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★ APR 05 2011 ★

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

----- X
KEVIN MCCAFFREY and JAGERMIESTER
DELI, INCORPORATED,

Plaintiffs,

-against-

COUNTY OF NASSAU,
NASSAU COUNTY POLICE DEPARTMENT,
NASSAU COUNTY FIRE COMMISSION, NASSAU
COUNTY POLICE OFFICER SERGEANT
ARNOLD, individually and in his Official Capacity,
NASSAU COUNTY FIRE MARSHAL JOHN
KEHLER, individually and in his Official Capacity,
NASSAU COUNTY FIRE MARSHAL PAUL
SYMANSKI, individually and in his Official Capacity,
NASSAU COUNTY CHIEF FIRE MARSHALL
THOMAS E. TILLEY, individually and in his Official
Capacity, NASSAU COUNTY COMMISSIONER OF
POLICE LAWRENCE W. MULVEY, individually and
in his Official Capacity,

Defendants.
----- X

LONG ISLAND OFFICE

(SI)

COMPLAINT

JURY TRIAL DEMANDED

CV - 11 1668

WEXLER, J.

WALL, M.J.

KEVIN MCCAFFREY ("McCaffrey") and JAGERMIESTER DELI, INC. ("Deli" and collectively as "Plaintiffs"), by their attorneys, The Law Office of BORRELLI & ASSOCIATES, P.L.L.C., complaining of Defendants, COUNTY OF NASSAU ("Nassau"), NASSAU COUNTY FIRE COMMISSION ("NCFC"), NASSAU COUNTY POLICE DEPARTMENT ("NCPD"), NASSAU COUNTY POLICE OFFICER SERGEANT ARNOLD ("Arnold"), NASSAU COUNTY FIRE MARSHAL JOHN KEHLER ("Kehler"), NASSAU

COUNTY FIRE MARSHAL PAUL SYMANSKI (“Symanski”), NASSAU COUNTY CHIEF FIRE MARSHALL THOMAS E. TILLEY (“Tilley”), NASSAU COUNTY COMMISSIONER OF POLICE LAWRENCE W. MULVEY (“Mulvey” and collectively as “Defendants”), allege upon personal knowledge as to themselves and their own actions and upon information and belief as to all other matters as follows:

INTRODUCTION

This is a civil action seeking monetary damages based upon the Defendants’ violations of Plaintiffs’ freedoms and rights as protected by 42 USC § 1983 (vis-à-vis violations of the 1st, 4th, 5th, and 14th Amendments) as well as deprivation by the Defendants, under the policies, ordinances, custom and usage of all rights, privileges and immunities secured to Plaintiff by the First and Fourteenth Amendment to the Constitution of the United States and all the laws and statutes thereunder; the corresponding provision of the New York State Constitution; the Fourth Amendment of the United States Constitution; 18 U.S.C. § 1964(c) (“RICO”); the torts of abuse of process; false arrest and imprisonment; trespass to land; trespass to chattel; and any other cause(s) of action that can be inferred from the facts set forth herein.

This is also a claim to recover for economic damages, lost profits, humiliation, pain and suffering, personal and professional embarrassment and special and general pecuniary loss sustained by the Plaintiffs, as a result of retaliatory actions taken against them due to the Plaintiffs’ exercise of their free speech rights, as guaranteed to them by the First Amendment of the United States Constitution, as well the corresponding provision of the New York State Constitution.

Defendants, by and through the actions of their agents, officers, servants and/or employees, engaged in unlawful conduct by willfully and intentionally engaging in a criminal enterprise to extort the Plaintiffs in retaliation against the Plaintiffs for exercising their rights to free speech and their rights against unreasonable searches and seizures. In conspiring together, the Defendants have threatened, harassed, and extorted the Plaintiffs through abuse of process, malicious prosecution, false arrest and imprisonment, trespass to land, trespass to chattel, and any other viable cause of action that could potentially flow from the facts described below arising under any federal, state, and local law. As a result of the Defendants' unlawful conduct, the Plaintiffs suffered and continue to suffer damages in an amount to be determined at a later date.

JURISDICTION AND VENUE

1. Jurisdiction over Plaintiffs' claims is invoked pursuant to 28 U.S.C. § 1331, *vis-à-vis* 29 U.S.C. § 1132 *et seq.*, 29 U.S.C. §§ 201 *et seq.*, and 18 U.S.C. § 1964(c). The supplemental jurisdiction of the Court is invoked pursuant to 28 U.S.C. §1367 over all state and local law causes of action.
2. Venue is appropriate in this court pursuant to 28 U.S.C. § 1391(b). All actions comprising the claims for relief occurred within this judicial district and one (1) or more of the defendants resides and/or operates with a principal place of business within this judicial district within the meaning of this statute.

CONDITIONS PRECEDENT

3. Plaintiffs filed and served a "Notice of Claim" on the Defendants dated January 18, 2010 and time stamped January 21, 2010.

4. More than 30 days have elapsed since Plaintiffs filed the aforementioned "Notice of Claim."

PARTIES

5. At all times mentioned herein, Plaintiff Kevin McCaffrey is an individual who resides in the State of New York, County of Suffolk.
6. At all times mentioned herein, Plaintiff Jagermiester Deli, Inc. is a domestic business corporation duly organized pursuant to the laws of the State of New York, with its principal place of business at 231 Robbins Lane, Syosset, New York, 11791.
7. At all times mentioned herein, McCaffrey is the owner and operator of Plaintiff Jagermiester Deli, Inc.
8. At all times mentioned herein, Defendant Nassau is a municipal corporation comprising the inhabitants within its boundaries and formed for the purpose of exercising such powers and discharging such duties of local government and administration of public affairs as may be imposed or conferred upon it by law with its principal place of business at 1550 Franklin Avenue, Mineola, New York 11501..
9. At all times mentioned herein, Defendant Arnold is/was a Sergeant with the NCPD.
10. At all relevant times herein, Defendant Mulvey is/was the Commissioner of Police with the NCPD.
11. At all times mentioned herein, Defendant Kehler is/was a Marshal with the NCFC.
12. At all times mentioned herein, Defendant Symanski is/was a Marshal with the NCFC.
13. At all times mentioned herein, Defendant Tilley is/was the Chief Fire Marshal with the NCFC.

14. At all time mentioned herein, Defendant NCFC is/was a commission duly organized pursuant to the laws of the State of New York comprised of the Fire Marshal's Office, the Bureau of Fire and Rescue Services and the Fire-Police EMS Academy.

15. At all times mentioned herein, Defendant NCPD was and still is an agency of the State of New York with a principal place of business at 1490 Franklin Avenue, Mineola, New York, 11501.

THE NOVEMBER 11, 2010 INCIDENT

16. On or about November 11, 2010, Veteran's Day, at approximately 4:00 p.m., Sergeant Arnold of the Nassau County Policy Department, 2nd Precinct, in full uniform, with his NCPD issued firearm in his holster, entered the Deli to conduct an inspection of the Deli's liquor license and confronted McCaffrey after realizing that the license was in compliance with all applicable laws. Sergeant Arnold then asked McCaffrey, "What's your phone number?" McCaffrey gave Sergeant Arnold the telephone number for the Deli. At this point, Sergeant Arnold asked "what number is this" and McCaffrey responded that it was the telephone number for the Deli. Sergeant Arnold then immediately requested that McCaffrey provide his personal home telephone number and cell phone number. McCaffrey responded, "What do you need my personal home telephone number and cell phone number for?" Sergeant Arnold began accusing McCaffrey of failing to cooperate with his "official" investigation. Sergeant Arnold began verbally harassing McCaffrey for his personal home telephone number and cell phone number. Sergeant Arnold then informed McCaffrey that he would "get those numbers one way or another". At this point, under duress and threatened by Sergeant

Arnold's show of force, McCaffrey gave Sergeant Arnold both his home telephone number and personal cell phone number. Sergeant Arnold further demanded that McCaffrey tell Sergeant Arnold "what's bothering him." McCaffrey, in exercising his right to free speech, then informed Sergeant Arnold that he didn't like being shaken down and that he didn't like it when police officers rack up overtime just before retirement, on a holiday, to pump up their taxpayer-funded pensions. Sergeant Arnold then got really angry and informed McCaffrey that "no one talks to me like that" and that "where I come from, it is customary for the establishment (like McCaffrey's Deli) to provide free dinners or lunches" and that he should invite his family back to eat and drink free of charge.

17. Sergeant Arnold reacted to McCaffrey's exercise of his free speech rights by loudly stating that he would remain in the Deli until McCaffrey provided both his cell phone number, home telephone number, and an explanation as to what was bothering him.
18. As shown on the deli surveillance video, Sergeant Arnold's body language toward McCaffrey was extremely intimidating and threatening. Sergeant Arnold can be seen pointing his finger several times in the video at McCaffrey who of course was scared and intimidated by Sergeant Arnold who was carrying his NCPD issued firearm in plain view.
19. In a further effort to intimidate and harass McCaffrey, Sergeant Arnold remained loitering in the Deli for approximately 15 minutes after completing the liquor license inspection without any legitimate purpose. Scared and intimidated, and very much wanting Sergeant Arnold to leave the Deli so that he could continue to conduct the Deli's business, McCaffrey provided Sergeant Arnold with the two (2) requested personal

telephone numbers, as well as with an explanation as to what was bothering him. To that last point, McCaffrey informed Sergeant Arnold that it was Sergeant Arnold's shake down of his deli, his threatening demeanor, behavior, and request for McCaffrey's personal information that was bothering him. Shortly thereafter, Sergeant Arnold became enraged, left the store, and informed McCaffrey that he "will teach [Plaintiffs] a lesson."

THE DECEMBER 6, 2011 INCIDENT

20. A few weeks later, on December 6, 2010, at approximately 2:08 p.m., three (3) Nassau County Police cars (believed to be numbers 209, 213 and 246) and two (2) Nassau County Fire Marshall cars pulled up in front of the Deli. A few moments later, Sergeant Arnold, in full uniform with his County issued firearm in holster, flanked by two (2) other police officers in similar uniform with their respective issued firearms in holsters, along with two (2) fire marshals, entered the Deli to make good on Sergeant Arnold's November 11, 2010 threat.
21. The two (2) fire marshals were John Kehler, shield number 49, and Paul Symanski, shield number 111. In a shocking display of totalitarian force, one of the fire marshals stated that they were at the Deli to conduct a thorough inspection of the entire premises. McCaffrey notified them that he was going to leave the Deli during the investigation. He was then immediately warned by Symanski that he would be "handcuffed and arrested" if he left the deli during the investigation. Symanski and Sergeant Arnold then demanded McCaffrey's driver's license. When McCaffrey informed Symanski and Sergeant Arnold that his driver's license was in his car that was parked in the Deli parking lot, McCaffrey was escorted by the armed Sergeant and his cohort Symanski to McCaffrey's

car. Upon retrieval of the driver's license, Sergeant Arnold and Symanski took down all of McCaffrey's private information including his home address. At this point, Sergeant Arnold summarily told McCaffrey that "this is what you get for talking back to a cop" and repeated his November 11, 2010 threat that McCaffrey "would pay" for his earlier speech to Arnold. Under severe duress, threatened by the fully loaded gun holstered officer and not wanting to be arrested, McCaffrey was too afraid to respond to the fire marshals' demand to conduct their inspection. The marshals proceeded to conduct the inspection without consent, searching through every square inch of the Deli, including McCaffrey's private area of the Deli that was not accessible to the Deli's customers. Prior to leaving, the fire marshals cited the Plaintiffs for four (4) alleged violations of law and issued two (2) appearance tickets, none of which had any basis in law, and all of which are being vigorously contested in district court for legal and factual reasons. The sole basis for the tickets and citations, as stated by Sergeant Arnold at that time, was to force the Plaintiffs to spend money and time contesting the charges. Sergeant Arnold further informed McCaffrey that "no one talks to [him] like [McCaffrey] talked to [him on November 11, 2010]."

22. As a result of the foregoing, the Deli has suffered substantial loss to business. McCaffrey has been fearful to return to the Deli on a normal basis. As a result of the aforementioned show of force, Deli customers left the establishment on both days in fear of the officers. McCaffrey suffered a business loss due to this. In fact, since these incidents, many regular Deli patrons are fearful to return.

23. In short, Plaintiffs sustained severe, serious and permanent personal injuries in the form of economic damages, lost business and profits, humiliation, legal fees and costs as well as personal and professional embarrassment, whereby they have suffered special and general pecuniary loss.

ISSUES OF PUBLIC CONCERN

24. After the December 6, 2010 incident, McCaffrey filed a complaint with NCPD's Internal Affairs Bureau ("IAB") complaining of NCPD's policy of not properly training its police officers to recognize, honor, and respect his (and all other law abiding citizens') 1st Amendment Rights (including free speech and the right to pursue life, liberty, and happiness); privacy rights; and rights against unreasonable search and seizure. McCaffrey also complained about the NCPD's customs or practice of harassing, discriminating and/or retaliating against him (and all other law abiding citizens) on account of the exercising of his 1st and 14th Amendment rights. After filing the complaint with IAB, McCaffrey called IAB and was informed that "nothing had been done and no case file number was issued." On January 23, 2011, McCaffrey wrote to Mulvey requesting that action be taken. Due to NCPD's policies on protecting their own, McCaffrey's complaints to Mulvey and the IAB went wholly ignored and no action was taken against the individual Defendants. Due to the aforementioned policies, McCaffrey suffers and continues to suffer damages in an amount to be determined at a later date.

25. After the December 6, 2010 incident, McCaffrey sent the letter dated January 24, 2011 to Tilley complaining about the NCFC's policy on failure to train its officers, agents, marshals, and employees to recognize, honor, and respect his (and all other law abiding

citizens') 1st Amendment Rights (including free speech and the right to pursue life, liberty, and happiness); privacy rights, and rights against unreasonable search and seizure. McCaffrey also complained about the NCFC's customs or practice of harassing, discriminating and/or retaliating against him (and all other law abiding citizens) on account of the exercising of his 1st and 14th Amendment rights. Due to NCFC's policies on protecting their own, McCaffrey's complaint to Tilley went wholly ignored and no action was taken against the individual Defendants. Due to the aforementioned policies, McCaffrey suffers and continues to suffer damages in an amount to be determined at a later date.

26. After the December 6, 2010 incident, McCaffrey sent numerous correspondence to the New York Department of State ("DOS") complaining that:

- a. DOS's laws, codes, rules, procedures, protocols, and regulations were not being followed by NCPD, NCFC, and Nassau;
- b. Nassau's, the NCPD's, and the NCFC's rules, regulations, ordinances, and policies were illegal pursuant to New York State Code;
- c. That NCPD's policy of not properly training its police officers to recognize, honor, and respect his (and all other law abiding citizens') 1st Amendment Rights (including free speech and the right to pursue life, liberty, and happiness); privacy rights; and rights against unreasonable search and seizure was illegal;
- d. That NCFC's policy of not properly training its police officers to recognize, honor, and respect his (and all other law abiding citizens') 1st Amendment Rights

(including free speech and the right to pursue life, liberty, and happiness); privacy rights, and rights against unreasonable search and seizure was illegal;

28. Despite McCaffrey's complaints, the individual Defendants were not disciplined and no action has been taken to correct Nassau's, the NCFC's, and the NCPD's aforementioned policies.

COUNT I AGAINST NASSAU, THE NCFC, AND THE NCPD

29. Plaintiffs repeat, reiterate, and re-allege the allegations set forth above with the same force and effect as if fully set forth herein.

30. Defendants have, while acting under color of state law, deprived the Plaintiffs of their constitutional rights, as secured by the First and Fourteenth Amendments to the United States Constitution, in violation of 42 U.S.C. § 1983, and all related provisions of the New York State Constitution. Defendants intentionally committed, condoned or were deliberately indifferent to the aforementioned violations of the Plaintiffs' constitutional rights. Such deliberate indifference may be inferred in the following ways:

- a. Defendants custom or practice of harassing, discriminating and/or retaliating against the Plaintiffs on account of exercising their 1st Amendment Rights ;
- b. Supervisors, including Mulvey, Tilley, and the IAB, failed to properly investigate and address allegations of the aforementioned retaliation;
- c. Inadequate training/supervision was so likely to result in the harassment, discrimination and/or retaliation that policymakers can reasonably be said to have been deliberately indifferent to the need to provide better training and supervision;

d. Policymakers engaged in and/or tacitly condoned the harassment, discrimination and/or retaliation.

31. As a direct and proximate result of the aforementioned retaliation, Plaintiffs suffered loss of earnings, pain and suffering, embarrassment, humiliation, and emotional damages.

COUNT II AGAINST DEFENDANTS

Violation of 18 U.S.C. § 1964(c), vis-à-vis violation of 18 U.S.C. § 1962(a)

29. Plaintiffs repeat, reiterate, and re-allege each and every allegation set forth above with the same force and effect as if more fully set forth herein.

30. 18 U.S.C. § 1964(c) provides a private right of action for any person injured by reason of a violation of 18 U.S.C. § 1962.

31. 18 U.S.C. § 1962 provides that it shall be unlawful for any person who has received any income derived from a pattern of racketeering activity to use or invest, directly or indirectly, any part of such income in the acquisition of any interest in, or the establishment or operation of any enterprise which is engaged in any activity that affects interstate or foreign commerce.

32. The Defendants intentionally engaged in a pattern of racketeering activity by repeatedly committing embezzlement, bribery, extortion, and forgery. Specifically, the Defendants retaliated against the Plaintiffs for exercising their rights to free speech by fabricating allegations of wrongdoing pursuant to the fire code and subsequent forgery of official documents (the fire code violation tickets) in an attempt to extort fines and other monetary relief; to induce the Plaintiffs to bribe and “pay them off” in order to avoid

arrest and other sanctions; and by embezzling County monies entrusted to the Defendants to be used for proper investigation and not for the aforementioned illegal and improper usage.

33. By intentionally engaging in a pattern of racketeering activity in violation of 18 U.S.C. § 1341, attempting to and then using those proceeds to operate its official business and/or acquire interests which is engaged in interstate and/or foreign commerce, Defendants thereby violated 18 U.S.C. § 1962(a).
34. The aforementioned acts occurred as a result of Nassau's, the NCFC's, and the NCPD's policies and failure to properly train its' agents, employees, officers, and marshals. The aforementioned illegal actions taken against the Plaintiffs also occurred as a result Nassau's, the NCFC's, and the NCPD's policy on retaliation against citizens for exercising free speech.
35. As described above, Plaintiffs suffered significant damages as a result of the Defendants' intentional and repeated violations of 18 U.S.C. § 1962(a), namely including, but not limited to, maintaining a show of power and fireman and police presence in the Deli to scare away business in retaliation for McCaffrey exercising his right to free speech; entering and remaining on Deli grounds without any legitimate purpose; entering and remaining on Deli grounds without a warrant; entering and remaining on Deli grounds without obtaining proper consent; issuing false fire code violation and desk appearance tickets for violations that the Plaintiffs did not commit; attempting to extort fine monies and other monetary relief from the Plaintiffs in connection with the aforementioned

tickets; attempting to obtain bribery monies from the Plaintiffs in connection with the aforementioned tickets.

36. As a direct result of the above, Plaintiffs suffered and continue to suffer damages in an amount to be determined at a later date.

COUNT III AGAINST DEFENDANTS

1st and 4th Amendment Rights vis-à-vis 42 U.S.C. § 1983

37. Plaintiffs repeats and re-allege each and every allegation set forth above with the same force and effect as if more fully set forth herein.
38. Defendant Nassau, by and through its employees, agents, officers, marshals, and administrative bodies including, but not limited to, the NCPD and the NCFC, did adopt and endorse a formal policy to ignore citizen complaints of official misconduct, specifically, claims and complaints from McCaffrey concerning the aforementioned conduct of the individual Defendants and their subsequent violations of McCaffrey's rights to free speech; rights against unreasonable search and seizure; and right to personal freedom, under color of any statute, ordinance, regulation, custom, or usage, of any State or Territory or the District of Columbia, subject, or cause to be subjected, Plaintiffs to the deprivation of rights, privileges, or immunities secured by the Constitution and laws, and shall be liable to the Plaintiffs.
39. Defendants aforementioned attempts to receive a bribe; extortion; harassment; and forgery of official documents as well as other acts of retaliation described above are a violations of the Plaintiffs' rights under 42 USC § 1983 (vis-à-vis violations of the 1st

and 4th Amendment) as well as the corresponding provision of the New York State Constitution.

40. Plaintiffs' complaints/speech about NCPD, NCFC, and Nassau corruption are also matters of public concern are protected by the First Amendment.

41. In retaliation to McCaffrey's complaints/speech about NCPD corruption, Defendants violated Plaintiffs' 1st and 14th Amendment rights and under the theory of municipal liability; Defendant Nassau is liable for damages caused by these violations.

42. As a direct result of the above, Plaintiffs suffered and continue to suffer damages in an amount to be determined at a later date.

COUNT IV AGAINST THE DEFENDANTS

5th and 14th Amendment Rights to Procedural Due Process vis-à-vis 42 U.S.C. § 1983

43. Plaintiffs repeats and re-allege each and every allegation set forth above with the same force and effect as if more fully set forth herein.

44. Defendants, by and through its employees, agents, marshals, and officers, did, under color of any statute, ordinance, regulation, custom, or usage, of any State or Territory or the District of Columbia, subject, or cause to be subjected, Plaintiffs to the deprivation of rights, privileges, or immunities secured by the Constitution and laws, and shall be liable to Plaintiff.

45. As a result of Defendants' acts, Plaintiffs were deprived of their fundamental property and liberty rights without due process of law under the Fifth and Fourteenth Amendments of the United States Constitution.

46. Defendants violated Plaintiffs' Constitutional rights by denying procedural due process and intentionally depriving Plaintiffs of their protected liberty and property rights by providing biased and/or unfair process (the issuing of fire code violation tickets when no such violation occurred and the continuing prosecution of these alleged violations by Nassau).
47. As a direct result of the biased and/or unfair process provided to Plaintiffs by the Defendants, Defendants deprived Plaintiffs of their constitutionally protected liberty and property rights.
48. As a direct result of the above, Plaintiffs suffered and continue to suffer damages in an amount to be determined at a later date.

COUNT V AGAINST THE DEFENDANTS

False Arrest and Imprisonment

49. Plaintiffs repeat, reiterate and re-allege each and every allegation set forth above with the same force and effect as if more fully set forth herein.
50. On December 6, 2011, Defendants without any reasonable cause to believe that criminal activity was afoot and that any type of illegal activity was being conducted whatsoever, willfully and unlawfully entered upon the Deli without a warrant and without a legally sound justification for doing so. The Defendants then, without any probable cause to believe that McCaffrey had committed a crime, arrested McCaffrey telling him that he was not allowed to leave the store and that he had to consent to the search or be placed in handcuffs. McCaffrey's freedom was restricted at the hands of the individual Defendants and after being falsely placed under arrest by the Defendants, who told him he was not

allowed to leave his store during the investigation and that he had to consent to their search under threat of being placed in handcuffs, Defendants issued McCaffrey desk appearance tickets for misdemeanor charges in connection with the false arrest.

51. The Defendants had no reasonable suspicion to believe that McCaffrey was engaged in any kind of illegal activity whatsoever and had no probable cause to make the arrest.
52. Furthermore, McCaffrey was not in violation of any type of law or code and therefore should not have been arrested.
53. As a proximate cause of Defendants' false arrest and imprisonment of McCaffrey, McCaffrey has suffered and continues to suffer damages in a dollar amount to be determined at a later date.

COUNT VI AGAINST THE DEFENDANTS

Abuse of Process

54. Plaintiffs repeat, reiterate and re-allege each and every allegation set forth above with the same force and effect as if more fully set forth herein.
55. On November 11, 2010 and December 6, 2010, the Defendants abused their authority by entering onto the Deli premises, without a legal justification; without a legitimate purpose; without a warrant; and without properly obtaining McCaffrey's free and fully informed consent. Moreover, the Defendants further abused their authority by remaining on said premises without a legitimate purpose, in an attempt to receive a bribe, extort, retaliate, and harass the Plaintiffs

56. Nassau has prosecuted and continues to prosecute the aforementioned charges against the Plaintiffs even though these charges are based on the individual Defendants' fabricated allegations of wrongdoing.

57. Nassau failed to properly investigate McCaffrey's aforementioned claims of wrongdoing and illegal arrest and Nassau's continuing prosecution of McCaffrey is an abuse of process.

58. As a proximate cause of Defendants' abuse of process, McCaffrey has suffered and continues to suffer damages in a dollar amount to be determined at a later date.

COUNT VII

Trespass to Land and Chattel

59. Plaintiffs repeat, reiterate and re-allege each and every allegation set forth above with the same force and effect as if more fully set forth herein.

60. On November 11, 2010 and December 6, 2010, the Defendants trespassed on Plaintiffs' property by entering onto the Deli premises, without a warrant and without obtaining proper and fully informed consent. Moreover, the Defendants remained on said premises without a legitimate purpose, in an attempt to receive a bribe, extort, retaliate, and harass the Plaintiffs

61. As a proximate cause of Defendants' abuse of process, Plaintiffs suffered and continues to suffer damages in a dollar amount to be determined at a later date.

DEMAND FOR A JURY TRIAL

62. Plaintiffs demand a trial by jury of all issues and claims in this action.

PRAYER FOR RELIEF

WHEREFORE, Plaintiffs demands judgment against Defendants as follows:

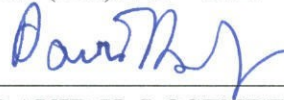
1. Enter a judgment declaring that Defendants' patterns, practices and omissions, as described above, violate the aforementioned laws;
2. Enter a judgment and award in favor of Plaintiffs and against Defendants for reasonable monetary damages, loss profits, pain and suffering, humiliation, emotional damages, and all other damages owed to Plaintiffs in an amount proven at trial, resulting from Defendants unlawful and discriminatory acts or omissions;
3. Enter a judgment and award in favor of Plaintiffs for the compensatory, punitive, exemplary and liquidated damages available under all applicable Federal and State laws;
4. Enter a judgment and award in favor of Plaintiffs for costs, including but not limited to reasonable attorneys' fees, experts' fees, and other costs and expenses of this litigation;
5. Enter a judgment and award in favor of Plaintiffs for pre-judgment and post-judgment interest;
6. Award such other and further legal and equitable relief as may be found appropriate and as this Court may deem just and proper; and
7. Retain jurisdiction over this action until such time as it is satisfied that Defendants have remedied the practices complained of and is determined to be in full compliance with the law.

Dated: Carle Place, New York
March 30, 2011

Respectfully Submitted,

The Law Office of
BORRELLI & ASSOCIATES, P.L.L.C.
Attorneys for Plaintiffs
One Old Country Road, Suite 347
Carle Place, NY 11514
Tel. (516) 248 – 5550
Fax. (516) 248 – 6027

By:

A handwritten signature in blue ink, appearing to read "David H. Rosenberg", is written over a horizontal line.

DAVID H. ROSENBERG (DR 2705)
MICHAEL J. BORRELLI (MB8533)