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IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF PENNSYLVANIA

JOHN R. MCLAUGHLIN AND )
CHARLES MICEWSKI, )
)
Plaintiffs )
)
VS. )
)
MICHAEL FISHER, GERALD )
PAPPERT, CHARLES WARNER )
BRUCE SARTESCHI, DAVID )
KWAIT, AND JAMES CAGGIANO
)
Defendants )

NO 3:00-CV-521

(JUDGE CAPUTO)

FILED
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PER LB
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JURY TRIAL DEMANDED

# PLAINTIFFS BRIEF IN OPPOSITION TO DEFENDANTS MOTION FOR SUMMARY JUDGMENT

## I.) Background

Plaintiffs filed the above suit as a consequence of a number of actions by defendants they perceived as retaliatory. The actions include the improper withholding of promotions, punitive transfers, harassment, denial of benefits, educational opportunities and other violations of plaintiffs rights. Defendants have composed a statement of alleged undisputed facts pursuant to local rules and Rule 56. Plaintiffs incorporate herein their Counterstatement of Material Facts and the

affidavit of John R. McLaughlin in response.

Plaintiffs in 1996 were part of a group of state narcotics agents who were the most productive in AG history. Their reputations, acumen, and work performance were exemplary. They stumbled on a State Department relationship (political support of the PRD, a Dominican political party) and the operatives of that party, who were running a prolific drug operation into key Eastern seaboard cities. One was Philadelphia. The "bastard squad" as certain defendants (now dismissed by this Court from a related action) named the plaintiffs, were soon the brunt of media attacks and various assaults in the local courts. A local attorney who served in the Philadelphia DA's office with officials in the DA's office, and the U.S. Attorney, claimed that the plaintiffs were abusing the plain view doctrine and lying on probable cause affidavits regarding the arrests, searches and seizures of alleged drug dealers. The U.S. ATTORNEY and the DA joined in denouncing the plaintiffs declaring them persona non grata in their prosecutions because they were supposedly not credible. The U.S. ATTORNEY even convened a grand jury investigation into the plaintiffs which was of course publically announced. When the plaintiffs asked the defendants for permission to speak out and respond to this matter of public concern (and admittedly of personal concern) they were denied under threat of discharge. Meanwhile the AG's office thoroughly investigated the allegations against the plaintiffs. 3 attorneys and

some investigators, including a Deputy Attorney General, soon learned, after they witnessed drugs openly being traded, sold, and carried on in Philadelphia streets in broad daylight, at a time of heightened police presence, that the plain view searches and seizures were indeed based on facts. But the defendants were unrelenting. From Fisher on down the plaintiffs were consistently refused their requests to speak out and respond. The defendants refused to use their own power to prosecute (something they re doing on other cases today ). They were called bastards. They were taken out of the streets. Sarteschi even admits that they were denied chances at promotions even after the AG's own investigation totally exonerated them. They were transferred away from their homes and refused the opportunity to do their chosen profession.

McLaughlin was denied sick leave and even family sick leave as his father lay in a hospital awaiting open heart surgery. While they asked for, and were denied, an opportunity to speak out, the false stories about them were circulated by the AG's office to their law enforcement colleagues. The results of the grand jury investigation, which produced absolutely nothing inculpatory about plaintiffs, was kept under wraps, intentionally, long after the Noonan report, which continues to be suppressed by order of this court definitively cleared the plaintiffs. Meanwhile, because plaintiffs filed the former lawsuit at 1:CV-97-1555 (M.D. Pa.) hereinafter "1555" on October 7, 1997 all of the above came down on plaintiffs with a vengeance .

Not satisfied with transferring the plaintiffs, far away from home with changing their work from active street agents to clerk like data input jobs (when any work was even there to do) denying them normal benefits such as sick benefits in McLaughlin's case, and forcing them to spend a significant portion of their work week doing unproductive traveling to and from home, the defendants engaged in a subtufuge with plaintiff's union, AFSCME, to deny plaintiffs' union protection, pay raises, and submit the grievance process to plaintiffs' disadvantage (as in the case of former plaintiff Dennis McKeefery). Their retaliation arose because of this suit at "1555" and defendants have admitted to their complicity with AFSCME in the scheme during a court proceeding. Perhaps most ironic of all, is that while the defendants claimed that the plaintiffs were excluded from using the plaintiffs because of their alleged lack of credibility, they both, have in fact, been used by the U.S. Attorney the state, and the Philadelphia DA in criminal prosecution. There has been no need not to allow these agents to defend themselves. They continue to be punished for speaking out and for filing suit.

## II.) <u>ISSUES</u>

1.) Have the plaintiffs made out a retaliation claim, and,

2.) Have the plaintiffs made out a claim against Warner and Sarteschi?

## III.) <u>ARGUMENT</u>

Public employees have a protected First Amendment right to speak out on matters of public concern, Pickering v. Board of Education, 391 U.S. 563 (1967), Baldassare v. New Jersey, 250 F.3d 188, at 195 (3d Cir 2001). There is no question in this case, and defendants appear to raise no objections, that the plaintiffs had a First Amendment right to speak out (particularly once accused of wrong doing in the media) and have not addressed plaintiffs' allegations that they were prevented from doing so by orders from the defendants. See also Connick v. Myers, 461 U.S. 138 (1983). According to Baldassare the plaintiff must show that the protected activity was a substantial factor for the alleged retaliation. Defendants argue that merely because Mr. Fisher says that plaintiffs actions in filing a law suit, and in speaking out, were not incidental to his decision and those of his staff to transfer the plaintiffs, let alone the refusal to let them respond to the media (a violation in itself that should send this matter to trial) that is not sufficient reason to put the matter to rest. It is disputed. It is clear defendants position is not well taken. See Plaintiff's Counter Statement . See affidavit of John McLaughlin Exhibit "A". There was no business need for plaintiff to be where they were sent. See Exhibit "B" and "C". At this point plaintiffs incorporate by reference Exhibit "B" (Micewski testimony from the September 30, 1998 PLRB hearing), Exhibit "C" (McLaughlin testimony from the September 30, 1998 PLRB hearing) and Exhibit "D" (Sarteschi testimony from the

September 30, 1998 PLRB hearing). Along with Plaintiff's Counterstatement of facts it is clear that plaintiffs have met their burden of raising disputed material questions of fact over why the plaintiffs were transferred, were denied promotions, denied sick leave, and denied an opportunity to respond to untruthful allegations against them, when in all cases the defendants knew the allegations against plaintiff were false. There is a plainly disputed fact as to defendants' motivations. To begin with, even if the defendants couldn't have prosecuted the criminals they released (which they could have) they had no need to send plaintiffs to far away places like Wilkes -Barre, and Greensburg to do absolutely nothing. This was harassment. These offices didn't even know they were coming and didn't know what to do with them. See the undisputed testimony of McLaughlin and Micewski, Exhibit "B" and "C". And see also the testimony of Bruce Sarteski (Exhibit "D") who admitted that plaintiffs were not made aware of promotional opportunities, Exhibit "D" NT 212-226. and as to the alleged need for the transfers see Exhibit "B" Micewski testimony NT 65-70, and also see Exhibit "C" McLaughlin testimony N.T. 98-107. Worst of all the defendants make a disingenuous "proximity in time" argument which is of dubious relevance. Micewski has never been returned to his home area and McLaughlin was only returned after an agreement was reached prior to a hearing before the Honorable Anita Brody Federal District Judge (Eastern District of Pennsylvania). The

defendants' claim that the transfers were based on business reasons is clearly in dispute. Defendants offer absolutely no defense to refusals to allow the plaintiffs to defend themselves and speak out and the totally unjustified refusal to consider them for promotions. "The Third Circuit has stated that "investigations into the alleged criminal actions of public employees fall squarely within the core of public speech delineated in Connick" Baldassare, 250 F.3d at 196-97 (quoting Swinford v. Synder County, 15 F.3d 1258, 1271 (3d Cir 1994)" from Ober v. Evanko et al, CV-01-0084 (Hon. William W. Caldwell) at pages 9-10.

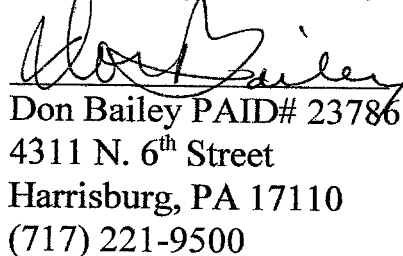
Defendants also advance the theory that this matter was adjudicated and thoroughly litigated at a September 20, 1998 PLRB hearing commencing at 10:13 a.m. and ending at 3:49 p.m. (With an hour lunch break). Defendants position is not well taken.To begin with virtually every grievance involving claimants have now been reopened because the Commonwealth Court of Pennsylvania has found that AFSCME, and the defendants, colluded on handling the plaintiffs' (including McKeefery's) employment matters ie, grievances etc. According to plaintiffs' new union, based upon admissions made by Mr. Pappert, the plaintiffs would receive no help on pay raises they had earned, because they had filed the previous suit and this suit. Plaintiffs intend to file an additional law suit on this matter since each of them was intimately involved as officers in forming the new union. In order for an issue

preclusion to have an effect on this proceeding, the proceeding in the administrative agency must" result from a process sufficiently similiar to a judicial proceeding" to have a res judicata effect. Campbell v. Arkansas Department of Correction, 155 F.3d 950, 960 (8th cir 1998). The PLRB process is a mere appeal of a grievance. There is virtually no discovery process. Further the claims are different, the parties aren't the same (the AG's office is not a party here and neither is AFSCME). See McCarthy v. Township of McCandless, 300 A.2d 815, 819-821 (Pa. Cmwlth 1973).

And as to Mr. Warner and Mr. Sarteski and retaliation see Exhibit "C" N.T. pgs 103-105 and see also Exhibit "D" in Mr. Sarteschi's own words N.T. pgs 213-214 where he continues the bad mouthing of these plaintiffs even after they had been cleared by the AG's office. This is retaliation pure and simple.

**WHEREFORE** defendants motion for Summary Judgment should be denied.

Respectfully Submitted,



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IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF PENNSYLVANIA

| | | |
|---|---|---|
| **JOHN R. MCLAUGHLIN AND CHARLES MICEWSKI,** | ) | **NO 3:00-CV-521** |
| **Plaintiffs** | ) | |
| **VS.** | ) | **(JUDGE CAPUTO)** |
| **MICHAEL FISHER, GERALD PAPPERT, CHARLES WARNER BRUCE SARTESCHI, DAVID KWAIT, AND JAMES CAGGIANO** | ) | **JURY TRIAL DEMANDED** |
| **Defendants** | ) | |

**PLAINTIFFS COUNTERSTATEMENT OF UNDISPUTED MATERIAL FACTS**

1.) Admitted.

2.) Admitted.

3.) Admitted.

4.) Admitted.

5.) Admitted.

6.) Admitted.

7.) Admitted.

8.) Admitted.

9.) Admitted.

10.) Admitted.

11.) Admitted.

12.) Admitted. The AG however is now prosecuting a case refused by the Philadelphia DA.

13.) Denied. Opposing officials did not keep the plaintiffs from testify, Further, the AG has the authority to prosecute using its own offices, and is in fact doing so at this time. Commonwealth v. Basowicz), Also, before the transfers had occurred, the AG had thoroughly investigated the plaintiffs and exonerated them yet still refused to allow them, to clear their names because of political concerns.

14.) Denied. Plaintiffs were asked to perform as narcotics agents. They volunteered to work the streets in the bedroom counties. They volunteered to work the streets in Harrisburg area also, but were told that the press and defense attorneys might react. But to what? The AG's own Deputy, Eric Noonan had cleared them. Further their performance as intelligence agents is as sensitive as their duties as narcotics agents, showing they were implicitly trustworthy but were politically expendable..

15.) Admitted. By way of further response plainitffs had nothing to do once they were assigned but sit at a desk and stare into space. The assignments to Wilkes Barre and Greensburg was vindictive, mean, and retaliatory. The offer to transfer to Norristown was to make a permanent transfer and consequently Micewski and McLaughlin refused. They had done nothing wrong to deserve it and assumed their names would be cleared. McKeefery was severely injured by the transfer. He was made a car jockey.

16.) Admitted.

17.) Admitted in part. The transfers were done because plaintiffs filed of the federal court case. This was no AG need. McLaughlin has also persisted, along with the other plaintiffs over having an opportunity to be able to respond to the press. The plaintiffs were also active in union organizing and were retaliated against for this.

18.) Admitted. But the decision was also participated in and encouraged by the other defendants who played a role in harassing the plaintiffs later on.

19.) Denied. On one occasion McLaughlin walked into his work place and Warner, with others, was on a speaker phone about him. This was just preceding the transfer to Greensburg where McLaughlin was denied sick leave. On Monday November 17, 1997 McLaughlin was ordered by Warner to report to Greensburg by 3:00 p.m. the next day or be terminated. McLaughlin, who was suffering from a work

related accident and could not do sustained driving, told Warner he also had a right to sick leave including family sick leave. Warner was unrelenting and told McLaughlin he was to report or else be fired. McLaughlin, who's elderly father was to be operated on the next day for heart surgery, pleaded with Warner to at least let him be with his father since his mother was not strong. Warner refused and McLaughlin, the next day (a 5 ½ hour drive one way) had to drive from Philadelphia to Greensburg. Only the intervention of 2 federal judges enabled McLaughlin to be able to work out of an office closer to his home.

20.) Denied. This only occurred because the plaintiffs were put into a different venue of work. Further more its not relevant to any matter in this case. See #19 above.

21.) Denied. Sarteschi was as much of a participant in the decision to transfer as the other defendants. He knew he was supplying the information and date on which they depended. Furthermore there was no need for any CHRIA people in Greensburg. That's why McLaughlin spent 2 days of work a week traveling out and back - and had nothing to do.

22.) Admitted.

23.) Admitted.

24.) Admitted. By way of further response this is not surprising. Hearing Examiners for state agencies in Pennsylvania serve at the pleasure of the agency. The

politics of agency practices in Pennsylvania is common knowledge. There is no surprise that a PLRB hearing examiner would find good reasons to support the state in such a situation, and would resolve differences in favor of a public employer. It is denied that the issues before the examiner were even ligated in a partially thorough way. Furthermore much has been learned since the September 30, 1998 hearing, and more violations have occurred including collusion between AFSCME and the AG defendants Fisher and Pappert to violate the plaintiffs constitutional rights.

25.) Denied. Plaintiff will respond to defendants "bullets" ad seriatum.

a.) At the time of this hearing the facts of the Noonan report and investigation were less well known. The hearing and the findings are being used to subvert this litigation and to create an obstacle for the plaintiffs.

b.) Denied, if this was so then why was the effort so vacuous in November 1997 when McLaughlin and Micewski could find nothing to do at their new jobs.

c.) Denied. These may have been his intentions but that did not require taking Micewski and McLaughlin out of the Southeast. In Greensburg there were two applicants for a CHRIA position waiting - why weren't they put in? Because there was no work

d.) Admitted. And because the transfer was for a permanent purpose Micewski and McLaughlin objected. Contrary to the defendants' averments McKeefrey did not

agree to any transfer. He was given no choice and he was not given an assignment commensurate with his position. He was turned into a car jockey and a floor sweep.

e.) Admitted. The agents did not want a permanent transfer. They had done nothing wrong. At the time of this hearing (September 30, 1998) the plaintiffs had been verbally informed that they had done nothing wrong by Eric Noonan, however they did not know that a thorough investigation had been done and that they had been exonerated by the investigation and that a report was written until late 1997 when our attorney procured part of Noonan's report. They did not know that the federal and Philadelphia prosecutors had not been given the report, and that they were being transferred to facilitate the defendants media concerns (ie. Political concerns) at the plaintiffs expense, who didn't want to bear the public burdens of defending them and wanted to punish them for filing this law suit.

f.) Denied. This averment by defendants is patently false. There was no need for McLaughlin in Greensburg and no need for Micewski in Wilkes Barre. Both men had nothing to do for months. McLaughlin was the only intelligence officer at his Philadelphia job site and when he left there was no one else there. The transfer was punitive and totally unnecessary. The best evidence of that fact is that McLaughlin spent at least 2 days per work week driving to and from the job site. This was sheer meanness.

g.) Denied. This finding was unsupported by substantial evidence and was also based upon distorted evidence offered by the defendants. Defendants never revealed that they had the authority and duty to prosecute the drug traffickers, pushers, and users the plaintiff's had properly and lawfully investigated. The OAG (and defendants goal) was to do the political thing that suited to help them at the plaintiffs' expense and to punish plaintiffs for trying to speak out. Plaintiffs were denied promotions, and later suffered extreme retaliation including punishment for reorganizing their Union and filing both underlying federal lawsuits.

h.) Denied. Plaintiff didn't know at the time of the September 1998 hearing that an investigation had cleared them and that a definitive report on their innocense had been written. The fact is their plain view arrests and searches were all justified. They were right all along. The Noonan investigation demonstrated that drugs were openly carried in the streets. Numerous criminals were set free because of the AG, The U.S. Attorney and the Philadelphia DA. The travesty of continuing the punishment against the plaintiffs were done to save the defendants public embarrassment and punish the plaintiffs. They refused to allow the defendants to clear their name, because to do so would totally embrass the above prosecutors for letting numerous drug dealers go free so they punished the plaintiffs to shut them up. When the plaintiffs tried to speak out, including going to the press, and speaking to Congress, they were transferred, denied

promotions, sick leave, harassed and not even allowed to defend themselves before their own colleagues. Later, they were punished for filing the federal law suits and trying to shed themselves of AFSCME, from an FOP local and for complaining on the job of unfair practices.

i.) Denied. The denial of sick leave to McLaughlin was sheer cruelty. McLaughlin's father had a heart attack on November 16, 1997. His mother is legally blind and his parents were both 78 years old. He was denied a simple contract right to family leave by the defendants (Warner and Sarteschi), just to be mean and vindictive. He was ordered under threat of discharge, while in need of medical attention himself, in addition to his families needs, to go to Greensburg as his father was scheduled to undergo open heart surgery. John's father depended on him, as did his mother. There was absolutely no reason to be this mean and hateful merely because McLaughlin had filed a law suit just a few weeks before (October 14, 1998). This was retaliation. John was later, after going to two federal judges (Judge Caldwell and Judge Shapiro) finally sent back to Norristown when he could have been temporarily transferred to to begin with.

26.) Admitted that this court found that McKeefery had not been retaliated against. It is denied that this court did not err in that decision. Since that decision, plaintiffs, including McKeefrey, have learned among other things, that they were

unlawfully denied raises because they sued (in the word of Mr. Pappert) "me" (meaning Mr. Pappert and the other defendants) and because they organized an FOP local and decertified AFSCME. Dennis McKeefrey, as were John McLaughlin and Charles Micewski, were the officers and organizers of the new union. The raises were withheld because AFSCME and the Attorney General's office conspired to do so. When challenged Mr. Pappert remarked why should he help the plaintiffs when they're "suing me". These matters raises serious 1st Amendment claims, and will result in a new complaint for retaliation, if not assimilated here, since they first came to plaintiffs' attention in the year 2000.

27.) Admitted. However it is denied that McKeefery did any intelligence work. Instead he was assigned duties to keep track of automobiles in the AG fleet and sweep the floor.

28.) Admitted. But McKeefrey didn't want the reassignment.

29.) Denied. McKeefrey was assigned the duty of sweeping floors and keeping track of AG automobiles. Later, he was given intelligence duties to perform.

30.) Both McLaughlin and Micewski have testified for the government in criminal proceedings yet the defendants continue to retaliate against the plaintiffs.

31.) McLaughlin testified in Commonwealth Court (along with Dennis McKeefery) on behalf of the Philadelphia District Attorneys office - after they were

improperly alleged to have lied on probable cause affidavits.

32.) Defendants continue to allege that plaintiffs assignments to clerk like desk jobs is necessitated by their alleged undesirability to the Philadelphia DA and the U.S. ATTORNEY or the Eastern District of Pennsylvania.

33.) In the case of Charles Micewski, he has been involved in the following acitivities since he was alleged to have been part of plain view doctrine violations by the Philadelphia D.A. and the U.S. ATTORNEY.

34.) It is the AG's office, by and through the defendants' who have blocked and inhibited the plaintiffs in testifying in criminal cases if at all. In the case of Micewski for example;

A.) Micewski has participated in a federal wire-tap and was sworn in as a federal Marshall for that assignment (Hhis background check was performed by the FBI in the Philadlephia office).

B.) Micewski has participated in federal arrest and search warrants.

C.) He has participated in serving State Grand Jury Arrest warrants.

D.) Participated in narcotics purchasers (He did not purchased the drugs but did back up for this type of assignment).

E.) He has participated and testified at a preliminary hearing for a narcotics arrest that he was a witness to while performing an INTERPOL assignment where he

observed drugs and drug paraphernalia only because of the restrictions put on him the Pa. State ATTORNEY General's Office he had called the Regional Narcotics Agents to affect the search and seizure of narcotics in the defendants residence. He was then called as a witness at the preliminary hearing and after his testimony the Judge held both defendants over for trial. Both defendants pled guilty at their trials in court.

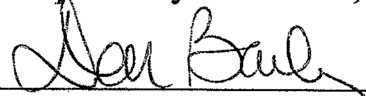
F.) He went to the Washington D.C. U.S. ATTORNEY's office to help with a money laundering case. He had access to all the files of the federal government on a federal grand jury case. The case is still open and awaiting prosecution by both the State of Pa. and the Federal Government.

G.) All of the Freedom of information material that both plaintiffs received from the U.S. Attorneys office and the F.B.I. office about the investigation at B.N.I. Philadelphia Office, does not indicate that any of their investigations

35.) were looked at. The Agents and Police that were assigned on the investigations that plaintiffs names were listed on are all working and were never taken off the streets.

36.) Plaintiffs have access to databases from H.I.D.T.A., Magloclen, State Police, and the Pa. State attorney General Office.

Respectfully Submitted,



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# DECLARATION OF JOHN R. MCLAUGHLIN

I, John R. McLaughlin hereby declare and swear under penalty of perjury knowing this document will be used in making representations to a court of law, and intending to be legally bound hereby, that the following is true and correct to the best of my knowledge information and belief.

1.) That prior to the Spring of 1996, I, Agents Charles Micewski, Dennis McKeefery, Edward Eggles and others were investigating unlawful drug activity in Philadelphia that was centered in Black and Hispanic neighborhoods.

2.) That we discovered a connection between a State Department supported political party in the Dominican Republic (the PRD) and an organized group of drug dealers, and that we did out best in a totally lawful and proper fashion to investigate, apprehend and prosecute the wrong doers.

3.) That we soon learned that our credibility was being questioned by the U.S. attorney's office and the Philadelphia DA's office because we had allegedly lied about probable cause to search, seize, and arrest.

4.) We learned this from the media and we learned it also from lawyers who worked for the Dominicans.



Exhibit A

5.) That the leading attorney for the Dominicans had worked in the DA's office with some officials in the DA's office and the U.S. attorney and was complaining that his clients were being victimized.

6.)That we were forbidden by our superiors from responding or answering the press criticism under threat of discharge.

7.) That I, John McLaughlin asked numerous times, in writing, and orally including the AG himself, for the opportunity for us to respond, and was denied.

8.) That the bad press articles that appeared in the print media were circulated, in spite of our protests, by the AG front office, throughout the state to our law enforcement colleagues on a routine basis.

9.) That at no time did any of the plaintiffs violate intentionally or even negligently the right of any persons arrested, seized, or searched.

10.) That the AG's office thoroughly investigated the accusations against us and exonerated us totally ie. investigators (including a chief deputy attorney general) witnessed drugs in large quantities being openly carried in the streets, and was offered drug deals in broad daylight, even with heightened Philadelphia Police presence,

11.) That regardless the DA and U.S. attorney persisted in publically bashing us and the U.S. attorney announced a grand jury investigation while our

superior's the defendants, would not allow us to respond under threat of discharge.

12.) That the grand jury investigation was not a true investigation at all and that it was known to the defendants prior to the Spring of 1998 (less than 6 months after we filed this suit) that there was no evidence of any wrongdoing on our parts, yet the defendants, as late as the Fall of 98 on to the present, continued to deny us promotions, reinstatement, or an opportunity to clear our names until our attorney threatened them with further action.

13.) That it was not publically announced until almost a year after it was known ie., that the grand jury was a non-event which the defendants kept from us.

14.) That even though the defendants knew we had done nothing wrong we were denied the opportunity to do our jobs and fulfill our job descriptions and, were referred to as the bastard squad and were not allowed to enter certain building or appear in certain places particularly when jobs were posted.

15.) That the defendant all knew that the AG has the authority to prosecute, on its own, cases that other prosecutors choose not to prosecute.

16.) That this was expressly suggested to them by the plaintiff John McLaughlin.

17.) That in spite at these facts the defendants allowed hundreds of criminals to go free and persisted in persecuting and harassing the plaintiffs in at

least the following ways.

A.) Transferring them away from their homes and from their job descriptions, in a matter that humiliated and demeaned them before the public and in front of their colleagues by creating the impression they had broken the law.

B.) Denying them pay increases and promotional opportunities.

C.) Denying them an opportunity to speak out, on matters of public concern, and defend themselves and their reputations.

D.) Forcing them to travel hundreds of miles to their work site even though in McLaughlin's case he had severe medical injuries which made driving extended distances dangerous and injurious, while neither he nor Micewski had anything to do.

E.) Destroying their careers both as to reputation and opportunity for advancement.

F.) Calling plaintiff McLaughlin at home and harassing him,

G.) Denying McLaughlin sick leave to which he was entitled while his father underwent critical surgery and in an attempt to cover this fact up they ordered him to change his leave requests from annual to sick leave, because they were covering themselves.

H.) Investigating McKeefery on a phoney harassment charge which is now being re-litigated because AFSCME was in collusion with Mr. Fisher and his administration to harm plaintiffs.

18.) That the defendants retaliated against the plaintiffs in the following ways:

A.) placing a surveillance camera near their place of work,

B.) denying them promotional opportunities and pay because they organized an FOP local, and decertified AFSCME, something which was admitted to by defendants in a court of law, and which has given rise to a lawsuit now in Commonwealth Court against AFSCME by plaintiffs new union .

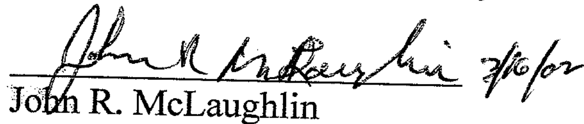
19.) That this occurred after the year 2000 and plaintiffs only learned of it in the Summer /Fall of the year 2000, and the statute of limitations has not yet run.

20.) That the defendant Pappert commented he would not help defendants who were entitled to pay raises held back by AFSCME and the AG, in violation of contract because they sued him - this occurring partly because AFSCME, who no longer represented plaintiffs, and also because plaintiff had this suit pending in federal court.

21.) That the defendants continue to refuse to follow established rules and practices where the defendant Warner was reported for altering records and

records practices yet internal affairs will not give the complaint a number in retaliation against McLaughlin.

22.) That Bruce Sarteschi; who does not have authority to act on his own admitted under oath as late as September 30, 1998, that the plaintiffs were not given promotional opportunities or even considered for promotion because they were supposedly ineffective in their rank and file position according to Sarteski who knew the same to be totally false.



John R. McLaughlin