive.

181. The vehicle shook and rattled as if it had been in a collision.

182. The vehicle reeked of urine.

183. The vehicle had a family of field mice living within the interior.

184. The fact that Defendant John Doe1 provided this vehicle in the condition it was to Detective Jakuttis and told the Chief that it was in "good condition," is clearly extreme and outrageous conduct and was intentional, malicious, willful and wanton, and in bad faith, as was all other retaliatory and harassing, intimidating and threatening actions that Defendant John Doe1 took against Detective Jakuttis, all for the purpose of retaliating against and punishing Plaintiff Jakuttis for revealing the information provided by CS regarding the alleged illegal activity of John Doe1 and DO3.

Plaintiff Jakuttis Removed from DEA (John Doe2's and O'Hanlon's Actions)

185. Defendant John Doe2 ultimately accomplished his goal of getting the Plaintiff removed from the CBI in retaliation for the Plaintiff being what Defendant John Doe2 viewed as "a rat."

186. On or about October 20, 2015, Wednesday, at approximately 4:30 p.m., Detective Jakuttis received a call on his cellular phone from Defendant O'Hanlon.

187. Defendant O'Hanlon told Detective Jakuttis that he "wasn't working out and would no longer be a task force officer."

188. Detective Jakuttis then asked Defendant O'Hanlon why he was doing something like this over the telephone and not in person, and Detective Jakuttis also asked him for the "reasons" for this action being taken against him.

189. Defendant O'Hanlon said "it's just not working out," and then discussed the relationship between Detective Jakuttis and Defendant John Doe2.

190. Defendant O'Hanlon also said "You're just a victim of circumstance, but something has to be done."

191. Defendant O'Hanlon also told Defective Jakuttis that his (Jakuttis') work ethic and productivity were "outstanding and excellent" and that was "most certainly not part of the reason for his decision."

192. Defendant O'Hanlon ended the conversation by saying "you can call me an asshole if you want, but [John Doe2] has to be treated with kid gloves," and also said "I have no idea what he's capable of."

193. Defendant O'Hanlon then said "if you could turn in your identification and gas card and get all of your things out of the office by Friday, that would be good."

194. Defendant O'Hanlon's removal of the Plaintiff from the CBI unit was done in concert with and in conspiracy with the demands, wishes or requests of Defendant John Doe2 to retaliate against Jakuttis for bringing to light possible serious corruption and criminal activity within the Dracut Police Department, and the need to appease and placate an out of control state trooper (Defendant John Doe2) who was friends of those Dracut officers accused of corruption and illegal activity, and to avoid the embarrassment and difficulty of dealing with serous possible police corruption within cooperating law enforcement units, all at the expense of failing to protect the public by sacrificing the one person doing the right and moral thing as a citizen - the Plaintiff.

195. It was out of his moral and civic duty that detective Jakuttis revealed the information he obtained from CS, not out of any desire to open an investigation for his own workload or that of the CBI.

196. Defendant O'Hanlon encouraged Defendant John Doe2 in John Doe2's harassment and retaliation against Detective Jakuttis by his blatant silence, passive attitude and deliberate indifference with all of Defendant John Doe2's retaliatory actions against Detective Jakuttis,

205. Defendant O'Hanlon informed Defendant Chartrand that Detective Jakuttis was no longer going to be working with the CBI unit of the DEA, and Defendant Chartrand subsequently told Detective Jakuttis to take a couple of weeks off till they could "figure out what to do."

206. Detective Jakuttis took a couple of weeks off, and would soon find out what that "what to do" would be.

Plaintiff Demoted to Patrol, Not Allowed to be Detective (John Doe1's and Chartrand's Actions)

207. When discussions took place between Detective Jakuttis and Defendant Chartrand regarding returning to work after taking a couple of weeks off, Defendant Chartrand told Detective Jakuttis that he could not put him back on as a detective in the detective unit because "[John Doe1] doesn't want you there," but that he (Jakuttis) could return to patrol.

208. Defendant Chartrand also said (regarding John Doe1) that "he's been here for me for ten years and I can't kick sand in his face."

209. This action constitutes a conspiracy between Defendant Chartrand and John Doe1, at a minimum, and also DO3 and Defendant John Doe2, to retaliate against and punish the Plaintiff for exercising his free speech rights and whistleblower rights in exposing the potential corruption and illegal activity within the already troubled Dracut Police Department.

210. Being removed from the CBI and being told that he would not be able to return as a detective on the DPD was devastating to Detective Jakuttis.

211. Being removed from the CBI and being told that he would not be able to return as a detective for the DPD, both together and separately, caused a great deal of emotional distress and harm to Detective Jakuttis, and as a result the Plaintiff was and is unable to return to work at the DPD because of the harassments, intimidation, threats, coercion, retaliation, and otherwise because of the unlawful treatment of the Plaintiff because of his exercising his free speech rights and

whistleblower activities, and the physical and emotional harm and fear that he suffered and continues to suffer as a result of the acts of all the Defendants.

212. The Defendants actions were the proximate cause of the Plaintiff losing his position with the DEA; losing his status and position as a detective with the DPD; suffering retaliatory threats, intimidation, coercion, harassment and aggression; and has caused Plaintiff Jakuttis to suffer, among other things: high blood pressure, headaches, stress, anxiety, insomnia, bruxism (excessive grinding of the teeth), sadness, depression, loss of self-esteem, loss of ability to concentrate, loss of appetite, fear, loss of sexual desire, decreased libido, humiliation and loss of income, past and future.

213. Being told that he could only return as a patrol officer after being a detective for almost ten years, was also an attempt by the Defendants to discredit Detective Jakuttis as far as the allegations he facilitated bring forward against John Doe1 and DO3. Being "demoted" to patrol would make it look like the department did not take Detective Jakuttis' allegations or revelations of allegations from CS as credible, and also functioned as an inhibition on the free speech of the Plaintiff and of others.

214. Showing other employees what happened to Detective Jakuttis (removal from the DEA and demotion to patrol) for doing the right thing (exposing fellow officers alleged criminal and corrupt actions) would have a chilling effect on other law abiding and ethical officers or employees within the Dracut Police Department by placing fear and intimidation into their minds if they stood up for what was right.

215. The actions taken against Detective Jakuttis by the Defendants tells those who would exercise their free speech rights or perform whistleblowing functions that they do so at their peril.

216. The return to patrol may or may not have had an effect on the base pay of Detective Jakuttis, but it was nevertheless an adverse employment action.

217. Being a detective on the police force is in fact a higher level of employment, status, responsibility, esteem, and qualification than that of a patrol officer, regardless of whether or not there is a pay increase or differential, and whether or not there is an official "rank" difference.

218. The difference in status is that in the law enforcement world being a detective is in fact looked upon by law enforcement employees as an increase grade, level, position or otherwise a higher status within the law enforcement community in general, and generally garners greater respect from others in the law enforcement field than that of a patrol officer.

219. The difference in responsibility is that being a detective, regardless of any pay difference or official computer listed "rank," affords greater privileges, power and responsibilities than a patrolman.

220. For example, as far as responsibility, if a detective arrives upon a crime scene, and present at the scene are patrol officers, the detective will be the one who takes the lead and has greater authority as to the conduct of the on-scene investigation.

221. In fact, even if there is a higher-ranking police officer, such as a Deputy Chief or even the Police Chief himself, at a crime scene, if there is a detective "on scene" generally the detective will have command of the investigation, even over the Chief.

222. As far as esteem, generally in the civilian community, as well as the law enforcement community, a detective garners more esteem than patrolmen.

223. As far as qualifications, a detective has greater training and greater experience in handling a crime scene and is in a better position to take charge of the investigation of any crime scene and other investigatory functions within the police department.

224. As far as Detective Jakuttis' qualifications as a detective, he was ***the most*** qualified and experienced detective on the Dracut Police Department regarding violations of the Controlled Substance Act and narcotics diversion, and the refusal to allow Detective Jakuttis to return as a detective on the Dracut Police not only didn't make sense from an administrative standpoint, it caused decreased public safety because a much less qualified individual was placed in the detective bureau rather than Detective Jakuttis.

225. Defendant Chartrand has known that the emotional distress and physical ailments that the Plaintiff has been suffering is a result of his removal from the CBI and subsequent denial of being able to continue as a detective on the DPD.

226. Despite Chartrand knowing that the cause of the Plaintiff's current psychological and physical ailments is because of the adverse employment actions taken against him, the Plaintiff was not allowed to return as a detective, and would not have been allowed to return as a detective even if he did not have such ailments because of John Doe1's demand to Defendant Chartrand that the Plaintiff not be allowed to continue as a detective.

227. Despite knowing that not being allowed to be a detective was a contributing factor to the Plaintiff's ailments, Defendant Chartrand went forward and filled a position in the detective unit of the DPD with a much less qualified individual, rather than allowing the Plaintiff to return as a detective or offering him the opportunity to continue as a detective.

228. Also, the ability to earn overtime as a detective is not as limited as the ability of a patrolman to earn overtime and the potential for income was greatly reduced by Detective Jakuttis being prevented from returning as a detective.

229. The degree of harm suffered by Detective Jakuttis is elevated and enhanced because it comes as a result of his desire to do what any citizen would want to do if they came upon the

information that Detective Jakuttis did – expose illegal and corrupt actions involving narcotics and law enforcement personnel, perpetrated by the very people charged with protecting the public by preventing that very same conduct. Such exposure was for the purpose of protecting the public and enhancing public safety.

230. The public safety in jeopardy was police officers performing their civic duty while under the influence of illegal and dangerous narcotics; encouragement of illegal activity of narcotic dealers by the very people who should be preventing such activity; and police officers facilitating the arrival of illegal drugs on the streets of the community, a community already riddled with narcotic overdoses and deaths from illegal use and distribution of narcotics and other controlled substances.

231. Yet the unlawful harassment, intimidation and retaliation against Detective Jakuttis did not stop with his termination from the DEA position and his demotion to patrol, nor was such harassment, intimidation, threats and coercion limited to Detective Jakuttis himself.

232. During the month of November, 2015, after taking the time off when demoted to patrol, Plaintiff Jakuttis visited a friend who lives in Dracut. This friend happens to be a detective in the Dracut Police Department.

233. At some point during the time spent with his friend, Plaintiff Jakuttis was informed by his friend that Defendant John Doe2, Defendant John Doe1, and DO3 all contacted the friend, either by phone call or phone text, sequentially and almost immediately after each other, to question him as to why he was with the Plaintiff, Jakuttis, and to chastise and harass him for associating with the Plaintiff.

234. This friend told Plaintiff Jakuttis that the three (John Doe2, John Doe1 and DO3) all asked the same type of questions and made various negative comments regarding the friend associating with Jakuttis.

235. For several days following the phone call, DO3 directly harassed and intimidated the friend for his association with Plaintiff Jakuttis, and it got to such an intolerable level that the friend lodged a verbal harassment complaint with Defendant Chartrand for DO3's harassment for associating with Plaintiff Jakuttis.

COUNT I – First Amendment, Free Speech
(42 U.S.C., § 1983 – Plaintiff J. Jakuttis v. All Defendants,)
(alternatively, a *Bivens* Action for Federal Agent Defendant O'Hanlon)

236. The Plaintiff reasserts and re-alleges the allegations in Paragraphs 1 through 235 above, inclusive, and incorporate the same herein by reference as if fully set forth in this paragraph.

237. At all times material to this Complaint, Defendants Chartrand, John Doe1, John Doe2 and O'Hanlon, were "persons" within the meaning of 42 U.S.C., § 1983, as was the Town of Dracut (a *Monell* claim).[16]

238. At all times material to this Complaint the Defendants were acting under color of state law.

239. The Defendants have deprived the Plaintiff, Joseph Jakuttis, of his rights secured by the Constitution and laws of the United States.

42 U.S.C., § 1983 Claim Against Federal Defendant – O'Hanlon

[16] Monell v. Dept. of Soc. Servs., 436 U.S. 658, 701(1978) ("[A]bsent a clear statement in the legislative history supporting the conclusion that § 1 was not to apply to the official acts of a municipal corporation—which simply is not present—there is no justification for excluding municipalities from the 'persons' covered by § 1.").

240. Notwithstanding a potential *Bivens*[17] claim against the federal defendant (O'Hanlon), the Plaintiff alleges facts below which allow a 42 U.S.C., § 1983 claim against Defendant O'Hanlon for violations of the Plaintiff's First Amendment free speech rights, applicable to the states through the Fourteenth Amendment, even though he is a federal agent.

241. At all times material to this Complaint, notwithstanding that he was a federal agent, O'Hanlon was working directly with the Massachusetts State Police; one or more Massachusetts State Police officers (Defendant John Doe2); the Town of Dracut; one or more Town of Dracut police officers (Plaintiff Jakuttis); and various other local police agencies including the Haverhill and Lowell, Massachusetts police, and the Essex County Sherriff's Department.

242. Such concerted work mentioned in the preceding paragraph was through the work of the CBI unit, run under the auspices of the DEA but in full cooperation and concerted efforts and work with the State of Massachusetts and its political subdivisions and their law enforcement employees.

243. The state, through its employee, Defendant John Doe2, had a great deal of control and influence over the workings within the CBI, and the state played an integral role in the operations of the CBI through Defendant John Doe2, as did the Town of Dracut through its employee, Plaintiff Jakuttis, as well as other local town or city police departments and their respective employees working with the CBI unit of the DEA.

244. It can be said that the CBI unit was even more of a local or state operation because of the extensive involvement of state and local law enforcement officers and the use of state prosecutors for many of the arrests effectuated through the CBI.

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[17] Bivens v. Six Unknown Fed. Narcotics Agents, 403 U.S. 388 (1971). There is no adequate federal statutory remedial scheme available to the Plaintiff under the Federal Civil Services laws because the Plaintiff was not a civil service employee, so a *Bivens* action would be appropriate if no "state action" is found for Defendant O'Hanlon.

245. The violation of the Plaintiff's rights was a joint product of the exercise of state power and federal power, but the functions, actions, operations and control of the federal agent and federal agency unit (CBI) were so inextricably intertwined that the two cannot be separated for purposes of 42 U.S.C., § 1983.

246. The actions of Defendant O'Hanlon can be said to be that of the State because of (1) the nature of the operations of the CBI in relation to state crimes, (2) the symbiotic, extensive and melded operational entanglement with the state, (3) the state's influence and direction by Defendant John Doe2, Plaintiff Jakuttis, and other local police department employees, and (4) local and state implications of the speech in question (the allegations of corruption and illegal activity of local police).

247. There is nothing to make the actions or operations that O'Hanlon was involved in even close to a purely or primarily federal operation. State and Local law enforcement officers had a primary role in the day-to-day ground work, with O'Hanlon overseeing from a somewhat administrative perspective.

248. O'Hanlon's capitulating to Defendant John Doe2's desire to have Plaintiff Jakuttis removed from the CBI, despite Jakuttis' outstanding job performance as articulated by O'Hanlon, and the knowledge that such a desire by John Doe2 was to silence the Plaintiff and punish him in retaliation for exposing John Doe2's friends' alleged illegal conduct, renders O'Hanlon's termination of the Plaintiff's position with the CBI and his deliberate indifference to the harassment, intimidations, threats and retaliation by John Doe2, as joint action with the state (Defendant John Doe2) in the violation of the Plaintiff's rights and, thus, actionable under 42 U.S.C., § 1983.

249. By the acts and means alleged above, the Defendant, O'Hanlon, has violated the Plaintiff's First Amendment Rights of Free Speech and has caused the Plaintiff harm, as more fully described below.

250. If there is no liability for O'Hanlon under 42 U.S.C., § 1983 because he is determined not to be a state actor for such purposes, then liability still lies with a *Bivens* claim.

42 U.S.C., § 1983 Claim Against Town of Dracut - *Monell* Claim

251. At all times material to this Complaint, the Defendant, Town of Dracut, had a policy, custom or practice of inhibiting constitutionally protected speech, and which policy, custom or practice caused the Defendants to violate the Plaintiff's free speech rights, resulting in harm to the Plaintiff.

252. At all times material to this Complaint the Defendant, Town of Dracut, was the employer of the Defendants David Chartrand and John Doe1, and Plaintiff Jakuttis.

253. At all times material to this Complaint, Defendant Chartrand was the de-facto Chief of Police as far as day-to-day operations and management decisions, including policy and procedure decisions, and was in fact the policy maker for the Dracut Police Department.

254. That Defendant Chartrand was the de-facto policy maker for the Dracut Police is evidenced in the MRI report (referenced in paragraph 39 above).

255. That MRI report found the following: (a) the deputy chief was the principal force behind the day-to-day operations of the department; (b) there was a delegation of duties and responsibilities as well as policies and procedures; (c) the chief abrogated many of his responsibilities to the deputy chief (Defendant Chartrand) and that Chartrand's duties thus included in addition to the above: internal affairs investigations and complaints; communications; investigations; budgeting; staffing; performance reviews.

256. That MRI report found that because of all the duties Defendant Chartrand had, revisions of policies and procedures lagged. If they lagged because of Chartrand's workload, he obviously had policy and procedure making responsibilities in the first place.

257. The MRI report also found that internal affairs cases "lagged."

258. Defendant Chartrand was the final policy maker for purposes of the Police Department and its operations.

259. A single decision of a final policy maker can give rise to city and town liability for a policy, custom or usage claim (a *Monell* claim) under 42 U.S.C., § 1983.

260. The Plaintiff's state and federal constitutional rights of free speech were violated because of a policy, custom or practice of not properly investigating complaints about internal police corruption, and by being punished and retaliated against for bringing forward allegations of further police corruption and illegal activity.

261. It was the actions and inactions of the final policy maker, Defendant Chartrand, which was a major cause of the violations of the Plaintiff's free speech rights by Chartrand himself and others.

262. The MRI report also found training opportunities are "very limited."

263. There was a failure to train employees, including Defendant Chartrand himself, of the rights of employees as public employees to exercise their rights of free speech as it relates to matters outside their normal job duties and of public concern, and the failure to train was deliberate indifference to the specific risk that free speech of the public employees would be infringed by the unlawful suppression thereof.

264. This failure to train also caused the violation of the Plaintiff's free speech rights.

265. The policy, customs, practice and procedures of the Town of Dracut directly and proximately caused the Plaintiff's constitutional rights to be interfered with by Defendant Chartrand and Defendant John Doe1 by the retaliatory actions and adverse employment action taken against the Plaintiff.

Section 1983 – All Defendants

266. By the acts and means alleged above, all the Defendants have unlawfully infringed upon the Plaintiff, Joseph Jakuttis', free speech rights as secured by the First Amendment to the United States Constitution, made applicable to the State of Massachusetts through the Fourteenth Amendment to the United States Constitution.

267. The speech which the Plaintiff claims was protected was his revealing information that he received from a confidential source (CS) regarding alleged illegal activity of fellow police officers (John Doe1 and DO3).

268. Said illegal activity includes the illegal use of narcotics and distribution of narcotics within the community and the association of police officers with illegal narcotic drug traffickers and/or dealers in the Dracut, Massachusetts area, outside of lawful undercover work.

269. The speech to which the Plaintiff claims is protected was not speech which was part of his normal job duties.

270. The speech to which the Plaintiff claims is protected was citizen speech.

271. The speech to which the Plaintiff claims is protected was acquired by virtue of his employment with the Town of Dracut and the DEA, but such fact does not transform that speech into employee speech rather than citizen speech. Lane v. Franks, U.S. Supreme Court, No. 13–483, slip op. at 10 (June 19,2014).

272. Revealing potential corruption and illegal activity within the Dracut Police Department was not ordinarily within the scope of the Plaintiff's job duties.

273. The ordinary scope of the Plaintiff's job duties was to investigate, reveal, prevent and prosecute (through arrest) the illegal use and sale of narcotics and other controlled substance activity within the community committed by citizens.

274. Only upon special commission or direction by his employer to investigate internal corruption and illegal activity within the police department could the Plaintiff's activities and speech in this case be seen as part of his ordinary job duties. There was no such commission or direction.

275. When the Plaintiff was assigned the task of investigating the theft of the marijuana from the Dracut Police evidence trailer, that could reasonably be seen as part of the Plaintiff's ordinary job duties, but that commission and assignment was over and ceased when the Plaintiff went out on disability in 2006 and when the investigation was officially closed, and that investigation has long been over.

276. The Plaintiff's speech infringement was by way of the adverse employment action, harassment, threats, intimidation and coercion because the Plaintiff revealed the allegations against Defendant John Doe1 and DO3 made by a confidential source (CS). The CS revealed the information containing allegations of illegal activity of John Doe1 and DO3 in an "off-the-cuff" discussion that had nothing to do with the actual undercover operation in which CS and the Plaintiff were engaged when that information was revealed.

277. The Plaintiff's receipt, obtaining, gathering, and revelation of the speech in this case (the information provided by CS) was not commissioned by or paid by the employer or employees of the employer, but was an inadvertent obtaining of such information by the Plaintiff.

278. Publishing the information can be by verbal publication and does not need to be in writing.

279. There is a citizen analog to the publication of such information. The citizen analog is that if a citizen had information regarding illegal drug activity and corruption of a local police department, the citizen would naturally turn to a federal agency such as the DEA, which is where the Plaintiff in this case first went. In fact, there *is* a citizen analog which happened, to wit, CS informing the Plaintiff, a task force officer for the DEA in the CBI unit. When the Plaintiff revealed this information, he was no less a citizen than CS in bringing the information forward.

280. In this case, a citizen would be even more likely to go to a federal agency rather than the Dracut Police itself because of past corruption which went largely unpunished (the theft of tens of thousands of dollars of marijuana most likely involving police officers), which was largely publicized in the local press and was the subject of much local talk.

281. Buttressing the characterization of the Plaintiff revealing the information CS gave him as "citizen speech" is that the Plaintiff did not do what he normally would do under his ordinary job duties when obtaining and revealing the information in this case.

282. If he was performing his normal job duties, the Plaintiff would have opened his own investigation and begin interviewing people or contacting other informants or begin to arrange for some kind of undercover work to find out more information about the alleged illegal activity of John Doe1 and DO3. The Plaintiff did not do that, he published the information to the DEA for processing outside the normal chain of command.

283. Any further investigation into the matter was set in motion by persons other than the Plaintiff – it was sent to the Public Corruption Unit of the DEA, outside of the normal chain of command within the Dracut Police Department and outside the responsibilities of the Plaintiff, which he would have participated in if it was part of his normal job duties.

284. Besides being citizen speech, the speech clearly touched upon a matter of public concern.

285. Corruption and illegal acts of law enforcement personnel holds a place of extreme public importance and concern.

286. The value and interest of the public and the Plaintiff in this speech coming out (the disclosure of the alleged illegal activity and corruption of law enforcement personnel) far outweighs any interest the employer may have in workplace harmony, particularly where any "disharmony" would clearly come from the alleged corrupt and unlawfully acting police officers.

287. The Defendants took adverse action against the Plaintiff in an effort to silence him and punish him for his expression of protected speech.

288. The temporal proximity of the revelation by the Plaintiff of the information received by CS and the beginning of harassment, intimidation, threats, coercion and retaliation was almost instantaneous.

289. The harassment, intimidation, threats and coercion was continuous against the Plaintiff even beyond when the Defendants reached their goal of silencing the Plaintiff by his discharge from the DEA position and the demotion to patrol officer at the DPD.

290. The causal link is also evident because even after the Plaintiff was out of work because of the threats, intimidation, retaliation and the demotion, the threats and intimidations continued against other employees who continued to associate with the Plaintiff. (See paragraphs 231-235 above).

291. But for the Plaintiff revealing the information provided by CS, there would have been no retaliation, harassment, threats or intimidation of the Plaintiff by the Defendants, nor removal from the CBI unit nor a demotion to patrol officer.

292. The Plaintiffs work history with the DPD includes an "officer of the year" award, other accolades, promotions and advancements; and as far as his work with the CBI unit the Plaintiff was even told by Defendant O'Hanlon, as he was firing him, that his "work ethic and production was exemplary" and not part of the reason for discharging him.

293. Because of his positive work record and accolades, the only reasonable conclusion is that the adverse employment action taken against the Plaintiff was because he exercised his free speech rights in exposing public corruption and illegal activity of public employees.

294. The Defendants acted with deliberate indifference to the Plaintiff's constitutional rights and their actions were intentional, willful, wanton, reckless and in bad faith.

295. By the acts and means alleged above, the Defendants infringed upon, abridged and deprived the Plaintiff of his federally protected constitutional free speech rights.

296. The First Amendment rights of the Plaintiff in this case, specifically, among other things, revealing allegations of criminal activity of local police, was a *clearly established* constitutional right.

297. All reasonable persons in the place of any of the Defendants would have known that inhibiting the Plaintiff's speech in these circumstances and taking adverse employment action against him for exercising such speech or otherwise retaliating, harassing, threatening, intimidating or coercing the Plaintiff for exercising such rights was or would be a violation of his federally and state protected free speech rights and would cause harm to the Plaintiff.

Defendant John Doe2

298. Defendant John Doe2's actions were clearly in retaliation against the Plaintiff for revealing information that could potentially affect John Doe2's friends in the Dracut police department (both from an administrative disciplinary standpoint and from a criminal liability standpoint),

and to prevent possible exposure of wrongdoing by Defendant John Doe2 himself, and his retaliatory actions against the Plaintiff were to silence him by threats, intimidation, coercion, aggression, attempts to discredit him, and cause him the loss of his job.

299. Defendant John Doe2's violative actions include, but are not limited to: all previous allegations in this complaint above regarding John Doe2, being openly hostile in the work environment in order to undermine the Plaintiff's protected speech and to cause difficulty for the Plaintiff with his employment, threatening to get the Plaintiff fired from his position within the CBI, getting the Plaintiff fired from his position in the CBI, calling the Plaintiff a liar, complaining to others about the Plaintiff, and concerting with John Doe1 and DO3 to intimidate and threaten a friend of the Plaintiff to prevent that friend from associating with the Plaintiff.

300. Defendant John Doe2's actions directly and proximately caused the constitutional violation of the Plaintiff's free speech rights and are actionable under 42 U.S.C. § 1983.

Defendant Michael O'Hanlon

301. Defendant O'Hanlon's liability is based on both deliberate indifference and inaction to the constitutional violations of the Plaintiff's rights, and is ALSO directly based on his own actions taken against the Plaintiff.

302. Defendant O'Hanlon was deliberately indifferent to the harassment, threats, intimidation, and retaliation by Defendant John Doe2 against the Plaintiff by standing by during all the various tirades and intimidating and threatening behavior exhibited by Defendant John Doe2 against the Plaintiff in the office, after the complaints by the Plaintiff directly to Defendant O'Hanlon about the treatment he (Plaintiff) was receiving from Defendant John Doe2, and standing by at the arrest in Haverhill, MA, watching Defendant John Doe2's irrational and intimidating tirade in front of the public against the Plaintiff.

303. Defendant O'Hanlon knew that the behavior of Defendant John Doe2 against Plaintiff Jakuttis was for the specific purpose of retaliating for his revealing the information regarding Defendant John Doe1 and DO3, and Defendant O'Hanlon had the ability and authority to stop the harassment, intimidation and coercion from John Doe2, but did nothing.

304. Defendant John Doe2 would be aggressive in meetings at the CBI office and would directly contradict the information revealed by the Plaintiff about Defendant John Doe2's friends (Defendant John Doe1 and DO3) saying that there "was no way" his friends (John Doe1 and DO3) "would have engaged in criminal activity."

305. Defendant O'Hanlon was well aware that the hostility and harassment and intimidation against the Plaintiff by Defendant John Doe2 only began after the Plaintiff revealed the information from CS regarding the suspected criminal activity of John Doe1 and DO3, and that those two individuals were friends of Defendant John Doe2.

306. Defendant O'Hanlon actually participated in and took positive action himself against the Plaintiff when he dismissed him from his position as a member of the CBI unit.

307. Defendant O'Hanlon took adverse action against the Plaintiff because of the problem Defendant John Doe2 had with the Plaintiff for exercising his free speech rights and because he (O'Hanlon) "did not know what John Doe2 was capable of," and thus, in his own right, Defendant O'Hanlon directly punished the Plaintiff for exercising his free speech rights.

308. That is, Defendant O'Hanlon resolved the turmoil that was created by the person who was retaliating (John Doe2) against the person exercising constitutionally protected rights (Plaintiff) by firing the innocent person exerting those rights and appeasing the constitutional violator.

309. This inaction AND action by Defendant O'Hanlon directly and proximately caused the constitutional violation of the Plaintiff's free speech rights and is actionable under 42 U.S.C. § 1983.

310. This inaction AND inaction by Defendant O'Hanlon also directly caused and/or materially contributed to Defendant Chartrand's demotion of the Plaintiff to patrolman and prevention of the Plaintiff from returning to the DPD as a detective.

Defendant David Chartrand

311. Defendant Chartrand's liability is based on both deliberate indifference and inaction to the constitutional violations of the Plaintiff's rights, and ALSO directly based on his own actions taken against the Plaintiff.

312. Defendant Chartrand was deliberately indifferent to the harassment, threats, intimidation, and retaliation of Defendant John Doe2 and John Doe1 against the Plaintiff by standing by and allowing the harassment to take place.

313. Defendant Chartrand knew that the behavior of Defendant John Doe2 against Plaintiff Jakuttis was for the specific purpose of retaliating for his revealing the information regarding Defendant John Doe1 and DO3.

314. Defendant Chartrand was well aware that the hostility, harassment and intimidation against the Plaintiff by Defendant John Doe2 and John Doe1 began only after the Plaintiff revealed the information from CS about John Doe1 and DO3, and Chartrand knew that those two individuals were friends of Defendant John Doe2.

315. Defendant Chartrand stood by in deliberate indifference to the violation of the Plaintiffs first amendment free speech rights and allowed the retaliation to continue but had the ability and authority to stop such retaliation and infringement of the Plaintiffs constitutional rights.

316. Defendant Chartrand was not only deliberately indifferent to the violation of the Plaintiff's constitutional rights by John Doe2 and John Doe1, Chartrand actually participated in and took positive action against the Plaintiff when he prevented the Plaintiff from continuing with the DPD as a detective after being dismissed from his position as a member of the CBI unit, and demoting him to that of patrol officer.

317. That is, Defendant Chartrand resolved the turmoil that was being created by the individuals who were retaliating against the Plaintiff for exercising his constitutionally protected rights by demoting that innocent person (the Plaintiff) and appeasing the constitutional violators (John Doe1 and 2).

318. This inaction AND action by Defendant Chartrand directly and proximately caused the constitutional violation of the Plaintiff's free speech rights and is actionable under 42 U.S.C. § 1983.

Defendant John Doe1

319. Defendant John Doe1 retaliated against the Plaintiff because the Plaintiff revealed information provided by CS which implicated John Doe1 and his friend and co-worker, DO3 (another officer within the Dracut Police Department) in corruption and illegal activity.

320. The retaliation was for the purpose of punishing the Plaintiff and inhibiting his federal and state constitutional rights to speak as a citizen on matters of public concern and such retaliation did in fact cause a violation of the Plaintiff's constitutional rights.

321. Defendant John Doe1 has power and control within the detective unit of the DPD.

322. Defendant John Doe1 has influence over decision making within the DPD and has influence over decision making by Defendant Chartrand.

323. Defendant John Doe1 made it clear to Defendant Chartrand that he (John Doe1) did not want Detective Jakuttis returning to the detective division of the DPD.

324. Defendant John Doe1 prevented the Plaintiff or caused the prevention of the Plaintiff from returning to the detective division of the DPD by his direct influence on Defendant Chartrand and his (Doe1's) demands that the Plaintiff not continue as a detective.

325. Defendant John Doe1 continued to retaliate against the Plaintiff while the Plaintiff is currently out on disability by participating in a concerted action between John Doe1, John Doe2, and DO3 by intimidating and threatening a friend[18] of the Plaintiff so that the friend would not associate with the Plaintiff.

326. Defendant John Doe1 also retaliated against the Plaintiff for exercising his free speech rights by intentionally lying to the Chief of Police regarding the condition of a vehicle that John Doe1 was making available for the Plaintiff to use, telling the Chief that the vehicle was in "good shape" while in fact the vehicle reeked of urine, had a family of field mice living in the interior of the vehicle and had a myriad of other problems and was generally unsafe to drive.

327. The actions of the Defendant John Doe1 directly and proximately caused a violation of the Plaintiff's constitutional free speech rights and are actionable under 42 U.S.C., § 1983.

328. The constitutional rights of the Plaintiff were clearly established and all reasonable persons standing in the place of the Defendants would have known that their actions were a violation of those clearly established rights.

Harm Suffered

329. By the acts and means alleged above, and in furtherance of the Defendants' purpose of suppressing the Plaintiff's federally protected free speech rights, the Defendants have

[18] John Doe1 is a supervisor of this friend of the Plaintiff and his harassment would have an even greater effect on the friend because of that supervisory relationship.

intentionally, maliciously, wantonly, willfully, and with bad faith, proximately and actually caused the Plaintiff actual harm, including, but not limited to, the deprivation of constitutional rights, severe emotional distress, economic loss, lost wages, past and future, depression, stress, anxiety, headaches, bruxism, insomnia, high blood pressure, post-traumatic stress disorder, feeling of helplessness, hopelessness, sadness, loss of appetite, loss of interest in relations with his wife, loss of libido, loss in ability to engage in relations as he had in the past with his wife when the interest is there, because of the emotional and physical harm caused by the Defendants.

WHEREFORE, the Plaintiff demands:

a. That judgment be entered in favor of the Plaintiff against all Defendants.
b. That the Plaintiff be awarded compensatory damages in an amount to be determined by the jury.
c. That the Plaintiff be awarded punitive damages against the Defendants in their individual capacities.
d. That the Plaintiff be awarded attorney's fees and costs of this litigation in accordance with 42 U.S.C. § 1988.
e. That the Defendants' actions be declared unconstitutional and that Defendant Chartrand be permanently enjoined from violating the Plaintiff's constitutional rights.
f. Any other relief the court deems just and proper.

COUNT II
M.G.L. c. 12, § 11H and 11I – State Civil Rights Violation
(Plaintiff Joseph J. Against All Defendants EXCLUDING Town of Dracut)

330. The Plaintiff reasserts and re-alleges the allegations in paragraphs 1 through 329 above, inclusive, and incorporate the same herein by reference as if fully set forth in this paragraph.

331. The Plaintiff, Joseph Jakuttis, was exercising and enjoying his rights secured by the laws and constitutions of the United States and the Commonwealth of Massachusetts, to wit, his rights of free speech under said constitutions.

332. By the acts and means alleged above all the Defendants (excluding the Town of Dracut) have interfered or attempted to interfere with the Plaintiff's exercise and enjoyment of such rights and privileges.

333. Such interference or attempted interference by the Defendants, was by way of threats, intimidation or coercion, as described in the previous paragraphs in this Complaint.

334. State action is not required for liability under M.G.L. c. 12, §§ 11H and 11I (the Massachusetts Civil Rights Act – MCRA), and as such, the fact that Defendant O'Hanlon is a federal agent is of no consequence for purposes of the MCRA.

335. The actions of Defendants Chartrand and O'Hanlon are actionable under the MCRA because, among other reasons, they acquiesced to the threats of Defendants John Doe2 and John Doe1, respectively.

336. Even if there was no desire on the part of Defendants Chartrand and O'Hanlon to interfere with the rights of the Plaintiff (which the Plaintiff contends they did intend such), liability still attaches under the MCRA because Defendant Chartrand acquiesced to the desires, threats, intimidations and coercions of Defendants John Doe1 and John Doe2 to interfere with the rights of the Plaintiff, and O'Hanlon acquiesced to the desires, threats, intimidation and coercions of Defendant John Doe2 to interfere with the rights of the Plaintiff. See, Redgrave v. Boston Symphony Orchestra, Inc., 399 Mass. 93, 98-101 (1987).

337. The constitutional rights of the Plaintiff were clearly established and all reasonable persons standing in the place of the Defendants would have known that their actions were a violation of those clearly established rights.

338. The Plaintiff had a contract, as a beneficiary, with the DEA to work as a CBI officer.

339. Defendant O'Hanlon's discharge of the Plaintiff from his position as a CBI officer had an effect of coercing him not to exercise his First Amendment and Article 16 rights of free speech and was, therefore, a violation of the MCRA. See Broderick v. Roache, 803 F. Supp. 480, 466 (D. Mass., 1992) (discussing Redgrave at 95 ("In Redgrave, the court held that the BSO's cancellation of its contract with Redgrave, which had the effect of coercing her not to exercise her First Amendment rights, violated MCRA.").

340. Physical confrontation is not a required element of a claim under the MCRA. See Broderick. at 466-467.

341. Defendant Chartrand had the power and authority to demote Plaintiff Jakuttis and to prevent him from continuing as a detective within the DPD, but that power and authority was unlawfully exercised.

342. Defendant Chartrand's demotion of Plaintiff Jakuttis and preventing him from continuing as a detective is comparable to and the equivalent of cancellation of a contract as far as meeting the definition of coercion to prevent the Plaintiff from exercising his free speech rights and is legally sufficient for a violation of the MCRA under the same theory as the claim in the preceding two paragraphs against Defendant O'Hanlon.

343. By the acts and means alleged above, the Defendants have caused harm to the Plaintiff in both his person and his property (his employment), as more fully described in paragraph 329 above, said paragraph incorporated herein as if fully set forth in this paragraph.

WHEREFORE, the Plaintiff demands:

a. That judgment be entered in favor of the Plaintiff against the Defendants.
b. That the Plaintiff be awarded compensatory damages in an amount to be determined by the jury.
c. That the Plaintiff be awarded attorney's fees and costs of this litigation.
d. Any other relief the court deems just and proper.

COUNT III
M.G.L. c. 149, § 185 (Whistleblower Statute)
(Plaintiff J. Jakuttis Against Town of Dracut Only)

344. The Plaintiff reasserts and re-alleges the allegations contained in paragraphs 1 to 343 above, inclusive, and incorporate the same herein by reference as if fully set forth herein.

345. By the acts and means alleged above, the Defendant, Town of Dracut, has violated the Plaintiff's rights under M.G.L. c. 149, § 185 (hereafter "Section 185") because the Plaintiff was engaged in protected activity under Section 185, and engaging in such activity was a motivating or substantial factor in the Defendant taking retaliatory, adverse action against the Plaintiff which resulted in harm to the Plaintiff.

346. At all times material to this Complaint the Plaintiff, Joseph Jakuttis, was an "employee," as that term is used in Section 185 (a)(1), of the Defendant, Town of Dracut.

347. At all times material to this Complaint the Defendant, Town of Dracut, was an "employer," as that term is used in Section 185 (a)(2), and was the employer of the Plaintiff, Joseph Jakuttis.

348. M.G.L. c. 149 § 185(a)(3(D) defines a "public body" as, among other things, "any federal, state or local law enforcement agency, prosecutorial office, or police or peace officer. . ."

349. At all times material to this Complaint the CBI unit of the DEA and the DEA were and are a "public body," as that term is used in Section 185 (a)(3)(D).

350. At all times material to this Complaint, Defendant John Doe2 was and is a "public body," as that term is used in Section 185 (a)(3)(D).

351. At all times material to this Complaint, Defendant O'Hanlon was and is a "public body," as that term is used in Section 185 (a)(3)(D).

352. At all times material to this Complaint, Defendant Chartrand was and is a "public body," as that term is used in Section 185 (a)(3)(D).

353. Defendant Chartrand was and is a "supervisor," as that term is used in Section 185 (a)(4).

354. By the acts and means alleged above, the Defendant, Town of Dracut, took "retaliatory action" against the Plaintiff, as that term is used in Section 185 (a)(5).

355. The retaliatory action against the Plaintiff was (a) Defendant Chartrand allowing and/or tolerating the harassment, threats, intimidation, and coercion against the Plaintiff by Defendants John Doe1 and John Doe2 and DO3; (b) Defendant John Doe1 influencing and telling Defendant Chartrand that he (John Doe1) did not want the Plaintiff on the DPD as a detective after the Plaintiff was removed from the CBI; (c) Defendant Chartrand agreeing and making the decision not to allow the Plaintiff to return as a detective; (d) Defendant Chartrand demoting the Plaintiff to patrolman or not allowing him to continue as a detective after he was removed from the CBI.

356. The retaliatory action was a demotion and was also adverse employment action as to the terms and conditions of employment.

357. The reason for the retaliatory action taken against the Plaintiff was because of his (a) "disclosure of activity" to a public body and supervisor which the Plaintiff reasonably believed to be a violation of law, rule or regulation promulgated pursuant to law, and which he reasonably believes poses a risk to public safety [Section 185 (b)(1)]; (b) for "providing information" to a public body conducting an investigation or inquiry into the violation of law, rule or regulation promulgated pursuant to law, or activity which the Plaintiff reasonably believes poses a risk to public safety [Section 185 (b)(2)]; and (c) "objecting to activity" which the Plaintiff reasonable believes to be a violation of law, or rule or regulation promulgated pursuant to law, and which the Plaintiff reasonably believes poses a risk to public safety [Section 185 (b)(3)]. The "activity" and "information" disclosed and provided as stated above is

the alleged illegal narcotic and controlled substance activity of John Doe1 and DO3 revealed by CS.

358. The Plaintiff disclosed the information and activity to a public body, to wit, the CBI unit of the DEA through Defendant John Doe2, Defendant O'Hanlon and Officer Willoughby on February 2, 2015, which was an investigation or inquiry into a violation of law.

359. The disclosure was also made to the Plaintiff's "supervisor," Defendant Chartrand, on or shortly after February 18, 2015, after the formal interview of CS at the CBI office in Lowell.

360. The disclosure to the "supervisor," Defendant Chartrand, was not made by the Plaintiff in writing, directly, because (a) the Plaintiff reasonably feared physical harm as a result of the disclosure, and (b) the disclosure was made to a public body as defined in Section 185 (a)(3)(D), to wit, the CBI unit, the DEA, Defendant John Doe2, Defendant O'Hanlon, and Special Agent Willoughby, as mentioned *supra*, for the purpose of providing evidence of what the Plaintiff reasonably believed to be a crime, to wit, the allegations against Defendant John Doe1 and DO3, and, therefore these reasons qualify for the exception to the written notification requirement of Section 185 (b)(1). See M.G.L. c.149, § 185 (c)(2), subsections (B) and (C) respectively. There is no written notice requirement under Section 185 (b) (2) or (3).

361. The reasonable fear of harm if the disclosure was in writing is in the sense that disclosing the information to the CBI and DEA was itself invoking fear in the Plaintiff of physical harm because of the nature of the allegations and the fact that the people whom the allegations were made against were people who owned firearms (they were police officers) and who apparently had relationships with unsavory and potentially dangerous persons (criminals) which was a relationship beyond a professional undercover relationship. The Plaintiff saw performing his civic and moral duty of revealing the information to the CBI unit as being advanced by verbally

relaying the information he received from CS and letting the federal agency proceed from there, with his availability to provide additional information, such as the veracity of CS and the reliability of his past information, and that if he himself drafted any documentation on the allegations rather than letting the DEA handle it, that it would enrage those being accused even more and increase the risk of some kind of physical retaliation.

362. The Plaintiff, however, did not realize the full scope of the relationship between Defendant John Doe2 and John Doe1 and DO3 in that he didn't realize the friendship between those three would transcend Defendant John Doe2's duty to society and his responsibility as a law enforcement officer.

363. Since seeing the retaliatory actions of Defendant John Doe2, the Plaintiff now actually fears for physical retaliation by not only John Doe1 and DO3, but from Defendant John Doe2 also.

364. This fear is reasonable given the nature of the alleged criminal activities of John Doe1 and DO3 and the alleged relationship with criminals and the rage and aggression Defendant John Doe2 has expressed and shown toward the Plaintiff.

365. That the fear is reasonable is buttressed by the fact that when terminating the CBI contract with the Plaintiff, Defendant O'Hanlon said that he had "no idea what he's [referring to John Doe2] capable of."

366. Adding to this fear is information that the Plaintiff received that CS has had unknown individuals possessing badges place a gun in his mouth telling him not to "rat" on cops.

367. Notwithstanding the fact that the Plaintiff himself did not generate a written notice to his "supervisor," a written report was generated at the CBI unit based on the information revealed by the Plaintiff and that written report was given to Chartrand (the Plaintiff's "supervisor").

368. This report was generated by John Doe2 following the information provided by the Plaintiff, and was generated from the information CS reiterated at his formal interview, and the report given to Chartrand is, therefore, constructive written notice by the Plaintiff and should deemed written notice by the Plaintiff, although such written notice is not required for the reasons stated above (because the disclosure was for the purpose of providing what the Plaintiff reasonably believed to be evidence of a crime and because the Plaintiff reasonably feared physical harm).

369. The disclosure was of an activity which the Plaintiff reasonable believed was a violation of law and which posed a threat or risk to public safety.

370. The meetings within the CBI regarding the information from CS which the Plaintiff disclosed was an "investigation" or "inquiry" for purposes of Section 185 (b)(2), and such investigation or inquiry was into a violation of law and/or an activity which poses a risk to public safety.

371. The action that the Plaintiff took in disclosing the information provided by CS is an "objection" to activity which the Plaintiff reasonably believed to be a violation of law and/or a risk to public safety.

372. If the Plaintiff didn't object to such activity mentioned in the paragraph above, he would not have revealed the information that CS provided to him. It was the fact that he objects to such activity that he revealed the information provided.

373. By the acts and means alleged above, the Defendant has caused harm to the Plaintiff in both his person and his property (his employment), as more fully described in paragraph 329 above, said paragraph incorporated herein as if fully set forth in this paragraph.

WHEREFORE, the Plaintiff demands:

a. That judgment be entered in favor of the Plaintiff against the Defendant.
b. That the Plaintiff be awarded compensatory damages in an amount to be determined by the jury.
c. That the Plaintiff be compensated for three times the amount of lost wages, benefits and other remuneration, and interest thereon, as allowed under Section 185.
d. That the Plaintiff be awarded punitive damages against the Defendant in an amount to be determined by the jury.
e. That the Plaintiff be awarded attorney's fees and costs of this litigation.
f. Any other relief the court deems just and proper.

COUNT IV – Intentional Interference with Advantageous Economic Relationship (Plaintiff J. Jakuttis v. Chartrand, Doe1 and Doe2)

374. The Plaintiff reasserts and re-alleges the allegations contained in Paragraphs 1-373 above, inclusive, and incorporate the same herein by reference as if fully set forth herein.

375. The Plaintiff had an advantageous business and/or economic relationship with the DPD by way of his employment with the Town of Dracut, Police Department.

376. Defendant John Doe1, John Doe2, and Chartrand (the three collectively referred to as the "Defendants" for purposes of this Count IV) all knew of the advantageous business and/or economic relationship between the Plaintiff and the Town of Dracut.

377. The Defendants, with deliberate indifference, malice and otherwise improper in motive or means, did intentionally interfere with the Plaintiff's advantageous relationship with the Town of Dracut which resulted in economic and emotional harm to the Plaintiff.

378. The deliberate indifference, malice and improper motive or means was because the purpose of interfering with the relationship was silencing the Plaintiff and unlawfully inhibiting his free speech and to punish him and retaliate against him for the exercise of such speech by preventing him from continuing as a detective with the DPD and having him demoted to patrolman, with knowledge that his position as a detective in the DPD was socially, personally, and

economically of value to him, but with no concern whatsoever of the harm that the Plaintiff would suffer by such interference.

379. Chartrand in his own right interfered with the relationship by refusing to allow the Plaintiff to return as a detective to the DPD, and demoting him to patrolman, but even if his actions were at the demanding or urging of John Doe1, and Chartrand acquiesced to such urging or demand, such acquiescence is tantamount to action attributable directly to Chartrand.

380. Defendant Chartrand's actions in causing the interference with the Plaintiff's advantageous relationship was done malevolently, that is, for a spiteful, malignant purpose, unrelated to the legitimate interest of the DPD.

381. John Doe1 interfered with the relationship by making it clear to Defendant Chartrand that Doe1 didn't want the Plaintiff back on the detective unit, and Doe1 had such influence over or friendship with Chartrand that he knew that if he protested to Chartrand that Chartrand would not bring the Plaintiff back to the detective unit and the only place left for him would be patrolman.

382. John Doe2 interfered with the relationship by concerting with John Doe1 to retaliate against the Plaintiff for exercising his free speech rights, informing John Doe1 about the allegations CS revealed knowing that John Doe1 would somehow retaliate by interfering with the Plaintiff's job at the DPD.

383. By the acts and means alleged above, the Defendants have caused harm to the Plaintiff in both his person and his property (his employment), as more fully described in paragraph 329 above, said paragraph incorporated herein as if fully set forth in this paragraph.

WHEREFORE, the Plaintiff demands:

a. That judgment be entered in favor of the Plaintiff against the Defendants.
b. That the Plaintiff be awarded compensatory damages in an amount to be determined by the jury.
c. That the Plaintiff be awarded punitive damages against the Defendants in their individual capacities.
d. That the Plaintiff be awarded attorney's fees and costs of this litigation.
e. Any other relief the court deems just and proper.

COUNT V – Intentional Interference with Contractual Relationship/and or Advantageous Relationship
(Plaintiff J. Jakuttis v. O'Hanlon and John Doe2)

384. The Plaintiff reasserts and re-alleges the allegations contained in Paragraphs 1-383 above, inclusive, and incorporate the same herein by reference as if fully set forth herein.

385. The Plaintiff had a contractual relationship with the DEA by way of a contract between the DEA, the Town of Dracut through the Police Department, and the Plaintiff (as a beneficiary of that contract for his employment as a member of the CBI unit of the DEA), or, alternatively, had an advantageous business or economic relation with the DEA.

386. Defendants O'Hanlon and John Doe2 knew of the contractual relationship between the Plaintiff and the DEA or the advantageous business or economic relationship.

387. Defendants O'Hanlon and Doe2 caused the contract or relationship with the DEA to be broken.

388. The Contract or advantageous relationship was not with Defendant O'Hanlon or John Doe2; it was with the DEA.

389. Defendant John Doe2 caused the contract or relationship to be broken by his hostility, threatening manner, intimidation, coercion, harassment, and pressure placed on Defendant O'Hanlon to cause the contract or relationship to be broken.

390. Defendant O'Hanlon caused the contract or relationship to be broken by informing the Plaintiff that he could no longer work at the CBI, and regardless of whether or not O'Hanlon capitulated to and acquiesced to the demands, wishes and pressure of John Doe2, O'Hanlon in his own right is responsible, jointly and severally with John Doe2, for the contract or relationship being broken.

391. Defendant O'Hanlon's actions in causing the breach of contract or interference with advantageous relationship was done malevolently, that is, for a spiteful, malignant purpose, unrelated to the legitimate interest of the DEA.

392. Causing the contract or relationship to be broken was done with deliberate indifference, malice and otherwise improper in motive or means which resulted in economic harm to the Plaintiff.

393. The deliberate indifference, malice and improper motive or means was because the purpose of interfering with the contract or relationship was silencing the Plaintiff and unlawfully inhibiting his free speech and to punish him and retaliate against him for the exercise of such speech by preventing him from continuing as a task force officer/detective with the CBI, knowing that his position as a detective with CBI was socially, personally, and economically of value to him, but with no concern whatsoever of the harm that the Plaintiff would suffer by such interference

394. By the acts and means alleged above, the Defendants have caused harm to the Plaintiff in both his person and his property (his employment), as more fully described in paragraph 329 above, said paragraph incorporated herein as if fully set forth in this paragraph.

WHEREFORE, the Plaintiff demands:

a. That judgment be entered in favor of the Plaintiff against all Defendants.
b. That the Plaintiff be awarded compensatory damages in an amount to be determined by the jury.
c. That the Plaintiff be awarded punitive damages against the Defendants in their individual capacities.
d. That the Plaintiff be awarded attorney's fees and costs of this litigation.
e. Any other relief the court deems just and proper.

COUNT VI – Intentional Infliction of Emotional Distress
(Plaintiff J. Jakuttis v. All Defendants EXCLUDING Town of Dracut)

395. The Plaintiff reasserts and re-alleges the allegations contained in Paragraphs 1-394 above, inclusive, and incorporate the same herein by reference as if fully set forth herein.

396. By the acts and means alleged above, the Defendants have intentionally inflicted severe emotional distress upon the Plaintiff by actions that are extreme and outrageous and beyond all bounds of decency in a civilized society, and which no reasonable person could be expected to endure.

397. By the acts and means alleged above, the Defendants have caused harm to the Plaintiff in both his person and his property (his employment), as more fully described in paragraph 329 above, said paragraph incorporated herein as if fully set forth in this paragraph.

WHEREFORE, the Plaintiff demands:

a. That judgment be entered in favor of the Plaintiff against all Defendants.
b. That the Plaintiff be awarded compensatory damages in an amount to be determined by the jury.
c. That the Plaintiff be awarded punitive damages against the Defendants in their individual capacities.
d. That the Plaintiff be awarded attorney's fees and costs of this litigation.
e. Any other relief the court deems just and proper.

COUNT VII – Civil Conspiracy
(Plaintiff J. Jakuttis v. All Defendants EXCLUDING Town of Dracut)

398. The Plaintiff reasserts and re-alleges the allegations contained in Paragraphs 1-397 above, inclusive, and incorporate the same herein by reference as if fully set forth herein.

directly and indirectly in the enterprise's affairs through a pattern of ongoing racketeering activity, knowing that the predicate actions taken were a violation of law.

409. The enterprises are one of or a combination of:

(A) an association-in-fact enterprise consisting of either (i) Defendant John Doe1, Defendant John Doe2, Defendant Chartrand, Defendant O'Hanlon, and DO3, or (ii) Defendant John Doe1, John Doe2, and DO3, and

(B) either one of the association-in-fact enterprises stated in parts (A) (i) or (ii) of this paragraph *AND* the Town of Dracut Police Department, as an association-in-fact between the Town of Dracut Police Department and either of (A)(i) or (A)(ii); and

(C) the Town of Dracut Police Department.

The enterprise or enterprises existed separate and apart from the alleged pattern of racketeering activity.

410. The purpose of the association-in-fact enterprises is to perpetuate the predicate acts of engaging in the unlawful distribution, sale, use, buying, handling, or otherwise dealing in a controlled substance (see 18 U.S.C. § 1961(A) and (D)), and/or to perpetuate, in perpetuity, the concealing, covering up, or otherwise preventing the further disclosure and/or investigation of said predicate acts, past, present or future, by the continued use and means of additional predicate acts, to wit, violations of 18 U.S.C. §§ 1512 and 1513.

411. There is a strong relationship among the members of the association-in-fact enterprise, as more fully described in this Complaint, but which is demonstrated, for example, by the strong friendship bond between John Doe1, John Doe2 and DO3, of which the Plaintiff knows as a fact, and which is demonstrated further by, among other things, Defendant John Doe2 calling the Plaintiff a "liar" with regard to the allegations against Doe1 and DO3, and that he (Doe2)

knows Doe1 and DO3 and exclaimed that that they wouldn't engage in illegal activity; the three phone/text calls or messages, one after the other, from Doe1, Doe2 and DO3 to the Plaintiff's friend chastising him and harassing and intimidating him for associating with the Plaintiff; CS's failing to inform Doe2 of the alleged illegal activity of Doe1 and DO3 because he knew of or believed that Doe1, Doe2 and DO3 were all friends; the intimidating tactics, goal and successful efforts on Doe2's part to get the Plaintiff fired from the position of CBI officer followed immediately with Doe1's successful effort to prevent the Plaintiff from returning as a detective on the DPD once fired from the DEA's CBI unit; Doe2 inviting Doe1 and DO3 to a lunch where the Plaintiff was present after Doe2 was ordered by Defendant O'Hanlon to stay away from Doe1 and DO3 even at lunch, said order coming after the alleged illegal controlled substance violations of Doe1 and DO3 were revealed by the Plaintiff.

412. One of the association-in-fact enterprises is comprised of, at a minimum, Doe1, Doe2 and DO3, but alternatively also includes Defendants Chartrand and O'Hanlon because of their actions and words, and because of the close working relationship between Doe1, Doe2, DO3, Chartrand and O'Hanlon.

413. This close relationship is evidenced by, among other things, Chartrand demoting the Plaintiff and preventing him from returning as a detective for the DPD with a stated reason that Defendant John Doe1 doesn't want the Plaintiff on the detective force, and that Chartrand didn't want to "kick sand in [Doe1's] face."

414. This close relationship is evidenced by, among other things, O'Hanlon removing the Plaintiff from his position as a member of the CBI unit and telling the Plaintiff that he is a "victim of circumstances, but something has to be done" and that he (O'Hanlon) doesn't know what Doe2

is capable of, and siding with Doe2 in Doe2's stated objective of getting the Plaintiff "kicked out of here."

415. The close relationship is also evidenced by the shared hostility toward the Plaintiff by the Defendants as demonstrated by the retaliatory employment actions taken against the Plaintiff and the harassing, intimidating, threatening and otherwise wrongful acts directed toward the Plaintiff and others associated with the Plaintiff.

416. The length of the association-in-fact is substantial, continuing, ongoing, and continues to this day for the purposes stated above, particularly the purpose of continuing the predicate acts prohibited by 18 U.S.C. §§ 1512 and 1513.

417. The association of Doe1, Doe2 and DO3 goes back many years, and at a minimum of ten years, and the association of those three plus Chartrand and O'Hanlon has gone on for at a minimum since January of 2015 when the information provided from CS was first revealed by the Plaintiff, and Chartrand and O'Hanlon then joined the association-in-fact at that point by acquiescing to and agreeing with Doe1's and Doe2's desire, goal, and conspiracy to retaliate against the Plaintiff in an effort to silence him and CS from continuing with or otherwise advancing the investigation into the alleged illegal activity of Doe1 and DO3

418. The concerted actions, efforts, goal and purpose of the enterprise and its members was to, among other things, silence the Plaintiff and any others in further communication or revelation about the alleged illegal activity because a continued investigation would not only bring possible repercussions against Doe1 and DO3 (and Doe2 if any illegal activity on his part is discovered), but could also possibly undermine any convictions or plea deals in any federal or state cases if it involved the undercover work or testimony of Doe1, Doe2 or DO3, possibly resulting in defense counsel in any of those cases attempting to reopen said cases.

419. The Defendants, John Doe1, John Doe2, DO3, Chartrand and O'Hanlon are engaged in a continuing scheme of open-ended continuity to cover-up and/or prevent the further disclosure and/or criminal investigation of alleged criminal activity of predicate acts under 18 U.S.C. § 1961(A) and (D).

420. The criminal activity itself, mentioned in the preceding paragraph, is a predicate act under 18 U.S.C. §§ 1961 (A), "dealing in a controlled substance . . ., which is chargeable under State law and punishable by imprisonment for more than one year;" and (D), "the felonious . . . receiving, concealment, buying, selling, or otherwise dealing in a controlled substance . . ., punishable under any law of the United States," allegedly perpetrated by Defendants John Doe1 and DO3.

421. The acts described in this Complaint are predicate acts under 18 U.S.C. § 1961 (A) because it involves the illegal dealing in, possession, purchase, use, or otherwise handling heroin which carries with it, under Massachusetts law, punishment by imprisonment for greater than one year. See G.L. c. 94C, § 34 (first offense, not more than two years).

422. The acts described in this Complaint are predicate acts under 18 U.S.C. § 1961 (D) because it involves the felonious receiving, concealment, buying, selling, or otherwise dealing in a controlled substance (heroin, cocaine and Fentanyl) which is punishable under the laws of the United States, to wit, 18 U.S.C. § 841 (a).

423. Among other things, Doe1 *distributed* Fentanyl, a Schedule II drug, to CS, in violation of 18 U.S.C. § 841 (a)[19], and CS suffered serious bodily injury (an overdose) and was taken by Doe1 to the hospital (see paragraphs 67-72 above).

[19] 18 U.S.C., § 841(a) describes unlawful acts to include: **(a) Unlawful acts**. Except as authorized by this subchapter, it shall be unlawful for any person knowingly or intentionally - (1) to manufacture, ***distribute***, or dispense, or possess with intent to manufacture, distribute, or dispense, a controlled substance... (emphasis added).

424. "Distribution" is defined in 18 U.S.C. § 802 (11) as "to deliver... a controlled substance...." The term "deliver" in the same section is defined as "the actual, constructive or attempted transfer of a controlled substance. . ., whether or not there exists an agency relationship."

425. The Defendant, Doe1 did deliver and transfer the Fentanyl to CS who then suffered a severe bodily injury as a result.

426. Penalties under 18 U.S.C. § 841 (b)(1)(c) for a violation of Subsection (a) mentioned above is not more than 20 years, and if death or *serious bodily injury* results from the use of such substance shall be sentenced to a term of imprisonment of not less than twenty years or more than life. Thus, it meets the definition of "felonious" as required, and is not a misdemeanor.

427. "Serious bodily injury" includes an injury "which requires medical intervention, such as . . . hospitalization. . .", which happened to CS with the Fentanyl overdose. See United States Sentencing Commission Guidelines Manual, § 1B1.1, n.1(L).

428. The actual scheme to cover-up and/or prevent, thwart or halt the disclosure and/or investigation of the alleged criminal activity was and is being accomplished by a predicate act under 18 U.S.C. § 1961 (B): "any act which is indictable under any of the following provisions of title 18, United States Code: ..., section 1512 (relating to tampering with a witness, victim, or an informant), section 1513 (relating to retaliating against a witness, victim, or an informant)."

429. The predicate act of a violation of 18 U.S.C. § 1512(b)(3) is the knowing use of (i) intimidation or threats, or (ii) corruptly persuading another person, or (iii) engaging in misleading conduct toward another person, with the intent to hinder, delay, or prevent the communication to a law enforcement officer of the United States of information relating to the commission or possible commission of a Federal offense.

430. Defendant O'Hanlon and SA Willoughby are "law enforcement officers" as that term is defined in 18 U.S.C. § 1515, applicable to 18 U.S.C. § 1512 and 1513.

431. By the acts and means alleged above, the Defendants did in fact *intimidate and threaten* the Plaintiff, and thereby did hinder, delay and prevent the communication to a United States law enforcement officer of information relating to the commission or possible commission of a Federal offense because the Plaintiff would have continued with his efforts to inform Defendant O'Hanlon and other federal law enforcement officers of such information because the Plaintiff intended on giving information regarding the veracity of CS and the quality and accuracy of the information he had received from CS in the past, during undercover operations and CS's work as an informant, and also could provide additional information regarding the commission or possible commission of other federal offenses.

432. Further, the removal of the Plaintiff from the role as a CBI officer and detective for the DPD would make it difficult for CS to proceed with his testimony and information to the federal agents regarding the alleged illegal drug actions of John Doe1 and DO3 because the person CS trusted was the Plaintiff, thereby intimidating CS to be silent and causing the investigation to stagnate and stop in its tracks, which it did. This was a violation of 18 U.S.C. § 1512(b)(3).

433. Defendant John Doe2 also engaged in *misleading conduct* (as that term is defined in 18 U.S.C. § 1515) toward another (Defendant O'Hanlon), by knowingly making a false statement with the intent on hindering, preventing or delaying the communication to a federal law enforcement officer of the commission or possible commission of a federal offense when he (John Doe2), in an intimidating, threatening and harassing manner in a meeting at the CBI, sprang out of his chair and exclaimed that the Plaintiff was a "liar" with respect to threatening to get him fired, and at one meeting saying that John Doe1 and DO3 would not have engaged in the illegal

activity that had been revealed by the Plaintiff (as relayed to him by CS) (See paragraphs 152-156, and 304, above). This was a violation of 18 U.S.C. § 1512 (b)(3).

434. Defendant John Doe2, by the acts and means alleged above, did *corruptly persuade* another (Defendant O'Hanlon) with the intent to hinder, delay, or prevent the communication to a law enforcement officer of the United States of information relating to the commission or possible commission of a Federal offense when he persuaded Defendant O'Hanlon to fire/remove the Plaintiff from his position as a CBI officer with the DEA, making the likelihood of the Plaintiff pursuing or advancing the investigation by giving additional information less likely. This was a violation of 18 U.S.C. § 1512 (b)(3)

435. Defendant John Doe1, by the acts and means alleged above, did *corruptly persuade* another (Defendant Chartrand) with the intent to hinder, delay, or prevent the communication to a law enforcement officer of the United States of information relating to the commission or possible commission of a Federal offense when he persuaded Defendant Chartrand to prevent the Plaintiff from returning as a detective for the DPD, making the likelihood of the Plaintiff pursuing or advancing the investigation by giving additional information less likely. This was a violation of 18 U.S.C. § 1512 (b)(3).

436. The predicate act of a violation of 18 U.S.C. § 1512(d) is the *harassment* of a person thereby hindering, delaying, preventing, or dissuading that person from reporting to a law enforcement officer of the United States the commission or possible commission of a Federal offense.

437. By the acts and means alleged above, the Defendants did in fact harass the Plaintiff, and thereby did hinder, delay, dissuade and prevent the communication to a United States law enforcement officer of information relating to the commission or possible commission of a Federal offense because the Plaintiff would have continued with his efforts to inform Defendant

O'Hanlon and other federal law enforcement officers because the Plaintiff intended on giving information regarding the veracity of CS and the quality and accuracy of the information he had received from CS in the past during undercover operations and CS's work as an informant, and provide other information; further, the removal of the Plaintiff from the role as a CBI officer and detective for the DPD would make it difficult for CS to proceed with his testimony and information to the federal agents regarding the illegal drug actions of John Doe1 and DO3 because the one person CS trusted was the Plaintiff, thereby causing the investigation to stagnate and stop in its tracks, which it did. This was a violation of 18 U.S.C. § 1512(d).

438. Additionally, the Defendants violated 18 U.S.C. § 1512(b)(3) and (d) because two individuals have recently been following CS in a vehicle and on one occasion produced some kind of official looking badge and exhibited the same to CS and forced CS into the vehicle and placed a handgun in his mouth and threatened, intimidated and harassed him telling him not to "rat on cops." Although no direct evidence exists at this time, circumstantial evidence and logic leads to a reasonable inference that someone in the association-in-fact enterprise caused the threat and harassment of CS to occur for the purpose of covering-up or otherwise thwarting and hindering any criminal investigation of the activities of John Doe1 and DO3.

439. Approximately fifteen minutes prior to gun in the mouth incident mentioned above, John Doe2 called CS on his cell phone and said "Where are ya, what are you doing?" Not thinking anything of the question, CS told Doe2 who's house he was at, mentioning the location. The conversation did not last long. The men with the badges showed up shortly thereafter, threatening CS with a gun.

440. Because of his past work with CS, John Doe2 knows the location of the house that CS said he was at.

441. The predicate act of a violation of 18 U.S.C. § 1513(e) is knowingly, with the intent to retaliate, taking any action harmful to any person, including interference with the lawful employment or livelihood of any person, for providing to a law enforcement officer any truthful information relating to the commission or possible commission of any Federal offense.

442. By the acts and means alleged above, the Defendants did in fact, knowingly with the intent to retaliate, take action harmful to the Plaintiff, including interference with his lawful employment or livelihood because the Plaintiff provided to a law enforcement officer truthful information relating to the commission or possible commission of a Federal offense. Said information was truthful in that the information that the Plaintiff provided to the law enforcement officers (the Lowell police officer on the undercover operation with the Plaintiff, Defendant John Doe2, and Defendant O'Hanlon) was what CS had told him regarding the alleged illegal actions of Doe1 and DO3. The Plaintiff was being truthful as to what CS had told him, was reasonable in his belief that the information provided by CS was truthful and accurate, and has no reason to believe that the information received from CS is not truthful and accurate.

443. Allegations of predicate acts sufficient to sustain a civil RICO claim need only be proved by a preponderance of the evidence, not beyond a reasonable doubt, and those predicate acts need not have resulted in any criminal conviction to be successfully alleged and proved.

444. Acts beyond the statute of limitations for criminal conviction purposes are admissible and sustainable as evidence of a predicate act for purposes of civil RICO violations.

445. But for disclosing the information that CS had given him, the Plaintiff would not have been removed from his position as a CBI officer or demoted to patrol officer and prevented from remaining a detective on the DPD, nor would he have suffered the outrageous harassment, retaliation, intimidation threats and other wrongful acts by the Defendants.

446. The intended targets of the scheme to cover-up and/or prevent, hinder or thwart the disclosure and/or criminal investigation of the predicate acts of criminal activity are anyone who would disclose any information regarding those predicate acts or who would encourage, promote, suggest, request or otherwise cause or prompt a criminal and/or administrative investigation of the same, and anyone associated with said target. Such targets include the Plaintiff, Joseph Jakuttis, CS (having a gun put in his mouth and told not to "rat on cops"), SA Willoughby (mentioned above while at the formal interviews of CS and BCS being intimidated and harassed by John Doe2 to prevent him from taking notes of the interview of CS), the friend of Plaintiff Jakuttis mentioned above (harassed and threatened for associating with Plaintiff Jakuttis, visiting him and being with him), and Officer N.L. (when harassed and interrogated by John Doe2 regarding the meeting in the parking lot between Plaintiff Jakuttis, Officer N.L. and Officer J.S.).

447. The threat and likelihood that the pattern and scheme will continue indefinitely into the future is because the harassment, intimidation, and threats continued from the beginning when the information of the predicate acts of criminal activity was first revealed by Plaintiff Jakuttis and continued beyond the date when he went out on medical leave due to the stress from the harassment, intimidation and retaliation, with the harassing phone call and/or text by defendants Doe1, Doe2 and DO3 to intimidate the Plaintiff's friend not to associate with him. It is also continuing and ongoing because of the current and continued prevention of the Plaintiff from working on the CBI unit or as a detective with the DPD.

448. There is nothing that would remotely suggest that the predicate act scheme will terminate when the Plaintiff returns to work, that is, that the harassment would not continue or that he would be allowed to resume work on the CBI unit or as a detective with the DPD.

449. The fact that the Plaintiff's position is currently as a patrol officer and continues to be that of patrol officer and is prevented from doing any work as a detective demonstrates a continuing predicate act under 18 U.S.C. § 1961(B) because it is a continuing violation of 18 U.S.C. §§ 1512 and 1513.

450. The activities of the association-in-fact enterprise affect interstate commerce.

451. The predicate act(s) allegedly committed by John Doe1 and DO3 mentioned above under 18 U.S.C. §§ 1961(A) and (D) regarding controlled substances does, as a matter of law, affect interstate commerce.

452. The illegal dealing, use, sale, distribution, or otherwise handling of controlled substances is an act with affects interstate commerce regardless of whether such dealing, use, sale, distribution, or otherwise handling occurs strictly ***intrastate*** because in passing the Comprehensive Drug Abuse Prevention and Control Act of 1970 (The Controlled Substance Act, 21 U.S.C. § 801 et seq.), Congress made the following findings: (A) Incidents of the traffic which are not an integral part of the interstate or foreign flow, such as manufacture, local distribution, and possession, nonetheless have a substantial and direct effect upon interstate commerce because (i) after manufacture, many controlled substances are transported in interstate commerce, (ii) controlled substances distributed locally usually have been transported in interstate commerce immediately before their distribution, and (iii) controlled substances possessed commonly flow through interstate commerce immediately prior to such possession; (B) Local distribution and possession of controlled substances contribute to swelling the interstate traffic in such substances; (C) Controlled substances manufactured and distributed intrastate cannot be differentiated from controlled substances manufactured and distributed interstate. Thus, it is not feasible to distinguish, in terms of controls, between controlled substances manufactured and

distributed interstate and controlled substances manufactured and distributed intrastate; (D) Federal control of the intrastate incidents of the traffic in controlled substances is essential to the effective control of the interstate incidents of such traffic. See 21 U.S.C. § 801.

453. The predicate acts mentioned above under 18 U.S.C. § 1961(B) also affects interstate commerce because it caused harm to the business (income) of the Plaintiff, and the Plaintiff resides in New Hampshire and the income lost was from a payment source in another state (Massachusetts); the state of Massachusetts is affected by a decrease in taxes generated from the income lost; and the state of New Hampshire is affected by less disposable income for the Plaintiff, the majority of which would have been spent in New Hampshire.

454. The predicate acts in 18 U.S.C. § 1961(B) mentioned above further affect interstate commerce because those acts in violation of 18 U.S.C. §§ 1512 and 1513 were committed against a citizen and resident of New Hampshire by the association-in-fact enterprise members (the Defendants) who are citizens and residents of Massachusetts.

455. The predicate acts in 18 U.S.C. § 1961(B) mentioned above further affect interstate commerce because those acts are directly related to the predicate acts in Section 1961(A) and (D) (controlled substance violations) by furthering one of the purposes of the enterprise - the concealment of the illegal activities of the enterprise under said Section 1961(A) and (D), whether past or future, and to preserve the enterprise's existence by prevention of any disruption by law enforcement involvement or action.

456. The predicate acts committed by the Defendants are numerous, the last of which has been committed within ten years of a prior predicate act.

457. The predicate acts in violation of 18 U.S.C. § 1961(A) and (D) occurred within the last ten years, as did the predicate acts in violation of 18 U.S.C. § 1961(B) (i.e., violations of 18 U.S.C. §§ 1512 and 1513).

458. The earliest of the *known* predicate acts in violation of 18 U.S.C. § 1961(A) and (D), as described above in this Complaint, was after November 20, 2006, when the Plaintiff was injured, and the latest predicate act in violation of § 1961 (B) (i.e., violations of 18 U.S.C. §§ 1512 and 1513) is actually an ongoing and continuing violation by the refusal to allow the Plaintiff to be a detective on the DPD and remaining demoted to patrolman, and more specifically, predicate acts were done on the date that the Plaintiff was removed from the CBI unit by O'Hanlon on October 20, 2015 and then a short time thereafter when the Plaintiff was told by Defendant Chartrand that he could not be a detective.

459. The multitude of predicate acts as mentioned above (the retaliatory acts in violation of 18 U.S.C. §§ 1512 and 1513) after the Plaintiff revealed the information provided by CS and the initial predicate acts in violation of § 1961(A) and (D) were thus all within 9 years of each other, and are of such a number and so related and continuing that there is clearly open-ended continuity of related predicate acts which caused harm to the business (income) of the Plaintiff and which is likely to continue.

460. The predicate acts of all Defendants by violations of 18 U.S.C. §§ 1512 and 1513 (retaliation, threats, intimidation, harassment, etc.) have become and are the normal way of doing business and/or conducting the affairs of the association-in-fact enterprise as it relates to the purpose of cover-up and prevention of investigations into the alleged unlawful acts of Doe1 and DO3 of controlled drug purchase, sale, use, or otherwise handling thereof, targeting the Plaintiff and his

association with anyone who would support the disclosure and investigation into the predicate acts of Doe1 and DO3.

461. At all times material to this Complaint the Defendants knew or should have known that their actions were illegal and would result in monetary harm to the Plaintiff by loss of income and ability to earn additional income.

462. Although there must be at least two predicate acts committed within ten years of each other, there is no requirement that each defendant himself has committed two predicate acts individually.

463. Retaliatory acts are inherently connected to the underlying wrongdoing exposed by the whistleblower, and, therefore, a relationship exists between the predicate acts under §1512 and 1513 (including the § 1513(e) predicate acts against the Plaintiff in retaliation for his whistleblowing and exercising his free speech rights) and the predicate acts involving the underlying cause for such retaliation, to wit, the predicate acts of violations of 18 U.S.C. § 1961 (A) and (D) in the alleged illegal dealing with or otherwise handling controlled substances in violation of Massachusetts and United States laws.

464. By the acts and means alleged above the Plaintiff has been harmed in his business (income) by his removal as a CBI officer, and said harm includes lost wages of at a minimum $1,000.00 per week from the DEA and DPD since his removal.

465. By the acts and means alleged above the Plaintiff has been harmed in his business (income) because as a patrolman he is limited as to the amount of overtime he can work.

466. The exact amount of damages has yet to be determined but are, at a minimum, $1,000.00 per week under the RICO claim, from the time he was removed as a CBI officer and, an additional

amount to be determined under the RICO claim for being prevented from continuing as a detective with the DPD.

467. These damage amounts are only limited as claimed under the RICO statute and is not an admission that that is the extent of the Plaintiff's injuries and, to the contrary, the Plaintiff claims the injuries and damages in general and specifically are far greater as alleged under the other claims in this Complaint.

468. The damages under the RICO claim, once determined, should be trebled in accordance with 18 U.S.C. § 1961(c).

469. The Plaintiff, if successful on the Civil Rico claim, is entitled to attorney's fees and costs.

WHEREFORE, the Plaintiff demands:

a. That judgment be entered in favor of the Plaintiff against all Defendants.
b. That the Plaintiff be awarded compensatory damages in an amount to be determined by the jury.
c. That the Plaintiff be awarded treble damages against the Defendants in their individual capacities.
d. That the Plaintiff be awarded attorney's fees and costs of this litigation.
e. Any other relief the court deems just and proper.

COUNT IX - 18 U.S.C. § 1964(d) - Civil RICO Conspiracy
Plaintiff J. Jakuttis v. Defendants Chartrand and John Doe1
and O'Hanlon and John Doe2

470. The Plaintiff reasserts and re-alleges the allegations contained in paragraphs 1-469 above, inclusive, and incorporates them herein by reference as if fully set forth herein.

471. By the acts and means alleged above, the defendants have conspired to commit a RICO violation, to wit, they have conspired to violate 18 U.S.C. § 1962(c).

472. Said conspiracy was by knowingly agreeing to facilitate others who operate the enterprise and knowingly agreeing to facilitate a scheme which includes the operation of a RICO enterprise.

473. The RICO enterprise is as alleged above.

474. Defendant O'Hanlon: Defendant O'Hanlon agreed to facilitate the activities and purposes of the enterprise of silencing the Plaintiff and others from exposing the illegal acts of Defendant John Doe1 and DO3 by way of committing predicate acts made illegal by 18 U.S.C. § 1512 and 1513 as alleged above.

475. This was accomplished by discharging or removing the Plaintiff from his position as a CBI officer for the DEA. But for Defendant John Doe2's harassment, intimidation, coercion, pressure, and other outrageous, heated, rage driven and aggressive outbursts toward the Plaintiff, often in front of Defendant O'Hanlon, O'Hanlon would not have removed the Plaintiff from his position as a CBI officer, and in doing so he was aiding and abetting, and otherwise facilitating the members of the enterprise and facilitating the scheme of the enterprise in fulfilling its purpose: to engaging predicate acts in violation of the RICO statute to cover-up the previous predicate acts of illegal drug activity.

476. It is clear that Defendant O'Hanlon was facilitating others in the unlawful obstruction of justice activities of the enterprise because he told the Plaintiff that he is a "victim of circumstances, but something has to be done" and that he "didn't know what [John Doe2] was capable of," and that his work ethic and productivity was "outstanding and excellent" and "was certainly not part of his decision" to fire the Plaintiff. See paragraphs 190-192, above.

477. Defendant John Doe2 told the Plaintiff he was "going to the boss" and "getting you kicked out of here." See paragraph 142, above.

478. This was an agreement to comply with what Defendant John Doe2 demanded, requested, or otherwise expressed to O'Hanlon that the Plaintiff should be out of the CBI.

479. Defendant Chartrand: Defendant Chartrand agreed to facilitate the activities and purposes of the enterprise of silencing the Plaintiff and others from exposing the illegal acts of Defendant John Doe1 and DO3 by way of committing predicate acts made illegal by 18 U.S.C. § 1512 and 1513 as alleged above.

480. This was accomplished by preventing the Plaintiff from resuming his duties as a detective on the DPD after he was removed as a CBI agent. But for Defendant John Doe1's open hostility toward the Plaintiff (because he revealed what CS had told him regarding the alleged illegal drug activity), Defendant Chartrand would not have prevented the Plaintiff from continuing as a detective for the DPD, and in doing so he was aiding and abetting, and otherwise facilitating the members of the enterprise and facilitating the scheme of the enterprise in fulfilling its purpose: to engaging predicate acts in violation of the RICO statute to cover-up the previous predicate acts of illegal drug activity.

481. It is clear that Defendant Chartrand was facilitating others in the unlawful obstruction of justice activities of the enterprise because he told the Plaintiff that he [John Doe1] "doesn't want you there" [in the detective unit of the DPD] and that "I can't kick sand in his face." See paragraphs 207-208, above.

482. The conspiratory actions of Defendants Chartrand and O'Hanlon with Doe1 and Doe 2 in preventing the Plaintiff from returning as a detective for the DPD and removing him from the CBI unit, respectively, were both predicate acts themselves under 18 U.S.C. § 1512 and 1513, as articulated and alleged previously, and agreeing to engage in such actions actually and proximately caused harm to the Plaintiff though those predicate acts.

WHEREFORE, the Plaintiff demands:

f. That judgment be entered in favor of the Plaintiff against all Defendants.
g. That the Plaintiff be awarded compensatory damages in an amount to be determined by the jury.
h. That the Plaintiff be awarded treble damages against the Defendants in their individual capacities.
i. That the Plaintiff be awarded attorney's fees and costs of this litigation.
j. Any other relief the court deems just and proper.

PLAINTIFF DEMANDS A TRIAL BY JURY ON ALL ISSUES AND CLAIMS

December 01, 2016

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