

**UNITED STATES DISTRICT COURT FOR THE
DISTRICT OF MASSACHUSETTS**

DOCKET NO. 1:12-CV-10430

KEN WILLIAMS,

Plaintiff,

v.

THE CITY OF BROCKTON, ET AL.

Defendants.

CORRECTED FIRST AMENDED COMPLAINT AND JURY TRIAL DEMAND

THE PARTIES

WILLIAMS

1. The Plaintiff, Ken Williams is a Massachusetts resident who resides in Lakeville, MA.
Williams is a former tenured, public employee under M.G.L. c. 31 employed by the City of Brockton Police Department.

THE POLICE DEFENDANTS

2. The Defendant, the City of Brockton is a municipality of the Commonwealth of Massachusetts with a principal address of 45 School St., Brockton, MA.
3. The Defendant, William K. Conlon is a defendant with a last known address in Massachusetts. Former Chief Conlon is being sued in his individual and official capacity, and was or is responsible for enforcing the unconstitutional customs, policies, or practices complained of herein on behalf of the City of Brockton.
4. The Defendant, Emmanuel Gomes is a Massachusetts resident and he is being sued in his official capacity as former Chief for the BPD and in his individual capacity. Former Chief Gomes is being sued in his individual capacity and in his official capacity, and was or is

responsible for enforcing the unconstitutional customs, polices, or practices complained of herein on behalf of the City of Brockton.

5. The Defendant, Lon Elliot is a Massachusetts resident and he is being sued in his individual capacity as well as in his official capacity as a police officer for the City of Brockton.
6. The Defendant, Brian Leary is a Massachusetts resident and he is being sued in his individual capacity and in his official capacity as a police officer for the City of Brockton.
7. The City of Brockton, Leary, Gomes, Elliot, and Conlon are hereinafter referred to as the Police Defendants.

JURISDICTION AND VENUE

8. Jurisdiction and venue are proper in this Court pursuant to 42 U.S.C. § 1983, 42 U.S.C. § 1988, 42 U.S.C. § 12101, and 28 U.S.C. § 1343.

FACTS RELEVANT TO ALL COUNTS

9. Williams was A BPD police officer from October 1995 through November 12, 2010. Williams' last rank was detective which he held for fifteen years until he was forced to leave the BPD due to the discrimination and violations of his Constitutional rights as complained of within this First Amended Complaint. Williams was a handful of minority officers employed by the City of Brockton during his tenure. Another minority officer who was Ernie Bell who was also the target of discrimination after being arrested by Elliot before Bell became an officer and called disparaging names by Elliot. Bell's arrest by Elliot was considered a long-standing joke in the BPD, including to Gomes.

Williams' Top Cop Reputation as a Police Officer Taken Away by the Individual Defendants and the Brockton Police Department

10. Williams earned a bachelor's degree from Western New England College in 2002. He served in the armed forces in the Army from 1989 through 1992 until earning an Honorable Discharge from the Army.
11. Williams began to suffer from PTSD around 1998, 2004, and 2005 due to shooting incidents and handling violent crimes as a police officer.
12. Williams requested and was provided job adjustments at various times within the BPD.
13. From 1999 through 2005-06, Williams was assigned to work as a network administrator mixed with criminal investigative duties due to his PTSD. His work included conducting investigations, designing websites for the BPD, as well as performing other technological advancements to the BPD to assist the organization with modernizing its operations as a police department.
14. Williams held several positions in the BPD such as patrolman, Arson Investigator, Fraud Analyst, Computer Forensic Investigator, and Detective.
15. On or about 2009, Williams received the "Top Cop" award through the Massachusetts State Police which acknowledges police officers in the state who have achieved distinction in their respective police organizations and by serving the citizens of the Commonwealth. Williams' reputation was good in the BPD until 2010 when he began to suffer from retaliation from Conlon, Gomes, and Leary due to the assistance he provided to Jose Semedo on November 20, 2007.

The Racial Harassment of Jose Semedo Giving Rise to the First Amendment Claims and Retaliation Against Williams

16. On November 20, 2007, an African-American, Brockton business-man named Jose Semedo was arrested by the BPD. Several police officers participated in the arrest including Elliot, Shawn Baker, Arthur McNulty, and Jason Ford (the “Arresting Officers”). All Arresting Officers were Caucasian and none were a minority like Williams and Semedo.
17. The arrest was orchestrated by Lon Elliot. Elliot conducted the arrest under the auspice that Semedo owed money to a local Brockton business man named George Carney. Elliot was married to the German maid of Carney at the time of he arrested Semedo, and was later convicted of marriage fraud in matter No. 1:09cr10173 on August 19, 2010.
18. The Arresting Officers arrested Semedo under the guise that they had an active warrant when in fact they lacked an active warrant for Semedo’s arrest on November 20, 2007 at 4 am when he was arrested.

The History of Mr. Semedo’s Warrant Providing Motive of the Police Defendants to Retaliate Against Williams

19. On November 16, 2007 at 12:49 PM, Semedo was arrested by Officer William Divine on warrant numbers 0631CR003181, 0754CR000562, 0757CR002512 (Wrentham District Court for ch. 90 offenses), 0731CR003901 (Taunton District Court for Larceny by Checks over \$250). *See* Warrants, 0631CR003181, 0754CR000562, 0757CR002512, and 0731CR003901, on file with the Court. Semedo was transported to the Brockton Police Department and booked at 1:35 PM. From there Semedo was transported to the Brockton District Court on November 16, 2007 and arraigned late in the day on that Friday. Semedo was given a personal recognizance on each warrant by the Brockton District Court.

20. On warrant number 0731CR003901 (Taunton) Semedo was to appear in Taunton District Court on Monday, November 19, 2007. On Monday, Semedo did appear at Taunton District Court on a personal recognizance and made a restitution payment of \$700 to the Raynham/Taunton Greyhound Park for four past Larceny by Checks offenses and a \$50 Default Warrant Fee for 0731CR003901 (Taunton). Semedo was placed on a payment arrangement with the court to settle the \$5,200.00 in bad checks offenses with the Raynham/Taunton Greyhound Park. Semedo, from his November 16, 2007 arrest, also received a personal recognizance on warrant number 0757CR002512 (Wrentham) until the afternoon of November 20, 2007 by 2:00 PM to appear in Wrentham.
21. Despite Semedo's previous arrest and court appearances on November 16, 2007, he was arrested again on November 20, 2007 at 4:00 AM under the guise of a valid warrant by Elliot on warrant No. 0731CR003901 (Taunton).
22. Under Massachusetts law, an officer can arrest someone on a warrant if the warrant is an active true warrant posted in the Criminal Justice Information System ("CJIS"). No "True Warrant" in CJIS existed for the arrest of Semedo at 4:00 AM on November 20, 2007 on warrant number 0731CR003901 (Taunton) in the CJIS. Semedo was stopped, searched and arrested by Elliot on November 20, 2007 when no active warrant existed in CJIS.

Elliot's African Jungle Bunny Statements Made to Semedo Made During His Arrest Providing Motive of the Police Defendants to Retaliate Against Williams for Assisting Semedo Report Crimes Associated with Semedo's Arrest

23. When Elliot arrested Semedo, he told Semedo that he owed Carney money and that he had an outstanding Taunton warrant for bad checks. Semedo told Elliot that warrant 0731CR003901 (Taunton) was recalled when Elliot arrested Semedo, but Elliot refused to listen, called Semedo an "African-jungle bunny", then Elliot made racial, ape-like gestures

towards Semedo. An African-Jungle bunny is term associated with the lynching of an African-American person and connotes deep feelings of racial hatred towards people of African descent.

24. When Elliot made his statements, the white policemen present either did nothing to protect Semedo, did not reprimand Elliot, or either laughed at Elliot's racial gestures towards Semedo.

Semedo's Fabricated Arrest Paperwork Regarding Arrest Warrant 0731CR003901 (Taunton), Exposed by Williams, Serving as Part of the Basis of the Motive for the Police Defendants to Retaliate Against Williams

25. Semedo at 4:00 AM was transported to the Brockton Police Department on warrant number 0731CR003901 (Taunton). Officers Baker, Powers, and Kalp all discovered there was no valid True Warrant at 4:00 AM in the CJIS system to validate Semedo's arrest.
26. Officers Kalp and Baker at about 6:00 AM communicated to Elliot that warrant 0731CR003901 (Taunton) had been recalled. Elliot responded to Kalp and Baker to "do nothing" to assist freeing Semedo. Officer Kalp then responded aloud to Officer Baker in the police station "see you in Federal Court!" because he felt that Elliot was instructing that Semedo be held illegally.
27. At the time that BPD officers were discussing Semedo' arrest, Semedo was held in cell and could hear the officers discussing that Semedo was not validly arrested. Semedo overheard the police officers discussing the invalidity of his arrest and that "he should not be here."

Semedo Meets Williams on November 20, 2007 at the BAT Bus Terminal in Brockton, Discuss a Matter of Public Concern Regarding Semedo Being Falsely Arrested, and Being Called and African-Jungle Bunny

28. Semedo was eventually brought to the Brockton District Court where he was arraigned before the same Judge that arraigned him on November 16, 2007 on warrant number

0731CR003901 (Taunton). Semedo was released from the Brockton District Court after it could not locate any active CJIS warrants at 9:00 AM on November 20, 2007. Semedo received a personal recognizance on warrant number 0757CR002512 (Wrentham) until November 21, 2007.

29. After being released from Brockton District Court custody Mr. Semedo met Mr. Williams at the Brockton Area Transit station (“BAT”) in Brockton, MA located at 10 Commercial Street. This location is directly across the street from the BPD.
30. At the BAT, Semedo explained to Williams his ordeal. Semedo explained that he had been arrested on Friday, November 16, 2007 on warrant number 0731CR003901 (Taunton), appeared in Taunton District Court on Monday, November 19, 2007 and paid restitution.
31. Semedo told Williams 0731CR003901 (Taunton) was recalled yet he was arrested again on November 20, 2007 by the Assisting Officers and Sergeant Lon Elliot for matter 3901.
32. Semedo explained to Williams that Elliot made racial comments such as “African Jungle bunny” and ape-like gestures. Semedo explained to Williams that he overheard officers stating that he was not supposed to be in jail on November 20, 2007, that he was taken to Court and released on November 20, 2007 because he was arrested on a recalled warrant, that none of the Assisting Officers helped him, and that he was upset.
33. Williams knew from conducting numerous arrest himself as a BPD officer that Semedo’s paperwork would have been fabricated in order for him to have been brought back to Court and released in the manner that Semedo explained, and that there must not have been an active warrant in CJIS based on Semedo telling him that he was arrested on a recalled warrant, and because Semedo overhead officers stating that he was not supposed to be in jail on November 20, 2007.

34. Williams told Semedo that he felt that Elliot committed crimes against him by the way that he was arrested on a recalled warrant. Williams was upset that another minority like Semedo could be called disparaging names and knew what an “African-Jungle Bunny” meant. Williams felt that Semedo’s arrest was a matter of public concern because he viewed it as involving police corruption, mainly kidnapping Semedo, and committing hate crimes against Semedo in violation of statutes known to Williams like 18 U.S.C. § 242 (Deprivation of Rights Under Color of Law), M.G.L. c. 268, § 6A (False Written Reports by Public Officers), M.G.L. c. 265, § 37 (Violations of Constitutional Rights); M.G.L. c. 265, § 25 (Attempted Extortion); M.G.L. c. 265, § 26 (Kidnapping); and 501 C.M.R. 400 (Hate Crimes).
35. Williams, due to department policy existing on November 20, 2007, was prohibited from filing a complaint against Elliot directly because Elliot was a ranking officer. Williams advised Semedo to immediately make a report against Elliot and Semedo did make a report against Elliot at the police station on November 20, 2007.
36. Semedo and Williams continued to discuss his arrest on several occasions on and off duty prior to the time that Williams was forced to retire from the BPD in November 2010 and to give- up his tenure in violation of his rights. Some of Williams’ discussions with Semedo occurred in the open in front of other police officers such as Detective Peirce.

Gomes, Leary, and Conlon Launch an Investigation on November 20, 2007, know of Semedo’s Illegal Arrest and Williams’ Assistance to Semedo, but Try to Cover-up Several Crimes and Their Knowledge that Williams Was the Person that Told Semedo to Report His Arrest on November 20, 2007

37. The BPD Internal Affairs launched an administrative and criminal investigation into the acts of Elliot after Williams assisted Semedo on November 20, 2007. A directive to mail a “formal complaint form per chief Conlon” was issued to the Internal Affairs Division and

the form was mailed to Semedo in on November 28, 2007. Gomes and Leary were assigned to investigate Semedo's arrest and to identify those who assisted Semedo with reporting his arrest on November 20, 2007.

38. Gomes and Leary collected reports from Officers Powers, Kalp, Devine, Baker, and McKnulty regarding Elliot's action towards Semedo. Some of the officer reports confirmed that Semedo was arrested on an invalid warrant and that Elliot made inappropriate racial comments and gestures towards Semedo such as calling him an "African Jungle Bunny" and making ape-like gestures.
39. The reports collected by Gomes and Leary confirmed that the alleged warrant on which Semedo was arrested 0731CR003901 (Taunton) was later that day manipulated to change the warrant number to 0757CR002512 (Wrentham) when the latter is not the checks warrant for which Elliot stated to Semedo he was being arrested for.
40. The reports collected by Gomes and Leary confirmed that Semedo had a personal recognizance on November 20, 2007 at 4:00 AM for each recalled warrant number 0631CR003181, 0754CR000562, 0757CR002512 (Wrentham), 0731CR003901 (Taunton) at the time that he was unlawfully arrested.
41. Gomes and Leary reported their findings to Chief Conlon. Chief Conlon reported his findings to Mayor James Harrington. Chief Conlon met often with Harrington to give him updates regarding the Semedo investigation.
42. Gomes and Leary interviewed Semedo before they concluded their investigation of his November 20, 2007 arrest. The interview was recorded. During the interview, Semedo accused Elliot of attempting to extort money from Semedo related to the alleged debt he incurred at the Raynham dog track. In response, Gomes and Leary attempted to convince

Semedo that Elliot was not trying to extort money from him to try to take attention away from Elliot's criminal motives for arresting Semedo.

43. When Semedo insisted that Elliot had committed criminal acts such as extortion, Gomes and Leary, began to focus their investigation on launching a criminal investigation into finding out what police officer assisted Semedo with giving Semedo back his license plates and who assisted Semedo with reporting his arrest.
44. The criminal investigation included Gomes placing phone calls to the East Bridgewater Police Department and Gomes's personally travelling to a local autobody and/or demolition shop to try to identify the police officer that assisted Semedo. Gomes took these efforts to discourage Semedo from continuing to pursue his complaint concerning his November 20, 2007 arrest.
45. Internal Affairs took notes of the police officers involved in Semedo's arrest or that Semedo knew. Gomes and Leary eventually learned that Williams was the person who told Semedo to report his arrest on November 20, 2007. Notes in the possession of internal affairs indicate "Williams" and "Ken Williams" as one of the officers that were known to Internal Affairs as being one of the officers that assisted Semedo report his November 20, 2007 arrest. Despite knowing of Williams through their investigation of Semedo's arrest, the Police Defendants denied knowing of Williams in their Court pleadings in this case and in discovery materials. They also excluded Williams from their interviews.
46. To further cover-up the manner in which Semedo was arrested on November 20, 2007, Semedo Conlon ordered Elliot to try and arrest Semedo again in relation to his license plates. Semedo would later begin to see Elliot "stalk" him at all times of the day and wrote a report to the Internal Affairs Department complaining that Elliot was following him.

47. Gomes, Leary, and Conlon never viewed a copy of any warrant that Semedo was allegedly arrested on November 20, 2007 at any point in time.

The Rules of the Brockton Police Department and Law Known to Gomes, Leary, and Conlon to be Violated at the Point in Time that they Conducted their Investigation into Semedo's November 20, 2007 Arrest But Ignored by these Individuals to Cover-up Elliot's Crimes

48. The Internal Affairs Department for the City of Brockton is charged with investigating police misconduct including, but not limited to, conduct unbecoming of an officer and crimes committed by police officers.
49. BPD rules existing at the time of Semedo's arrest on November 20, 2007 Section 1.02 of the BPD Rules defined Conduct Unbecoming as:

[I]mmoral, improper, unlawful, disorderly or intemperate conduct whether on or off duty, which reflects discredit or reflects unfavorably upon himself, upon his fellow officers or upon the Police Department. Officers shall conduct themselves at all time, both on and off duty, in such a manner as to reflect most favorably on the Department and its members. Conduct unbecoming shall include that which tends to indicate that the officer is unable or unfit to continue as a member of the Department, or tends to impair the operation, morale, integrity, reputation or effectiveness of the Department or its members. Conduct unbecoming an officer shall also include off-duty conduct where there is a nexus or connection between the acts of acts committed by the officer and his continued fitness or ability to effectively perform his required duties and responsibilities and/or the impact or adviser effect said conduct may have on the officer(s) on the operation, morale, integrity, reputation or effectiveness of the Department and ability of the officer(s) not involved is said act to effectively perform their required duties and responsibilities.

50. At the time of Semedo's arrest on November 20, 2007, Chief Conlon had the ability to excuse the involvement of the Arresting Officers who followed Elliot's order to accompany him to arrest Semedo under BPD Rule 4.03:

When lawful orders which appear to be unjust or improper are given, the officer to whom the order is given shall respectfully notify the Superior Officer issuing the order of its impropriety. If the order is not corrected, then it is to be carried out. After carrying out the order, the officer to whom the

order was given may file a written report to the Police Chief via the chain of command indicating the circumstances and the reasons for questioning the order, along with a request for clarification of departmental policy. After complying with this Section, an officer who carries out an order found to be unjust or improper by the Chief will not be held responsible for carrying out such order.

51. At the time of Semedo's arrest on November 20, 2007 many laws existed under which Semedo's arrest on November 20, 2007 were considered crimes, including, but not limited to, 18 U.S.C. § 242 (Deprivation of Rights Under Color of Law), M.G.L. c. 268, § 6A (False Written Reports by Public Officers), M.G.L. c. 265, § 37 (Violations of Constitutional Rights); M.G.L. c. 265, § 25 (Attempted Extortion); M.G.L. c. 265, § 26 (Kidnapping); and 501 C.M.R. 400 (Hate Crimes).
52. Gomes, Leary, and Conlon all knew that Elliot and Baker had submitted false reports, that no warrant existed in CJIS for the arrest of Semedo, that Semedo had complained to Gomes and Leary that he felt Elliot was extorting him, that Semedo had been referred to as an "African-Jungle Bunny", and that they had never seen a copy of the warrant under which Semedo was allegedly arrested on November 20, 2007 by the time they concluded their investigation due to the Court audio recording they collected and reviewed, the Court documents they collected and reviewed, the Assisting Officer Reports they collected and reviewed, and Semedo's interview.
53. Internal Affairs completed its investigation of Semedo's arrest in June 2008.
54. To further the cover-up of the crimes that Gomes, Leary, and Conlon knew were committed against Semedo, Conlon excused the conduct of the Assisting Officers such as Baker, Kalp, and Ford as they had followed Elliot's orders to arrest and book Semedo. None of the Assisting Officers followed BPD Rule 4.03, but their conduct was still excused by Conlon.

Conlon took these actions to make it appear as if only Elliot should be administratively pursued.

55. To further the cover-up of the crimes that Gomes, Leary, and Conlon knew were committed against Semedo, Leary and Gomes concluded that no criminal action should be taken against Elliot. Leary and Gomes reached this conclusion when they knew that Elliot had attempted to extort Semedo for money, they knew false police reports were submitted to Brockton District Court by police officers in an effort to make Semedo's arrest appear legal, that Semedo had been referred to as an "African-Jungle Bunny", and that they knew no warrant existed for the arrest of Semedo on November 20, 2007.
56. Under M.G.L. c. 31, § 41 tenured police officers for the City of Brockton have a right to first have a hearing before the Massachusetts Civil Service Commission if they are to be suspended for more than 5 days. Under M.G.L. c. 31, § 41, tenured police officers for the City of Brockton suspended for less than 5 days do not have a right to first receive a hearing before their suspension. Elliot was a tenured police officer with the City of Brockton when he arrested Semedo on November 20, 2007.
57. Gomes, Leary, and Conlon concluded that Elliot should only receive a suspension of 5 days or less so that the cover-up of the crimes related to the arrest of Semedo would be kept internal at the BPD and would not be made public before the Massachusetts Civil Service Commission, in the hope that Elliot did not appeal his suspension.
58. To further the cover-up of the crimes that Gomes, Leary, and Conlon knew were committed against Semedo, Gomes, Leary, and Conlon never conducted a criminal investigation into Elliot or into any of the Assisting Officers concerning Semedo's arrest on the November 20, 2007.

59. To further the cover-up of the crimes that Gomes, Leary, and Conlon knew were committed against Semedo, Conlon recommended to Brockton Mayor James Harrington that Elliot should be reinstated after he served his suspension” in the interests of public safety” to make it appear as if Elliot committed no criminal acts during the arrest of Semedo.

The History of Conlon and Gomes to Retaliating Against Other BPD Police Officers

60. The BPD has a history of officers making complaints that they are retaliated against for political and other reasons.

61. Andy Kalp is a tenured police officer with the City of Brockton and was one of the Assisting Officers. Kalp was suspended for 5 days in 2007 by Conlon related to a documented back injury in matter D-07-145 before the Massachusetts Civil Service Commission. Prior to his back injury, Kalp had never used a sick day. Conlon testified before the Civil Service Commission that he suspended Kalp to “send a message” to other police officers.

62. Kalp was also the plaintiff in *Brockton Police Association and Andrew Kalp v. City of Brockton and the Brockton Police Department*, 57 Mass. App. Ct. 671 (Mass. App. Ct. 2003) in which Kalp challenged the residency requirements for BPD officers. Kalp felt that Conlon was retaliating against him by suspending him for 5 days in relation to his back-injury because he was the named plaintiff in that lawsuit against the City of Brockton.

63. Kalp and Elliot aware of other officers being retaliated against while employed by the City of Brockton such as Thomas Enos in matter *Enos v. City of Brockton*, 01-10143-EFH. Both Gomes and Conlon are named in Enos’ Complaint. Enos’ complaint provides in part that claimed that then Sgt. Gomes indicated that he looking for younger officers and suggested that [Enos] start phasing out his career because he was getting older, and to consider easier

positions. Sgt. Gomes also stated he was trying to make the department younger and more aggressive, and that Plaintiff was too old to learn the new phone system. As to Conlon, it provides on “Lt. Conlon’s recommendation, the License Commission voted to withdraw Plaintiff’s status as an appointed License Agent. This resulted in loss of overtime pay for Plaintiff.”

64. Elliot is personally aware of Chief Conlon being vindictive towards him. Before he was terminated, Elliot was replaced by Conlon in the detail office. Details are a means of police officers to receive overtime pay. Elliot felt that Conlon replaced him so that Conlon’s “friends” would receive detail assignments.
65. On or about October 29, 2014, Leon McCabe commenced a suit against the City of Brockton after he discovered several police officers who were friends of Conlon stealing wages by overstating the amount of hours they worked. McCabe was deposed as a witness in Williams’ case.
66. Conlon was employed as BPD chief in 2009. Leon McCabe feared retaliation from Chief Conlon for bringing the allegations of his Complaint to light to Chief Conlon and specifically requested that a Captain Dibari be present during a November 9, 2009 meeting with Conlon to discuss the officers’ theft. Part of McCabe’s complaint specifically reads:

The Plaintiff requested Captain Dibari’s presence because most, if not all of the individuals named in the Plaintiff’s report were considered to be personal friends of then Chief Conlon.
67. Conlon and Gomes have a history of complaints against them of targeting other police officers to protect themselves, to further their own agendas, and to retaliate against other police officers.

Elliot, Conlon, Leary, and Gomes Began to Retaliate Against Williams for Assisting Semedo Report the Crimes Associated with His Arrest

68. Gomes, Leary, and Conlon allowed Elliot to remain in contact with Williams after they discovered that Williams was the person who told Semedo to report his false arrest on November 20, 2007. Gomes, Leary, and Conlon were the supervisors of Elliot.
69. On or about the summer of 2008, Elliot was in the parking lot of the BPD at Commercial St. in Brockton, MA after the Semedo arrest. Elliot damaged his own car and claimed that someone else damaged his car to try to take attention away from his own malicious acts. Williams' car was also damaged at the same time as Elliot's car was damaged; however, it was unknown to Williams that Elliot was the person who had damaged his car. On information and belief, Elliot caused the damage to Elliot's car and Williams' car, and damaged Williams' car as retaliation for Williams assisting Semedo report the crimes that Elliot committed.
70. Elliot was suspended for 5 days without a hearing in relation to Semedo and the car damage incident. Mayor Harrington later sent Elliot a letter stating in part: **"I specifically reserve any rights the City may have, in connection with any criminal charges."**
71. Williams was assigned to investigate the damage to Elliot's car. Elliot's was due to receive a hearing at City Hall on December 23, 2008 and Williams was set to testify against Elliot. Gomes approached Williams in the hallway and requested that Williams "take it easy on Elliot". Williams declined Gomes' recommendation and testified adversely against Elliot during the hearing. Elliot was subsequently terminated by the City of Brockton on June 11, 2009, after he was charged with marriage fraud in Federal Court.

72. Semedo sued the City of Brockton related to his arrest on November 20, 2007 in 2010. Gomes, Leary, and Conlon began to cover-up the tracks of the illegal arrest which included targeting Williams for constructive discharge from the BPD.
73. Conlon knew that Williams had been involved in the stressful situations as a police officer and spoke to the Brockton Enterprise about Williams' 2004 shooting incident.
74. Williams attempted to speak with Conlon in April 2010 to obtain a job modification so that he could perform the duties of his job as he did in the past when Chief Conlon and other Chiefs would give him job adjustments. Conlon did not give Williams a job adjustment and told him to go to the gym to "work it out." Williams was confused and humiliated by Conlon's response in light of how he was previously provided with accommodations by the City in past years. Conlon also ridiculed Scott Wilbur by calling him a "stripper" when Wilbur was experiencing difficulties.
75. Prior to 2010, Williams had intermittingly received adjustments in his job assignments from Conlon and other Chiefs to assist him with coping with physical and psychological injuries associated with his job.
76. Under BPD policy, the police Chief is responsible for sending police officers like Williams for treatment by physicians. For example, when Paul Mooney experienced difficulties, Chief Studenski him to be viewed by Dr. Seymour. For example, when Scott Wilbur experienced difficulties, Chief Conlon assigned him to see Dr. Freidman. On or about 2010, Williams had visited the stress officer at the Brockton Police Department, Paul Warshek. Williams later received an assignment from Chief Conlon to be treated by Fred Welsch. Williams believed that he was seeing Welsch to get better to enable him to return to work and to for Welsch to perform a fitness for duty examination.

77. Williams met with his Union representative, Bill Healy, and William Parlow of the Brockton Retirement Board on April 23, 2010. In that meeting, Parlow advised Williams to apply for retirement benefits related to hypertension. Williams believed that he should apply for injured on duty claim for Post-Traumatic Stress Disorder. Williams felt that Parlow's advice was suspicious, inappropriate, and thought that Parlow had advised Williams to commit fraud in returning to work based and then going out on disability related to hypertension.
78. With the history of advising Semedo on November 20, 2007, recently denied accommodation by Conlon, and advice of Parlow, Williams believed he was being retaliated against by the Police Defendants. Williams was aware that when a police officer fails to report to work for an extended period of time they can be terminated for abnornement of their post. In response, Williams submitted an injured on duty claims to Chief Conlon for hypertension and post-traumatic stress disorder. The April 23, 2010 injured on duty claim form was prepared in part by Fred Welsch, the person that Williams had been referred to receive treatment from by Chief Conlon.
79. Williams later also applied for partial retirement with the Brockton Retirement Board as a safeguard in the event that his April 23, 2010 claims were not approved he would be able to support his family. Eventhough Williams applied for the disability retirement benefits and applied for the injured on duty leave, he planned to return to work and did not want to retire at any point in time.
80. Conlon knew that he would deny Williams' claim when Williams submitted his claim to him on April 23, 2010. Conlon denied Williams' claim to further the scheme of Conlon, Gomes, Elliot and Leary to retaliate against Williams for assisting Semedo and because

Williams exposed how they all were implicated in covering-up crimes, in committing crimes, and in engaging in conduct unbecoming of police officers.

The City's Unconstitutional, Custom, Policy or Practice of Denying Injured on Duty Claims in Effect as of 2010

81. By April 23, 2010, the City had a practice of automatically denying injured on duty claims and Conlon knew of this policy. The policy of denying the injured on duty claims was established by the City Solicitor. Williams was unaware of the City's policy of automatically denying injured on duty claims as of April 23, 2010.
82. Under the City's policy, police officers would submit injured on duty claims to the Chief of Police, William Conlon. Conlon would then automatically deny the injured on duty claim for the police officers.
83. After Conlon's denial, the injured on duty claims would then be sent to the City for review. The City would deny or delay processing of the claims even where the police officer submitted proof of their injury, and the City lacked evidence to rebut the police officer's claim or injury.
84. After the claims were submitted, the police officers would wait for months on end to receive a hearing before the City while they remained off of work. The police officers would be forced to rely on sick time, vacation time, and personnel time for financial income while they were out of work. Tenured police officers who have no remaining sick, vacation, or personnel time that do not return to work are faced with termination from the BPD for being in "abandonment of post."
85. For example, Paul Mooney applied for injured on duty benefits for a reoccurring post-traumatic stress disorder. Mooney submitted medical information from his physicians to

support his claim. Mooney's claim was denied by his Chief. Mooney submitted his claim to the City. The claim was denied by the City.

86. Mooney was faced with financial difficulties and an inability to pay his bills after having filing his injured on duty claims and received a letter from Chief Conlon advising him that his further absence from work was unauthorized and that he would go "no pay" status. In one note to his attorney, Mooney wrote that his family "should not have to suffer" going through the injured on duty process.
87. On or about November 4, 2010, Officer Scott Wilbur submitted an injured on duty report for post-traumatic stress disorder. His claim was supported by doctor's notes. His claim was denied.
88. Instead of approving Williams' request for job modifications as the BPD had done in the past, Conlon denied Williams' injured on duty claim. Conlon then forwarded Williams' April 23, 2010 injured on duty claim to City Hall for an automatic denial to retaliate against Williams for assisting Semedo on November 20, 2007 report the criminal nature of his arrest.
89. The City requested additional information from Williams regarding his April 23, 2010 injured on duty claims. Williams then provided the City with additional medical information regarding his suffering from PTSD and hypertension. The City denied Williams' April 23, 2010 claims again.
90. Williams continued to be treated by Fred Welsh after April 23, 2010. Williams submitted a note to the City dated June 26, 2010 stating that Williams was "unable to return to work."

91. Williams thought that he was assigned to Welsch by Conlon to receive treatment so that he could eventually return to work as a police officer. Under BPD policies, an officer on injured on duty cannot return until they pass a fitness for duty examination.
92. Williams believed Welsch was part of the Employee Assistance program and would eventually provide a fitness for duty examination for Williams to enable him to return to work. Welsch was not part of the Employee Assistance Program and was not capable of providing a fitness for duty examination.
93. At various times when the City denied Williams' April 23, 2010 injured on duty claims did it have any medical documentation to rebut that which was provided by Williams and that supported his claim for injured on duty status.
94. In 2010, the City indicated in correspondence that Williams was abusing his sick leave and FMLA leave. Williams felt that his job was in danger because of the letter and believed that he was further being retaliated against because of the help he provided Semedo on November 20, 2007. Despite the City's correspondence with Williams, neither Conlon, Gomes, Leary nor any other supervisor of Williams ordered Williams to return to work at any point in time between April 23, 2010 and the point that he was forcefully retired in November 2010 for hypertension under Chapter 32 of the Massachusetts General Laws.
95. The Memorandum of Understanding 2007-2010 for the City of Brockton provides that police officers who obtain injured on duty status will not be removed from the payroll for up to one year and they can receive light duty. Police officers that lack injured on duty status can be removed from the City's payroll. Conlon at no point in time assigned Williams to light duty. Instead, Conlon told Williams to go to the gym to "work out" when Williams

approached Conlon for a job adjustment. At no point in time did Conlon give him a notice of suspension and tell him that he had a right to hearing like with Kalp and Elliot.

96. The City continued to deny Williams' April 23, 2010 claims. The City then split Williams' post-traumatic stress disorder claim from the hypertension claim.

97. Williams was forced to use sick leave, vacation time, and personnel time, credit cards, his savings, and all other financial resources available to him from April 23, 2010 through the point in time that he was forced to retire from the City of Brockton. Williams was eventually forced to sell the New Hampshire property to receive money because he did not have the financial means to survive without selling the property.

98. After Williams submitted his April 23, 2010 claims, he received a hearing before an arbitrator and he finally received a denial from the arbitrator in February 2011 after he was forced to retire in 2010. The arbitrator only considered evidence of the claim for post-traumatic stress disorder. The hypertension claim was not considered by the arbitrator.

99. The City has dual agents such as Gregory Galvin, Esq. and Heidi Chuckran that work for them and the Brockton Retirement Board. The Mayor for the City is also involved with the Brockton Retirement Board. The City sets the retirement dates of police officers and has influence over the Brockton Retirement Board.

100. The City can utilize the Retirement Board to allow or to ensure a retirement application like in the case of Scott Wilbur who applied for injured on duty status, did not receive that status, and was subsequently forced from his position as a police officer.

101. By November 2010, Williams retirement date from the City of Brockton came. He had contacted several people at the Brockton Retirement Board in order to expedite his retirement benefits, but was told by the Brockton Retirement Board that the City of

Brockton was delaying Williams' retirement process. Williams contacted the Massachusetts Attorney General's Office in an effort to expedite the handling of his retirement benefits from the City of Brockton to no avail.

COUNT I
First and Fourteenth Amendment of the United States Constitution: Freedom of Speech Against Police Defendants)

100. Williams incorporates all of the statements in the above paragraphs into this paragraph and states:
101. Williams' testimony before the BPD hearings concerning Elliot's acts of vandalism and improper police conduct constituted speech protected by the First and Fourteenth Amendments of the United States Constitution.
102. Williams communications with Semedo regarding crimes of the Police Defendants and violations of Semedo's civil rights constituted speech protected by the First and Fourteenth Amendments of the United States Constitution.
103. The abuse of Semedo at the hands of the Police Defendants was a matter of police corruption, public concern, and public safety.
104. The Police Defendants acted under color of law when they conspired to retaliate against Williams for exercising his right to free speech by damaging his car, by denying his request for a work accommodation, by not giving him light duty, by not sending him to physician capable of performing a fitness for duty examination, by forcing Williams to take sick leave, vacation time, personnel time, by causing him to exhaust his financial resources, and by placing him into a cycle known to them which would result in damage to Williams' financial resources, reputation, and other interests.

105. The Police Defendants act and omissions were meant to have a chilling effect on Williams' right to free speech, and did emotionally, psychologically, and financially damage Williams.
106. The above actions violated Williams' freedom of speech as protected by the First and Fourteenth Amendments to the U.S. Constitution, in violation of 42 U.S.C. § 1983.

COUNT II
(Fourteenth Amendment: Procedural Due Process and Equal Protection—Against the Police Defendants)

107. Williams incorporates all of the statements in the above paragraphs into this paragraph and states:
108. Williams was a tenured civil servant under the laws of Massachusetts pursuant to M.G.L. c. 31. Williams had a property interest in his position as a police officer with the BPD under Chapter 31 of the Massachusetts General Laws which could not be terminated without due process of the law, including, but not limited to, notice and an opportunity to be heard in a meaningful time and in a meaningful manner, prior to being suspended or being discharged from the BPD. Defendants' acts denied Williams of equal protection under the laws.
109. The Police Defendants acted under color of law in their positions as police officers conspires to retaliate against Williams by doing an end-run of Williams' due process rights under Chapter 31 of the Massachusetts General Laws.
110. As a result of the Police Defendants' conduct, Williams was effectively suspended, suspended without pay, and discharged from his position at the BPD in violation of his rights under Chapter 31 of the Massachusetts General Laws.

111. The above actions violated Williams' Procedural Due Process Rights as protected by the First and Fourteenth Amendments to the U.S. Constitution, in violation of 42 U.S.C. § 1983.

COUNT III
(Fourteenth and Fifth Amendment: Substantive Due Process—Against the Police Defendants)

112. Williams incorporates all of the statements in the above paragraphs into this paragraph and states:

113. Williams was a tenured civil servant under the laws of Massachusetts pursuant to M.G.L. c. 31. Williams had a property interest in his position as a police officer with the BPD under Chapter 31 of the Massachusetts General Laws which could not be terminated without due process of the law, including, but not limited to, notice and an opportunity to be heard in a meaningful time and in a meaningful manner, prior to being suspended or being discharged from the BPD.

114. The Police Defendants acted under color of law in their positions as police officers conspired to retaliate against Williams by doing an end-run of Williams' substantive due process rights to his reputation and financial interest in his job with the BPD under Chapter 31 of the Massachusetts General Laws.

115. The above actions violated Williams' Substantive Due Process Rights as protected by the Fifth and Fourteenth Amendments to the U.S. Constitution, in violation of 42 U.S.C. § 1983.

COUNT IV
(Unconstitutional Custom Police or Practice of the City of Brockton)

116. Williams incorporates all of the statements in the above paragraphs into this paragraph and states:
117. The City of Brockton acts under color of law and has a custom, policy, or practice of applying coercive tactics to the disabled worker including, but not limited to, causing financial and emotional anguish, by ridiculing the disabled worker, constructively discharging the disabled worker, and by automatically denying their injured on duty claim regardless of what medical documentation that disabled worker submits to the City of Brockton.
118. The Cities acts constitute deliberate indifference to the disabled worker's rights.
119. The above actions of the City violate Williams' Rights as protected by the Fifth and Fourteenth Amendments to the U.S. Constitution, Massachusetts Law and, violate of 42 U.S.C. § 1983.

COUNT V
(42 U.S.C. § 1988)

120. Williams incorporates all of the statements in the above paragraphs into this paragraph and states:
121. All Defendants have acted to deprive Williams of his Constitutional Rights.
122. Williams is entitled to reasonable attorney's fees in this action.

WHEREFORE, Williams prays that the Court:

1. Award Williams damages in an amount to be determined at trial;
2. Grant Williams a trial by jury on all claims so triable;
3. Award Williams attorney's fees pursuant to the statutes complained of herein including 42 U.S.C. § 1983, 42 U.S.C. § 12101, and 42 U.S.C. § 1988.
4. Grant Williams such other further statutory relief as provided by the law and as the Court determines is just and proper.

<p><u>CERTIFICATE OF SERVICE</u></p> <p>I hereby certify that on this day a true copy of the within document was served upon all defense counsel attorney of record for each party through the Federal Court ECF system on January 21, 2014 and the issued raised by this opposition were already conferred with between counsel pursuant to LR 7.1.</p>	<p>PLAINTIFF, KEN WILLIAMS,</p> <p>By his Attorney,</p> <p><u>s/ John J. Hightower, Esq.</u> John J. Hightower, Esq. (661679) 90 Pleasant St., #12 Randolph, MA 02368 John_j_hightower@yahoo.com</p>
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