

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

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ALEXANDROS PERROS, THOMAS DELLE,
NICHOLAS LENOCI AND VICTOR PATALANO
Collectively on Behalf of All
Persons Similarly Situated And/or Sheriff's Department
Former Personnel Unfairly Denied Proper
"Recommendation For Consideration Of Application
For Pistol License For Retiring Peace [Police] Officer"
Forms and/or "Good Guy Letters" Following Retirement,
Due To Injury and or Disability,

Plaintiffs,

-against-

COUNTY OF NASSAU; NASSAU COUNTY POLICE
DEPARTMENT; NASSAU COUNTY SHERIFF'S
DEPARTMENT, SHERIFF MICHAEL SPOSATO,
In His Individual And Official Capacities,

Defendants.

-----X

DOCKET NO.:

COMPLAINT
Jury trial demanded

COLLECTIVE PLAINTIFFS, ALEXANDROS PERROS, THOMAS DELLE, NICHOLAS
LENOCI, and VICTOR PATALANO individually, collectively as named herein, and as part of a
putative class of individual former members, employees, officers, and/or representatives of the
NASSAU COUNTY SHERIFF'S DEPARTMENT collectively on behalf of all persons similarly
situated and/or Sheriff's Department former personnel denied proper "Recommendation For
Consideration Of Application For Pistol License For Retiring Peace [Police] Officer" forms and/or
"Good Guy Letters" following retirement, due to injury and or disability, by and through their
attorneys, the LAW OFFICES OF FREDERICK K. BREWINGTON, against the Defendants, state
and allege as follows:

PRELIMINARY STATEMENT

1. This is a civil action seeking monetary relief (including humiliation, embarrassment, past and on going economic loss), injunctive relief, declaratory judgment, compensatory and punitive damages, disbursements, costs and fees for violations of the Plaintiffs' rights, brought pursuant to 42 U.S.C § 12132; 42 U.S.C. § 1983 and an award of attorney's fees/cost pursuant to 42 U.S.C § 1988.

2. In this Action, Plaintiffs, who are all former Deputy Sheriffs of Nassau County and/or Corrections Officers and/or former employees of the Nassau County Sheriff's Department, seek declaratory and injunctive relief and damages, arising from the intentional actions of the Defendants in violating their rights, denying equal and proper treatment and discriminating against them because of their disabilities and/or status as disabled as a result of the Defendants failing/refusing to grant them reasonable accommodations, failing to provide equal treatment, failing to provide due process, failing to honor their rights and by directing the COUNTY OF NASSAU, Nassau County Police Department, and/or State Of New York to deny Plaintiffs' right to bear or carry arms and in preventing the issuance of hand gun/pistol licenses and denying "good guy letters" to Plaintiffs - specifically, because they each retired as a result of said disabilities.

3. Plaintiffs allege that Defendant COUNTY OF NASSAU AND/OR THE NASSAU COUNTY SHERIFF'S DEPARTMENT negligently, wantonly, recklessly, intentionally and knowingly sought to and did wrongfully deprive Plaintiffs of, *inter alia*: [1] the terms, conditions and privileges of their Retired Status, [2] the terms, conditions and privileges of their citizenship, [3] their personal property, [4] their property rights, [5] their 2nd and 14th Amendment rights, [6] their retirement rights and/or contractual rights, and [7] personal safeties, through unlawful violation of

laws, violation of rules, differential treatment, discrimination, retaliation, harassment on the basis of their status as disabled persons, which they created and/or knowingly exacerbated.

4. Defendants herein purposefully and intentionally sought to deprive Plaintiffs of, *inter alia*: [1] rights to be issued permits/licences to own, possess and/or carry hand guns and/or pistols; [2] rights to good faith determination as to their respective rights to carry arms; [3] rights afforded to them as retiring members of the Nassau County Sheriff's Department; [4] rights to equal protection and/or to be free of discrimination and retaliation bases upon their respective statuses; [5] rights to property and ability to provide personal safety for themselves and families; [6] rights to due process; [7] rights to be free from limitations being placed on their ability to earn additional income.

5. Said acts were done knowingly with the consent and condonation of the COUNTY OF NASSAU, NASSAU COUNTY POLICE DEPARTMENT, NASSAU COUNTY SHERIFF'S DEPARTMENT, SHERIFF MICHAEL SPOSATO with the express purpose of harming Plaintiffs, infringing upon Plaintiffs' property rights, retaliating against Plaintiffs for belonging to a protected class of employees with disabilities, removing the Plaintiffs from the same level as other former Correction Officers and Deputy Sheriffs, retaliating against Plaintiffs for retiring due to their respective disabilities; and generally violating their rights as protected by the United States and New York State Constitutions, and federal and state statutes, rules and regulations.

JURISDICTION AND VENUE

6. The jurisdiction of this Court is invoked under 28 U.S.C. §§1331 and 1343.

7. Venue herein is proper under 28 U.S.C. § 1391(b); the cause of action arose in the Eastern District of New York - specifically, in Nassau County.

8. Plaintiffs, meeting all the requirements under *Federal Rule of Civil Procedure* 23 (a), (b) (1), (2), (3), assert the Class period is from the year 2012 to the present time. The Class is comprised of an unknown number of members, in an amount that, upon information, exceeds 100 individuals, who were previously employed by the COUNTY OF NASSAU, NASSAU COUNTY POLICE DEPARTMENT and/or THE NASSAU COUNTY DEPARTMENT SHERIFF'S DEPARTMENT and made application and/or sought to obtain permits and/or licenses to own, possess, retain, carry, obtain and/or collect hand guns and/or pistols and were denied that right and authority without due process, without lawful basis free of discrimination and free of differential treatment.

PARTIES

9. ALEXANDROS PERROS, THOMAS DELLE, NICHOLAS LENOCI AND VICTOR PATALANO, ("herein Class Plaintiffs") are each, collectively and individually, putative class representatives, who are citizens of the United States and residents of the State of New York. Plaintiffs were each employed and/or formerly employed by Defendants COUNTY OF NASSAU in the NASSAU COUNTY SHERIFF'S DEPARTMENT at all times relevant to the Complaint. Each Plaintiff suffered and/or were caused to suffer injuries and/or disabilities while employed with Defendants. As a result of their respective disabilities, each Plaintiff reported the injury(ies), as was their professional, contractual and common-law duty, and informed Defendants of their disabilities and thereafter, lawfully, properly and formally declared disabled for purposes of retirement. All Plaintiffs herein were union members and were Parties to a standing Collective Bargaining Agreement ("CBA") as well as bound to adhere to the provisions set forth in Defendants' rules, regulations, operations, and policies of the County of Nassau and State of New York.

10. Upon information and belief, Defendant COUNTY OF NASSAU (hereinafter "COUNTY") is a duly constituted municipal corporation of the State of New York. Upon information and belief, the COUNTY formed and has direct authority over several individual departments including the NASSAU COUNTY POLICE DEPARTMENT, NASSAU COUNTY SHERIFF'S DEPARTMENT and/or the Nassau County Department Of Corrections. The aforementioned departments and/or the employees, agents or representatives of said departments are directly involved in violations that are at issue in this Complaint.

11. During all times relevant in this Complaint the Defendant, NASSAU COUNTY POLICE DEPARTMENT (hereinafter "POLICE") is a department and or agency of NASSAU operating as part of the COUNTY. Upon information and belief, the POLICE oversees, maintains, manages/supervises, and controls several units, bureaus and employees- including but not limited to the Nassau County Police Department Pistol Licensing Bureau and the individual Defendant MICHAEL J. SPOSATO herein.

12. The SHERIFF'S DEPARTMENT (hereinafter "DEPARTMENT") is a Department and/or agency within the County of Nassau and is a local commission and created to be an autonomous agency which reports to the New York State Civil Service Commission. Defendant COUNTY OF NASSAU, through it's SHERIFF'S DEPARTMENT, was the employer of the Class of Plaintiffs and the members of the Class and maintains offices located at 100 Carmen Avenue, East Meadow, New York 11554, in the State of New York.

13. Defendant SHERIFF MICHAEL J. SPOSATO (hereinafter SPOSATO), at all times relevant to this complaint, served as Sheriff of the SHERIFF'S DEPARTMENT. Upon information and belief, Defendant SPOSATO is a decision maker and policymaker within the COUNTY.

NASSAU COUNTY SHERIFF'S DEPARTMENT interacts with other COUNTY policymakers, and is charged with the duties of overseeing the SHERIFF DEPARTMENT'S employees and employee-management relations. Same Defendant also has the authority and power to impact and/or affect some aspect of Collective Plaintiffs' compensation, terms, conditions, benefits and/or privileges of employment and status as retired individuals from the SHERIFF'S DEPARTMENT.

14. At all times relevant, Defendant SPOSATO is further charged with ensuring the implementation of, and compliance with, County, State and Federal rules, laws and regulations, and is further charged with acting according to said rules, regulations and laws. Defendant SPOSATO was noticed about, and directly participated in, the systemic denial of rights, discrimination and improper treatment that occurred against Class Plaintiffs and all those similarly-situated former employees of the Defendant COUNTY and SHERIFF'S DEPARTMENT and had the authority, power and capacity to end said systemic abuses, yet failed to do so.

CLASS STATEMENT

15. Plaintiffs ALEXANDROS PERROS, THOMAS DELLE, NICHOLAS LENOCI, AND VICTOR PATALANO sue as individuals and representatives of the Class they believe to be some 40-50 former Deputy Sheriffs or Correction Officers who were previously employed by the COUNTY OF NASSAU in the NASSAU COUNTY SHERIFF'S DEPARTMENT. The Class is so numerous that all of its members cannot be joined. There are common questions of law and fact applicable to the Class that claims of the named Plaintiffs are typical of the claims of the Class; and the named Plaintiffs will fairly and adequately represent the members of the Class. The Defendants have acted or failed to act on grounds generally applicable to the Class—thus making appropriate final injunctive relief with respect to the Class as a whole.

FACTUAL ALLEGATIONS

16. As a Nassau County Correction Officers or Nassau County Deputy Sheriffs, each of the Plaintiffs are defined as a Police Officers under NYS Criminal Procedure Law §2.10 and §1.20 respectively.

17. While employed by the DEPARTMENT, each of the Plaintiffs were statutorily exempt from the crime of illegal possession of a firearm under Penal Law Section 265.20.

18. While employed by the DEPARTMENT, each of the Plaintiffs were able to possess his duty firearm and/or any personal firearms under Penal Law Section 265.20.

19. In order to purchase a firearm while employed, including personal firearms not intend for work, and firearms now illegal to the general public such as assault rifles, Plaintiffs would present their Law Enforcement identification card, complete a Federal Background check, and be permitted to purchase the firearm.

20. Upon information and belief, Plaintiffs would then complete a "C" form, and notify the Sheriff's Department who would, upon information and belief notify the Nassau County Police Department that they possessed the pistol.

21. Upon information and belief, no C form was or is required for rifles, even assault rifles.

22. NYS Penal Law Section 265.20 States:

Exceptions. A. Sections 265.01, 265.02, 265.03, 265.04, 265.05, 265.10, 265.11, 265.12, 265.13, 265.15, and 270.05 shall not apply to:

1. Possession of any of the weapons, instruments, appliances or substances specified in sections 265.01, 265.02, 265.03, 265.04, 265.05, and 270.05 by the following: (b) Police officers as defined in subdivision thirty-four of section 1.20 of the criminal law.

23. At the time that each of the Plaintiffs applied for their respective retirements from their employment, Plaintiffs also applied for a pistol permit and/or a "good guy letter," from the SHERIFF'S DEPT., which would allow them to possess and carry a pistol as a retiree.

24. Plaintiffs applications were summarily denied by Defendant SPOSATO. Defendant SPOSATO's sole reason for his denial was the fact that Plaintiffs were injured and/or was disabled for medical reasons at the time of their application for retirement.

25. Plaintiffs injuries identified herein were not the type of injuries that prevented or hindered Plaintiffs from owning, operating and/or securing a firearm - as medically documented.

26. Each of the Plaintiffs were Police Officers and/or Peace Officers of high moral character and do not suffer from any mental disabilities and/or impairments that adversely affect his ability to own operate and/or secure a firearm.

27. According to the Nassau County Pistol License Manual, Rev. Feb. 2015:

5. Retired Police Officer/Federal Law Enforcement Officer License

b. Letter of Good Standing: A letter from the law enforcement agency from which the applicant retired, stating that the applicant retired in good standing, is an absolute pre-requisite to the issuance of a Retired Police Officer/Federal Law Enforcement Officer License. (See Nassau County Pistol License Manual, Rev. Feb. 2015, Page 15)

28. Deprivation of Plaintiffs' property and the loss of the lawful ability to possess a pistol in the home upon retirement required governmental due process in relation to the "good guy letter".

29. Issuance of the "good guy letter" is a ministerial task.

NAMED PLAINTIFF ALEXANDROS PERROS:

30. Plaintiff ALEXANDROS PERROS (hereinafter "Plaintiff PERROS") is a male individual, who was employed by Defendant COUNTY OF NASSAU as a Corrections Officer within the NASSAU COUNTY SHERIFF'S DEPARTMENT for over 9 years and is now retired.

31. During his tenure with the Sheriff's Department, on or about February 5, 2013, Plaintiff PERROS sustained injuries on the job when he attempted to stop an inmate from escaping from the Psychiatric Unit. Specifically, Plaintiff PERROS wrestled with the inmate, which caused him physical injuries.

32. As a result of this altercation with the inmate, Plaintiff PERROS sustained injuries to his knees, shoulders, and back - as well as herniations - which rendered him injured and/or disabled as per both his and the COUNTY'S doctors' opinions. Plaintiff PERROS remained out of work as a result.

33. Plaintiff PERROS applied for $\frac{3}{4}$ disability as his injuries were severe enough to prevent him from returning to work at the Corrections Center. Said application is currently pending and Plaintiff PERROS remains employed by the DEPARTMENT.

34. Plaintiff PERROS suffered from no mental impairments or disabilities as a result of his injuries, or as a result of the altercation he had with the inmate.

35. Plaintiff PERROS is/was an officer in good standing at all times relevant.

36. At the time that Plaintiff PERROS applied for retirement from his employment, Plaintiff PERROS also applied for a pistol permit and/or a "good guy letter," from the SHERIFF'S DEPT., which would allow him to possess and carry a pistol as a retiree.

37. Plaintiff PERROS' application was summarily denied by Defendant SPOSATO on or about March 19, 2015. Defendant SPOSATO's sole reason for his denial was the fact that Plaintiff PERROS was injured and/or was disabled for medical reasons at the time of his application for retirement.

38. Plaintiff PERROS's above-stated injuries were not the type of injuries that prevented or hindered Plaintiff PERROS from owning, operating and/or securing a firearm - as per his doctors' opinions.

39. Plaintiff PERROS was a peace officer with high moral character and does not suffer from any mental disabilities and/or impairments that adversely affect his ability to own operate and/or secure a firearm.

40. Plaintiff PERROS does not qualify for any restrictions on his ability to own or operate a firearm, which are outlined in New York Penal Law § 400 - the section of the New York State Penal Law that governs the issuance of licenses to carry or possess firearms.

41. Plaintiff PERROS submitted adequate and valid medical proof to Defendants, including Defendant SPOSATO, from a doctor, which indicated that Plaintiff PERROS is capable of carrying and maintaining a firearm.

42. Upon information and belief, Defendants did not provide contrary evidence - that Plaintiff PERROS was unable to carry or operate a firearm - and Defendants posses no evidence, or justification to support any indication or opinion that Plaintiff PERROS should be disqualified from consideration for a firearm license.

43. Nevertheless, Defendants COUNTY, POLICE, DEPARTMENT and SPOSATO summarily denied Plaintiff PERROS' application for a pistol permit and/or Plaintiff's application

for a “good guy letter,” which Plaintiff PERROS required in order to obtain a firearms license.

44. The only reason that Defendants, including Defendant SPOSATO, denied Plaintiff PERROS’s application is because of Plaintiff PERROS’s injuries, disability, and the fact that Plaintiff PERROS sought to retire while injured and suffering from physical disabilities.

45. Defendants do not treat similarly-situated Corrections Officers and Deputy Sheriffs, who retire without a physical disability in the same manner.

46. Defendants had no valid business justification for denying Plaintiff PERROS’s application for a pistol permit and had no good-faith basis to disqualify Plaintiff PERROS from consideration for same.

47. Defendant’s clear intent is to punish Plaintiff PERROS (and others, similarly-situated) for his disability and for retiring as a result of said disability.

48. Upon information and belief, other similarly-situated Corrections Officers and Deputy Sheriffs that are injured on the job, and/or who suffer from injuries while employed at the Corrections Center and/or as Deputy Sheriffs in the County of Nassau, are subjected to similar abuse wherein Defendants (with knowledge and ratification from Defendant SPOSATO) deny them reasonable accommodations, deny them light duty assignments, and deny them other terms and conditions of employment in order to force them back to work on a full-time basis with injuries, and or to force them into early retirement. Under both circumstances, Defendants COUNTY, POLICE, DEPARTMENT and SPOSATO summarily denied injured corrections officers’ rights to own and carry firearms without valid basis.

49. Among others, Defendants’ intent is to place a chilling effect on Corrections Officers reporting injuries and seeking benefits to which they are rightfully entitled for said injuries.

NAMED PLAINTIFF THOMAS DELLE:

50. Plaintiff THOMAS DELLE (hereinafter “Plaintiff DELLE”) is a male individual, who was employed by Defendant COUNTY OF NASSAU as a corrections officer within the NASSAU COUNTY SHERIFFS DEPARTMENT for over 12 years and is now retired.

51. On or about January 14, 2012, Plaintiff DELLE sustained an injury to his neck and back while on the job, which rendered him injured and/or disabled as per his doctors’ opinions. As a result, Plaintiff DELLE was unable to perform the physical duties of his employment as a Nassau County Corrections Officer. These injuries were part of an accumulation of injuries which occurred on the job including herniated discs in the neck and lower back and knee surgery resulting from a 2008 incident and a C-7 fracture from an incident with an inmate in 2004.

52. Plaintiff DELLE suffered from no mental impairments or disabilities as a result of his injuries.

53. Though injured, Plaintiff DELLE wanted to work but his doctors and/or doctors affiliated with the SHERIFF’S DEPT. eventually recommended that Plaintiff DELLE could not work given his condition.

54. Upon information and belief, Defendant COUNTY and/or SHERIFF’S DEPT. did not allow Plaintiff to perform light duty work and would only accept Plaintiff back to work on a full-time basis.

55. As a result of his ongoing neck and back injuries, Plaintiff DELLE duly applied for, and was granted, Workers Compensation benefits/payments as well as Social Security Disability benefits.

56. On or about December 5, 2013, Plaintiff DELLE retired on $\frac{3}{4}$ disability as a result of his above-stated injuries. At the time, he was an Officer in good standing.

57. After Plaintiff DELLE retired from his employment, Plaintiff DELLE applied for a pistol permit and/or a “good guy letter,” from the SHERIFF’S DEPT., which would allow him to possess and carry a pistol as a retiree.

58. Plaintiff DELLE’s knee, back and neck injuries are not the types of injuries that prevent or hinder Plaintiff DELLE from owning, operating and/or securing a firearm.

59. Plaintiff DELLE was a peace officer with high moral character and does not suffer from any mental disabilities and/or impairments that adversely affect his ability to own, operate and/or secure a firearm.

60. Plaintiff DELLE does not qualify for any restrictions on his ability to own or operate a firearm, which are outlined in New York Penal Law § 400 - the section of the New York State Penal Law that governs the issuance of licenses to carry or possess firearms.

61. Plaintiff DELLE submitted adequate and valid medical proof to Defendants, including Defendant SPOSATO, from a doctor, which indicated that Plaintiff DELLE was capable of carrying and maintaining a firearm.

62. Upon information and belief, Defendants did not provide contrary evidence that Plaintiff DELLE was unable to carry or operate a firearm, and Defendants possess no evidence, or justification to support any indication or opinion that Plaintiff DELLE should be disqualified from consideration for a firearm license.

63. Nevertheless, Defendants COUNTY, POLICE, DEPARTMENT and SPOSATO summarily denied Plaintiff DELLE’s application for a pistol permit and/or Plaintiff’s application for

a “good guy letter,” which Plaintiff DELLE required in order to obtain a firearms license.

64. The only reason that Defendants, including Defendant SPOSATO, denied Plaintiff DELLE’s application is because of Plaintiff DELLE’s injuries, disability, and the fact that Plaintiff DELLE retired while injured and suffering from physical disabilities.

65. Defendants do not treat similarly-situated Corrections Officers and Deputy Sheriffs, who retire without a physical disability in the same manner.

66. Defendants had no valid business justification for denying Plaintiff DELLE’s application for a pistol permit and had no good-faith basis to disqualify Plaintiff DELLE from consideration for same.

67. Defendant’s clear intent is to punish Plaintiff DELLE (and others, similarly-situated) for his disability and for retiring as a result of said disability.

68. Upon information and belief, other similarly-situated Corrections Officers and Deputy Sheriffs that are injured on the job, and/or who suffer from injuries while employed at the Corrections Center and/or as Deputy Sheriffs in the County of Nassau, are subjected to similar abuse wherein Defendants (with knowledge and ratification from Defendant SPOSATO) deny them reasonable accommodations, deny them light duty assignments, and deny them other terms and conditions of employment in order to force them back to work on a full-time basis with injuries, and/or to force them into early retirement. Under both circumstances, Defendants COUNTY, POLICE, DEPARTMENT and SPOSATO summarily denied injured corrections officers’ rights to own and carry firearms without valid basis.

69. Among others, Defendants’ intent is to place a chilling effect on Corrections Officers reporting injuries and seeking benefits to which they are rightfully entitled for said injuries.

NAMED PLAINTIFF NICHOLAS LENOCI:

70. Plaintiff NICHOLAS LENOCI (hereinafter “Plaintiff LENOCI”) is a male individual, who was employed by Defendant COUNTY OF NASSAU as a Corrections Officer within the NASSAU COUNTY SHERIFFS DEPARTMENT for over 25 years and is now retired.

71. During his tenure with the Sheriff’s Department, Plaintiff LENOCI sustained injuries to both of his hips, to his lower back and his right knee, which rendered him injured and/or disabled as per his doctors’ opinions. As a result, Plaintiff LENOCI received Workers Compensation payments and was unable to perform the physical duties of his employment as a Nassau County Corrections Officer.

72. Plaintiff LENOCI suffered from no mental impairments or disabilities as a result of his injuries.

73. In the year 2011, Plaintiff LENOCI was required to undergo serious hip surgery wherein both of his hips were replaced (double hip replacement surgery).

74. Despite his injuries, Plaintiff LENOCI was allowed to maintain his weapon and had a firearm for over a year following his injury. However, when it came time for Plaintiff LENOCI to re-qualify with respect to his firearms training, Defendants refused to allow him to re-qualify. Although Plaintiff LENOCI submitted letters from his doctors clearing him for re-qualification, Defendants’ stated position was that Plaintiff LENOCI could not be allowed to re-qualify due to some unknown and non-disclosed “policy” in the Department.

75. Eventually, as a result of his double hip replacement surgery and/or other injuries, Plaintiff LENOCI was forced to apply for early retirement.

76. On or about July 31, 2013, Plaintiff LENOCI retired as a result of his above-stated injuries. At the time, he was an Officer in good standing.

77. After Plaintiff LENOCI retired from his employment, Plaintiff LENOCI applied for a pistol permit and/or a “good guy letter,” from the SHERIFF’S DEPT., which would allow him to possess and carry a pistol as a retiree.

78. Plaintiff LENOCI’s back and injuries are not the types of injuries that prevent or hinder Plaintiff LENOCI from owning, operating and/or securing a firearm - as per his doctors’ opinions.

79. Plaintiff LENOCI was a peace officer with high moral character and does not suffer from any mental disabilities and/or impairments that adversely affect his ability to own, operate and/or secure a firearm.

80. Plaintiff LENOCI does not qualify for any restrictions on his ability to own or operate a firearm, which are outlined in New York Penal Law § 400 - the section of the New York State Penal Law that governs the issuance of licenses to carry or possess firearms.

81. Plaintiff LENOCI submitted adequate and valid medical proof to Defendants, including Defendant SPOSATO, from a doctor, which indicated that Plaintiff LENOCI was capable of carrying and maintaining a firearm.

82. Upon information and belief, Defendants did not provide contrary evidence - that Plaintiff LENOCI was unable to carry or operate a firearm - and Defendants possess no evidence or justification to support any indication or opinion that Plaintiff LENOCI should be disqualified from consideration for a firearm license.

83. In addition, during his tenure in the Sheriff's Department, Plaintiff LENOCI worked in the Criminal Investigation Unit wherein Plaintiff LENOCI routinely investigated incidents in the jail which resulted in additional jail time to inmates. Pursuant to this duty, Plaintiff LENOCI was required to testify against these inmates at times.

84. Plaintiff LENOCI also lived in close proximity to the jail facility and frequently observed inmates, with which he interacted as a Corrections Officer in the jail, walking about the streets while Plaintiff LENOCI was off-duty.

85. As a result, due to the nature of Plaintiff LENOCI's work at the jail, Plaintiff LENOCI - as well as his family's safety and security were at great risk daily. Defendants were well-aware that Plaintiff LENOCI needed his firearm for his own protection from real threats.

86. Nevertheless, Defendants COUNTY, POLICE, DEPARTMENT and SPOSATO summarily denied Plaintiff LENOCI's application for a pistol permit and/or Plaintiff's application for a "good guy letter," which Plaintiff LENOCI required in order to obtain a firearms license.

87. The only reason that Defendants, including Defendant SPOSATO, denied Plaintiff LENOCI's application is because of Plaintiff LENOCI's injuries, disability, and the fact that Plaintiff LENOCI retired while injured and suffering from physical disabilities.

88. Defendants do not treat similarly-situated Corrections Officers and Deputy Sheriffs, who retire without a physical disability in the same manner.

89. Defendants had no valid business justification for denying Plaintiff LENOCI's application for a pistol permit and had no good-faith basis to disqualify Plaintiff LENOCI from consideration for same.

90. Defendant's clear intent is to punish Plaintiff LENOCI (and others, similarly-situated) for his disability and for retiring as a result of said disability.

91. Upon information and belief, other similarly-situated Corrections Officers and Deputy Sheriffs that are injured on the job, and/or who suffer from injuries while employed at the Corrections Center and/or as Deputy Sheriffs in the County of Nassau, are subjected to similar abuse wherein Defendants (with knowledge and ratification from Defendant SPOSATO) deny them reasonable accommodations, deny them light duty assignments, and deny them other terms and conditions of employment in order to force them back to work on a full-time basis with injuries, and/or to force them into early retirement. Under both circumstances, Defendants COUNTY, POLICE, DEPARTMENT and SPOSATO summarily denied injured corrections officers' rights to own and carry firearms without valid basis.

92. Among others, Defendants' intent is to place a chilling effect on Corrections Officers reporting injuries and seeking benefits to which they are rightfully entitled for said injuries.

NAMED PLAINTIFF VICTOR PATALANO:

93. Plaintiff VICTOR PATALANO (hereinafter "Plaintiff PATALANO") is a male individual, who was employed by Defendant COUNTY OF NASSAU as a Deputy Sheriff within the NASSAU COUNTY SHERIFFS DEPARTMENT for over 26½ years and is now retired.

94. While employed with the Department, Plaintiff PATALANO was a Sergeant, who worked in various units including Evictions. Plaintiff PATALANO also served as a Union Vice President and President of the Department's Sheriff's Association.

95. During his tenure with the Sheriff's Department, on or about February 17, 2010, Plaintiff PATALANO sustained injuries on the job when he slipped on ice and fell on his side while

serving a summons.

96. As a result of his fall, Plaintiff PATALANO sustained injuries to his knee and to his elbow, which rendered him injured as per his and the COUNTY'S doctors' opinions. Plaintiff PATALANO remained out of work for 18 days and then he returned to full duty.

97. After consulting with an Orthopedist in November 2011, Plaintiff PATALANO was advised that he would have to undergo a left hip replacement. As a result, in May of 2012, Plaintiff PATALANO underwent total hip replacement surgery. Following his surgery, Plaintiff PATALANO was advised that he would not be able to return to his employment as a Deputy Sheriff.

98. Plaintiff PATALANO suffered from no mental impairments or disabilities as a result of his injuries.

99. Eventually, as a result of his hip replacement surgery and/or injuries, Plaintiff PATALANO was forced to apply for early retirement in April of 2013. At the time, Plaintiff PATALANO was an Officer in good standing.

100. At the time that Plaintiff PATALANO retired from his employment, Plaintiff PATALANO applied for a pistol permit and/or a "good guy letter," from the SHERIFF'S DEPT., which would allow him to possess and carry a pistol as a retiree.

101. Plaintiff PATALANO's application was summarily denied by Defendant SPOSATO on or about August 3, 2013. Defendant SPOSATO's sole reason for his denial was the fact that Plaintiff PATALANO was injured and/or was disabled for medical reasons at the time of his retirement.

102. Plaintiff PATALANO's hip injury was not the type of injury that prevented or hindered Plaintiff PATALANO from owning, operating and/or securing a firearm - as per his

doctors' opinions.

103. Plaintiff PATALANO was a police officer with high moral character and does not suffer from any mental disabilities and/or impairments that adversely affect his ability to own operate and/or secure a firearm.

104. Plaintiff PATALANO does not qualify for any restrictions on his ability to own or operate a firearm, which are outlined in New York Penal Law § 400 - the section of the New York State Penal Law that governs the issuance of licenses to carry or possess firearms.

105. Plaintiff PATALANO submitted adequate and valid medical proof to Defendants, including Defendant SPOSATO, from a doctor, which indicated that Plaintiff PATALANO was capable of carrying and maintaining a firearm.

106. Upon information and belief, Defendants did not provide contrary evidence that Plaintiff PATALANO was unable to carry or operate a firearm and Defendants possess no evidence, or justification to support any indication or opinion that Plaintiff PATALANO should be disqualified from consideration for a firearm license.

107. Nevertheless, Defendants COUNTY, POLICE, DEPARTMENT and SPOSATO summarily denied Plaintiff PATALANO's application for a pistol permit and/or Plaintiff's application for a "good guy letter," which Plaintiff PATALANO required in order to obtain a firearms license.

108. The only reason that Defendants, including Defendant SPOSATO, denied Plaintiff PATALANO's application is because of Plaintiff PATALANO's injuries, disability, and the fact that Plaintiff PATALANO retired while injured and suffering from physical disabilities.

109. Defendants do not treat similarly-situated Corrections Officers and Deputy Sheriffs, who retire without a physical disability in the same manner.

110. Defendants had no valid business justification for denying Plaintiff PATALANO's application for a pistol permit and had no good-faith basis to disqualify Plaintiff PATALANO from consideration for same.

111. Defendant's clear intent is to punish Plaintiff PATALANO (and others similarly situated) for his disability and for retiring as a result of said disability.

112. Upon information and belief, other similarly-situated Corrections Officers and Deputy Sheriffs that are injured on the job, and/or who suffer from injuries while employed at the Corrections Center and/or as Deputy Sheriffs in the County of Nassau, are subjected to similar abuse wherein Defendants (with knowledge and ratification from Defendant SPOSATO) deny them reasonable accommodations, deny them light duty assignments, and deny them other terms and conditions of employment in order to force them back to work on a full-time basis with injuries, and/or to force them into early retirement. Under both circumstances, Defendants COUNTY, POLICE, DEPARTMENT and SPOSATO summarily denied injured corrections officers' rights to own and carry firearms without valid basis.

113. Among others, Defendants' intent is to place a chilling effect on Corrections Officers reporting injuries and seeking benefits to which they are rightfully entitled for said injuries.

AS FOR THE CLASS SOUGHT TO BE CERTIFIED IN THIS ACTION

PURSUANT TO FRCP 23

114. The Class sought to be certified in this action - namely: "All Persons Similarly Situated and/or Sheriff's Department Former Personnel Unfairly Denied Proper Recommendation

For Consideration Of Application For Pistol License For Retiring Peace Officer” Forms and/or “*Good Guy Letters*” Following Retirement, Due To Injury and or Disability” - are all former and/or retiring members of the NASSAU COUNTY SHERIFF’S DEPARTMENT.

115. Each member of the Class faced similar circumstances to named Plaintiffs herein, in that each member of the Class were retired and/or retiring members of the SHERIFF’S DEPARTMENT, who were all in good standing, but were unlawfully denied Good Guy Letters by Defendant SPOSATO because they sought to retire due to physical injuries and/or disability.

116. Each member of the Class would have been able to obtain permits to carry pistols *but for* the discriminatory intent, treatment and actions of the COLLECTIVE DEFENDANTS.

117. Each member was denied hand gun and/or pistol privileges for the same reason - that is - because the COLLECTIVE DEFENDANTS herein unreasonably denied each Member for obtaining a proper Good Guy Letter.

118. Each Member herein suffers the same losses, deprivations, violations and discriminatory actions of COLLECTIVE DEFENDANTS in the manner outlined below and are as suffered by the Class Plaintiffs listed and named herein.

**DEFENDANTS LACK ANY JUSTIFICATION FOR DENYING DISABLED
PLAINTIFFS HEREIN AND/OR PUTATIVE PLAINTIFFS FROM
RECEIVING GOOD GUY LETTERS AND/OR PRIVILEGES**

119. All Plaintiffs herein had rights to possessing and being issued licenses and to keep and bear arms, as well as the right to carry pistols and hand guns for their safety.

120. Upon information and belief, the Nassau County POLICE Department is responsible for issuing pistol licenses in Nassau County. This includes license privileges to own and license privileges to carry and conceal firearms.

121. Further, when the Nassau County POLICE Department receives applications for gun permits, the Police Department scrutinizes applications and follows-up with applicants' employers and/or former employers in order to make determinations.

122. Upon information and belief, when the applicant is a former police or peace officer, the Nassau County POLICE Department Pistol Licensing Bureau looks for and heavily considers "Recommendation for Consideration of an Application for a Pistol License for Retiring Peace/Police Officers" and/or "Good Guy Letter" forms.

123. When the Nassau POLICE Dept. sees that restrictions against carrying firearms were indicated by the SHERIFF'S DEPT. in said "Good Guy Letters," the Nassau County Police automatically refuses to issue permits to Plaintiff applicants without a hearing. Often, the Nassau POLICE Dept. refers Plaintiffs back to the SHERIFF'S DEPT. and/or SPOSATO in order to get the SHERIFF'S DEPT. or SPOSATO to rescind and/or lift the restrictions placed in the "Good Guy Letters."

124. Defendants herein are aware of the fact that their denial of privileges, and indications that Plaintiffs have medical restrictions in the Good Guy Letters leads to denial of pistol applications by the Nassau County POLICE Dept.

125. Upon information and belief, a license to carry and conceal firearms is more difficult to obtain than just a license to own a firearm and the applicant must demonstrate a particularized need to carry and conceal a firearm in public.

126. Upon information and belief, a license to carry and conceal firearms are generally granted to law enforcement officers and peace officers, ex-law enforcement officers and ex-peace officers, some security officers, others that transport large sums of money and/or valuable goods,

as well as persons who engage in dangerous professions. Plaintiffs herein are police officers and/or peace officers and/or former police and/or peace officers, who qualify for licenses to carry firearms due to the nature of their employment and/or former employments.

127. Defendants are aware that all of the Plaintiffs herein have interacted with dangerous prison inmates during their respective tenures with the Department. Defendants are also aware that many of these inmates return to society outside of the jail when released. Often, these inmates live among and/or near Correction Officers, including Plaintiffs herein.

128. Defendants also know that, as a result of these interactions with inmates, Plaintiffs - as do many deputy sheriffs and corrections officers - walk the streets in fear because they walk among the same inmates that they interact with in the jail. Plaintiffs also routinely get into altercations and/or are forced to subdue, report, support disciplinary charges and criminal charges against these inmates.

129. Among these prisoners with which Plaintiffs routinely interact, are dangerous gang members who engage in gang activity inside the jail - as well as outside the jail.

130. Due to the dangerous nature of the deputy sheriffs and corrections officer job, Deputy Sheriffs and Corrections Officers (such as Plaintiffs herein) fear for the safety of themselves as well as their families. As such, the need to be issued privileges to carry or own a firearm to protect themselves, their families, and their properties is paramount.

131. The need to possess privileges are more important for individuals such as Plaintiffs herein, who are no longer active members of law enforcement and require heightened personal security as a result.

132. Defendants are aware that both the State and Federal governments recognize the need to afford retired police/peace officers the right to carry firearms as a result of the dangers they each face.

133. New York State Penal Law Section 400 authorizes the issuance of permits to carry firearms to retired peace officers (such as Plaintiffs herein) and said section also outlines what is necessary to obtain same. This section also outlines that which disqualifies individuals from receiving and carrying permits. Defendants are aware that Plaintiffs herein meet all of the qualifications for issuance of a pistol permit under this law/section.

134. Defendants are aware that Penal Law § 400 requires that Plaintiffs herein must have the SHERIFF'S DEPARTMENT sign-off on a Good Guy Letter, which is to be provided with Plaintiffs' applications to the Police Department Licencing Bureau.

135. *19 USC* § 926 - also referred to as the United States Law Enforcement Officers Safety Act of 2004 ("*LEOSA*") - also authorizes the issuance of permits to carry firearms to retired peace officers (such as Plaintiffs herein) and said section also outlines what is necessary to obtain same. Defendants are aware that Plaintiffs herein meet all of the qualifications for issuance of pistol permit under this law.

136. In addition, Defendants are aware that, under *LEOSA*, as a matter of well-settled Federal Law, Plaintiffs are entitled to carry a concealed firearm in any jurisdiction in the United States regardless of State or local licensing qualifications.

137. Upon information and belief, the COUNTY OF NASSAU, POLICE and SHERIFF's DEPT. has policies, procedures, rules and guidelines regarding the issuance of pistol permits and "Good Guy Letters" to retirees such as Plaintiffs.

138. Defendants, their employees, assigns, representatives, officers, and/or agents, including Defendant SPOSATO, are required to adhere to the policies, procedures, rules and guidelines regarding the issuance of pistol permits and “Good Guy Letters” to its retirees.

139. Defendants ignore their own policies, procedures, as well as statutes, which all support that Plaintiffs are entitled to unrestricted “Good Guy Letters” and/or permits to carry firearms.

140. By summarily denying Plaintiffs’ application for “Good Guy Letters,” Defendants are aware that they are placing Plaintiffs’ lives in danger and jeopardy - without reasonable basis of justification. In addition, Defendants have failed to justify their actions or provide any meaningful due process connected to their denials.

141. Defendants’ sole purpose for denying Plaintiffs’ application for “Good Guy Letters,” placing restrictions in same, for ignoring the law and policy and/or for failing to provide Plaintiffs reasonable accommodation is to harm, discriminate or retaliate against Plaintiffs—who all suffered from disabilities—simply because they retired *with* disabilities. There is no other reason for Defendants’ denials.

142. Defendants sole purpose is to differentiate and/or punish Plaintiffs who are disabled, and/or retirees who are disabled - who each suffered from disabilities and were forced to retire from the SHERIFF’S DEPARTMENT due to their disabilities - even if these disabilities were obtained while advancing the mission and purpose, or while discharging the duties, of the COUNTY OF NASSAU and the SHERIFF’S DEPARTMENT.

143. None of the Plaintiffs had the type or level of disabilities that would cause them to have medical restrictions to carry firearms during their respective retirements or jeopardize the

health, well-being and good of the public.

144. None of the Plaintiffs have medical or psychological issues that would cause them to be restricted in their abilities to carry firearms.

145. All Plaintiffs provided medical proof and support that indicated that they are medically capable of owning, handling, carrying, and safeguarding firearms.

146. Defendants summarily ignored Plaintiffs' medical proof, without providing reasonable, due process or contrary medical proof of their own, in an effort to discriminate against Plaintiffs.

147. Also, Defendant SPOSATO routinely ignored the determination of his own medical professionals if the opinions of said professionals support that Plaintiffs can carry firearms and have no medical restrictions.

148. Defendant SPOSATO unreasonably and selectively adheres to a policy and practice that is more restrictive than the standing law wherein he automatically issues negative determinations against anyone who is firearms restricted for medical reasons at the time of retirement - even if the retiree has "no restriction of firearm."

149. Defendants', including Defendant SPOSATO's intent, is to discriminate, violate rights and instill ongoing pressure, fear and anxieties in retirees (even those in good-standing and/or had stellar performance on the job) that retire due to disabilities. Defendants do not treat similarly-situated retirees, who do not retire with a disability, in the same fashion as Plaintiffs and those in the putative Class.

150. As a direct consequence of the actions of the collective Defendants, Plaintiffs were unreasonably denied their respective rights and caused to live in perpetual fear for their

safeties. Plaintiffs were denied their rights to property and right to care for their own well-beings. Plaintiffs each suffered monetary damages, special damages, legal fees, and unwarranted medical fees/costs, loss of time, loss of privileges and immunities due to the discriminatory actions of Defendants.

AS AND FOR COUNT ONE
42 U.S.C. §1983
(Violation Of Due Process Rights, Equal Protection Rights, Gross Negligence, Tortuous Interference With Prospective Contractual Advantage)

151. Plaintiffs repeat and reallege each and every allegation contained in paragraphs 1 through 150 of this Complaint with the same force and effect as though fully set forth herein.

152. Each of the Plaintiffs have a protected liberty and/or property interest in his/her firearms license, which has been taken away and/or denied without due process of law.

153. Defendant SPOSATO'S unreasonable summary denial of Plaintiffs' rights to Good Guy Letters and/or infringement upon Plaintiffs' rights to obtain pistol permits and licenses to carry firearms due to their disabilities amounts to a summary denial of Plaintiffs' rights to equal protection of the laws following their public employment, denial of due process of law as well as discriminatory treatment for retiring while out on disability.

154. The discriminatory post-hoc rulemaking, selective enforcement, and summary denial by state actors, and policymakers such as Defendant SPOSATO, violate the privileges and immunities section of the 14th Amendment as well as Plaintiffs' right to equal protection under the law.

155. Defendants have intentionally and invidiously discriminated and/or retaliated against Plaintiffs and the Class with respect to their former public employment and benefits of retirement because of their disabilities.

156. NASSAU and Defendant SPOSATO participated directly in violating Plaintiffs' constitutional rights and - as a policymaker - was responsible for, and in charge of, the summary denial of Plaintiffs' rights.

157. Defendants' infringement upon and violation of Plaintiffs' rights protected under the United States and New York State Constitution(s) were and is intended to place a chilling effect upon the exercise of such rights by Plaintiffs, as well as to place a chilling effect on Corrections Officers who seek to retire due to disabilities.

158. Unlawful discriminatory acts of the Defendant SPOSATO, who is the head decision-maker of the SHERIFF'S DEPARTMENT with the final say with regard to Good Guy Letters, were part of the pattern, practice, policy, custom and usage of the defendant COUNTY, and were reviewed by and adopted by the defendant COUNTY.

159. By their actions, Defendants have intentionally deprived Plaintiffs of valuable rights based on improper, unlawful and unconstitutional motives of denial of equal protection and refusal to adhere to Federal and State Law.

160. All of Defendants' actions were taken under color of State law.

161. Plaintiffs who previously possessed, maintained, carried and owned firearms, had their rights revoked and/or indefinitely suspended contrary to their rights, existing law and the 2nd Amendment of the United States Constitution.

162. As set forth above, Defendants have systematically denied Plaintiffs member of service Pistol License in violation to the parameters and allowances set forth in the NYS Penal Law §400, NYS Penal Law Section 265.20, and 19 U.S.C. §926 (LEOSA), and has adopted a policy and practice which has and continues to harm Plaintiffs.

163. Defendants by their actions have violated Plaintiffs' rights to equal protection of the law as provided by the 2nd and 14th Amendments to the U.S. Constitution. Plaintiffs have been treated differently from similarly-situated retirees without disabilities and have been abused and violated because of their disabilities.

164. Defendants failed to offer and/or conduct due process hearing which is their obligation and responsibility to provide and ensure in a “meaningful time and in a meaningful manner.”

165. As a direct consequence of the actions of the collective Defendants, Plaintiffs were unreasonably denied their respective rights and caused to live in perpetual fear for their safeties. Plaintiffs were denied their rights to property and right to care for their own well-beings. Plaintiffs each suffered monetary damages, special damages, legal fees, and unwarranted medical fees/costs, loss of time, loss of privileges and immunities due to the discriminatory actions of Defendants.

166. Individual Defendants have acted with malicious intent and/or with reckless or callous indifference to Plaintiffs' federally protected rights, entitling Plaintiffs to punitive damages. Defendant SPOSATO acted intentionally and/or recklessly and with gross negligence to his duties and obligations to adhere to the law and to act free of discrimination. Defendant SPOSATO also engaged in tortuous interference with prospective contractual advantages due to Plaintiffs by acting to prevent Plaintiffs from obtaining their licenses with the COUNTY.

167. Defendants knew that they were violating the law, discriminating against and violating Plaintiffs' rights and agreed one with another to so discriminate because of Plaintiffs' disabilities. In so acting, Defendant SPOSATO through his agents and employees, took actions in violation of Plaintiffs' rights which he knew or should have known were outside the scope of their authority.

168. Defendant COUNTY acquiesced and contributed to the continuation of the agreement, pattern, policy, custom and usage to violate Plaintiffs' rights in failing to take action as to prevent and expose the ongoing discriminatory and violative actions being taken against Plaintiffs.

169. Defendant SPOSATO was motivated by improper interests with respect to his efforts to discriminate against Plaintiffs. Collectively, the individual Defendants' actions were contrary to the Defendant COUNTY'S stated Equal Employment Opportunity and anti-discrimination policies.

170. As a direct and proximate result of said acts, Plaintiffs suffered and continue to suffer loss of benefits, loss of opportunities, loss of privileges, deprivation of constitutional rights, fear for personal safety, distress, humiliation, expense and embarrassment.

171. Plaintiffs are entitled to a declaratory judgment against Defendants in addition to an Order enjoining Defendants from continuing to engage in the discriminatory acts outlined above. Plaintiffs each suffered and are entitled to, a declaratory judgment correcting the wrongs and violations committed and damages sustained to date and continuing in excess of four million dollars (\$4,000,000), as well as punitive damages, costs and attorney's fees.

AS AND FOR A COUNT TWO
42 USC § 1983 - MUNICIPAL LIABILITY
AGAINST THE COUNTY OF NASSAU

172. Plaintiffs repeat and reiterate the allegations set forth in paragraphs 1 through 171 inclusive of this Complaint, with the same force and effect as though herein fully set forth.

173. At all times relevant to the Complaint, Defendant SPOSATO was and is a policymaker for the SHERIFF'S DEPARTMENT because Defendant SPOSATO is the Sheriff - the highest ranking member, manger, supervisor and controller of same.

174. Policymaker SPOSATO was directly involved in the violations of Plaintiffs' rights herein.

175. Unlawful discriminatory acts of the Defendant SPOSATO, who is the head of the SHERIFF'S DEPARTMENT with the final say with regard to Good Guy Letters, were part of the policy or custom of the Defendant COUNTY, and were reviewed by and adopted by the Defendant COUNTY.

176. By their actions, Defendants have intentionally deprived Plaintiffs of valuable rights based on unlawful and unconstitutional motives of denial of equal protection, refusal to adhere to federal and State Law.

177. All of Collective Defendants' actions were taken under color of State law.

178. **In addition**, by actively inflicting and failing to prevent the above stated abuses incurred by Plaintiffs, the Defendant COUNTY and POLICE acted unreasonably, recklessly, and negligently in failing to exercise the slightest amount of due care to secure and protect the civil and constitutional rights of the Plaintiffs.

179. The COUNTY OF NASSAU has permitted, tolerated and encouraged a pattern and

practice of unjustified, unreasonable denials of Good Guy Letters to Corrections Department retirees who seek to retire due to disabilities.

180. Although such conduct was improper, said incidents were supported up by the COUNTY, its agents, employees and servants such as Defendant SPOSATO.

181. Said discriminatory acts by SPOSATO have been fully backed by the COUNTY OF NASSAU, which has repeatedly and unreasonably sided with the abuse of persons so affected in nearly all cases, despite vast evidence of wrongdoing by its Sheriff against disabled Corrections Officers, including Plaintiffs herein.

182. Additionally, the COUNTY OF NASSAU has systematically failed to identify the improper abuse, misuse, violative acts by its Sheriff and officials, while further failing to subject such officers and officials to discipline, closer supervision, training, instruction, or restraint.

183. By permitting and assisting such a pattern of misconduct, the Defendant COUNTY OF NASSAU acted under color of custom and policy to condone, encourage and promote the deprivation of Plaintiffs' Second (2nd) and Fourteenth (14th) Amendment rights; to wit, the Defendants NASSAU SHERIFF'S DEPT. AND SPOSATO were encouraged by the COUNTY OF NASSAU and POLICE to believe that their actions against the Plaintiffs would be accepted without question, just as these actions have been so accepted to date.

184. As a consequence of the Defendants' systemic practice, pattern, and custom of intentionally promoting and supporting the SHERIFF'S and/or the SHERIFF'S DEPARTMENT's violations of 42 U.S.C. § 1983, Plaintiffs suffered and continue to suffer loss of benefits, loss of privileges, loss/deprivation of constitutional rights, fear for personal safety, distress, humiliation, expense, and embarrassment.

185. Plaintiffs are entitled to a declaratory judgment against Defendants in addition to an Order enjoining Defendants from continuing to engage in the discriminatory acts outlined above. Plaintiffs each suffered and are entitled to, a declaratory judgment correcting the wrongs and violations committed and damages sustained to date and continuing, in excess of four million dollars (\$4,000,000), as well as punitive damages, costs and attorney's fees.

AS AND FOR COUNT THREE
42 U.S.C. § 12132
Equal Opportunity for Individuals with Disabilities with regard to Public Services Under
the American With Disabilities Act

186. Plaintiffs repeat and reiterate the allegations set forth in paragraphs 1 through 185 inclusive of this Complaint, with the same force and effect as though herein fully set forth.

187. Defendants COUNTY OF NASSAU POLICE DEPARTMENT and SHERIFF'S DEPARTMENT are public entities, agencies and branches of NASSAU COUNTY which receive funding and financial assistance (in various forms) through the federal government. Defendant COUNTY OF NASSAU owns operates and controls different departments that provide public services - including the Nassau County Police Department Pistol Licensing Bureau/Section.

188. Defendant COUNTY OF NASSAU is a public entity that provides services, programs or activities to the members of the general public, as well as to its employees and past employees (such as Plaintiffs herein).

189. Plaintiffs are qualified individuals with disabilities and by reason of their disabilities have been excluded from participation and denied the benefits, services, programs or activities of the County of Nassau and State of New York and subjected to discrimination by the Defendants herein.

190. Pistol permits and gun licensing are public services provided by the COUNTY for the benefit of its constituents, employees and residents, including Plaintiffs herein.

191. Plaintiffs are rightfully entitled, as former law enforcement employees as well as members of the general public, to receive services (i.e. gun license privileges and/or consideration of their gun permit applications) free of encumbrances by the NASSAU COUNTY SHERIFF'S DEPARTMENT, NASSAU COUNTY POLICE DEPARTMENT and COUNTY OF NASSAU.

192. Defendant COUNTY OF NASSAU, through its POLICE, SHERIFF'S DEPARTMENT and Sheriff MICHAEL SPOSATO, discriminated against Plaintiffs based upon their disabilities by interfering with Plaintiffs' abilities to obtain pistol permits/licensing.

193. At all times, Collective Defendants were aware that Plaintiffs were entitled to receive pistol permits because they each had no impairments to their abilities to own, handle, operate, and secure pistols/firearms.

194. COLLECTIVE DEFENDANTS refused to provide Plaintiffs with their licenses and/or permits despite that no accommodation was necessary and the issuance of licences and/or permits to Plaintiffs requires no extra expense or effort.

195. COLLECTIVE DEFENDANTS denied Plaintiffs' requests for licenses and permits pursuant to a discriminatory motive and Defendants refused to rectify and/or prevent said discrimination when made aware of same. Instead, Defendants sought to deprive Plaintiffs of their rights to property, benefits, permits, licensing, bodily integrity and personal safety, privileges, immunities, due process and equal protection under the law.

196. As a direct result of said acts, Plaintiffs suffered and continue to suffer diminished privileges, loss of privileges, loss of services, loss of benefits, loss of opportunities and loss of rights

commensurate with retirement and have continued to suffer, humiliation, embarrassment, fear for personal safety, fear for the safeties of their families and/or persons within their care.

197. As a consequence of the Defendants' systemic practice, pattern, and custom of intentionally promoting and supporting the COUNTY, POLICE, SHERIFF'S AND/OR THE SHERIFF'S DEPARTMENT's violations of 42 U.S.C § 12132, Plaintiffs suffered and continues to suffer loss of benefits, loss of privileges, loss/deprivation of constitutional rights, fear for personal safety, humiliation, expense and embarrassment.

198. Plaintiffs are entitled to a declaratory judgment against Defendants in addition to an Order enjoining Defendants from continuing to engage in the discriminatory acts outlined above. Plaintiffs each suffered and are entitled to, a declaratory judgment correcting the wrongs and violations committed and damages sustained to date and continuing in excess of four million dollars (\$4,000,000), as well as punitive damages, costs and attorney 's fees.

AS AND FOR COUNT FOUR
REHABILITATION ACT (29 U.S.C § 794)

199. Plaintiff repeat and reiterate the allegations set forth in paragraphs 1 through 198 inclusive of this Complaint, with the same force and effect as though herein fully set forth.

200. Defendant COUNTY OF NASSAU POLICE DEPARTMENT and SHERIFF'S DEPARTMENT are public entities, agencies and branches of NASSAU COUNTY which receive funding and financial assistance (in various forms) through the federal government. Defendant COUNTY OF NASSAU owns operates and controls different departments that provide public services - including the Nassau County Police Department Pistol Licensing Bureau/Section.

201. Defendant COUNTY OF NASSAU is a public entity that provides services, programs

or activities to the members of the general public, as well as to its employees and past employees (such as Plaintiffs herein).

202. Plaintiffs are qualified individuals with disabilities and by reason of their disabilities have been excluded from participation and denied the benefits, services, programs or activities of the COUNTY of NASSAU and State of New York and subjected to discrimination by Defendants herein.

203. Pistol permits and gun licensing are public services proved by the COUNTY for the benefit of its constituents, employees and residents, including Plaintiffs herein.

204. Plaintiffs are rightfully entitled, as a former law enforcement employees, as well as members of the general public, to receive services (i.e. gun license privileges and/or consideration of their gun permit applications) free of encumbrances by the NASSAU COUNTY SHERIFF'S DEPARTMENT, NASSAU COUNTY POLICE DEPARTMENT and COUNTY OF NASSAU.

205. Defendant COUNTY OF NASSAU, through its POLICE, SHERIFF'S DEPARTMENT and Sheriff, MICHAEL SPOSATO, discriminated against Plaintiffs based upon their disabilities by interfering with Plaintiffs' abilities to obtain pistol permits/licensing and/or by otherwise knowingly causing Plaintiffs to be excluded from participation in the pistol licensing program of the COUNTY.

206. At all times, Collective Defendants were aware that Plaintiffs were entitled to receive pistol permits because they each had no impairments to their abilities to own, handle, operate and secure pistols/firearms.

207. At all times, Defendant were aware that their refusal to provide "Good Guy Letters" to Plaintiffs free of encumbrances would cause Plaintiffs to be unable to receive pistol permits

altogether.

208. COLLECTIVE DEFENDANTS refused to provide Plaintiffs with their licenses and/or permits despite that no accommodation was necessary and the issuance of the licenses and/or permits to Plaintiffs required no extra expense or effort.

209. COLLECTIVE DEFENDANTS denied Plaintiffs' requests for licenses and/or permits pursuant to a discriminatory motive and Defendants refused to rectify and/or prevent said discrimination when made aware of same. Instead, Defendants sought to deprive Plaintiffs of their rights to property, benefits, permits, licensing, bodily integrity and personal safety, privileges, immunities, due process and equal protection under the law.

210. As a direct result of said acts, Plaintiffs suffered and continue to suffer diminished privileges, loss of privileges, loss of services, loss of benefits, loss of opportunities, loss of rights commensurate with retirement and have continued to suffer humiliation, embarrassment, fear for personal safety, fear for the safeties of their families and/or persons within their care.

211. As a consequence of the Defendants' systemic practice, pattern, and custom of intentionally promoting and supporting the COUNTY, POLICE, SHERIFF'S AND/OR THE SHERIFF'S DEPARTMENT's violations of 29 U.S.C. § 794, Plaintiffs suffered and continues to suffer loss of benefits, loss of privileges, loss/deprivation of constitutional rights, fear for personal safety, humiliation, expense and embarrassment.

212. Plaintiffs are entitled to a declaratory judgment against Defendants in addition to an Order enjoining Defendants from continuing to engage in the discriminatory acts outlined above. Plaintiffs each suffered and are entitled to, a declaratory judgment correcting the wrongs and violations committed and damages sustained to date and continuing in excess of four million dollars

(\$4,000,000), as well as punitive damages, costs and attorney 's fees.

PRAYER FOR RELIEF

Plaintiffs request judgment as follows:

- a. First Cause of Action: in excess of four million (\$4,000,000) dollars as well as punitive damages, costs and attorney's fees.
- b. Second Cause of Action: in excess of ten million (\$10,000,000.00) dollars as well as punitive damages, costs and attorney's fees.
- c. Third Cause of Action: in excess of four million (\$4,000,000) dollars as well as punitive damages, costs and attorney's fees.
- d. Fourth Cause of Action: in excess of four million (\$4,000,000) dollars as well as punitive damages, costs and attorney's fees.

EQUITABLE RELIEF

- e. There is a real and actual controversy between the parties. The controversy and violations complained of are current and continuing. Plaintiffs have no adequate remedy at law. Plaintiffs are suffering irreparable injury as a result of the actions and/or omissions of Defendants complained of herein and that injury will continue unless enjoined by this Court.

WHEREFORE, plaintiffs respectfully demand judgment as follows:

1. An order declaring that the denial of Good Guy Letters and denials of hand gun and/or pistol licences and/or permits which have taken place and continue against each Plaintiff violates the Fourteenth Amendment to the United States Constitution;
2. An order declaring that the denial of Good Guy Letters and denials of hand gun and/or pistol licences and/or permits which have taken place and continue against each Plaintiff violates the Second Amendment to the United States Constitution;
3. An order declaring that the denial of Good Guy Letters and denials of hand gun and/or pistol licences and/or permits which have taken place and continue against each Plaintiff violates the Rehabilitation Act (29 U.S.C. §794);

4. An order declaring that the denial of Good Guy Letters and denials of hand gun and/or pistol licences and/or permits which have taken place and continue against each Plaintiff violates the American with Disabilities Act, 42 U.S.C. § 12132;

5. An order temporarily and preliminarily enjoining Defendants from denying Plaintiffs and persons similarly situated to Plaintiffs from having and being granted Good Guy Letters and hand gun and/or pistol licences and/or permits and the immediate issuance of their hand gun and/or pistol licences and/or permits;

6. An order permanently enjoining defendants from denying Plaintiffs and persons similarly situated to Plaintiffs from having and being granted Good Guy Letters and hand gun and/or pistol licences and/or permits;

7. An order enjoining the SHERIFF MICHAEL SPOSATO from further denying Plaintiffs and denying persons similarly situated to Plaintiffs from having and being granted Good Guy Letters and hand gun and/or pistol licences and/or permits;

8. An order enjoining the County of Nassau, Nassau County Police Department and the Nassau County Sheriff's Department from denying Plaintiffs and persons similarly situated to Plaintiffs from having and being granted Good Guy Letters and hand gun and/or pistol licences and/or permits.

9. An order appointing a Special Master to assist the Court in enforcing the direction that Defendants not engage in actions denying Plaintiffs and persons similarly situated to Plaintiffs from having and being granted Good Guy Letters and hand gun and/or pistol licences and/or permits;

10. An order of this Court retaining jurisdiction to render any and all further orders that this Court may, from time to time, deem appropriate;

11. An order finding Defendants in willful violation of the Plaintiffs' Constitutional Rights under 42 U.S.C. § 1983 and the Second (2nd) and Fourteenth (14th) Amendments, the Rehabilitation Act (29 U.S.C. §794) and the American with Disabilities Act, 42 U.S.C. § 12132 and directing corrective action to insure that said willful actions do not occur in the future;

f. An order awarding Plaintiffs the costs of this action and their reasonable attorneys' fees pursuant to 42 U.S.C. § 1988 and 29 U.S.C. 794a;

g. An order granting such further relief as the Court may deem proper and just.

PLAINTIFFS DEMAND A TRIAL BY JURY

Dated: Hempstead, New York
September 28, 2015

LAW OFFICES OF
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