

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

<b>ANDREW KUNDRATIC</b>	:	<b>CIVIL ACTION</b>
<b>Plaintiff</b>	:	<b>No.</b>
	:	
<b>v.</b>	:	<b>Electronically Filed</b>
	:	
<b>GARY THOMAS; ANTHONY</b>	:	
<b>LUMBIS; TINA GARTLEY;</b>	:	
<b>C.J. BUFFALINO; MICHAEL</b>	:	
<b>SHUCOSKY; ARTHUR SILVERBLATT;</b>	:	
<b>and JOHN/JANE DOES 1-5,</b>	:	
<b>Defendants</b>	:	<b>JURY TRIAL DEMANDED</b>

**COMPLAINT**

**INTRODUCTORY STATEMENT**

This is a civil rights complaint brought by an American citizen against a Pennsylvania State Police Officer, lawyers, and other as yet unidentified state actors, whose identities are believed to be known or knowable through reasonable discovery, who have conspired to interfere with, deprive, cutoff, and deny plaintiff meaningful and effective access to the courts of Luzerne County in connection with divorce proceedings and other related domestic relations matters. The same conduct also forms a pattern of retaliatory harassment against plaintiff in violation of his First Amendment rights to speak out on matters of public concern and to petition his government for redress of grievances.

Plaintiff alleges that he is a victim of the “climate of acculturation”, referenced in the Juvenile Justice Commission study done in May 2011 of the breakdowns that led to the kids-for-cash scandal and the conviction of two judges of that court, and the criticisms of the Luzerne County Bar for refusing to openly participate in that study.

Plaintiff has lost approximately one-million dollars, and been deprived of over five years of his relationship with his daughter, by Thomas, Silverblatt, Gartley, Lumbis, Shucosky, Buffalino, and the John/Jane Doe defendants, through the political manipulation of the legal system in Luzerne County, from local police connections right into the courthouse, to cause him these losses.

Plaintiff filed a prior lawsuit with this Court, No. 08-1652, which was dismissed by this Court, and affirmed by the Third Circuit.<sup>1</sup> That case was premised upon a threat of Thomas to take whatever action he could take in the future to hurt and harm plaintiff in retaliation for his protected activities, and the retaliation in this case stems from that threat, and follows additional and increased acts of retaliation after the filing of his first civil action in this Court. Continuing violations principles are applicable for acts more than two years preceding this Complaint. Plaintiff was afforded no discovery prior to the dismissal of that action, and all claims in this complaint succeed those that were the subject of the prior action.

The evidence will show that Thomas, indeed, has used his state authority to interfere in the most menacing of fashions, in plaintiff's ongoing divorce proceedings, in order that Thomas, the home-wrecker in plaintiff's marriage, could literally get plaintiff's home and his wife for nothing. The defendant lawyers and John and/or Jane Does were complicit in the plan. They nearly destroyed plaintiff's relationship with his daughter. The case is extreme and outrageous it is believed it and will also support a substantial award of punitive damages.

---

<sup>1</sup> Plaintiff has filed *pro se* motions to open judgment with this Court and the Third Circuit, this Court denying the one on its docket within a day of its filing. Undersigned counsel did not represent, advise, counsel, or discuss the motions to open judgment with plaintiff.

The claims are for retaliation under the First Amendment, interference with access to the courts under the First and Fourteenth Amendment, and for interference with his right to familial relations with his daughter in violation of his right to substantive due process of law under the Fourteenth Amendment. It is a one count complaint because all of the violations of plaintiff's rights have arisen out of the same course of conduct, and are part of the same civil rights conspiracy, and each defendant is liable for every injury on that basis.

### **JURISDICTION AND VENUE**

1. Original jurisdiction to hear complaints of constitutional violations by state officials, under badge of state authority, employing the remedial statute 42 U.S.C. §1983 is conferred on this court by 28 U.S.C. §1331 and 28 U.S.C. §1343 (a) (3) & (4).

2. Jurisdiction to hear supplemental state claims is conferred on this court by 28 U.S.C. §1367(c). The supplemental state claim alleged is civil conspiracy.

3. A jury trial is demanded and, while venue is in the Middle District because all parties witnesses and evidence are common to Luzerne County Pennsylvania which is in the Middle District, plaintiff questions whether because of the nature of his claims, who he is, and who his attorney is, he can be treated fairly in this Circuit.

4. Punitive damages are demanded of these defendants because their actions were particularly egregious, vindictive, and highly injurious to the plaintiff.

5. Attorneys fees pursuant to 42 U.S.C. § 1988 are demanded.

### **PARTIES**

6. Defendant, Arthur Silverblatt, was plaintiff's initial attorney in the divorce proceedings, Luzerne County No. 4975-C of 2006, filed on May 2, 2006, and is believed

to have had communications with Thomas and/or others acting on Thomas' behalf, i.e., Pennsylvania State Police personnel, other state actors, concerning matters related to plaintiff's case. Silverblatt negligently and intentionally, contrary to plaintiff's interest, instructed plaintiff to stipulate to the initial pfa in April, 2007, not advising him of what its consequences were. Worse yet, Mr. Silverblatt wrongfully advised plaintiff that if he did not stipulate to the pfa that he would have to pay alimony (not pendent lite), but after the divorce decree was granted, perhaps in fact for the rest of his life. Plaintiff filed a disciplinary complaint against Silverblatt which was dismissed by the Supreme Court's Lawyers' Disciplinary Board.

7. Defendant, Anthony Lumbis was plaintiff's attorney for a large part of plaintiff's divorce proceedings at Luzerne County No. 4975-C of 2006. He is alleged to have had communications with Thomas and/or others acting on Thomas' behalf, i.e., Pennsylvania State Police personnel, and other state actors, concerning matters related to plaintiff's case. Lumbis repeatedly acted contrary to plaintiff's interest, and against plaintiff's express instruction to not delay the divorce proceedings and thus help prevent the resultant interference with Andrew's relationship with his daughter. Plaintiff filed a disciplinary complaint against Lumbis which was dismissed by the Supreme Court Disciplinary Board.

8. Defendant, Tina Polachek-Gartley, was a former attorney for plaintiff's former spouse, and is a current Luzerne County Court of Common Pleas Judge, who withdrew from representation in the divorce case in January, 2010. Gartley is believed to have had communications with Thomas and/or others acting on Thomas' behalf, i.e., Pennsylvania State Police personnel, and other state actors, concerning matters related to plaintiff's

case. Gartley had openly expressed her vindictive animosity toward plaintiff personally, and is believed to have largely orchestrated, with the other defendants' complicity, the outcome of the legal proceedings against plaintiff, including taking personal documents from Thomas which he stole from plaintiff's home.

9. Defendant, C.J. Buffalino, III, was the master in plaintiff's divorce proceedings, and is believed to have had communications with Thomas and/or others acting on Thomas' behalf, i.e., Pennsylvania State Police personnel, and other state actors, concerning matters related to plaintiff's case, and plaintiff alleges that he improperly took direction from others in dictating the outcome of the divorce proceedings against plaintiff.

10. Defendant, Michael Shucosky, was appointed guardian ad litem for plaintiff's daughter in the custody proceedings, and is believed to have had communications with Thomas and/or others acting on Thomas' behalf, i.e., Pennsylvania State Police personnel, and other state actors, concerning matters related to plaintiff's case. Shucosky acted intentionally and deliberately against the interests of both plaintiff and his daughter, and refused to return calls from plaintiff's daughter, who requested of him that half her time should be spent with her father. Shucosky intentionally forestalled plaintiff's repeated attempts to have a hearing before a judge of the local court. Plaintiff filed a disciplinary complaint against Shucosky which was dismissed by the Supreme Court Disciplinary Board.

11. These defendants are alleged to have engaged in a conspiracy to use the courts to extend plaintiff's payment of alimony pendent lite, which was the intended consequence of the April, 2007 pfa, by delaying the conclusion of the divorce

proceedings, through which they further deliberately devalued his interest in the marital estate, while also removing him from the marital residence and allowing Thomas to move in with his wife, and ultimately allowing Thomas to acquire hundreds of thousands of dollars in plaintiff's property for nothing but conniving, adulterous, menacing behavior. Most tragically, all of this cost plaintiff over 5 years of his relationship with his daughter, which was always a loving father-daughter relationship.

12. Defendants Lumbis, Shucosky, and Gartley were additionally running in the primary elections in 2009 for Luzerne County Court of Common Pleas Judge. Gartley won the primary, and won the general election in November. Plaintiff submits that election politics in light of the kids-for-cash scandal had a significant influence on the outcome of his case, and that the proceedings were deliberately delayed, contrary to plaintiff's interest in his relationship with his daughter, and his pecuniary interest, until after the election.

13. The John and/or Jane Doe defendants include one or more officers of the Rice Township Police department believed to be cohorts of Thomas, and who have orchestrated evidence and manipulated process to hurt and harm Andrew in his divorce proceedings and in efforts to keep him from his daughter; and one or more officials in the court administrators office who worked with Thomas, Lumbis, Gartley, Buffalino, Shucosky, and/or others to delay plaintiffs divorce proceedings, and extend his pfa proceedings, while he paid exorbitant sums of money for alimony pendent lite, and interfered with the processing of plaintiff's requests for custody hearings and the adjudication of his divorce action, keeping him from his relationship with his daughter for years, and costing him hundreds of thousands of dollars.

### **OPERATIVE FACTS**

14. Defendant Thomas has continued to use and abuse his power as a Pennsylvania State Police Officer, and the connections and access he had as a result of such employment, to influence the decisions of others, and specifically the named defendants, to continue the harm to plaintiff through a retaliatory course of conduct to damage and injure the Plaintiff as set forth herein, all made possible because of his status as a state police officer.

15. In No. 08-1652, plaintiff, in good faith, requested the opportunity to amend, and requested that the Third Circuit remand for that opportunity. The amendments suggested by plaintiff were in the nature of supplemental allegations, which, over time, and since the dismissal of 08-1652, have revealed and continued to reveal the full nature and scope of the plan and the damage and injury to him. The case has its genesis in the allegations set forth in 08-1652, and is a continuation of the same course of conduct commenced in and around 2007, but all constitutes damages and injuries apart from, and in addition to, the claims set forth therein. Plaintiff was specifically questioned on the record of the pfa proceedings by former-Judge Lokuta and Gartley about the status of his federal lawsuit, and Lumbis's first question to plaintiff when they met was always about the status of the federal case.

16. Since the dismissal of 08-1652, plaintiff has complained directly to the Luzerne County courts, to the Pennsylvania Lawyer's Disciplinary Board, and to the FBI about the course of egregious oppressive misconduct to which he has been subjected.

17. Plaintiff filed for divorce on May 2, 2006, and was represented at the outset by Arthur Silverblatt, Esquire. Plaintiff's ex-spouse was represented at all times through

January 3, 2010 by defendant Gartley.

18. The pfa that was stipulated to in April 2007 on the negligent advice and conduct of plaintiff's attorney, Silverblatt, was used to exclude plaintiff from the marital residence and impose upon him an alimony pendent lite condition. When the plaintiff was executed, plaintiff was excluded from the premises, and Thomas moved into the marital residence. Then the PFA order was unlawfully extended in 2008, with no evidence to support the extension, for an additional period of 3 years. Plaintiff paid alimony pendent lite and Thomas lived in his house with his wife the entire time. In the meantime, defendants Lumbis, Gartley, Buffalino, and Suchovsky delayed the conclusion of the divorce proceedings, dozens of times over several years. This cost plaintiff hundreds of thousands of dollars, then his evidence of value was excluded, and he was forced to walk away from his investment of approximately a million dollars with nothing. The final decree in divorce was entered on September 21, 2011.

19. Defendant Gartley is married to an assistant Luzerne county district attorney, who is believed to have a professional relationship with Thomas. It is believed that through this relationship, Thomas was able to be protected from his menacing behavior, and to have access and influence over actions taken against plaintiff.

20. Gartley ran for and won a judgeship on the Court of Common Pleas in November, 2009, and withdrew her appearance as counsel for plaintiff's ex-wife on January 3, 2010. Through her connections with some of the John and Jane Doe defendants, and with the complicity of defendants Silverblatt, Lumpis, Buffalino, and Suchovsky, Gartley was able to get literally dozens of extensions of the hearing dates in the divorce proceedings, while engineering the pfa proceedings into a three-year

extension. All this allowed Thomas to live in plaintiff's marital residence rent-free for four years, with the plan to purchase it "for a song" as the saying goes.

21. From the time of the dismissal of 08-1652 through the present, Thomas has continued to engage in a course of menacing and threatening behavior, all through the manipulation of his position as a state police officer, and in furtherance of his threat to retaliate which he made in February 2007. Thomas has appeared at every court appearance involving plaintiff scheduled over the years. He has gone on local news websites and engaged in menacing communications holding himself out as "new home owner" in reference to him planning to own plaintiff's former marital residence, and has taken actions to interfere with plaintiff's relationship with his daughter, and the destruction of the value of the marital estate.

22. Thomas specifically engaged in criminally mischievous acts of destruction of plaintiff's personal property, including a Corvette valued at approximately \$25,000 that was damaged and purposefully left out to suffer more wear, as well as a boat of plaintiff's valued at approximately \$35,000, which suffered similar intentional damaged and was consequently diminished in value.

23. As evidence of all defendants' complicity in the plan, Thomas, with the foreknowledge of the defendant attorneys, knowingly applied for mortgage loans on two occasions for the purchase of plaintiff's house in 2009, over 2 years prior to the final divorce decree.

24. Upon information and belief, Thomas and Gartley (Gartley was Thomas's lawyer and this was something causing her to be laden with conflicts that she never revealed) have used their connections with the John/Jane Doe/Rice Township police to

cut off plaintiff's ability to provide law enforcement assistance with the ongoing oppression, while he continues to be interfered with by their actions.

25. As evidence that Thomas was specifically involved with Gartley in unlawfully orchestrating the divorce proceedings against plaintiff, plaintiff avers that after he was removed from the marital residence, Thomas gained access unlawfully to the pool-house where plaintiff kept all of his legal documents, and removed and destroyed evidence, with Gartley's knowledge and/or approval. Among those documents were western union records with account and transaction numbers from which plaintiff intended to prove that his wife had surreptitiously drained assets from the marital estate, constituting possible criminal violations. When plaintiff made inquiry into the status of the missing files, he was informed by Lumbus that the files were at Gartley's office, and when he retrieved the files, the western union evidence was missing.

26. Plaintiff has gone to the Rice Township Police at least three times since the dismissal of 08-1652, one time with allegations that Thomas had stolen a very valuable baseball card collection belonging to plaintiff, only each time to be denied investigation or assistance, with Rice Township Police even working with Thomas in the baseball card incident to conceal his crime. Gartley is believed to have involvement in these efforts as well.

27. Through 2007 and 2008 after the first federal lawsuit was filed, every hearing in the divorce proceedings was rescheduled, many times over, on correspondence and phone calls, and occasionally motions; yet every proceeding on the pfa docket was held, and, as previously alleged, plaintiff was questioned on the record of the pfa proceeding about the federal lawsuit, and it was a prominent matter of discussion with Lumbus.

28. Plaintiff's first actual hearing in the divorce matter was not until January, 2009, and then there were a series of additional unexplained delays and continuances through the primary elections, and a second hearing was not held until July 2009.

29. Also, during the Spring of 2009, plaintiff's daughter began to express her desire to split her time between her parents, substantially increasing the time that plaintiff would be able to spend with her, and, at Lumbus' suggestion, plaintiff's daughter personally called Shucosky's office on two occasions to talk to him about it and inform him of her desires. These phone calls were never returned, and no hearings were held, despite plaintiff's repeated requests.

30. At one point in or around August 2009, plaintiff instructed Lumbus to file a custody petition and move it forward to a hearing. Thereafter, when plaintiff asked about the petition, Lumbus repeatedly told him that "it's on the court administrator's desk" waiting for a hearing. It is not specifically known if this petition was ever filed, but, if it was, there is clear evidence that Gartley, Lumbus, Shucosky and/or others worked in complicity with the John Doe court administrator/Luzerne County courthouse staff to deny access to the courts to plaintiff.

31. In addition, plaintiff learned that Thomas was placed as the emergency contact on his daughter's school records, and demanded that Lumbis take action to have it corrected. Neither Lumbis nor Shucosky would do anything to correct the matter, and even later told plaintiff that it was too late to do anything about it, all to the continuing harm of plaintiff's relationship with his daughter.

32. As evidence of the plan to continue to receive alimony pendent lite, plaintiff's ex-wife, Thomas and Gartley, with the complicity of Buffalino and Suchovsky,

concocted a pfa on behalf of plaintiff's daughter, which coincided with the expiration of the three-year bogus pfa against him, in an effort to continue the harm to him as set forth herein. This pfa lacked probable cause and was later withdrawn, after over a year, when plaintiff persisted in his right to a hearing.

33. Plaintiff was denied and deprived, through the actions of the attorney-defendants, to put on all evidence of the full value of his marital property, and his contributions to the marital estate, and had to wrongfully pay alimony pendent lite for over five years, and then received almost nothing from the final divorce decree, and ended up losing his house that he values at approximately \$600,000, plus the time effort and sweat equity he put into it over the years, and other incidental expenses incurred over the years in connection with maintaining the marital estate, and losses of in connection with the divorce proceedings. Plaintiff approximates his actual losses at one million dollars, and this does not include the tremendous aggravation and emotional suffering he has endured over the years due to these matters and additionally exacerbated exponentially in consideration of the irretrievable losses to his relationship with his daughter.

WHEREFORE plaintiff demands judgment of the defendants' jointly and severally for the deprivation of his federally guaranteed rights under the 1<sup>st</sup> and 14th Amendments (interference with 1st Amendment (access to the courts, retaliation for petitioning for a redress of grievances), and 14th Amendment (violations of the plaintiffs substantive due process rights), for punitive damages, for pain and suffering, and for embarrassment and humiliation, for emotional distress together with damages under state law pursuant to this Court's supplemental jurisdiction i.e. for damages incidental to the

defendants unlawful civil conspiracy and for the intentional infliction of emotional distress, together with costs, fees, attorneys fees, and such other relief as the Court may deem appropriate.

Respectfully submitted,

By: S/Don Bailey  
Pa. ID 23786  
4311 North Sixth Street  
Harrisburg, PA 17110  
717-221-9500