

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 THE REVERSE OF THE FORM.)

I. (a) PLAINTIFFS

NORVAL FALCONER

(b) County of Residence of First Listed Plaintiff NEW HAVEN
(EXCEPT IN U.S. PLAINTIFF CASES)

(c) Attorney's (Firm Name, Address, and Telephone Number)

Diane Polan, Law Offices of Diane Polan, LLC, 129 Church Street,
Suite 802, New Haven, CT 06510 (203) 865-5000

DEFENDANTS

JUSTEN KASPERZYK, WILLIAM H. WHITE, JOSE SILVA,
FRANCISCO ORTIZ AND THE CITY OF NEW HAVEN

County of Residence of First Listed Defendant NEW HAVEN
(IN U.S. PLAINTIFF CASES ONLY)

NOTE: IN LAND CONDEMNATION CASES, USE THE LOCATION OF THE
LAND INVOLVED.

Attorneys (If Known)

II. BASIS OF JURISDICTION (Place an "X" in One Box Only)

- ☐ 1 U.S. Government Plaintiff
☐ 2 U.S. Government Defendant
☒ 3 Federal Question (U.S. Government Not a Party)
☐ 4 Diversity (Indicate Citizenship of Parties in Item III)

III. CITIZENSHIP OF PRINCIPAL PARTIES (Place an "X" in One Box for Plaintiff and One Box for Defendant)

- | | 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 |

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 (Excl. 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 Contract Product Liability <input type="checkbox"/> 196 Franchise	PERSONAL INJURY <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 PERSONAL INJURY <input type="checkbox"/> 362 Personal Injury - Med. Malpractice <input type="checkbox"/> 365 Personal Injury - Product Liability <input type="checkbox"/> 368 Asbestos Personal Injury Product Liability PERSONAL PROPERTY <input type="checkbox"/> 370 Other Fraud <input type="checkbox"/> 371 Truth in Lending <input type="checkbox"/> 380 Other Personal Property Damage <input type="checkbox"/> 385 Property Damage Product Liability	<input type="checkbox"/> 610 Agriculture <input type="checkbox"/> 620 Other Food & Drug <input type="checkbox"/> 625 Drug Related Seizure of Property 21 USC 881 <input type="checkbox"/> 630 Liquor Laws <input type="checkbox"/> 640 R.R. & Truck <input type="checkbox"/> 650 Airline Regs. <input type="checkbox"/> 660 Occupational Safety/Health <input type="checkbox"/> 690 Other LABOR <input type="checkbox"/> 710 Fair Labor Standards Act <input type="checkbox"/> 720 Labor/Mgmt. Relations <input type="checkbox"/> 730 Labor/Mgmt. Reporting & Disclosure Act <input type="checkbox"/> 740 Railway Labor Act <input type="checkbox"/> 790 Other Labor Litigation <input type="checkbox"/> 791 Empl. Ret. Inc. Security Act IMMIGRATION <input type="checkbox"/> 462 Naturalization Application <input type="checkbox"/> 463 Habeas Corpus - Alien Detainee <input type="checkbox"/> 465 Other Immigration Actions	<input type="checkbox"/> 422 Appeal 28 USC 158 <input type="checkbox"/> 423 Withdrawal 28 USC 157 PROPERTY RIGHTS <input type="checkbox"/> 820 Copyrights <input type="checkbox"/> 830 Patent <input type="checkbox"/> 840 Trademark SOCIAL SECURITY <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)) FEDERAL TAX SUITS <input type="checkbox"/> 870 Taxes (U.S. Plaintiff or Defendant) <input type="checkbox"/> 871 IRS—Third Party 26 USC 7609	<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"/> 810 Selective Service <input type="checkbox"/> 850 Securities/Commodities/Exchange <input type="checkbox"/> 875 Customer Challenge 12 USC 3410 <input type="checkbox"/> 890 Other Statutory Actions <input type="checkbox"/> 891 Agricultural Acts <input type="checkbox"/> 892 Economic Stabilization Act <input type="checkbox"/> 893 Environmental Matters <input type="checkbox"/> 894 Energy Allocation Act <input type="checkbox"/> 895 Freedom of Information Act <input type="checkbox"/> 900 Appeal of Fee Determination Under Equal Access to Justice <input type="checkbox"/> 950 Constitutionality of State Statutes
REAL PROPERTY <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	CIVIL RIGHTS <input type="checkbox"/> 441 Voting <input type="checkbox"/> 442 Employment <input type="checkbox"/> 443 Housing/Accommodations <input type="checkbox"/> 444 Welfare <input type="checkbox"/> 445 Amer. w/Disabilities - Employment <input type="checkbox"/> 446 Amer. w/Disabilities - Other <input checked="" type="checkbox"/> 440 Other Civil Rights	PRISONER PETITIONS <input type="checkbox"/> 510 Motions to Vacate Sentence Habeas Corpus: <input type="checkbox"/> 530 General <input type="checkbox"/> 535 Death Penalty <input type="checkbox"/> 540 Mandamus & Other <input type="checkbox"/> 550 Civil Rights <input type="checkbox"/> 555 Prison Condition		

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
☐ 7 Appeal to District Judge from Magistrate Judgment

VI. CAUSE OF ACTION

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

Brief description of cause:

Civil Rights action against police officers and the City of New Haven

VII. REQUESTED IN COMPLAINT:

☐ CHECK IF THIS IS A CLASS ACTION UNDER F.R.C.P. 23

DEMAND \$
10,000,000.00

CHECK YES only if demanded in complaint:
 JURY DEMAND: ☒ Yes ☐ No

VIII. RELATED CASE(S) IF ANY

(See instructions):

JUDGE

DOCKET NUMBER

DATE

11/10/08

SIGNATURE OF ATTORNEY OF RECORD

[Signature]

FOR OFFICE USE ONLY

RECEIPT #

AMOUNT

APPLYING IFP

JUDGE

MAG. JUDGE

UNITED STATES DISTRICT COURT
DISTRICT OF CONNECTICUT

NORVAL FALCONER,
Plaintiffs,

v.

JUSTEN KASPERZYK, WILLIAM H. WHITE,
JOSE SILVA, FRANCISCO ORTIZ,
and the CITY OF NEW HAVEN,
Defendants

CRIMINAL ACTION NUMBER

NOVEMBER 10, 2008

A P P E A R A N C E

To the Clerk of this Court and all parties of record:

Please enter my appearance as counsel in this case for the plaintiff, **NORVAL
FALCONER.**

DATED: NOVEMBER 10, 2008



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Telephone: 203-865-5000
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Federal Bar No. ct00223

UNITED STATES DISTRICT COURT
DISTRICT OF CONNECTICUT

NORVAL FALCONER ,
Plaintiff,

v.

JUSTEN KASPERZYK, WILLIAM H. WHITE,
JOSE SILVA, FRANCISCO ORTIZ and the
CITY OF NEW HAVEN
Defendants

CIVIL ACTION NUMBER

NOVEMBER 10, 2008

COMPLAINT

INTRODUCTION

This civil rights action seeks money damages to redress the deprivation of rights secured to the plaintiff, Norval Falconer, by the United States Constitution and the laws of the United States. On November 9, 2006, officers with the New Haven Police Department (hereinafter NHPD), its now-disbanded Narcotics Enforcement Unit (hereinafter NEU), and Connecticut State Police – acting under the auspices of the Statewide Narcotics Task Force – executed a search warrant at a first-floor apartment on Truman Street in New Haven. After breaking down the front door and entering the residence, police officers detained the plaintiff, who was visiting that location, when he emerged from a back bedroom of the apartment.

Defendant Justen KASPERZYK, then a detective in the NEU, searched the apartment building and located narcotics and marijuana in the basement. KASPERZYK

then removed the drugs he had found in the basement, went upstairs into the back bedroom of the first floor apartment and exclaimed, "Look what I found" after placing the narcotics on a dresser, next to the plaintiff's identification card. Detective Jose SILVA, also then a detective in the NEU, completed an incident report in which he knowingly included the false information as to the location where KASPERZYK found the drugs. Defendant William WHITE was the supervisor of the Truman Street raid.

The plaintiff was arrested and charged with eight drug-related offenses and spent a month in jail because he was unable to post a \$350,000 bond. In December 2006, he pled guilty to a crime he did not commit in order to get out of jail before Christmas.

Three months later, in March 2007, KASPERZYK and WHITE were arrested by the FBI in connection with the illegal activities of the NEU and the NHPD. After KASPERZYK and WHITE were arrested, the plaintiff's criminal case was reopened and the charges were ultimately dismissed. Both KASPERZYK and SILVA pled guilty to violating the plaintiff's civil rights and were sentenced to prison terms.

The widespread corruption and pattern of violating individuals' constitutional rights was so pervasive in the NEU that defendants FRANCISCO ORTIZ, then Chief of Police, and the CITY OF NEW HAVEN knew or should have known about the wrongdoings and improprieties of WHITE, KASPERZYK and SILVA but failed to

properly supervise or reform the unit, acting with deliberate indifference to the problems in the unit and the potential constitutional violations that had occurred and were likely to occur. The failures of ORTIZ and CITY OF NEW HAVEN to properly supervise WHITE, KASPERZYK and SILVA created a pattern and/or custom of tacit approval to the unlawful practices and policies that ultimately resulted in the violation of plaintiff's constitutional rights.

The aforesaid actions of the defendants violated the plaintiff's constitutional rights, secured by the Fourth, Fifth, and Fourteenth Amendments to the United States Constitution, Title 42 U.S.C. §§ 1983 and 1988. As a direct result of the defendants' conduct, the plaintiff suffered false arrest, embarrassment, emotional distress, anguish, loss of liberty, loss of employment, and homelessness.

JURISDICTION

This Court has jurisdiction over the case pursuant to Title 28 U.S.C. § 1331.

FIRST COUNT - Against defendant CITY OF NEW HAVEN

1. At all times relevant to this Complaint, plaintiff NORVAL FALCONER was a 27-year-old male resident of the City of New Haven and State of Connecticut.
2. At all times relevant to this Complaint, defendant FRANCISCO ORTIZ was a police officer employed by the City of New Haven serving as the Chief of Police for the New Haven Police Department. At all times relevant to this Complaint,

defendant ORTIZ, as Chief of Police, was employed in a position of policy-making authority for the CITY OF NEW HAVEN. At all times relevant to this Complaint, FRANCISCO ORTIZ was acting under the color of his authority as a police officer and as Chief of Police. He is sued in his individual capacity.

3. At all times relevant to this Complaint, defendant CITY OF NEW HAVEN was a municipality organized under the laws of the State of Connecticut. As set out below, plaintiff seeks to impose liability upon the CITY OF NEW HAVEN for damages suffered as a result of municipal policy.

4. At all times relevant to this Complaint, defendant JUSTEN KASPERZYK was a police officer employed by the City of New Haven assigned to the New Haven Police Department's Narcotics Enforcement Unit (NEU) where he held the rank of detective. At all times relevant to this complaint, KASPERZYK was acting under the color of his authority as an officer of the New Haven Police Department. He is sued in his individual capacity.

5. At all times relevant to this Complaint, WILLIAM WHITE was a police officer employed by the City of New Haven assigned to the New Haven Police Department's Narcotics Enforcement Unit (NEU) and serving as its Commander and holding the rank of Lieutenant. At all times relevant to this Complaint, WHITE was

acting under the color of his authority as an officer of the New Haven Police Department. He is sued in his individual capacity.

6. At all times relevant to this Complaint, JOSE SILVA was a police officer employed by the City of New Haven assigned to the New Haven Police Department's Narcotics Enforcement Unit (NEU) where he held the rank of detective. At all times relevant to this Complaint, SILVA was acting under the color of his authority as an officer of the New Haven Police Department. He is sued in his individual capacity.

7. At all times relevant to this Complaint, the individual defendants were acting under color of law, that is, under color of the Constitution, statutes, laws, charter, ordinances, rules, regulations, customs, and usages of the State of Connecticut and City of New Haven.

8. At all times relevant to this Complaint, each individual defendant had a duty to protect the plaintiff from the unconstitutional actions of the other individual defendants.

9. On November 9, 2006, defendant SILVA and Detective Timothy Wilson of the NEU applied for a search and seizure warrant for the "65-67 Truman Street First Floor Apartment" in New Haven. The warrant was then signed by a Judge of the Superior Court.

10. On November 9, 2006, defendants SILVA, KASPERZYK, WHITE and other members of the NEU as well as members of the Statewide Narcotics Task Force (SNTF), executed the search warrant at 65-67 Truman Street, First Floor Apartment.

11. The plaintiff was a visitor at the first floor apartment of 65-67 Truman Street at the time the police arrived to execute the search warrant.

12. When the search began, the plaintiff emerged from the rear bedroom of the first floor apartment, at which time several officers detained him.

13. During the search, KASPERZYK and other members of the search team searched the basement of the apartment building. KASPERZYK found cocaine, crack cocaine, and marijuana in the basement.

14. KASPERZYK removed the illegal drugs that he found in the basement, concealed them in his jacket, and brought them upstairs to the rear bedroom of the first floor apartment from which the officers had seen the plaintiff emerge.

15. KASPERZYK pretended to find the drugs in the bedroom and said to the plaintiff, "These are your drugs now."

16. WHITE and SILVA knew that KASPERZYK had moved the drugs from the basement and "planted" them in the bedroom in order to justify arresting the plaintiff.

17. The plaintiff was then arrested and charged with eight felonies, including: possession of a controlled substance; possession of a controlled substance within 1500

feet of a school; possession of a controlled substance with the intent to sell; possession of a controlled substance with the intent to sell within 1500 feet of a school; possession of a narcotic substance; possession of a narcotic substance within 1500 feet of a school; possession of a narcotic substance with the intent to sell; and possession of a narcotic substance with the intent to sell within 1500 foot of a school.

18. SILVA completed and signed an incident report in which he knowingly and falsely stated that KASPERZYK had found the drugs on top of a dresser next to the plaintiff's identification card in the back bedroom of the first floor apartment. (Exhibit 1).

19. After his arrest, the plaintiff's bond was set at \$350,000. He remained in jail for a month because he was unable to post bond.

20. In December, 2007, the plaintiff's Public Defender advised him to accept a plea bargain that involved a suspended sentence and probation, or he would remain in jail for a long period of time and would not be able to go home for Christmas.

21. Unable to post his bond, plaintiff accepted a plea agreement in order to gain release from jail before Christmas; the terms of the plea agreement included a four-year suspended sentence and three years of probation.

22. Upon accepting the plea agreement, plaintiff pled guilty and was released from jail on December 5, 2006.

23. As a result of his arrest and incarceration, the plaintiff lost his job and was evicted from his apartment.

24. Now jobless and destitute, the plaintiff had to sleep at his sister's home and in shelters for several months.

25. In the period following his wrongful arrest, plaintiff has suffered from problems with stress and lack of sleep and emotional problems for which he has had to seek counseling.

26. On March 14, 2007, defendants WHITE and KASPERZYK were arrested by the FBI and charged with corruption.

27. On March 27, 2007, the Office of the State's Attorney re-opened the plaintiff's criminal case. All of the charges were ultimately dismissed.

28. On October 5, 2007, KASPERZYK pleaded guilty to federal charges of theft of government property and to conspiracy to violate the plaintiff's civil rights, in connection with the incident of November 9, 2006.

29. On October 5, 2007, SILVA pleaded guilty to depriving an individual of his civil rights, in connection with his role in the November 9, 2006 incident.

30. On October 25, 2007, WHITE pleaded guilty to theft of government property and conspiracy to commit bribery.

31. The actions of SILVA, WHITE and KASPERZYK, as described herein, were intentional, malicious, and/or in reckless disregard of the plaintiff's constitutional rights.

32. The actions of SILVA, WHITE and KASPERZYK, as described herein, violated plaintiff's constitutional rights to be free from illegal seizures, arrest without probable cause, and malicious prosecution, as guaranteed to him by the Fourth, Fifth, and Fourteenth amendments to the United States Constitution and by Title 42 U.S.C. §§ 1983 and 1988.

33. The actions of SILVA, WHITE and KASPERZYK with respect to plaintiff were part of a pattern of constitutionally-offensive acts reflecting an unwritten policy of ORTIZ and CITY OF NEW HAVEN of violating citizens' civil rights in order to effect narcotics-related arrests.

34. On May 13, 2008, WHITE gave a deposition in a matter unrelated to the present Complaint. On June 16, 2008, KASPERZYK gave a deposition in the same unrelated matter.

35. KASPERZYK testified under oath that ORTIZ and New Haven Mayor John DeStefano placed WHITE in charge of NEU because "they were not happy with the drug dealing going on in the city, and they wanted more enforcement, and he was considered the best we had." (Exhibit 2, pp. 53, 57.)

36. According to KASPERZYK, ORTIZ and New Haven Mayor DeStefano put WHITE in charge of NEU and a number of other NHPD task forces. (Exhibit 2, pp. 57-59)

37. According to KASPERZYK, WHITE reported directly to ORTIZ. (Exhibit 2, pp. 57, 65.)

38. According to WHITE, while he was head of NEU he met with ORTIZ "just about every day in his office, and every day I would get, you know, assignments from him." (Exhibit 3, p. 31.)

39. According to KASPERZYK, WHITE said NEU assignments "came from the mayor's office, from the words of the chief. Get it done." (Exhibit 2, p. 66.)

40. According to KASPERZYK, ORTIZ gave detailed orders to NEU, including what specific addresses to raid and specific persons to arrest. (Exhibit 2, pp. 67-68).

41. According to KASPERZYK, under WHITE's command it was NEU policy to plant evidence on suspects and then to falsify written police reports in order to effect narcotics-related arrests and convictions. (Exhibit 2, pp. 113-114).

42. According to KASPERZYK, official evidence collection procedures were not followed, enforced or monitored within the NEU. (Exhibit 2, pp. 156-157.)

43. According to KASPERZYK, on more than one occasion the NEU would conduct a motor vehicle stop, take the operator's keys, and use them to enter and

search the operator's residence without a warrant with the knowledge that it was illegal to do so; if NEU officers found drugs inside any of these residences, they then moved those drugs and planted them in the operator's vehicle. (Exhibit 2, pp. 120-122).

44. According to KASPERZYK, under WHITE's leadership and specific direction, it was NEU policy to illegally search residences using the car keys of motor vehicle operators and that as a consequence of refusal to comply officers would be "bounced out of the [NEU]." (Exhibit 2, pp. 122-123.)

45. According to KASPERZYK, under WHITE's leadership, NEU policy was for officers to falsify search warrant affidavits by claiming they had orchestrated controlled purchases of narcotics from a given residence even though they had not. (Exhibit 2, pp. 148-154.)

46. According to KASPERZYK, under WHITE's leadership, NEU policy was to "lock people up even if it was a 'bullshit' arrest." (Exhibit 2, p. 154.)

47. According to KASPERZYK, he planted evidence in the bedroom of 65-67 Truman Street in order to arrest plaintiff in accordance with the NEU policy of planting evidence so as to prevent criminals from avoiding prosecution. (Exhibit 2, pp. 114-118).

48. According to KASPERZYK, he believed ORTIZ knew about the illegal "policies" of the NEU but did not care, "because I was told to make arrests at all costs, and that we won't get any overtime if we didn't make arrests; that if we worked eight

hours a shift, and didn't come back with a body, the chief wasn't going to pay you. He put tremendous pressure on us to make these arrests, and WHITE only dealt with the Chief." (Exhibit 2, pp. 125-127.)

49. The NEU was disbanded on or about March, 2007, after federal investigations uncovered widespread corruption and illegal activity resulting in the arrest of WHITE and KASPERZYK.

50. Thereafter, the City of New Haven hired the Police Executive Research Forum (PERF) to assess the police department, including, but not limited to, the activities, operations, and supervision of the department's drug unit. PERF issued its final report on November 16, 2007. (An excerpt is attached as Exhibit 4.)

51. The PERF study revealed that before the FBI investigation, there were no strict policies or procedures governing the operation of the narcotics enforcement unit, resulting in "a systemic problem that allowed officers and supervisors to create their own policies and practices." (Exhibit 4, p. 22.)

52. According to KASPERZYK, even though a procedure is in place for evaluating officers' performance and evaluations are supposed to be conducted, the NHPD did not conduct evaluations of police officers' performance during KASPERZYK's time with NEU or at any point in his career with NHPD. (Exhibit 2, pp.69-72.)

53. WHITE also was unable to recall ever being evaluated by ORTIZ or any other NHPD representative during the time he was head of NEU. (Exhibit 3, p.32.)

54. The PERF study concluded that the drug unit lacked good role models, suffered from "an absence of adequate mentoring," and that "the system broke down." (Exhibit 4, p. 22.)

55. According to KASPERZYK, no superior officer ever inquired into the satisfaction or dissatisfaction of detectives working within NEU. (Exhibit 2, p. 160.)

56. The constitutionally offensive acts of NEU officers, including KASPERZYK, WHITE, and SILVA, were so pervasive, significant, and blatant that defendants ORTIZ and CITY OF NEW HAVEN had actual and/or constructive knowledge of the deprivation of rights that the officers' actions were causing.

57. Despite the fact that they knew or should have known of the pattern of extreme conduct by SILVA, WHITE and KASPERZYK, neither ORTIZ nor the CITY OF NEW HAVEN took any action to remedy, punish or prevent constitutional violations by members of the NEU.

58. Through their knowing acquiescence in SILVA, WHITE and KASPERZYK's constitutionally offensive pattern of conduct, defendants ORTIZ and other supervisors of the CITY OF NEW HAVEN created a custom of acceptance of the practices of the members of the NEU and resulted in violation of plaintiff's constitutional

rights to be free from illegal seizures, arrest without probable cause, and malicious prosecution, guaranteed by the Fourth, Fifth, and Fourteenth amendments to the United States Constitution and Title 42 U.S.C. §§ 1983 and 1988.

59. The pattern of unconstitutional conduct by SILVA, WHITE and KASPERZYK as herein alleged presents such extreme facts that supervisory inaction by ORTIZ and other supervisors of the CITY OF NEW HAVEN constituted approval of the pattern of unconstitutional conduct as a supervisory policy of ORTIZ and the CITY OF NEW HAVEN.

60. By allowing the NEU, including WHITE, KASPERZYK, and SILVA, to continue the pattern of constitutional violations in the NEU, defendant ORTIZ and other senior supervisors of the CITY OF NEW HAVEN acted with deliberate indifference to or tacit authorization of the acts of the NEU, including those of WHITE, KASPERZYK and SILVA, that violated plaintiff's constitutional rights, namely his rights to be free from illegal seizures, arrest without probable cause, and malicious prosecution, stemming from the Fourth, Fifth, and Fourteenth amendments to the United States Constitution and Title 42 U.S.C. §§ 1983 and 1988.

61. In light of the extreme fact situation created by the pattern of unconstitutional conduct by SILVA, WHITE and KASPERZYK, deprivation of citizens' constitutional rights by the subordinates of ORTIZ and the CITY OF NEW HAVEN

within the NEU were the natural consequence of the deliberate indifference of and supervisory inaction by ORTIZ and the CITY OF NEW HAVEN.

62. By allowing WHITE, KASPERZYK and SILVA, to continue the pattern of constitutional violations in the NEU, defendant ORTIZ and other supervisors of the CITY OF NEW HAVEN acted with gross negligence to the high risk that the NEU, including WHITE, KASPERZYK and SILVA, would violate plaintiff's constitutional rights, namely his rights to be free from illegal seizures, arrest without probable cause, and malicious prosecution, stemming from the Fourth, Fifth, and Fourteenth amendments to the United States Constitution and Title 42 U.S.C. §§ 1983 and 1988.

63. As a direct and proximate result of the defendants' actions, as described herein, the plaintiff has suffered economic losses, severe emotional distress, psychological impairment, anguish, and embarrassment.

SECOND COUNT - Against defendant FRANCISCO ORTIZ

1. - 59. Paragraphs 1 through 59 of the First Count are realleged as Paragraphs 1 through 59 of the Second Count.

60. The failure by defendant ORTIZ to exercise adequate supervision over SILVA, WHITE and KASPERZYK and other members of the Narcotics Enforcement Unit and the New Haven Police Department constituted gross negligence to the high risk that the NEU, including WHITE, KASPERZYK and SILVA, would violate plaintiff's

constitutional rights, namely his rights to be free from illegal seizures, arrest without probable cause, and malicious prosecution, guaranteed by the Fourth, Fifth, and Fourteenth amendments to the United States Constitution and Title 42 U.S.C. §§ 1983 and 1988.

61. In light of the extreme fact situation created by the pattern of unconstitutional conduct by SILVA, WHITE and KASPERZYK, deprivation of citizens' constitutional rights by the subordinates of ORTIZ within the NEU were the natural consequence of the gross negligence of ORTIZ.

62. As a direct and proximate result of the defendants' actions, as described herein, the plaintiff has suffered economic losses, severe emotional distress, psychological impairment, anguish, and embarrassment.

THIRD COUNT- Against WILLIAM H. WHITE

1. - 32. Paragraphs 1 through 32 of the First Count are realleged as Paragraphs 1 through 32 of the Third Count.

33. As a direct and proximate result of the defendants' actions, as described herein, the plaintiff has suffered economic losses, severe emotional distress, psychological impairment, anguish, and embarrassment.

FOURTH COUNT - Against JUSTEN KASPERZYK

1. - 32. Paragraphs 1 through 34 of the First Count are realleged as Paragraphs 1 through 32 of the Fourth Count.

33. As a direct and proximate result of the defendants' actions, as described herein, the plaintiff has suffered economic losses, severe emotional distress, psychological impairment, anguish, and embarrassment.

FIFTH COUNT - Against JOSE SILVA

1. - 32. Paragraphs 1 through 32 of the First Count are realleged as Paragraphs 1 through 32 of the Fifth Count.

33. As a direct and proximate result of defendant SILVA'S actions, as described herein, the plaintiff has suffered economic losses, emotional distress, anguish, and embarrassment.

WHEREFORE, the plaintiff prays that this Court:

- A. Assume jurisdiction over this cause of action;
- B. Enter a declaratory judgment that the defendants violated 42 U.S.C. §§ 1983, 1985, and 1988;
- C. Award him the costs of this action and a reasonable attorney fee;
- D. Award him compensatory damages;
- E. Award him punitive damages;
- F. Enter such other and further relief as law and equity may provide.

THE PLAINTIFF, NORVAL FALCONER

BY



DIANE POLAN

His Attorney

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Federal Bar No. ct00223

UNITED STATES DISTRICT COURT

DISTRICT OF CONNECTICUT

NORVAL FALCONER,
Plaintiffs,

v.

JUSTEN KASPERZYK, WILLIAM H. WHITE,
JOSE SILVA, FRANCISCO ORTIZ,
and the CITY OF NEW HAVEN,
Defendants

: CRIMINAL ACTION NUMBER
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NOVEMBER 10, 2008

CLAIM FOR JURY TRIAL

The plaintiff, NORVAL FALCONER, claims a jury trial in this case.

THE PLAINTIFF, NORVAL FALCONER

By: 

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