

HB

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

FRANK NOONAN

and

RANDY FEATHERS

and

RICHARD A. SHEETZ, JR.

and

E. MARC COSTANZO

and

FRANK FINA

Plaintiffs

CIVIL ACTION:

JURY TRIAL DEMANDED

v.

15 6082

KATHLEEN KANE

Office of the Attorney General,
16th Floor Strawberry Square
Harrisburg, PA 17120

and

MICHAEL MILETTO

Office of the Attorney General,
16th Floor Strawberry Square
Harrisburg, PA 17120

and

CHRISTOPHER BRENNAN

801 Market Street
Philadelphia, PA 19107

and

PHILADELPHIA DAILY NEWS

801 Market Street, Suite 300
Philadelphia, PA 19107

and

PHILADELPHIA MEDIA NETWORK
(DIGITAL) LLC

801 Market Street, Suite 300
Philadelphia, PA 19107

and

PHILADELPHIA MEDIA NETOWRK, LLC

801 Market Street, Suite 300
Philadelphia, PA 19107

Defendants.

COMPLAINT

PRELIMINARY STATEMENT

1. In January of 2014, Defendant Kathleen Kane was sworn in as the Attorney General for the Commonwealth of Pennsylvania. Upon assuming office, Defendant Kane has misused the power of her office, and its publicly funded resources, for the purpose of silencing her critics through a pattern of intimidation, attempted blackmail, and vindictive retaliation against those persons who have lawfully exposed Defendant Kane's falsehoods, unlawful activities, and violations of her oath of office.

2. This is a civil action for compensatory and punitive damages and for injunctive relief against Pennsylvania Attorney General Kathleen Kane ("Kane" or "the Attorney General") and others for retaliatory violations of plaintiffs' right to freedom of speech under the First Amendment of the United States Constitution, conspiracy, defamation, false light and invasion of privacy. It is fundamental to every American citizen's relationship with government that he or she be free to speak openly about their government and its elected officials without fear of retribution or retaliation by the vast powers of that government. Kane has continuously abused and misdirected the power of her office for personal and unconstitutional ends against these plaintiffs.

3. Plaintiffs exercised their First Amendment rights as citizens to speak out and expose the illegal actions of public officials, including Kane, to publicly rebut inaccurate and false statements concerning matters of important public interest made and endorsed by Kane, to expose unethical conduct by Kane and her office, and by the honest provision of sworn

statements in support of a legal action that sought the recusal of the Attorney General and the enforcement of a lawful and appropriate plea agreement that the Attorney General had refused to honor.

4. Following plaintiff's lawful exercise of free speech, the defendant Kane launched a vendetta against plaintiffs that was fueled by the defendant's criminal actions and abuse of government powers.

5. In 2013, Kane was elected Attorney General after running a hostile campaign that accused the prior Attorney General and his professional staff, including the Plaintiffs, of incompetence and political maneuvering in its investigation and prosecution of Jerry Sandusky, a former Penn State football coach convicted of the sexual abuse of numerous boys. During the political campaign, Kane's statements that demeaned the work and the motives of the Plaintiffs amounted to little more than campaign rhetoric that, while cynical and inaccurate, were not unlawful.

6. Upon being elected, however, Kane continued her assault on the plaintiffs, and began to use the estimable power of her office to retaliate and punish the plaintiffs when they publicly defended themselves against Kane's false accusations or provided evidence against her and her office as responsible citizens. What was simply political grandstanding during the campaign became a program of unconstitutional retaliation when Kane assumed the mantle of office.

7. As Attorney General, Kane's actions against the plaintiffs violated the United States Constitution, insofar as these actions infringed upon plaintiffs' right to engage in lawful speech free of government retaliation. Indeed, Kane, while acting under the color of law, took

extraordinary and criminally unlawful measures to defame the plaintiffs, using the powers of her office to release sealed grand jury materials and to construct and publish false and outlandish claims against the plaintiffs that included ugly allegations of racism and child pornography.

8. Kane's first act of retaliation was directed at plaintiffs Fina and E. Marc Costanzo ("Costanzo"), career prosecutors who had for several years prior to Kane's election developed a wide-ranging corruption investigation of Philadelphia elected officials who took bribes from Tyron Ali, a former lobbyist who became an agent for the Commonwealth following his arrest for government contractor fraud.

9. Ali proved to be an unusually effective agent whose unprecedented work on the public corruption investigation ("Ali Bribery Investigation") together with the presentation of substantial exculpatory evidence in the case against Ali, caused Fina to agree to a withdrawal of the criminal case against him in exchange for his ongoing cooperation.

10. A clear conflict of interest between Kane and the Ali Bribery Investigation should have led Kane to recuse herself from the matter entirely. She did not. Instead, in what became pattern for her, Kane took control of the investigation in an effort to both derail it and to advance a personal and political vendetta against the plaintiffs in defiance of her ethical duties of her office.

11. By way of background, during Kane's transition, Fina informed Kane that she had a conflict of interest with the Ali Bribery Investigation because there was a former political campaign employee, Joshua Morrow ("Morrow"), and a friend of Kane's and significant campaign supporter, now a sitting Judge, who was alleged to have been involved in unlawful

campaign fundraising activity involving Ali. Because of this conflict, Fina sent the investigation to the United States Attorney's office to manage prior to Kane assuming office.

12. Upon assuming office, Kane repudiated this conflict, regained control over the investigation, and then balked at honoring the signed agreement to dismiss the charges against Ali. In turn, Ali's attorneys sought to compel dismissal of the charges against Ali as originally agreed, and also sought Kane's recusal due to her conflict. Fina executed an affidavit which attested to the factual accuracy of Ali's motion detailing the conflict of interest, the Ali Bribery Investigation, and the background of the plea agreement.

13. When Kane's suppression of the Ali Bribery Investigation became public through press reports, Kane retaliated against Fina by fabricating evidence that Ali Bribery Investigation was driven by racist motives which she then published to the press. Kane falsely believed that Fina was the source of the public exposure of her termination of this investigation. In an email to one of her media consultants, Kane sought to justify this action by stating, "This is war." In so doing, Kane confirmed her retaliatory motive.

14. When R. Seth Williams, the Philadelphia District Attorney, learned that Kane was refusing to prosecute public officials who were recorded taking bribes, he was publicly critical of that decision and he later accepted a challenge by Kane to prosecute the case himself. In the course of his own investigation, Williams confirmed there was no evidence of racism, and charged six elected officials who took the bribes, promptly obtaining guilty pleas on four of them. Two others await trial.

15. Kane further retaliated by conspiring with Morrow (over whom she had a conflict of interest due to his role in possible campaign fraud) to unlawfully release grand jury evidence in an attempt to make it appear that plaintiffs Fina and Costanzo had improperly terminated a 2009 criminal investigation of J. Wyatt Mondesire who, ironically, was head of the N.A.A.C.P. at the time. As evidence of just how illogical and desperate Kane was in her vendetta to defame Fina and Costanzo at any cost, she told the media that Fina and Costanzo had improperly declined to prosecute a prominent African American leader, while at the same time alleging that these same prosecutors had pursued a racist investigation against African American state representatives in the Ali Bribery Investigation.

16. The third major act of retaliation arose in the context of Kane's attempts to fulfill her campaign promise that she would conduct an investigation of the Sandusky Investigation. Kane appointed Geoffrey Moulton, Jr., Esquire to direct the investigation. Because the Sandusky Investigation had been conducted by a grand jury, Moulton's investigation had to be monitored and managed by the supervising judge of the grand jury. Kane was originally indifferent to this obligation as it was bound to interfere with the result oriented goals of her politically driven investigation. She relented, however, when the judge intervened.

17. The judge established ground rules for any public report which required that it include a written response by the plaintiffs if they deemed such a response appropriate. The plaintiffs did submit this court mandated response, and it was reviewed and incorporated by the Attorney General before release of the final report. In that response, plaintiffs were highly critical of the Attorney General. They stated that the "ill advised" Moulton investigation and report were

“born of political opportunism and posturing.” The response described the criticism of the Sandusky Investigation as false and unwarranted and called the claims that led to the report “ill-informed and unfounded.” Plaintiffs further described the report as little more than an “exercise in second guessing” undertaken solely “to sift for criticism.” Plaintiffs’ response also characterized the report as wholly rebutting all of the criticism that had been leveled by Kane during her campaign.

18. In a direct reaction to the plaintiffs’ response, Kane convened a press conference where she knowingly voiced completely fabricated allegations that plaintiffs’ alleged delays in the Sandusky investigation gave Sandusky the opportunity to sexually abuse two more children who would have otherwise been unharmed. This false and horrendous allegation, that children were victimized because prosecutors dallied for political purposes, was intentionally designed to place a terrible professional stain on the reputation of career public servants. Kane later, through her spokesperson, admitted these allegations were not true.

19. Kane’s retaliation did not end there. Kane searched for and reconstituted numerous deleted emails that contained off-color and, in some cases, adult materials. While many of the emails were received from individuals outside of the Attorney General’s office, they were often forwarded by employees within the office and some were received by the plaintiffs. While some of these emails were offensive, irreverent and in bad taste, there was nothing illegal in their content.

20. Kane, who was solely in possession of these emails, worked through her media contacts to arrange a national interview with CNN in which she accused the plaintiffs of viewing child

pornography in these emails. This horrific allegation is entirely false and was, and is, devastating to the reputations of men sworn to investigate and punish such activity.

21. The interview was pre-recorded, and Kane had ample opportunity to correct the record before the interview was aired but intentionally chose not to. After the piece was aired and the damage done, Kane acknowledged there was no child pornography contained in the emails.

22. Finally, in a further act of retaliation, Kane maliciously and selectively disclosed to the press many of plaintiffs' private emails simply in an attempt to embarrass them and undermine their professional and personal reputations. Kane continues to threaten plaintiffs, and others, with these emails in an ongoing attempt to intimidate and retaliate.

23. On at least two occasions, the *Philadelphia Daily News* abetted Kane's unconstitutional and defamatory actions knowingly, and/or in reckless disregard for the truth. The *Philadelphia Daily News* published an article that implied that plaintiffs Fina and Costanzo improperly terminated a supposedly viable criminal investigation of the head of the Philadelphia N.A.A.C.P. That article was based on illegally leaked grand jury documents obviously and selectively redacted by Kane to defame Fina and Costanzo after literally declaring "war" on them. Kane's intent was to defame and disgrace the plaintiffs and the *Philadelphia Daily News* readily abetted her in this goal.

24. Kane's pattern of falsehoods, distraction and retaliation has been amply displayed through her arrests, the emergency suspension of her license to practice law and her repeated material falsehoods made to the public, the Pennsylvania Supreme Court, the Supervising Judge of a Grand Jury and the members of a Statewide Investigating Grand Jury.

I. JURISDICTION

25. The jurisdiction of this Court is invoked pursuant to 28 U.S.C. §§1331 and 1343(a)(3) and (4), 28 U.S.C. §§ 2201 and 2202, and the First and Fourteenth Amendments of the United States Constitution. The cause of action arises under 42 U.S.C. §§ 1983 and 1985. The claims arose in this judicial district. This Court has jurisdiction over the state law claims pursuant to 28 U.S.C. § 1367 which provides for supplemental jurisdiction.

II. PARTIES

26. Plaintiff Frank Noonan (“Noonan”) is a retired Commissioner of the Pennsylvania State Police, a citizen of the Commonwealth of Pennsylvania and a resident of Lackawanna County, Pennsylvania.

27. Plaintiff Randy Feathers (“Feathers”) is a retired Regional Director of the Attorney General’s Bureau of Narcotics Investigation and Control, a citizen of the Commonwealth of Pennsylvania and a resident of Blair County, Pennsylvania.

28. Plaintiff Rick Sheetz (“Sheetz”) was the Executive Deputy Attorney General Directing the Criminal Law Division, and is a citizen of the Commonwealth of Pennsylvania and a resident of Lancaster County, Pennsylvania.

29. Plaintiff E. Marc Costanzo (“Costanzo”) is a former Deputy Attorney General for the Office of Attorney General, and is currently Chief Assistant District Attorney for Special Investigations for the Office of the District Attorney of Philadelphia County. He is a citizen of the Commonwealth of Pennsylvania and a resident of Philadelphia County, Pennsylvania.

30. Plaintiff Frank Fina is a public prosecutor employed by the Office of the Philadelphia District Attorney, a citizen of the Commonwealth of Pennsylvania and a resident of Philadelphia County, Pennsylvania.

31. At all times relevant to this lawsuit and presently, defendant Kathleen Kane has been the attorney general for the Commonwealth of Pennsylvania. She is sued individually and in her official capacity.

32. At all times relevant to this lawsuit, Defendant Christopher Brennan (“Brennan”) was a reporter for The Philadelphia Daily News. Brennan is a citizen and resident of the Commonwealth of Pennsylvania with a place of business at 801 Market Street, Philadelphia, Pennsylvania.

33. At all times relevant to this lawsuit, Defendant Michael Miletto (“Miletto”) was an investigator for the Pennsylvania Office of Attorney General (“OAG”). Miletto is a citizen of and resident the Commonwealth of Pennsylvania with a place of business at Office of the Attorney General, 16th Floor Strawberry Square, Harrisburg, Pennsylvania. He is sued individually and in his official capacity.

34. Defendant Philadelphia Media Network (Digital) LLC and Philadelphia Media Network, LLC (collectively “PMN”) is a Pennsylvania corporation that employed defendant Brennan, and that owns and operates the *Philadelphia Daily News* and Philly.com and is responsible for the content of its publication. At all relevant times, PMN were corporations and citizens of, or have their principle place of business at 801 Market Street, Suite 300, Philadelphia in the Commonwealth of Pennsylvania. The publications described herein were targeted to and sold in the Pennsylvania and/or national marketplace.

A. Plaintiffs’ Backgrounds

1. Frank Noonan

35. Plaintiff Noonan has had a lengthy and honorable career in government service. Noonan served as Commissioner of the Pennsylvania State Police, appointed by then Governor Corbett on January 18, 2011. He retired from that position on January 18, 2015.

36. Prior to his work as head of the Pennsylvania State Police, Noonan served honorably in the United States Marine Corps from 1968 until 1970 and was awarded the Bronze Star for his service in Vietnam. Upon his discharge from the Marine Corps, Noonan joined the Federal Bureau of Investigation (“FBI”) as a Special Agent where he served for 27 years. Following his retirement from the FBI, Noonan was appointed as a regional director for the Office of the Pennsylvania Attorney General Narcotics Investigation and Drug Control for the northeast region of Pennsylvania.

37. In 2009, Noonan was promoted to Chief of Investigations for the Attorney General’s Office.

38. Noonan is a graduate of West Chester State University.

2. Randy P. Feathers

39. Plaintiff Feathers is a graduate of the Pennsylvania State University and Indiana University of Pennsylvania. He is also a graduate of the Metropolitan Police Academy in Washington, D.C., the Pennsylvania State Police Municipal Academy and the Pennsylvania Office of Attorney General Academy.

40. Feathers began his law enforcement career in 1981 with the Washington, D.C. Police Department. He joined the Altoona Police department in 1982 and was appointed as a narcotics agent for the OAG in 1988.

41. As the director of the Blair County Task Drug Task Force from 1997 to 2005, he supervised over 5,000 narcotics investigations. Pennsylvania attorneys general Mike Fisher,

Gerald Pappert, and Tom Corbett all called his Blair County Drug Task Force “a model that we will use throughout the state.”

42. In 2005, Feathers was named as the regional director for the State College Office of the Attorney General’s Bureau of Narcotics Investigation and Drug Control.

43. In September 2012, Governor Corbett appointed Feathers to the Commonwealth Board of Probation and Parole. His appointment was unanimously approved by the Pennsylvania Senate on October 3, 2012.

44. Feathers has served on several community boards, such as Blair County Children and Youth, Blair County Drug and Alcohol, and the Booker T. Washington Revitalizing Committee.

3. Richard A. Sheetz, Jr.

45. Plaintiff Sheetz is a graduate of Rutgers College and Temple University Law School. From 1987 to 2013, Sheetz was employed as an attorney at the OAG.

46. From 2004 to 2014, Sheetz held the post of Executive Deputy Attorney General, where, as the director of the Criminal Law Division, he supervised overall functions and operations of criminal prosecutions statewide.

47. Prior to that, Sheetz headed the OAG’s Criminal Prosecution Section responsible for environmental crimes, insurance fraud and Medicaid fraud from 1996-2004. Prior to that, he supervised a unit of nine attorneys in the Drug Prosecution and Forfeiture Section.

48. From 1996 to 2013, Sheetz was a member of the Pennsylvania Municipal Police Officers’ Education and Training Commission.

49. From 2006-2011, Sheetz was a member of the Pennsylvania Supreme Court Criminal Procedural Rules Committee.

50. From 2005-2011, Sheetz was the OAG representative to the Pennsylvania Commission on Crime and Delinquency.

4. E. Marc Costanzo

51. Plaintiff Costanzo is a graduate of Temple University and the University of Baltimore Law School. From 1987-1993, Costanzo served as Assistant District Attorney in Philadelphia. From 1993 to 2012, Costanzo was employed as a deputy attorney general in the Criminal Prosecution Section of the OAG.

52. From 2012 to the present, Costanzo has been employed as chief of the Special Investigations Division of the Office of District Attorney for Philadelphia County.

53. Costanzo also served as a Special Assistant United States Attorney in the Eastern District of Pennsylvania.

54. From approximately 2005 to the present, Costanzo has served on the Board of Directors of the Northeast Community Center for Behavioral Health.

55. From 2003 to the present, Costanzo has served on the Advisory Board of St. Hubert's Catholic High School for Girls in Philadelphia.

56. From 1980 to 1998, Costanzo served on the Board of Directors of the Frankford Boys Club. From 1998 to the present, Costanzo has served on the Board of Directors of the Crispin Garden Athletic Club.

5. Frank Fina

57. Frank Fina has practiced law in the Commonwealth of Pennsylvania for more than 20 years. He graduated from Dickinson College in 1987, and received his law degree from George Washington University in 1992.

58. From 2002 until 2013, Fina served in the OAG, reaching the rank of Chief Deputy Attorney General where he headed the Criminal Prosecution, Public Corruption, Tax Crimes and Child Predator Sections. During his tenure with the OAG, Fina worked under five different Attorney Generals as he successfully investigated and prosecuted complex public corruption cases that led to the conviction of 24 state representatives and officials of the Pennsylvania state legislature.

59. Fina enjoys a statewide reputation as a prosecutor dedicated to the investigation and prosecution of public corruption.

60. Fina enjoys an excellent reputation generally in the Pennsylvania legal community and was awarded the 2012 National District Attorney Association “Home Run Hitter” Award for Outstanding Trial Prosecutor.

61. Fina was appointed by the Pennsylvania Supreme Court as a member of the Criminal Rules Committee.

B. Events Giving Rise to the Action

1. Kathleen Kane's 2013 Campaign for Attorney General Focuses on the Sandusky Investigation

62. In June 2009, the OAG, then headed by Thomas Corbett ("Corbett"), convened a grand jury investigation into allegations that Jerry Sandusky ("Sandusky"), a prominent football coach for Penn State University, had engaged in a long-term pattern of predatory sexual abuse of young boys. The Sandusky Investigation spanned 30 months and resulted in the indictment of Sandusky for 45 counts of child sex abuse.

63. While the Sandusky Investigation began under the stewardship of Corbett, it was ultimately assumed by Linda Kelly, who was appointed Attorney General to complete Corbett's unexpired term after Corbett was elected governor. As a practical matter, the investigation had been run by Fina who, in 2009, was the OAG Chief Deputy Attorney General in charge of, amongst other units, the Child Predator Section. Fina worked closely with Noonan on the Sandusky Investigation, as Noonan was the Commissioner of the Pennsylvania State Police at the time. Feathers was the Sandusky Investigation's lead investigator for the OAG.

64. Sheetz, who was the OAG Executive Deputy Attorney General Directing the Criminal Law Division, likewise played an active role in the supervision of the Sandusky Investigation.

65. Fina was the Commonwealth's lead attorney in the investigation, prosecution, and trial of Sandusky. Costanzo made public statements and addressed the media on behalf of the prosecution team following Sandusky's arrest.

66. On June 22, 2012, a Centre County jury returned a guilty verdict on 43 counts of the Sandusky indictment, and on October 9, 2012, Sandusky was sentenced to a term of imprisonment of 30-60 years.

67. In 2012, the position of Attorney General became the subject of an open election since Corbett had resigned to run for governor, and his appointed replacement Linda Kelly had agreed not to run for the office.

68. In or about February 2012, Kane announced her candidacy for Attorney General.

69. In June, shortly after the verdict in the Sandusky trial, Kane gave an interview congratulating the OAG on its fine work in procuring a conviction of Sandusky.

70. It was not long, however, before Kane realized that she could exploit the Sandusky case for political advantage and, with that in mind, she began to level unjustified attacks on the course and manner of the investigation.

71. Accordingly, less than a month after she congratulated the Sandusky prosecutors, Kane began a mantra of criticism of the Sandusky Investigation which grew into the touchstone of her campaign which she eventually rode to victory.

72. Kane set forth a five-part platform for her Sandusky Investigation campaign attack that included the following assertions: (1) that charges should have been brought against Sandusky within thirty (30) days of the date the first victim came forward; (2) that the case should never have been put in front of a grand jury, and the fact that it was constituted evidence that those who were running the investigation wished to delay it; (3) that inadequate resources were given to the case; (4) that Corbett engaged in a political conspiracy to attack Penn State, but did it in a way

that fitted his political ambition to run for governor; and (5) that, if elected, she would initiate an investigation to learn about why these things allegedly occurred in the Sandusky Investigation.

73. Kane campaigned on this Sandusky Investigation platform notwithstanding the fact that parts of the case remained under active investigation and had yet to go to trial. Nearly three years later, none of the related cases charged before Kane took office have gone to trial and other open investigations have apparently disappeared.

74. Although Kane's politically opportunistic platform was without merit, with the exception of Randy Feathers, those involved in the Sandusky investigation and prosecution, including Fina, Noonan, Costanzo and Sheetz, remained silent and did not publicly respond to Kane's criticism.

75. Feathers, however, refused to sit silently while Kane tried to take political advantage of this emotionally charged case.

76. Accordingly, Feathers made many public statements to the press which refuted Kane's claims, including an October 2012 pre-election interview on the WABC's national television news magazine 20/20 where he effectively stated that Kane's criticism of the Sandusky investigation was wrong because she was uninformed and lacked knowledge. He also refuted her allegation that the Sandusky investigation was deliberately slowed down to avoid political fallout with Penn State alumni voters.

77. In November 2012, Kane won the election and became the Attorney General elect.

78. Following her taking office, in February of 2013 Kane appointed attorney Moulton to head an inquiry into the Sandusky Investigation.

79. Upon accepting the task of reviewing the Sandusky Investigation, Moulton contacted Fina to seek his cooperation.

80. Fina openly questioned the legality of an investigation that inquired into grand jury matters which, by law, were to be kept as confidential. Fina expressed these concerns to Moulton, and later challenged Kane's authority to conduct the investigation without the direct oversight of the grand jury's supervising judge and the establishment of clear safeguards to limit political grandstanding during the process.

81. Fina's challenge came in the form of a variety letters to Moulton and motions to the supervising grand jury judge. One of the reasons Kane ultimately retaliated against Fina was this challenge to her authority and the ultimate effect that the challenge had- the direct involvement of the grand jury supervising judge who established a protocol for how the investigation would proceed. This protocol included the right of Fina to have his interviews video-recorded and the right of Fina and others involved in the Sandusky Investigation to read an advance copy of the final report and draft a response to be reviewed by the grand jury supervising judge, together with Moulton's final report. Fina's actions effectively curtailed Kane's ability to conduct the type of one-sided political investigation of the Sandusky Investigation she had originally intended.

82. Because of the active involvement of the grand jury supervising judge, and the right of Fina and the other Sandusky investigators to issue a public response with the publication of Moulton's report, Kane's ability to control the process of her investigation, and to pre-ordain the

outcome to suit her political purposes, was substantially diminished and gave impetus to her desire to retaliate against Fina and others.

2. The Ali Bribery Investigation, Kane's Conflict of Interest, and Kane's False Accusation of a Racially Motivated Prosecution.

83. In 2013, after taking office, Kane acted to secretly stop and destroy the viability of a long term undercover investigation into public corruption involving illegal lobbying and bribery of elected officials and others. When these actions were later exposed to the public in 2014, Kane pursued a series of separate abuses of power against Fina, Costanzo, Noonan, and Sheetz.

84. In 2009, the OAG charged Tyron Ali with fraud and other offenses in connection with his alleged malfeasance in the management of a federally-funded state meal program.

85. Following his arrest, Ali entered into an agreement with the OAG that called for him not only to supply all information concerning the OAG's investigation into the meal program, but also to serve as an agent for the OAG in its investigation of active public corruption in Pennsylvania.

86. The cooperation agreement was open-ended and Ali's involvement with the OAG's investigation of public corruption ultimately spanned nearly three (3) years.

87. During that time, Ali was employed as an unpaid civilian agent engaged in continuous operations directed by attorneys and agents of the OAG. Fina, who was Chief Deputy Attorney General and headed the OAG's Public Corruption Unit, was personally responsible for directing Ali's actions. Sheetz, who was the Executive Deputy Attorney General, supervised Fina throughout this investigation. Noonan supervised the investigators assigned to this case until his

departure from the OAG to become Commissioner of the Pennsylvania State Police in 2011.

Costanzo was one of the prosecutors who assisted in the investigative efforts.

88. In collaboration with Fina and OAG investigators, Ali identified elected officials in Philadelphia who he believed were prepared to accept money and other consideration in exchange for their votes and influence. Philadelphia was chosen primarily because Ali was comfortable with the political landscape there; it was where he made his home and conducted most of his lobbying in the past.

89. Indeed, Ali paid bribes to more than five elected officials who gave assurances that they would vote for recommended legislation or otherwise provide influence in matters that Ali represented to be of concern to him.

90. Independent of this assistance to the OAG, Ali also provided detailed exculpatory information on his own case. In particular, he provided details about the manner in which he operated the program for which he had been criminally charged including a credible accounting of program funds that had been entrusted to him by the state.

91. At the time of Kane's election, the political corruption investigation was ongoing but, because of a conflict of interest that Fina had discerned between Kane, Ali and other individuals involved in the investigation, Fina transferred the file to the F.B.I. and asked that it assume responsibility for the investigation. Fina assumed that Kane would acknowledge the obvious conflict of interest. She did not.

92. During the course of the investigation, Fina had discovered that Kane had a professional relationship with at least two individuals whom Ali had implicated in possible public

wrongdoing. During his initial proffer sessions with the OAG, Ali advised investigators that he had made unlawful cash contributions to a political candidate through his campaign official, Joshua Morrow. In addition, Ali admitted that he had made a separate ten thousand dollar (\$10,000) contribution in the form of four \$2,500 certified checks in the names of four people who served as straw donors. Ali, in fact, had provided the money for those contributions.

93. After Ali's arrest, Morrow, on behalf of that candidate, returned the checks to Ali.

94. Morrow later became a paid employee of Kane's campaign staff and the then former candidate became a political supporter of Kane. Indeed, as will be discussed later, Morrow was held by Kane in high confidence and later served as her agent in the criminal delivery of grand jury materials she wished to have leaked to the media.

95. Based upon Ali's extraordinary commitment to the Commonwealth through the OAG's investigation of public corruption, and in consideration of the substantial exculpatory evidence he supplied, the OAG entered into an agreement with Ali to dismiss all criminal charges against him. The agreement was made explicitly in consideration for Ali's assistance and because of the substantial exculpatory material he provided in response to the investigation against him. This agreement was approved by Fina and his supervisors on behalf of the OAG before Kane took office.

96. Prior to leaving the OAG, Fina briefed Kane on the Ali case, advised her of his discovery of the conflict of interest, and informed her that he had transferred the case to the F.B.I. in light of that conflict.

97. In deliberate disregard to this obvious conflict of interest, Kane refused to relinquish possession of the Ali Bribery Investigation, demanded the return of the file from the Federal authorities, refused to prosecute the case and then refused to honor the cooperation agreement and refused to dismiss the charges against Ali pursuant to the plea agreement.

98. In September 2013, nine months after Kane had taken office, Kane made clear to Ali that she would not pursue the Ali Bribery Investigation at all, nor honor the Ali plea agreement. Ali then filed a motion seeking the recusal of Kane and the enforcement of his plea agreement. In support of that motion, Ali obtained an affidavit from Fina setting forth the background of the investigation, Ali's extensive cooperation, and Kane's conflict of interest.

99. Unable to defend her conduct in court concerning this conflict of interest, Kane agreed to fulfill the terms of the cooperation agreement and dismiss the charges against Ali. Kane dismissed the charges against Ali in November of 2013.

100. Thereafter, between November 2013 and March 2014, Kane set in motion a plan to avenge herself and retaliate against Fina for his lawful disclosure of her conflict of interest and for supporting Ali's efforts to have Kane honor his plea agreement by way of his affidavit. As part of this vendetta, Kane contrived an account of the Ali Bribery Investigation in which Kane asserted that the case against the officials who accepted the bribes simply could not be prosecuted on the following grounds: (1) the prosecution was driven by racist motives; (2) consideration afforded Ali in the form of dismissal of all charges rendered his credibility completely worthless; (3) a lack of "quality" in the investigative methods and reports; (4) an absence of "corroborating evidence" beyond hundreds of hours of recordings; (5) a lack of

"adequate resources"; (6) that Federal law enforcement officials stated the case was "flawed and not prosecutable"; (7) that Ali told an un-named person that the investigation was limited to the General Assembly's Black Caucus; and (8) that the lead agent assigned to the case, Claude Thomas, stated that he was instructed to "focus only on members of the General Assembly's Black Caucus." Kane released these accusations in writing to the press on March 14, 2014 and would reiterate them, and others, in public statements throughout March of 2014. Kane also falsely implied that Fina was responsible for the public disclosure of the Ali undercover investigation.

101. Kane's accusation that the investigation was driven by racist motives (all of the elected officials who accepted cash were African-American) was wholly fabricated by Kane and her staff, and was published to the media intentionally in an effort to damage the reputation of Fina, Costanzo and others involved in this investigation. Likewise, all of Kane's accusations and justifications for shutting down and discrediting the bribery investigation were demonstrably false and have been clearly exposed by subsequent investigations and events.

102. Kane's retaliatory motive was made manifest by an email she wrote to a media strategist shortly after a news report of her role in the Ali Bribery Investigation surfaced. In that email, Kane wrote, "This is war."

103. Ali, himself, provided a statement to Kane's representatives that race played no role in how the targets were identified. Kane's claim that the principal investigator responsible for Ali, Claude Thomas, himself an African-American, stated that African Americans were intentionally

targeted was also a fabrication as was her claim that an F.B.I. agent with knowledge of the investigation also stated that the investigation was driven by race.

104. Philadelphia District Attorney Seth Williams, likewise reviewed the evidence involved in the investigation and concluded there was no evidence of racism. A Grand Jury in Philadelphia also found no evidence of racism. To his credit, Williams has, to date, obtained four separate felony convictions in these cases that Kane declined to prosecute. Fina, Noonan and Sheetz also made public statements correcting numerous falsehoods asserted by Kane in her effort to retaliate and justify her termination of this case.

105. Nonetheless, Kane repeatedly made and directed public statements impugning the investigation as racist and incompetent, while knowing that her repeated claims were false and defamatory.

3. Kane's Secret and Illegal Release of Grand Jury Documents to Defame Fina and Costanzo

106. In March of 2014, immediately following the public exposure of her secret termination of the legislative bribery investigation, in further retaliation against Fina and Costanzo, Kane initiated a conspiracy to unlawfully release grand jury information involving an unrelated criminal investigation run by Fina five years earlier in 2009.

107. By way of background, in 2009, an investigation of J. Whyatt Mondesire, then head of the Philadelphia chapter of the N.A.A.C.P., emerged from a separate OAG investigation of Harriett Garrett and her daughter for the theft of state grant money for a job training program.

108. Garrett was the treasurer for Next Generation Community Development Corporation, a non-profit entity operated by Mondesire. Mondesire had transferred responsibilities for the

operation of Next Generation to Garrett, who operated a separate non-profit called Creative Urban Educational Systems, for which Mondesire was chairman of the board. Mondesire served as a paid consultant for Next Generation. During the investigation of Garrett and her daughter, the OAG investigated payments to Mondesire by Next Generation for a variety of expenses. Garrett and her daughter were charged criminally by the OAG. Later, OAG investigators asked Garrett and her daughter to assist them with the investigation of payments to Mondesire, but they refused to give any statements or testify before the grand jury and they could not be compelled to do so since they were under indictment. Since there was no one else at Next Generation with knowledge concerning the payments, that left only Mondesire to explain them. Under those circumstances William Davis, the assigned deputy attorney general sought permission from Fina to subpoena Mondesire to the grand jury. The decision was reached not to subpoena Mondesire to the grand jury because: 1) there was virtually no chance that Mondesire would appear at the grand jury and incriminate himself; and 2) because he was a public figure, authority to subpoena him had to be approved by the Attorney General himself, who at the time was Tom Corbett, and that approval was never provided.

109. In point of fact, Costanzo had no decision-making authority whatsoever concerning this process.

110. Without the assistance of Garrett or her daughter who were the only ones who knew the reasons for the payments to Mondesire, there was no way to develop concrete evidence that the payments to Mondesire were in any fashion unlawful, and the investigation could not advance further. As a result, the investigation came to a standstill.

111. As Kane continued to search for ways to retaliate against Fina and others, the long dormant Mondesire investigation came to her attention.

112. In furtherance of this scheme for revenge, Kane personally gathered key confidential grand jury documents and gave them to Morrow, a political associate, with direct instructions that he pass those documents to Christopher Brennan, a reporter for the *Philadelphia Daily News* with whom Morrow had a professional relationship and who Kane and Morrow knew would be receptive and would further their efforts. Kane redacted from these documents the names of all persons other than Costanzo and Fina. Kane then conspired with Morrow and Brennan to publish a story that would disparage and defame Fina and Costanzo by suggesting that they improperly impeded the Mondesire investigation and terminated it improperly.

113. Kane, together with members of her OAG staff, specifically including Michael Miletto, retrieved the archived grand jury investigation file, and selectively gathered documents from the file they then manipulated to contrive a story to cast Fina and Costanzo in a false light. Through the leak of certain grand jury documents which Kane selectively redacted, and through misrepresentations to the media about the Mondesire investigation which Kane authorized and directed, Kane procured the publication of newspaper articles that suggested that Fina and Costanzo intentionally buried a viable criminal investigation against Mondesire, the head of the Philadelphia chapter of the NAACP at the time.

114. In furtherance of Kane's goals, and in apparent collusion with her and her agents, the Philadelphia Daily News has printed numerous articles, editorials and opinion pieces about the emails of Fina and Costanzo. These include, but are not limited to, editorials on August 28, 2015

and September 9, 2015, and front page stories on September 9, 2015, October 1, 2015 and October 6, 2015. These pieces have consistently cast these plaintiffs in a false context by asserting that Fina and Costanzo, among other things: were the core distributors of the emails, were key to the email controversy; and, have engaged in discriminatory practices. The Philadelphia Daily News has knowingly and purposefully ignored that Fina and Costanzo were but two of in excess of over a hundred similarly situated recipients of email chains that originated outside of the OAG.

115. On June 2, 2015, PMN learned of plaintiffs' intention of bringing this suit against it and Christopher Brennan when plaintiffs entered into an agreement tolling the statute of limitations for claims against them. Thereafter, PMN began to target Fina in articles and editorials with a focus and ferocity that outstripped its treatment of others who had significantly more email activity or engaged in actionable conduct such as Jonathon Duecker. Mr. Duecker was accused by at least two female employees of the OAG of having inappropriately touched them. Shortly after being named chief of staff to defendant Kane, the OAG human resources office recommended terminating Mr. Duecker for the alleged conduct. Defendant Kane has ignored that recommendation. While PMN continues the attack upon Costanzo and Fina, they have done little to no reporting on Kane's decision to retain Mr. Duecker.

116. The story, written by Brennan and published by the *Philadelphia Daily News* on June 6, 2014, implies that Fina and Costanzo impeded, obstructed or otherwise terminated a valid criminal inquiry into the payments to Mondesire. In so doing, Fina and Costanzo were cast in a false light and their professional ethics and reputation were maliciously impugned. To date, the

Philadelphia Daily News has continued to work in concert with Kane and her agents in directing repeated stories, editorials, and opinion pieces that cast Fina and Costanzo in a false light and that specifically seek to impugn their ethics and reputation.

4. A Criminal Investigation Establishes Kane's Illegal Leak of Grand Jury Materials

117. Kane's actions directly violated the Criminal History Record Information Act codified at 18 Pa. C.S. § 9101 *et. seq.* She also violated the Grand Jury Act codified at 42 Pa. C.S. § 4549. Kane has been charged criminally for these actions and for attempting to cover up her role in them by lying to the grand jury.

118. Kane further conspired with Miletto, who was at all times relevant hereto, an agent of the OAG, to further the retaliatory attack by having Miletto falsely state that Fina and Costanzo had removed him from the Mondesire investigation when Miletto supposedly found evidence of Mondesire's wrongdoing which was ultimately reported by Brennan in the news story. Miletto's statement is false, and was made to lend credibility to the claim that Fina and Costanzo improperly interfered with a valid criminal investigation.

119. Kevin Wevodau, a former F.B.I. agent who Kane had hired as a special agent in charge of the OAG's Bureau of Criminal Investigations confirmed that Kane's motive could only have been one of retaliation. He testified before the grand jury investigating Kane stating that "a review of the Mondesire investigation would have been solely done so that it may be or could have been used against Mr. Fina."

120. Fina and Costanzo first learned about the unlawful leak of grand jury material in this matter when they were contacted separately by Brennan with a request for comment. They

advised Brennan that he had unlawfully come into possession of sealed grand jury material in violation of state law. They knew they could not lawfully comment on a sealed grand jury matter, and explained that to Brennan.

121. Fina and Costanzo dutifully and lawfully then reported this violation of law to the Supervising Judge of the Grand Jury. The letter of May 8, 2014 advised the Court of a potential leak but did not request any specific action nor imply any knowledge or information regarding the source of the potential leak.

122. As a result of Fina and Costanzo's report and a preliminary investigation by the Supervising Judge, a special prosecutor was appointed to investigate the leak and the matter was submitted to a grand jury.

123. That grand jury concluded its investigation with a presentment against Kane in which it recommended charges, concluding that Kane committed perjury in an attempt to cover up her role in the grand jury leak, that she had unlawfully leaked grand jury information and had attempted to obstruct justice. Those charges have now been filed against Kane by the Montgomery County District Attorney. A preliminary hearing has been held and a Magisterial District Justice found sufficient evidence for all charges against Kane to proceed to the Court of Common Pleas for trial.

124. In yet a further attempt to retaliate against Fina and Costanzo for their exercise of First Amendment rights in reporting the unlawful grand jury leak, Miletto engaged in acts of physical harassment and intimidation against Fina and Costanzo.

125. On August 26th, 2014, the day that Fina and Costanzo were subpoenaed to appear before the grand jury to give testimony concerning their knowledge of the leak, they were met at the entrance of the building where the grand jury sits by Miletto and several other agents of the OAG who had obtained knowledge of Fina and Costanzo's grand jury subpoenas and appearance dates.

126. Miletto and his fellow agents, who were plainly aware that Fina and Costanzo were to appear before the grand jury that day, met them at the entrance of the building where the grand jury was located and Miletto made intimidating, threatening and harassing statements toward Fina and Costanzo. Miletto and the other agents followed Fina and Costanzo into the elevator as they were proceeding to the grand jury courtroom. Miletto then attempted to physically intimidate, threaten and harass Fina while he was in the elevator.

127. As a result of the OAG and Miletto's conduct, the supervising grand jury judge convened a hearing in which he took evidence concerning the intimidation, and the judge was sufficiently concerned about the OAG and Miletto's conduct that he imposed a protective order on August 27th, 2014 to prevent the OAG from engaging in any further attempts at intimidating Fina and Costanzo. Despite Kane's many attempts to falsely attack and mischaracterize the basis for the Court's protective order, the order has been repeatedly upheld by the Supervising Judge and the Pennsylvania Supreme Court.

5. Moulton's 2014 Report on the Sandusky Investigation and Kane's Fabrication of New Victims

128. In May 2014, Moulton completed the report of his review of the Sandusky Investigation.

129. Pursuant to the protocol established by the supervising grand jury judge, Fina, Sheetz, Feathers and Noonan were given an advance copy of the draft final report with the right to draft a response. Responses from the plaintiffs were drafted and submitted on June 11th, 2014, and these responses became incorporated into the report. All of the responses highlighted the fact that Moulton's Report exposed the falsity of Kane's campaign claims and criticisms of the Sandusky investigation.

130. Upon information and belief, Kane read that report, was aware that it was going to be released to the press and that it did not support her campaign statement due, in significant part, to the plaintiffs' responses. Accordingly, Kane planned a retaliatory response.

131. On June 23, 2014, Kane's report and the responses by Fina, Sheetz, Feathers and Noonan were released to the media. On that same date, Kane convened a press conference in which she made a statement and took questions from reporters.

132. In that press conference, Kane made statements in retaliation against Fina, Sheetz, Feathers and Noonan for their written response to the report. She expressly stated that delays in the Sandusky investigation, which were the result of the actions of Fina, Sheetz, Feathers and Noonan, provided Sandusky with the opportunity to assault others and, in fact, Kane alleged that two minors were victimized while the investigation was ongoing.

133. The statement, which was premeditated and calculated to defame and embarrass Fina, Sheetz, Feathers, Noonan and Costanzo, was false, and Kane knew it to be false when she made it.

134. Kane's statement concerning two new victims was widely reported in the media.

135. In response to these scandalous allegations, plaintiffs held a press conference, and Fina responded to Kane by stating that “[investigating the handling of the Sandusky probe] was a campaign promise she made. It was a trick she used to get elected and Moulton didn’t deliver for her [in his report]. What’s she going to do? She has to come up with something else sensational to detract that she [made] a series of falsehoods to the public during the campaign.” This statement, together with others from this press conference, became further cause for Kane’s war of retaliation. Fina, Feathers and Noonan all publically denounced Kane's statements about other victims as fabricated and untruthful.

136. In fact, through a spokesperson, Kane later acknowledged that her public statements concerning the two additional victims were simply not true.

137. Kane’s next act of retaliation followed a short time after plaintiffs’ written and oral response to the Moulton report.

6. Kane’s Retaliatory Use of Private E-Mails and Attempt to Silence Plaintiffs

138. In the course of Moulton’s review of the Sandusky investigation, the OAG apparently reviewed a large volume of e-mails that were received and, in some cases forwarded, by members of the staff of the OAG at the time, which included all plaintiffs.

139. Amongst these e-mails were numerous personal e-mails, some of which contained pornographic images.

140. By July of 2014, Kane was aware that a Special Prosecutor had been appointed to investigate her for the Mondesire Grand Jury leaks and that Fina and Costanzo would be grand Jury witnesses in that investigation. She had also been recently embarrassed by her false

statements about other Sandusky victims in her bid to retaliate against Fina, Noonan, Sheetz, Costanzo and Feathers. Following these events, Kane sought a way to utilize these emails to retaliate against Fina, Sheetz, Feathers, Costanzo, Noonan and others by threatening to release these personal e-mails which would embarrass them in the event plaintiffs continued with their lawful exercise of free speech that was critical of her conduct.

141. Upon information and belief, in July and August of 2014, Kane instructed members of her staff to contact members of the media and suggest to them that e-mails existed for which they should make a Right to Know Law request. When those requests invariably arrived, Kane obtained no fewer than two legal opinions that confirmed she could not lawfully selectively release employees' or former employees' private emails. She was advised that any decision regarding the release of emails had to be comprehensive. That is, she needed to release all private emails or none. Kane proceeded to act in deliberate disregard of these legal opinions. A court has already made specific factual findings regarding Kane's selected planting of these emails with the media through Right to Know Law requests. The Opinion of Supervising Judge William Carpenter of December 12, 2014 at Supreme Court Docket 171 MM 2014 details these efforts.

142. In fact, the OAG under Kane has vigorously argued in an appellate brief before the Commonwealth Court that these same emails are not public record, should remain private, and should not be subject to public release under the Right to Know Law. Despite acknowledging and advancing this legal position in pleadings as an officer of the court, Kane's own actions contradict the legal position of her office, as she has nonetheless selectively released key emails

for the sole purpose of retaliating against those whom she views as a threat or who have spoken out against her. While the Commonwealth Court is currently poised to rule on her legal position filed of record which asserts that these emails should not be released under the Right to Know Law, she has at the same time stated publicly at a press conference that she will seek authority from Judge Carpenter to release other emails, and these ongoing efforts are likewise for the obvious purpose of further retaliating against plaintiffs as they have no lawful basis nor other legitimate purpose.

143. Kane's decision-making with respect to the so-called pornographic emails has been driven by her decision to retaliate against the plaintiffs rather than by the proper service of her office. As stated above, she has taken contradictory positions on the release of the emails to suit her retaliatory agenda. She seeks to release the offending emails of those who have exercised their First Amendment rights to her political detriment while taking the official position that the emails are not public records and should not be released to the media pursuant to Right to Know Law requests. Further, while using the emails to embarrass and harm plaintiffs, she has protected the emails of her allies, friends, family and, in the case of one trusted confidant, OAG agent Louis C. DiTitto who participated in pornographic email traffic, Kane promoted him to a position in OAG management and gave him a 16% pay raise.

144. In the summer of 2013, after Kane's agents had been advising members of the media to make Right to Know Act requests for private emails, a colleague of Fina had a meeting with David Tyler, the Chief Operating Officer for the OAG. At that meeting, Tyler advised Fina's colleague that many of the former OAG legal staff's names were connected to private emails

containing pornography. Tyler then told Fina's colleague that a lot of those people are going to be hurt if "Fina does not back off." That threat was plainly understood to mean that Kane would release the emails of people friendly with Fina if Fina did not stop talking to the press and take steps to end the grand jury that was investigating the Mondesire leak.

145. Fina was informed of these threats and he, in turn, advised the special prosecutor of the grand jury leak investigation. Upon information and belief, due to the report of these threats, Tyler was confronted with his statements by the prosecutor and admitted to them.

146. In August of 2014, another colleague of Fina met with James Barker, then OAG Chief Deputy Attorney General for Appeals and Legal Services, and Barker admonished him that he should tell Fina that if Fina did not stop criticizing Kane, Kane would release the private emails of the former OAG staff.

147. This threat was also conveyed to Fina who conveyed the information to the special prosecutor.

148. Kane ignored the legal advice she had received concerning the release of e-mails and, on September 23, 2014, she convened a press conference where she made selections of the e-mails of selective former OAG employees available to media.

149. Those selected by Kane to have their emails released had either spoken out against Kane during her campaign or in connection with the Sandusky Investigation, or were friends or professional associates of Fina, Sheetz, Feathers, Costanzo and Noonan.

150. The emails were selectively released to retaliate directly against Fina, Sheetz, Feathers, Costanzo and Noonan, individuals who exercised their right to free speech by speaking publicly

against Kane and her inappropriate political manipulation of important cases and facts. The e-mail release was done as a means of retaliation for the exercise of free speech protected by the First Amendment.

151. These e-mails were the private communications of former employees of the OAG and their release was meant solely to embarrass and denigrate the plaintiffs.

7. Kane's Conspiracy With CNN to Publish False Claims That Plaintiffs Had Allegedly Viewed Child Pornography

152. By November of 2014, Kane's lengthy efforts to use her office in retaliation had not prevented the Special Counsel or Grand Jury from continuing the investigation into her criminal acts, nor had they stopped the media from publically exposing her misconduct. In fact, despite her considerable efforts to avoid it, she had to testify before the Grand Jury on November 17, 2014. Knowing she would be forced to testify on that date and that it would entail considerable negative press coverage, Kane lobbied CNN to produce a story about the emails and CNN agreed. This story was specifically designed to defame Fina, Noonan, Sheetz and Feathers, and to distract from Kane's own legal troubles.

153. The CNN story was produced in early November and broadcast later on November 18, 2014. In a pre-recorded interview of Kane that was ultimately used in the broadcast story, Kane knowingly, willfully and intentionally made false statements that were defamatory and cast Fina, Feathers and Noonan in a false light. Kane falsely stated that amongst the emails that had been exchanged, there was child pornography, and Kane made these statements in such a manner as to suggest that Fina, Feathers, Sheetz and Noonan were implicated in the criminal activity of viewing such images. Kane, in effect, accused Fina, Feathers, Sheetz and Noonan of possessing

and/or distributing pornography which is not only grossly immoral, but is a felony under state law and federal law.

154. Below is a transcript of the CNN segment:

SCIUTTO (CNN CORRESPONDENT): Tonight, stunning allegations about dozens of Pennsylvania officials, including some who investigated former Penn State assistant football coach Jerry Sandusky. Sandusky as you probably now is now serving a 30-to-60 year sentence for sexually abusing more than a half dozen boys over a decade. It took years before he was charged and brought to trial. A lag that's drawn fire from many people. Now Pennsylvania's attorney general claims that many of the officials who worked on the Sandusky sex abuse case were at the exact same time breaking the law by using their work computers to share hardcore porn. On top of that, she said that a gag order is keeping her from completing her investigation. Here's CNN investigative correspondent Sara Ganim.

SARA GANIM, CNN CORRESPONDENT: Dozens of state officials in Pennsylvania, many who worked to bring down the infamous child molester Jerry Sandusky have been caught exchanging crude pornographic emails written on state email accounts, state computers and on state time, according to the state's attorney general.

In all, more than 4,000 sexually explicit emails were circulated between about 50 people, many state employees, over a four-year period starting in 2008. Some of them at the very same time that the very same people were building a child sex abuse case against Sandusky. And the porn being passed around was not for the faint of heart.

KATHLEEN KANE: When I saw them, they literally took my breath away. And they are deplorable. Hardcore, graphic, sometimes violent emails that had a string of videos and **pictures depicting sometimes children**, old women, some of them involved violent sexual acts against women.

Good morning.

GANIM: The emails were discovered by State Attorney General Kathleen Kane, who ran for office on the promise that she would investigate why it took three years to charge Sandusky after his first victim came forward. While looking into that, her office uncovered the pornographic emails. Those involved in the scandal include some of the biggest names in Pennsylvania's justice

system, a state Supreme Court justice Seamus McCaffery, the State Police Commissioner Frank Noonan and one of the main Sandusky investigators Randy Feathers. The emails are so graphic, the chief justice of the State Supreme Court wrote that they are clearly obscene and may violate the crimes code section on obscenity." But now incredibly, Kane says she can't do a thing about it, can't investigate further, can't name any names that have not already been made public.

But are you investigating this right now?

KANE: We are not investigating it.

GANIM: Why not?

KANE: I cannot investigate. I am being stopped from performing my duties as attorney general, my office is being stopped from certain investigations, and we are being stopped even from telling why.

GANIM: So, I'm hearing you say that your hands are tied. Why are your hands tied?

KANE: My hands are tied and this will be frustrating for you because it's just as frustrating for me. My hands are tied because there are court orders that don't allow us to say certain things, which I believe the public needs to know.

GANIM (voice over): To understand why, you have to go back to a public and very bitter feud between Attorney General Kathleen Kane and the main prosecutor in the Sandusky case Frank Fina. It started with her criticism of how Fina handled Sandusky. The two have been lobbying allegations against each other about whether several cases have been handled correctly. As a result, Kane is now being investigated about whether she improperly leaked a memo about a case from 2009 that Fina handled. And according to the "Philadelphia Inquirer," a gag order in that case is keeping Kane from moving forward on the porn emails.

As the state's top prosecutor ...

KANE: Yes.

GANIM: You're saying that there's a court order that's keeping you from investigating a case that you think, and the chief justice on the state's Supreme Court thinks, might be illegal.

KANE: That is correct.

GANIM (voice over): Kane says she believes she did the right thing. Frank Fina would not comment for this story.

Do you feel that the system is being abused to protect certain people?

KANE: I knew that I was walking into public corruption, which again is why I ran. But I will tell you this, even I am shocked at the level of public corruption. I am shocked at how deep it goes and I am shocked at how powerful it is. I have never seen anything like this. It's breathtaking. It has been described by the people familiar with what is happening as shameful.

SCIUTTO: Sara Ganim joins us now. Sara, great reporting. What can you tell us happened to the state employees involved in these emails?

GANIM: Well, Jim, most of the people have been - who have been publicly shamed, they lost their jobs, either resigning or being forced out. But the State Police Commissioner Frank Noonan, you saw him, he still has his job because according to published reports, the governor says there was no proof that he opened the emails. There are also people in the public sector, the private sector, I'm sorry, that still have their jobs, too.

SCIUTTO: And how about for the Pennsylvania attorney general? What's next for her?

GANIM: Well, she testified yesterday before the grand jury and now she waits to see if she'll be indicted. Remember, that's a whole another case about a grand jury leak. She's under investigation for that leak. And sources tell us that the order that she says that is preventing her from investigating these emails, it doesn't actually name any names, it's vague. But she says that she believes she can't take any chances because she could be held in contempt of court, possibly even jailed. Jim.

SCIUTTO: Alarming case, thanks very much to Sara Ganim.

At various points during the narrative, quoted intact above, CNN displayed photos of Fina, Noonan and Feathers.

155. Kane plainly arrived at the interview intending to utter that fabrication in an attempt to smear Fina, Sheetz, Feathers and Noonan, to defame them and to do demonstrable harm to their reputation.

156. Because the statement was pre-recorded before it was aired on November 18, 2014, Kane had an opportunity to recant that statement and ask that it be stricken from the broadcast interview. She did not, always intending that these false statements be published and cause the resultant harm.

157. In fact, once again, in the days that followed, a Kane spokesperson was forced to acknowledge that there was no truth to any allegation of images of child pornography in the emails.

8. Plaintiffs' Protected First Amendment Speech

158. Plaintiffs engaged in numerous acts of protected First Amendment speech, including the following:

- (a) statements by Feathers in 2012 to the media commenting and criticizing Kane's politically motivated campaign criticism of the Sandusky Investigation;
- (b) Fina's assertions to the OAG and the supervising judge of the Sandusky grand jury challenging Kane's authority to conduct an investigation of a grand jury investigation, and various motions to regulate the conduct of that investigation;
- (c) the September 2013 production of an affidavit by Fina in support of Ali's motion to recuse Kane from his case and compel performance of the cooperation agreement entered into between Ali and the Commonwealth;
- (d) Fina letter of March 22, 2014 to the public responding to Kane's false allegations about her termination of the Ali undercover bribery case;

- (e) The public statements in March and April of 2014 by Noonan and Sheetz correcting Kane's allegations about her termination of the Ali undercover bribery case;
- (f) Fina and Costanzo's May 8, 2014 report to the Supervising Judge of the Grand Jury concerning the leak of grand jury information in the Mondesire investigation;
- (g) Fina, Sheetz, Feathers and Noonan's written responses to the Moulton Report concerning the review of the Sandusky Investigation, provided on June 11, 2014;
- (h) June 23rd, 2014 press conference statements of Fina, Feathers, and Noonan in responding to false allegations that Sandusky abused two children while the grand jury investigation was underway in 2009;
- (i) Fina and Costanzo's report on August 26, 2014 to the grand jury judge about Miletto's attempt to engage in physical and oral intimidation of them as grand jury witnesses;
- (j) Fina's and Costanzo's August 26th, 2014 testimony before the grand jury investigating the leak of grand jury material in the Mondesire investigation; and
- (k) Costanzo openly expressed criticism of Kane's campaign tactics regarding the Sandusky prosecution.

159. Each of these actions taken by Fina, Costanzo, Sheetz, Feathers, and Noonan were done to achieve lawful objectives and sought to assure that agreements of the Commonwealth are being honored and enforced, that citizens of the Commonwealth are receiving an honest, complete and fair assessments of the actions of their government agencies, and each action constitutes a form of political expression and petition of the government for redress of grievances.

160. The actions of Fina, Costanzo, Sheetz, Feathers, and Noonan, on behalf of agents, witnesses and the citizens of the Commonwealth angered defendants Kane and her agents

including Miletto. Kane was enraged by the fact that these plaintiffs took a stand, challenged them and initiated legal actions to prevent them from engaging in unlawful conduct.

161. Indeed, the grand jury investigation into the leak of the Mondesire grand jury revealed clear evidence of Kane and her administration's willingness to engage in criminal actions to advance their ill motives and retaliatory scheme against Fina and Costanzo, and display their willingness to engage in retaliatory action, generally. The findings of the Disciplinary Board of the Supreme Court of Pennsylvania similarly bolster the clear existence of the evidence of Kane's misconduct. The conduct of defendants Kane, Miletto, and others associated with them include violations of the United States Constitution, and criminal laws.

162. As a direct and proximate result of the actions listed above defendants sought to inflict injury on and professionally damage or destroy plaintiffs through their retaliatory actions.

163. By the content, form and context of the speech and conduct of plaintiffs Fina, Costanzo, Sheetz, Feathers, and Noonan, plaintiffs spoke out about matters of public concern.

164. All of these plaintiffs' First Amendment protected activities were on matters of public concern to the citizens of the Commonwealth of Pennsylvania, the news media, voters, the public at large, the governor of Pennsylvania and the general assembly.

165. Plaintiffs' First Amendment protected activities related to matters of political, social and other concern to the community.

166. Plaintiffs were acting in good faith and with honest motives at all times when they exercised their First Amendment protected rights.

9. Retaliation by Defendant Kane

167. Defendant Kane engaged in a calculated and continual enterprise against the plaintiffs in an effort to harm them and deter them from exercising their First Amendment rights of free speech.

168. In a calculated and directed campaign to retaliate against and injure plaintiffs, Kane published false statements to the media and released private e-mails that impugned plaintiffs' professional and personal reputations, including:

- (a) false statements that she possessed evidence that Fina and Costanzo were responsible for a racially motivated investigation of Philadelphia state representatives who accepted cash bribes;
- (b) conspiring with others, including Morrow, Miletto and Brennan - a Philadelphia Daily News reporter - - to unlawfully leak grand jury information connected to the Mondesire investigation that dishonestly represented that Fina and Costanzo had improperly impeded a criminal investigation of Mondesire, then director of the Philadelphia NAACP;
- (c) falsely represented to the media that there existed evidence that delays in the Sandusky Investigation run by Fina, Sheetz, Feathers, Noonan and Costanzo that resulted in additional victims of sexual abuse;
- (d) falsely stated that plaintiffs had possessed and/or distributed images of child pornography;
- (e) released information about and/or plaintiffs actual private and personal e-mails in a manner that was unlawful; .
- (f) falsely stated, in numerous public statements and verified court filings that Fina and Costanzo engaged in a "conspiracy", "plot" or "scheme" to "corruptly" manufacture a grand jury investigation of Kane;
- (g) falsely asserted that Fina and Costanzo have engaged in criminal acts and that "the corrupt machinations of Frank Fina and E. Marc Costanzo have

wrongfully caused the judiciary to bar her from discharging the duties of her office;" and

- (h) has repeatedly asserted she is the victim of a male and/or "old boys" network.

169. At all times, Kane knew that her allegations were false and/or intended to reveal matters of privacy with no legitimate purpose.

170. Defendant Kane published her false allegations despite knowledge of their actual falsity.

171. Defendant Kane willfully blinded herself to the falsity of her statements.

172. The retaliatory publications and release of private and personal emails were intended to intimidate, prevent and deter plaintiffs from engaging in First Amendment protected activity discussed above and to punish them for that same activity. Stories about Kane's false and scandalous allegations and plaintiffs' emails were published by various state and national news and subsequently republished throughout Pennsylvania and the United States.

173. With respect to Feathers, Kane took her retaliatory action further by falsely alleging that Feathers had viewed and forwarded many of the e-mails containing the pornographic materials. Despite public demands by Feathers that Kane conduct a forensic evaluation of his e-mail account to show just how limited Feathers' involvement was with respect to the emails in question, Kane stood by her misrepresentations in an attempt to embarrass and harm Feathers in the absence of such fundamental evidence.

174. As a result of Kane's actions, Feathers was compelled to resign from his post as a member of the Pennsylvania State Parole Board.

175. As a result of Kane's actions, Sheetz was compelled to resign from his position as an assistant district attorney at the Lancaster County District Attorney's office.

**COUNT I- 42 U.S.C. § 1983- FIRST AMENDMENT FREE SPEECH RETALIATION
FINA V. KANE (ALI INVESTIGATION)**

176. Plaintiffs repeat and reallege paragraphs 1-175 set forth above and incorporates them herein by reference.

177. Kane's actions of fabricating and publishing claims that the OAG possessed evidence that the investigation involving the acceptance of bribes by state representatives was motivated by racism was retaliatory action against Fina as a direct and proximate result and in retaliation of his exercise of First Amendment protected freedom of speech as more fully discussed above.

Kane's fabrication and publication of these false statements of racism directly related to a matter of important public concern upon which Fina had exercised his First Amendment right of free speech.

178. Kane cannot identify any non-retaliatory reason for having fabricated and published false allegations of racism against Fina.

179. Fina's rights to engage in expressive First Amendment activity have been chilled by Kane's actions.

180. The publication of the false implications of racism resulted in injury to Fina's personal and professional reputation, diminished his public esteem, respect and goodwill, generated derogatory and negative opinions against him, and caused him embarrassment and anxiety.

181. Plaintiff's constitutional right to freedom of speech has been denied under the first Amendment of the United States Constitution at 42 U.S.C. § 1983.

182. As a direct and proximate cause of Kane's actions, Fina has suffered emotional distress, humiliation, embarrassment, and injury to his reputation.

WHEREFORE, plaintiff Frank Fina demands judgment in his favor against defendant Kathleen Kane for compensatory damages, punitive damages, attorneys' fees, cost of suit, and injunctive relief that includes a permanent injunction enjoining defendant Kane from retaliating against plaintiff now or in the future and a reparative injunction directing defendant Kane to issue a public statement personally apologizing to plaintiff Fina for the publication of false statements in violation of his constitutional rights.

**COUNT II- 42 U.S.C. § 1983- FIRST AMENDMENT FREE SPEECH RETALIATION
FINA AND COSTANZO V. KANE (MONDESIRE GRAND JURY LEAKS)**

183. Plaintiffs repeat and re-allege paragraphs 1-182 set forth above and incorporates them herein by reference.

184. Kane's actions of fabricating and publishing claims that Fina and Costanzo wrongfully impeded and terminated a valid criminal investigation against J. Whyatt Mondesire for improper and unethical purposes was retaliatory action against Fina and Costanzo as a direct and proximate result of, and in retaliation for, their exercise of First Amendment protected freedom of speech as more fully discussed above. Kane's fabrication and publication of these false statements directly related to a matter of important public concern upon which Fina and Costanzo had exercised their First Amendment right of free speech.

185. Kane cannot identify any non-retaliatory reason for having fabricated and published false allegations that Fina and Costanzo wrongfully impeded and terminated a valid criminal investigation against J. Whyatt Mondesire for improper and unethical purposes..

186. Fina and Costanzo's rights to engage in expressive First Amendment activity have been chilled by Kane's actions.

187. The publication of the false implications that they wrongfully impeded and terminated a valid criminal investigation resulted in injury to Fina and Costanzo's personal and professional reputations, diminished their public esteem, respect and goodwill, generated derogatory and negative opinions against them, and caused them embarrassment and anxiety.

188. Plaintiffs' constitutional right to freedom of speech has been denied under the First Amendment of the United States Constitution at 42 U.S.C. § 1983.

189. As a direct and proximate cause of Kane's actions, Fina and Costanzo have suffered emotional distress, humiliation, embarrassment, and injury to their reputations.

WHEREFORE, plaintiffs Frank Fina and E. Marc Costanzo demand judgment in their favor against defendant Kathleen Kane for compensatory damages, punitive damages, attorneys' fees, cost of suit, and injunctive relief that includes a permanent injunction enjoining defendant Kane from retaliating against plaintiffs now or in the future and a reparative injunction directing defendant Kane to issue a public statement personally apologizing to plaintiffs Fina and Costanzo for the publication of false statements in violation of their constitutional rights.

**COUNT III- 42 U.S.C. §§ 1983 - FIRST AMENDMENT FREE SPEECH
RETALIATION-Conspiracy**

**FINA AND COSTANZO V. KANE, MILETTO, AND BRENNAN
(MONDESIRE GRAND JURY LEAKS)**

190. Plaintiffs repeat and reallege paragraphs 1-189 set forth above and incorporates them herein by reference.

191. Kane's actions of fabricating and publishing claims that Fina and Costanzo wrongfully interfered with and terminated a valid criminal investigation against J. Whyatt Mondesire for improper and unethical purposes was retaliatory action against Fina and Costanzo as a direct and proximate result and in retaliation of their exercise of First Amendment protected freedom of speech as more fully discussed above. Kane's fabrication and publication of these false statements directly related to a matter of important public concern upon which Fina and Costanzo had exercised their First Amendment right of free speech.

192. Defendants cannot identify any non-retaliatory reason for having fabricated and published false allegations of that Fina and Costanzo wrongfully suppressed and terminated a valid criminal investigation against J. Whyatt Mondesire for improper and unethical purposes.

193. Through their concerted actions described above, defendants conspired to retaliate against Fina and Costanzo for the exercise of their First Amendment rights of free speech.

194. The publication of the false implications that they wrongfully interfered with and terminated a valid criminal investigation resulted in injury to Fina and Costanzo's personal and professional reputations, diminished their public esteem, respect and goodwill, generated derogatory and negative opinions against them, and caused them embarrassment and anxiety.

195. Plaintiffs' constitutional right to freedom of speech has been denied under the First Amendment of the United States Constitution at 18 U.S.C. § 1983.

196. As a direct and proximate cause of the actions of Kane, Miletto and Brennan, Fina and Costanzo have suffered emotional distress, humiliation, embarrassment, and injury to their reputations.

WHEREFORE, plaintiffs Frank Fina and E. Marc Costanzo demand judgment in their favor against defendants Kathleen Kane, Michael Miletto and Christopher Brennan for compensatory damages, punitive damages, attorneys' fees, cost of suit, and injunctive relief that includes a permanent injunction enjoining defendant Kane from retaliating against plaintiffs now or in the future and a reparative injunction directing Defendant Kane to issue a public statement personally apologizing to plaintiffs Fina and Costanzo for the publication of false statements in violation of their constitutional rights.

**COUNT IV- 42 U.S.C. § 1983- FIRST AMENDMENT FREE SPEECH RETALIATION
FINA, SHEETZ, FEATHERS AND NOONAN V. KANE (MOULTON REPORT)**

197. Plaintiffs repeat and reallege paragraphs 1-196 set forth above and incorporates them herein by reference.

198. Kane's statements to the media that the alleged delay in arresting Sandusky resulted in two minors being subjected to sexual abuse that would not have otherwise occurred was retaliatory action against Fina, Sheetz, Feathers, and Noonan and was retaliatory action as a direct and proximate result and in retaliation of their exercise of First Amendment protected freedom of speech as more fully discussed above. Kane's fabrication and publication of these

false statements directly related to a matter of important public concern upon which Plaintiffs had exercised their first amendment right of free speech.

199. Fina's, Sheetz's, Feather's, and Noonan's rights to engage in expressive First Amendment activity have been chilled by Kane's actions.

200. The publication of the false allegations of investigative delays resulting in additional victims resulted in injury to Plaintiffs' personal and professional reputations, diminished their public esteem, respect and goodwill, generated derogatory and negative opinions against them, and caused them embarrassment and anxiety.

201. Plaintiffs' constitutional right to freedom of speech has been denied under the first Amendment of the United States Constitution at 42 U.S.C. § 1983.

202. As a direct and proximate cause of Kane's actions, Fina, Sheetz, Feathers, and Noonan have suffered emotional distress, humiliation, embarrassment, and injury to their reputations.

WHEREFORE, plaintiffs Fina, Sheetz, Feathers, and Noonan demand judgment in their favor against defendant Kathleen Kane for compensatory damages, punitive damages, attorneys' fees, cost of suit, and injunctive relief that includes a permanent injunction enjoining defendant Kane from retaliating against plaintiffs now or in the future and a reparative injunction directing defendant Kane to issue a public statement personally apologizing to plaintiffs Fina, Sheetz, Feathers, and Noonan for the publication of false statements in violation of their constitutional rights.

COUNT V- 42 U.S.C. § 1983- FIRST AMENDMENT FREE SPEECH RETALIATION

**FINA, SHEETZ, FEATHERS AND NOONAN V. KANE
(KANE'S FALSE CLAIMS ABOUT POSSESSION/DISTRIBUTION OF CHILD
PORNOGRAPHY)**

203. Plaintiffs repeat and reallege paragraphs 1-202 set forth above and incorporates them herein by reference.

204. Kane's actions of fabricating and publishing claims that implied that Fina, Sheetz, Feathers and Noonan possessed and/or distributed child pornography was retaliatory action against Fina, Sheetz, Feathers and Noonan as a direct and proximate result of, and in retaliation for, their exercise of First Amendment protected freedom of speech as more fully discussed above. Kane's fabrication and publication of statements falsely implicating Fina, Feathers and Noonan in child pornography directly related to a matter of important public concern upon which Plaintiffs had exercised his First Amendment right of free speech.

205. Kane cannot identify any non-retaliatory reason for having fabricated and published false allegations relating to child pornography against Fina, Sheetz, Feathers and Noonan.

206. Fina's, Sheetz's, Feathers' and Noonan's rights to engage in expressive First Amendment activity have been chilled by Kane's actions.

207. The publication of the false implications that Fina, Sheetz, Feathers and Noonan dealt in child pornography resulted in injury to their personal and professional reputations, diminished their public esteem, respect and goodwill, generated derogatory and negative opinions against them, and caused them embarrassment and anxiety.

208. Plaintiffs' constitutional rights to freedom of speech have been denied under the First Amendment of the United States Constitution at 42 U.S.C. § 1983.

209. As a direct and proximate cause of Kane's actions, Fina, Sheetz, Feathers and Noonan have suffered emotional distress, humiliation, embarrassment, and injury to their reputations.

WHEREFORE, plaintiffs Fina, Sheetz, Feathers and Noonan demand judgment in their favor against defendant Kathleen Kane for compensatory damages, punitive damages, attorneys' fees, cost of suit, and injunctive relief that includes a permanent injunction enjoining defendant Kane from retaliating against plaintiffs now or in the future and a reparative injunction directing defendant Kane to issue a public statement personally apologizing to plaintiffs Fina, Sheetz, Feathers and Noonan for the publication of false statements in violation of his constitutional rights.

COUNT VI- 42 U.S.C. § 1983- FIRST AMENDMENT FREE SPEECH RETALIATION

ALL PLAINTIFFS V. KANE (RELEASE OF PRIVATE E-MAILS)

210. Plaintiffs repeat and reallege paragraphs 1-209 set forth above and incorporates them herein by reference.

211. Kane's actions of releasing the information about the private emails and/or releasing the emails of all plaintiffs was retaliatory action against the plaintiffs as a direct and proximate result of, and in retaliation for, the exercise of First Amendment protected freedom of speech as more fully discussed above. Kane's release of this information to the media was directly related to a matter of important public concern which was the result of plaintiffs' exercise of their First Amendment right of free speech.

212. Kane cannot identify any non-retaliatory reason for having released these private emails.

213. Plaintiffs' rights to engage in expressive First Amendment activity have been chilled by Kane's actions.

214. The publication of the information concerning the contents of these private emails and the actual emails resulted in injury to plaintiffs' personal and professional reputation, diminished their public esteem, respect and goodwill, generated derogatory and negative opinions against him, and caused him embarrassment and anxiety.

215. Plaintiffs' constitutional right to freedom of speech has been denied under the first Amendment of the United States Constitution at 42 U.S.C. § 1983.

216. As a direct and proximate cause of Kane's actions, plaintiffs have suffered emotional distress, humiliation, embarrassment, and injury to their reputations.

WHEREFORE, Plaintiffs demand judgment in their favor against defendant Kathleen Kane for compensatory damages, punitive damages, attorneys' fees, cost of suit, and injunctive relief that includes a permanent injunction enjoining defendant Kane from retaliating against plaintiffs now or in the future and a reparative injunction directing defendant Kane to issue a public statement personally apologizing to plaintiffs for the publication of false statements in violation of their constitutional rights.

COUNT VII- DEFAMATION

FINA AND COSTANZO V. BRENNAN AND PHILADELPHIA MEDIA NETWORK (DIGITAL), LLC AND PHILADELPHIA MEDIA NETWORK, LLC

217. Plaintiffs repeat and reallege paragraphs 1-216 set forth above and incorporates them herein by reference.

218. Defendants published the above-mentioned statements, innuendos and implications concerning Fina, Costanzo, including to individuals in Philadelphia County and the Commonwealth of Pennsylvania who understood those statements, innuendos and implications to refer to and defame Fina and Costanzo. Defendants' publications falsely and maliciously stated, suggested and implied that Fina and Costanzo, as described above, acted unprofessionally, violated attorney ethics, and performed a disservice to the citizens of the Commonwealth by impeding and terminating an allegedly appropriate investigation into the misuse and/or theft of money by Mondesire.

219. Defendants knew, or were on notice, that Defendant Kane had a vendetta against Fina and Costanzo and were engaging in the unlawful act of leaking grand jury information against them and were providing only a partial and biased account of the investigation.

220. Defendants published their statement with knowledge of its falsity and/or reckless disregard for the truth and intentionally and maliciously portrayed Fina and Costanzo as they did to undermine their position and reputation as public ethics prosecutors in the minds of the readers of Defendants' articles.

221. Defendants' false and defamatory statements, innuendos and implications severely injured Fina and Costanzo in that they tended to blacken and besmirch their reputation; have exposed them to public contempt ridicule or hatred; have conveyed the impression that they engaged in corrupt motives; have subjected them to emotional distress, mental anguish, embarrassment and humiliation; and have damaged them professionally and personally.

222. Defendants' defamatory publications were so outrageous and malicious as to warrant the imposition of punitive damages.

223. As a proximate result of defendants' malicious, intentional and reckless conduct as set forth above, Fina and Costanzo are entitled to such damages as will compensate them for the injury to their professional and personal reputation, for their emotional distress, and punitive damages to punish the defendants for their conduct and to deter them and others similarly situated from similar acts in the future.

WHEREFORE, plaintiffs Frank Fina and E. Marc Costanzo demand judgment in their favor against defendants jointly and severally, for compensatory damages, punitive damages, attorneys' fees, cost of suit, and such other relief as this Court may deem just and proper.

COUNT VIII - FALSE LIGHT

FINA AND COSTANZO V. BRENNAN AND PHILADELPHIA MEDIA NETWORK (DIGITAL), LLC AND PHILADELPHIA MEDIA NETWORK, LLC

224. Plaintiffs repeat and re-allege paragraphs 1-223 set forth above and incorporates them herein by reference.

225. Defendants, through their coverage and investigation of Kane, her political campaign, her attacks on the professionalism and professional work of Fina, as well as the ongoing hostilities between them throughout her tenure as attorney general, were on notice that Kane would stop at nothing to diminish and disparage Fina and his colleagues and their professional reputation and work for her own political gain. In the present case, defendants were aware, or should have been aware, that Kane was engaged in a violation of criminal law by leaking selective grand jury

materials and having one of their political operatives provide defendants with an inaccurate account of the Mondesire grand jury investigation. Defendants, nonetheless, willfully chose to report and actively promote a false and misleading story that Fina and Costanzo improperly suppressed and ended an investigation against Mondesire. Defendants have also continued to publish false and misleading stories in furtherance of Kane's efforts to retaliate and defame Fina and Costanzo through her selective release and characterization of emails.

226. Due to the above, defendants placed Fina and Costanzo in a false light for the public by representing a false and incorrect account of the investigation and presenting an overall false representation of that investigation.

227. The aforementioned false light in which Fina and Costanzo were placed would be highly offensive to a reasonable person.

228. Defendants had knowledge of, or acted in a reckless disregard, as to the falsity of the matter they publicized and the false light in which they placed Fina and Costanzo.

229. As a proximate result of defendants' malicious, intentional and/or reckless conduct as set forth above, Fina and Costanzo are entitled to such damages as will compensate them for the injury to their professional and personal reputation, their emotional distress, and punitive damages to punish the defendants for their conduct and to deter them and others similarly situated from similar acts in the future.

WHEREFORE, plaintiffs Frank Fina and E. Marc Costanzo demand judgment in their favor against defendants jointly and severally, for compensatory damages, punitive damages, attorneys' fees, cost of suit, and such other relief as this Court may deem just and proper.

**FELDMAN SHEPHERD WOHLGELERNTER
TANNER WEINSTOCK & DODIG, LLP**



MARK W. TANNER, ESQUIRE
1845 Walnut Street, 21st Floor
Philadelphia, PA 19103
215-567-8300
mtanner@feldmanshepherd.com

Date: November 12, 2015

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA**

CASE MANAGEMENT TRACK DESIGNATION FORM

FRANK NOONAN, ET AL	:	CIVIL ACTION
	:	
v.	:	
	:	
KATHLEEN KANE, ET AL	:	NO.

In accordance with the Civil Justice Expense and Delay Reduction Plan of this court, counsel for plaintiff shall complete a Case Management Track Designation Form in all civil cases at the time of filing the complaint and serve a copy on all defendants. (See § 1:03 of the plan set forth on the reverse side of this form.) In the event that a defendant does not agree with the plaintiff regarding said designation, that defendant shall, with its first appearance, submit to the clerk of court and serve on the plaintiff and all other parties, a Case Management Track Designation Form specifying the track to which that defendant believes the case should be assigned.

SELECT ONE OF THE FOLLOWING CASE MANAGEMENT TRACKS:

- (a) Habeas Corpus – Cases brought under 28 U.S.C. § 2241 through § 2255. ()
- (b) Social Security – Cases requesting review of a decision of the Secretary of Health and Human Services denying plaintiff Social Security Benefits. ()
- (c) Arbitration – Cases required to be designated for arbitration under Local Civil Rule 53.2. ()
- (d) Asbestos – Cases involving claims for personal injury or property damage from exposure to asbestos. ()
- (e) Special Management – Cases that do not fall into tracks (a) through (d) that are commonly referred to as complex and that need special or intense management by the court. (See reverse side of this form for a detailed explanation of special management cases.) ()
- (f) Standard Management – Cases that do not fall into any one of the other tracks. (X)

November 12, 2015	Mark W. Tanner, Esquire	Plaintiffs
Date	Attorney-at-law	Attorney for
215-567-8300	215-567-8333	mtanner@feldmanshepherd.com
Telephone	FAX Number	E-Mail Address

Civil Justice Expense and Delay Reduction Plan
Section 1:03 - Assignment to a Management Track

(a) The clerk of court will assign cases to tracks (a) through (d) based on the initial pleading.

(b) In all cases not appropriate for assignment by the clerk of court to tracks (a) through (d), the plaintiff shall submit to the clerk of court and serve with the complaint on all defendants a case management track designation form specifying that the plaintiff believes the case requires Standard Management or Special Management. In the event that a defendant does not agree with the plaintiff regarding said designation, that defendant shall, with its first appearance, submit to the clerk of court and serve on the plaintiff and all other parties, a case management track designation form specifying the track to which that defendant believes the case should be assigned.

(c) The court may, on its own initiative or upon the request of any party, change the track assignment of any case at any time.

(d) Nothing in this Plan is intended to abrogate or limit a judicial officer's authority in any case pending before that judicial officer, to direct pretrial and trial proceedings that are more stringent than those of the Plan and that are designed to accomplish cost and delay reduction.

(e) Nothing in this Plan is intended to supersede Local Civil Rules 40.1 and 72.1, or the procedure for random assignment of Habeas Corpus and Social Security cases referred to magistrate judges of the court.

SPECIAL MANAGEMENT CASE ASSIGNMENTS
(See §1.02 (e) Management Track Definitions of the
Civil Justice Expense and Delay Reduction Plan)

Special Management cases will usually include that class of cases commonly referred to as "complex litigation" as that term has been used in the Manuals for Complex Litigation. The first manual was prepared in 1969 and the Manual for Complex Litigation Second, MCL 2d was prepared in 1985. This term is intended to include cases that present unusual problems and require extraordinary treatment. See §0.1 of the first manual. Cases may require special or intense management by the court due to one or more of the following factors: (1) large number of parties; (2) large number of claims or defenses; (3) complex factual issues; (4) large volume of evidence; (5) problems locating or preserving evidence; (6) extensive discovery; (7) exceptionally long time needed to prepare for disposition; (8) decision needed within an exceptionally short time; and (9) need to decide preliminary issues before final disposition. It may include two or more related cases. Complex litigation typically includes such cases as antitrust cases; cases involving a large number of parties or an unincorporated association of large membership; cases involving requests for injunctive relief affecting the operation of large business entities; patent cases; copyright and trademark cases; common disaster cases such as those arising from aircraft crashes or marine disasters; actions brought by individual stockholders; stockholder's derivative and stockholder's representative actions; class actions or potential class actions; and other civil (and criminal) cases involving unusual multiplicity or complexity of factual issues. See §0.22 of the first Manual for Complex Litigation and Manual for Complex Litigation Second, Chapter 33.

UNITED STATES DISTRICT COURT

FOR THE EASTERN DISTRICT OF PENNSYLVANIA — DESIGNATION FORM to be used by counsel to indicate the category of the case for the purpose of assignment to appropriate calendar.

Address of Plaintiff: c/o Feldman Shepherd, 1845 Walnut Street, 21st Floor, Philadelphia, PA 19103

Address of Defendant: Office of Attorney General, Strawberry Square, 16th Floor, Harrisburg, PA 17120

Place of Accident, Incident or Transaction: (Use Reverse Side For Additional Space)

Does this civil action involve a nongovernmental corporate party with any parent corporation and any publicly held corporation owning 10% or more of its stock? (Attach two copies of the Disclosure Statement Form in accordance with Fed.R.Civ.P. 7.1(a)) Yes [X] No []

Does this case involve multidistrict litigation possibilities? Yes [] No [X]

RELATED CASE, IF ANY:

Case Number: Judge Date Terminated:

Civil cases are deemed related when yes is answered to any of the following questions:

- 1. Is this case related to property included in an earlier numbered suit pending or within one year previously terminated action in this court? Yes [] No [X]
2. Does this case involve the same issue of fact or grow out of the same transaction as a prior suit pending or within one year previously terminated action in this court? Yes [] No [X]
3. Does this case involve the validity or infringement of a patent already in suit or any earlier numbered case pending or within one year previously terminated action in this court? Yes [] No [X]
4. Is this case a second or successive habeas corpus, social security appeal, or pro se civil rights case filed by the same individual? Yes [] No [X]

CIVIL: (Place [X] in ONE CATEGORY ONLY)

- A. Federal Question Cases:
1. [] Indemnity Contract, Marine Contract, and All Other Contracts
2. [] FEELA
3. [] Jones Act-Personal Injury
4. [] Antitrust
5. [] Patent
6. [] Labor-Management Relations
7. [X] Civil Rights
8. [] Habeas Corpus
9. [] Securities Act(s) Cases
10. [] Social Security Review Cases
11. [] All other Federal Question Cases (Please specify)

- B. Diversity Jurisdiction Cases:
1. [] Insurance Contract and Other Contracts
2. [] Airplane Personal Injury
3. [] Assault, Defamation
4. [] Marine Personal Injury
5. [] Motor Vehicle Personal Injury
6. [] Other Personal Injury (Please specify)
7. [] Products Liability
8. [] Products Liability — Asbestos
9. [] All other Diversity Cases (Please specify)

ARBITRATION CERTIFICATION

(Check Appropriate Category)

I, MARK W. TANNER, counsel of record do hereby certify:

- [] Pursuant to Local Civil Rule 53.2, Section 3(c)(2), that to the best of my knowledge and belief, the damages recoverable in this civil action case exceed the sum of \$150,000.00 exclusive of interest and costs;
[] Relief other than monetary damages is sought.

DATE: November 12, 2015

[Signature] Attorney-at-Law

58738 Attorney I.D.#

NOTE: A trial de novo will be a trial by jury only if there has been compliance with F.R.C.P. 38.

I certify that, to my knowledge, the within case is not related to any case now pending or within one year previously terminated action in this court except as noted above.

DATE: November 12, 2015

[Signature] Attorney-at-Law

58738 Attorney I.D.#

CIVIL COVER SHEET

The JS 44 civil cover sheet and the information contained herein neither replace nor supplement the filing and service of pleadings or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. *(SEE INSTRUCTIONS ON NEXT PAGE OF THIS FORM.)*

<p>I. (a) PLAINTIFFS</p> <p style="text-align: center;">FRANK NOONAN</p> <p>(b) County of Residence of First Listed Plaintiff <u>LACKAWANNA, PA</u> <i>(EXCEPT IN U.S. PLAINTIFF CASES)</i></p> <p>(c) Attorneys <i>(Firm Name, Address, and Telephone Number)</i> Feldman Shepherd Wohlgelemtner Tanner Weinstock & Dodig, LLP 1845 Walnut Street, 21st Floor, Philadelphia, PA 19103 215-567-8300</p>	<p style="text-align: center;">DEFENDANTS</p> <p style="text-align: center;">KATHLEEN KANE</p> <p>County of Residence of First Listed Defendant _____ <i>(IN U.S. PLAINTIFF CASES ONLY)</i></p> <p>NOTE: IN LAND CONDEMNATION CASES, USE THE LOCATION OF THE TRACT OF LAND INVOLVED.</p> <p>Attorneys <i>(If Known)</i></p>
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<p>II. BASIS OF JURISDICTION <i>(Place an "X" in One Box Only)</i></p> <p><input type="checkbox"/> 1 U.S. Government Plaintiff</p> <p><input type="checkbox"/> 2 U.S. Government Defendant</p> <p><input checked="" type="checkbox"/> 3 Federal Question <i>(U.S. Government Not a Party)</i></p> <p><input type="checkbox"/> 4 Diversity <i>(Indicate Citizenship of Parties in Item III)</i></p>	<p>III. CITIZENSHIP OF PRINCIPAL PARTIES <i>(Place an "X" in One Box for Plaintiff and One Box for Defendant)</i></p> <table style="width: 100%; border-collapse: collapse;"> <thead> <tr> <th></th> <th>PTF</th> <th>DEF</th> <th></th> <th>PTF</th> <th>DEF</th> </tr> </thead> <tbody> <tr> <td>Citizen of This State</td> <td><input type="checkbox"/> 1</td> <td><input type="checkbox"/> 1</td> <td>Incorporated or Principal Place of Business In This State</td> <td><input type="checkbox"/> 4</td> <td><input type="checkbox"/> 4</td> </tr> <tr> <td>Citizen of Another State</td> <td><input type="checkbox"/> 2</td> <td><input type="checkbox"/> 2</td> <td>Incorporated and Principal Place of Business In Another State</td> <td><input type="checkbox"/> 5</td> <td><input type="checkbox"/> 5</td> </tr> <tr> <td>Citizen or Subject of a Foreign Country</td> <td><input type="checkbox"/> 3</td> <td><input type="checkbox"/> 3</td> <td>Foreign Nation</td> <td><input type="checkbox"/> 6</td> <td><input type="checkbox"/> 6</td> </tr> </tbody> </table>		PTF	DEF		PTF	DEF	Citizen of This State	<input type="checkbox"/> 1	<input type="checkbox"/> 1	Incorporated or Principal Place of Business In This State	<input type="checkbox"/> 4	<input type="checkbox"/> 4	Citizen of Another State	<input type="checkbox"/> 2	<input type="checkbox"/> 2	Incorporated and Principal Place of Business In Another State	<input type="checkbox"/> 5	<input type="checkbox"/> 5	Citizen or Subject of a Foreign Country	<input type="checkbox"/> 3	<input type="checkbox"/> 3	Foreign Nation	<input type="checkbox"/> 6	<input type="checkbox"/> 6
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Citizen or Subject of a Foreign Country	<input type="checkbox"/> 3	<input type="checkbox"/> 3	Foreign Nation	<input type="checkbox"/> 6	<input type="checkbox"/> 6																				

IV. NATURE OF SUIT *(Place an "X" in One Box Only)*

CONTRACT	TORTS	FORFEITURE/PENALTY	BANKRUPTCY	OTHER STATUTES		
<input type="checkbox"/> 110 Insurance <input type="checkbox"/> 120 Marine <input type="checkbox"/> 130 Miller Act <input type="checkbox"/> 140 Negotiable Instrument <input type="checkbox"/> 150 Recovery of Overpayment & Enforcement of Judgment <input type="checkbox"/> 151 Medicare Act <input type="checkbox"/> 152 Recovery of Defaulted Student Loans (Excludes Veterans) <input type="checkbox"/> 153 Recovery of Overpayment of Veteran's Benefits <input type="checkbox"/> 160 Stockholders' Suits <input type="checkbox"/> 190 Other Contract <input type="checkbox"/> 195 Tort Contract Product Liability <input type="checkbox"/> 196 Franchise	<p>PERSONAL INJURY</p> <input type="checkbox"/> 310 Airplane <input type="checkbox"/> 315 Airplane Product Liability <input type="checkbox"/> 320 Assault, Libel & Slander <input type="checkbox"/> 330 Federal Employers' Liability <input type="checkbox"/> 340 Marine <input type="checkbox"/> 345 Marine Product Liability <input type="checkbox"/> 350 Motor Vehicle <input type="checkbox"/> 355 Motor Vehicle Product Liability <input type="checkbox"/> 360 Other Personal Injury <input type="checkbox"/> 362 Personal Injury - Medical Malpractice	<p>PERSONAL INJURY</p> <input type="checkbox"/> 365 Personal Injury - Product Liability <input type="checkbox"/> 367 Health Care/Pharmaceutical Personal Injury Product Liability <input type="checkbox"/> 368 Asbestos Personal Injury Product Liability	<input type="checkbox"/> 625 Drug Related Seizure of Property 21 USC 881 <input type="checkbox"/> 690 Other	<input type="checkbox"/> 422 Appeal 28 USC 158 <input type="checkbox"/> 423 Withdrawal 28 USC 157	<input type="checkbox"/> 375 False Claims Act <input type="checkbox"/> 400 State Reapportionment <input type="checkbox"/> 410 Antitrust <input type="checkbox"/> 430 Banks and Banking <input type="checkbox"/> 450 Commerce <input type="checkbox"/> 460 Deportation <input type="checkbox"/> 470 Racketeer Influenced and Corrupt Organizations <input type="checkbox"/> 480 Consumer Credit <input type="checkbox"/> 490 Cable/Sat TV <input type="checkbox"/> 850 Securities/Commodities/Exchange <input type="checkbox"/> 890 Other Statutory Actions <input type="checkbox"/> 891 Agricultural Acts <input type="checkbox"/> 893 Environmental Matters <input type="checkbox"/> 895 Freedom of Information Act <input type="checkbox"/> 896 Arbitration <input type="checkbox"/> 899 Administrative Procedure Act/Review or Appeal of Agency Decision <input type="checkbox"/> 950 Constitutionality of State Statutes	
<p>REAL PROPERTY</p> <input type="checkbox"/> 210 Land Condemnation <input type="checkbox"/> 220 Foreclosure <input type="checkbox"/> 230 Rent Lease & Ejectment <input type="checkbox"/> 240 Torts to Land <input type="checkbox"/> 245 Tort Product Liability <input type="checkbox"/> 290 All Other Real Property	<p>CIVIL RIGHTS</p> <input checked="" type="checkbox"/> 440 Other Civil Rights <input type="checkbox"/> 441 Voting <input type="checkbox"/> 442 Employment <input type="checkbox"/> 443 Housing/Accommodations <input type="checkbox"/> 445 Amer. w/Disabilities - Employment <input type="checkbox"/> 446 Amer. w/Disabilities - Other <input type="checkbox"/> 448 Education	<p>PRISONER PETITIONS</p> <p>Habeas Corpus:</p> <input type="checkbox"/> 463 Alien Detainee <input type="checkbox"/> 510 Motions to Vacate Sentence <input type="checkbox"/> 530 General <input type="checkbox"/> 535 Death Penalty <p>Other:</p> <input type="checkbox"/> 540 Mandamus & Other <input type="checkbox"/> 550 Civil Rights <input type="checkbox"/> 555 Prison Condition <input type="checkbox"/> 560 Civil Detainee - Conditions of Confinement	<p>LABOR</p> <input type="checkbox"/> 710 Fair Labor Standards Act <input type="checkbox"/> 720 Labor/Management Relations <input type="checkbox"/> 740 Railway Labor Act <input type="checkbox"/> 751 Family and Medical Leave Act <input type="checkbox"/> 790 Other Labor Litigation <input type="checkbox"/> 791 Employee Retirement Income Security Act	<p>PROPERTY RIGHTS</p> <input type="checkbox"/> 820 Copyrights <input type="checkbox"/> 830 Patent <input type="checkbox"/> 840 Trademark	<p>SOCIAL SECURITY</p> <input type="checkbox"/> 861 HIA (1395ff) <input type="checkbox"/> 862 Black Lung (923) <input type="checkbox"/> 863 DIWC/DIWW (405(g)) <input type="checkbox"/> 864 SSID Title XVI <input type="checkbox"/> 865 RSI (405(g))	<p>FEDERAL TAX SUITS</p> <input type="checkbox"/> 870 Taxes (U.S. Plaintiff or Defendant) <input type="checkbox"/> 871 IRS—Third Party 26 USC 7609
<p>IMMIGRATION</p> <input type="checkbox"/> 462 Naturalization Application <input type="checkbox"/> 465 Other Immigration Actions						

V. ORIGIN *(Place an "X" in One Box Only)*

1 Original Proceeding
 2 Removed from State Court
 3 Remanded from Appellate Court
 4 Reinstated or Reopened
 5 Transferred from Another District *(specify)*
 6 Multidistrict Litigation

VI. CAUSE OF ACTION

Cite the U.S. Civil Statute under which you are filing *(Do not cite jurisdictional statutes unless diversity)*:
42 USC Section 1983

Brief description of cause:
Violation of 1st Amendment Rights

VII. REQUESTED IN COMPLAINT:
 CHECK IF THIS IS A CLASS ACTION UNDER RULE 23, F.R.Cv.P.
DEMAND \$ _____ In excess of _____ **CHECK YES only if demanded in complaint:**
JURY DEMAND: Yes No

VIII. RELATED CASE(S) IF ANY *(See instructions):* JUDGE _____ DOCKET NUMBER _____

DATE November 12, 2015 SIGNATURE OF ATTORNEY OF RECORD [Signature]

FOR OFFICE USE ONLY

RECEIPT # _____ AMOUNT _____ APPLYING IFP _____ JUDGE _____ MAG. JUDGE _____

INSTRUCTIONS FOR ATTORNEYS COMPLETING CIVIL COVER SHEET FORM JS 44

Authority For Civil Cover Sheet

The JS 44 civil cover sheet and the information contained herein neither replaces nor supplements the filings and service of pleading or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. Consequently, a civil cover sheet is submitted to the Clerk of Court for each civil complaint filed. The attorney filing a case should complete the form as follows:

- I.(a) Plaintiffs-Defendants.** Enter names (last, first, middle initial) of plaintiff and defendant. If the plaintiff or defendant is a government agency, use only the full name or standard abbreviations. If the plaintiff or defendant is an official within a government agency, identify first the agency and then the official, giving both name and title.
- (b) County of Residence.** For each civil case filed, except U.S. plaintiff cases, enter the name of the county where the first listed plaintiff resides at the time of filing. In U.S. plaintiff cases, enter the name of the county in which the first listed defendant resides at the time of filing. (NOTE: In land condemnation cases, the county of residence of the "defendant" is the location of the tract of land involved.)
- (c) Attorneys.** Enter the firm name, address, telephone number, and attorney of record. If there are several attorneys, list them on an attachment, noting in this section "(see attachment)".
- II. Jurisdiction.** The basis of jurisdiction is set forth under Rule 8(a), F.R.Cv.P., which requires that jurisdictions be shown in pleadings. Place an "X" in one of the boxes. If there is more than one basis of jurisdiction, precedence is given in the order shown below.
- United States plaintiff. (1) Jurisdiction based on 28 U.S.C. 1345 and 1348. Suits by agencies and officers of the United States are included here.
- United States defendant. (2) When the plaintiff is suing the United States, its officers or agencies, place an "X" in this box.
- Federal question. (3) This refers to suits under 28 U.S.C. 1331, where jurisdiction arises under the Constitution of the United States, an amendment to the Constitution, an act of Congress or a treaty of the United States. In cases where the U.S. is a party, the U.S. plaintiff or defendant code takes precedence, and box 1 or 2 should be marked.
- Diversity of citizenship. (4) This refers to suits under 28 U.S.C. 1332, where parties are citizens of different states. When Box 4 is checked, the citizenship of the different parties must be checked. (See Section III below; **NOTE: federal question actions take precedence over diversity cases.**)
- III. Residence (citizenship) of Principal Parties.** This section of the JS 44 is to be completed if diversity of citizenship was indicated above. Mark this section for each principal party.
- IV. Nature of Suit.** Place an "X" in the appropriate box. If the nature of suit cannot be determined, be sure the cause of action, in Section VI below, is sufficient to enable the deputy clerk or the statistical clerk(s) in the Administrative Office to determine the nature of suit. If the cause fits more than one nature of suit, select the most definitive.
- V. Origin.** Place an "X" in one of the six boxes.
- Original Proceedings. (1) Cases which originate in the United States district courts.
- Removed from State Court. (2) Proceedings initiated in state courts may be removed to the district courts under Title 28 U.S.C., Section 1441. When the petition for removal is granted, check this box.
- Remanded from Appellate Court. (3) Check this box for cases remanded to the district court for further action. Use the date of remand as the filing date.
- Reinstated or Reopened. (4) Check this box for cases reinstated or reopened in the district court. Use the reopening date as the filing date.
- Transferred from Another District. (5) For cases transferred under Title 28 U.S.C. Section 1404(a). Do not use this for within district transfers or multidistrict litigation transfers.
- Multidistrict Litigation. (6) Check this box when a multidistrict case is transferred into the district under authority of Title 28 U.S.C. Section 1407. When this box is checked, do not check (5) above.
- VI. Cause of Action.** Report the civil statute directly related to the cause of action and give a brief description of the cause. **Do not cite jurisdictional statutes unless diversity.** Example: U.S. Civil Statute: 47 USC 553 Brief Description: Unauthorized reception of cable service
- VII. Requested in Complaint.** Class Action. Place an "X" in this box if you are filing a class action under Rule 23, F.R.Cv.P.
- Demand. In this space enter the actual dollar amount being demanded or indicate other demand, such as a preliminary injunction.
- Jury Demand. Check the appropriate box to indicate whether or not a jury is being demanded.
- VIII. Related Cases.** This section of the JS 44 is used to reference related pending cases, if any. If there are related pending cases, insert the docket numbers and the corresponding judge names for such cases.

Date and Attorney Signature. Date and sign the civil cover sheet.