

SUPREME COURT OF THE STATE OF NEW YORK  
COUNTY OF NEW YORK

-----X  
NICHOLAS HERNANDEZ

Plaintiffs,

-against-

THE CITY OF NEW YORK, JESSICA S. TISCH, EDWARD  
A. CABAN, AMY J. LITWIN, THE COUNTY OF NASSAU,  
PATRICK J. RYDER, and JOHANNA M. ESPOSITO

Defendants'  
-----X

Summons

Index No.

Jury Demand

To the Defendant named above:

You are hereby summoned and required to serve a written answer to the attached Verified Complaint upon the Plaintiff's attorney at the address below.

If this Summons is personally delivered to you within the State of New York, you must serve your answer within twenty (20) days after such service, exclusive of the service date.

If this Summons is served upon you in any other manner authorized by law, you must serve your answer within thirty (30) days after service is complete, as provided by the New York Civil Practice Law and Rules.

Should you fail to appear or answer within the applicable period stated above, judgment may be entered against you by default for the relief demanded in the Verified Complaint, without further notice.

The action will be heard in the Supreme Court of the State of New York, County of New York, 60 Centre Street, New York, N.Y. 10007.

Dated: May 9, 2026  
New York, N.Y.

Respectfully submitted,

By: s/Eric Sanders  
Attorney for Plaintiff Nicholas Hernandez

**THE SANDERS FIRM, P.C.**  
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DEFENDANT ADDRESSES

Defendant THE CITY OF NEW YORK  
c/o New York City Law Department  
100 Church Street  
New York, N.Y. 10007

Defendants' THE CITY OF NEW YORK, JESSICA S. TISCH, EDWARD A. CABAN, and  
AMY J. LITWIN  
c/o Police Department City of New York  
One Police Plaza  
New York, N.Y. 10038

Defendant THE COUNTY OF NASSAU  
c/o Nassau County Department of Law  
1 West Street  
Mineola, N.Y. 11510

Defendants' PATRICK J. RYDER and JOHANNA M. ESPOSITO  
c/o Police Department County of Nassau  
1490 Franklin Avenue  
Mineola, N.Y. 11510

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Defendants'  
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Verified Complaint

Index No.

Jury Demand

The Plaintiff NICHOLAS HERNANDEZ through his attorney The Sanders Firm, P.C., files this Verified Complaint against Defendants' THE CITY OF NEW YORK, JESSICA S. TISCH, EDWARD A. CABAN, AMY J. LITWIN, THE COUNTY OF NASSAU, PATRICK J. RYDER, and JOHANNA M. ESPOSITO respectfully set forth and allege that:

**INTRODUCTION**

Plaintiff NICHOLAS HERNANDEZ brings this plenary statutory discrimination and retaliation action against defendants THE CITY OF NEW YORK; JESSICA S. TISCH, as Police Commissioner of the Police Department City of New York; EDWARD A. CABAN, former Police Commissioner of the Police Department City of New York; AMY J. LITWIN, former Deputy Commissioner of the NYPD Department Advocate's Office; THE COUNTY OF NASSAU; PATRICK J. RYDER, as Police Commissioner of the Police Department County of Nassau; and JOHANNA M. ESPOSITO, as Nassau County pistol-license appeals officer.

This action arises from defendants' alleged use of plaintiff's dismissed and sealed October 27, 2022 arrest and related domestic-incident accusation as a continuing basis for employment, credentialing, licensing, and professional harm. Plaintiff alleges that defendants

violated the New York State Human Rights Law and, where applicable, the New York City Human Rights Law by engaging in arrest-history discrimination, gender discrimination, discrimination based upon actual or perceived status as a victim of domestic violence, and retaliation.

Plaintiff is a former NYPD police officer. Following an October 27, 2022 domestic incident involving plaintiff and his then-girlfriend, plaintiff was arrested. The criminal matter was later adjourned in contemplation of dismissal, dismissed, and sealed by the Nassau County Criminal Court. Plaintiff alleges that the order of protection originally issued in connection with that matter was lifted before dismissal, and that the October 2022 arrest was the only arrest he had ever sustained.

Plaintiff alleges that the City/NYPD defendants nevertheless treated the dismissed and sealed arrest-related accusation as career-defining misconduct. The NYPD pursued disciplinary charges arising from the domestic incident, discounted plaintiff's defensive account, failed to meaningfully credit his actual or perceived status as a victim of domestic violence, and treated him as the presumptive aggressor because he is male. Plaintiff alleges that defendant EDWARD A. CABAN adopted the disciplinary penalty and imposed one-year dismissal probation, thereby converting the dismissed and sealed arrest-related accusation into a continuing employment disability.

Plaintiff further alleges that defendant JESSICA S. TISCH and the City/NYPD defendants continued that discriminatory and retaliatory chain by reopening or relying upon a minor Velcro/license-plate matter that had already been addressed at the command level, modifying plaintiff's duty status, forcing him into vested-interest retirement under threat of termination, denying him retired law-enforcement credentials, denying him a Good Guy Letter

and police identification card, and reporting him to the New York State Division of Criminal Justice Services in a manner that resulted in permanent invalidation of his police officer basic training certification.

Plaintiff also alleges that the Nassau defendants imposed a separate and additional adverse action by denying his Nassau County pistol-license application. Plaintiff alleges that defendants THE COUNTY OF NASSAU, PATRICK J. RYDER, and JOHANNA M. ESPOSITO relied upon his dismissed and sealed arrest history, prior order-of-protection history, domestic-incident accusation, and the NYPD's disciplinary narrative as evidence of alleged poor moral character. Plaintiff further alleges that the Nassau defendants adopted the same gendered assumption that plaintiff, as the male participant in a domestic incident, was presumptively the aggressor and not credibly a victim or defensive actor.

This action is a state-court refiling following dismissal of plaintiff's prior federal action, *Nicholas Hernandez v. The City of New York, et al.*, No. 25-cv-1867, in the United States District Court for the Southern District of New York. In that action, the federal court dismissed plaintiff's federal constitutional claims and declined to exercise supplemental jurisdiction over plaintiff's NYSHRL and NYCHRL claims. The federal court did not adjudicate plaintiff's state and city statutory claims on their merits.

Plaintiff does not bring this action as an Article 78 proceeding and does not seek ordinary administrative review of the NYPD disciplinary determination or Nassau County pistol-license determination in isolation. Plaintiff brings this action to recover for defendants alleged discriminatory and retaliatory use of a dismissed and sealed arrest, gender-based domestic-violence stereotypes, actual or perceived domestic-violence-victim status, and protected opposition to unlawful practices.

As a result of defendants' conduct, plaintiff alleges that he suffered loss of NYPD employment, loss of law-enforcement credentials, loss of firearm authorization, impairment of future law-enforcement and private-security opportunities, reputational harm, emotional distress, economic loss, and continuing damage to his professional standing.

### **JURISDICTION AND VENUE**

1. This Court has subject-matter jurisdiction over this action because plaintiff NICHOLAS HERNANDEZ asserts claims arising under the New York State Human Rights Law, N.Y. Exec. Law § 296, including claims for arrest-history discrimination, gender discrimination, discrimination based upon actual or perceived status as a victim of domestic violence, retaliation, and related relief.

2. Plaintiff further asserts claims, where applicable, under the New York City Human Rights Law, N.Y.C. Admin. Code § 8-107, including claims for arrest-history discrimination, gender discrimination, domestic-violence-victim-status discrimination, retaliation, and related relief against the City/NYPD defendants.

3. Plaintiff also seeks declaratory and injunctive relief arising from defendants' alleged use, reliance upon, maintenance, disclosure, transmission, or adverse treatment of plaintiff based upon an arrest and criminal matter terminated in his favor and sealed under New York law, including protections codified in CPL §§ 160.50 and 160.60.

4. Venue is proper in New York County pursuant to CPLR 504(3) because defendant THE CITY OF NEW YORK is sued herein and a substantial part of the alleged unlawful acts, omissions, discriminatory employment practices, disciplinary decisions, policymaking, ratification, credentialing consequences, and retaliatory conduct occurred in New York County.

5. Venue is further proper in New York County because the challenged City/NYPD conduct includes actions and omissions by defendants THE CITY OF NEW YORK, JESSICA S. TISCH, EDWARD A. CABAN, and AMY J. LITWIN arising from NYPD disciplinary prosecution, Department Advocate's Office activity, penalty review, policymaking, final or supervisory decision-making, post-separation credentialing, and related employment consequences centered in New York County.

6. Material portions of the challenged conduct also occurred in Kings County, including plaintiff's NYPD employment assignment at the 94th Precinct, related employment consequences, command-level handling of the Velcro/license-plate matter, and other Department activity affecting plaintiff's employment status, duty status, and professional standing.

7. Material portions of the challenged conduct also occurred in Nassau County, including plaintiff's residence, the October 27, 2022 arrest and criminal matter, the dismissal and sealing of that matter by the Nassau County Criminal Court, and the denial, appeal, recommendation, final determination, and continued maintenance of the denial of plaintiff's Nassau County pistol-license application by defendants THE COUNTY OF NASSAU, PATRICK J. RYDER, and JOHANNA M. ESPOSITO.

8. Plaintiff resides in Nassau County and continues to suffer alleged economic, professional, licensing, emotional, reputational, credentialing, and firearm-authorization harms there; however, plaintiff alleges that substantial City/NYPD employment-discrimination, disciplinary, policymaking, and credentialing conduct supporting this action occurred in New York County and Kings County.

9. Plaintiff does not bring this action as an Article 78 proceeding seeking ordinary administrative review of the NYPD disciplinary determination or the Nassau County pistol-license determination.

10. Plaintiff brings this plenary statutory discrimination and retaliation action seeking legal, equitable, declaratory, injunctive, and statutory relief arising from defendants' alleged use of dismissed and sealed arrest-related information, gender-based domestic-violence stereotypes, actual or perceived domestic-violence-victim status, and protected opposition to unlawful practices.

#### **PROCEDURAL HISTORY AND CONDITIONS PRECEDENT**

11. Plaintiff NICHOLAS HERNANDEZ previously commenced an action in the United States District Court for the Southern District of New York, captioned *Nicholas Hernandez v. The City of New York, et al.*, No. 25-cv-1867, arising in part from the same nucleus of operative facts alleged herein.

12. By Opinion and Order dated March 18, 2026, the United States District Court dismissed plaintiff's federal constitutional claims under 42 U.S.C. § 1983.

13. After dismissing the federal claims over which it had original jurisdiction, the federal court declined to exercise supplemental jurisdiction over plaintiff's remaining claims under the New York State Human Rights Law and New York City Human Rights Law.

14. The federal court did not adjudicate plaintiff's NYSHRL or NYCHRL claims on their merits.

15. The federal court also declined defendants' request to convert plaintiff's action into an Article 78 proceeding and dismiss it as untimely.

16. Plaintiff now brings this plenary state-court action to pursue his statutory discrimination, retaliation, declaratory, injunctive, and related claims under New York law and, where applicable, New York City law.

17. This action includes additional allegations and additional defendants arising from post-federal-filing conduct, including the denial, appeal, recommendation, final determination, and continued maintenance of the denial of plaintiff's Nassau County pistol-license application.

18. Plaintiff has complied with all conditions precedent required to commence this action, or such conditions have been waived, excused, satisfied, or are otherwise inapplicable.

**PLAINTIFF**

21. Plaintiff NICHOLAS HERNANDEZ is a male citizen of the United States of America, over twenty-one (21) years of age, and a resident of Nassau County, New York.

22. Plaintiff NICHOLAS HERNANDEZ is a former police officer employed by defendant THE CITY OF NEW YORK through the Police Department City of New York.

23. Plaintiff NICHOLAS HERNANDEZ was assigned to the 94th Precinct and, before the challenged disciplinary actions alleged herein, maintained a record of public service, lawful firearm possession, and law-enforcement employment.

24. Plaintiff NICHOLAS HERNANDEZ alleges that he was subjected to arrest-history discrimination, gender discrimination, discrimination based upon actual or perceived status as a victim of domestic violence, and retaliation by the City/NYPD defendants arising from the October 27, 2022 domestic-incident accusation, the NYPD disciplinary process, dismissal probation, reopened Velcro/license-plate matter, modification of duty status, and forced vested-interest retirement.

25. Plaintiff NICHOLAS HERNANDEZ further alleges that he was subjected to

additional arrest-history discrimination, gender discrimination, discrimination based upon actual or perceived status as a victim of domestic violence, and retaliation by the Nassau defendants arising from the denial of his Nassau County pistol-license application.

**DEFENDANTS'**

26. Defendant THE CITY OF NEW YORK is a municipal corporation duly organized and existing under the laws of the State of New York.

27. At all relevant times, defendant THE CITY OF NEW YORK employed plaintiff NICHOLAS HERNANDEZ through the Police Department City of New York.

28. Defendant JESSICA S. TISCH is the Police Commissioner of the Police Department City of New York and is sued in her official capacity and, where supported by the facts alleged herein, in her individual capacity.

29. Defendant EDWARD A. CABAN is a former Police Commissioner of the Police Department City of New York and is sued in his official capacity and, where supported by the facts alleged herein, in his individual capacity.

30. Defendant AMY J. LITWIN is a former Deputy Commissioner of the NYPD Department Advocate's Office and is sued in her official capacity and, where supported by the facts alleged herein, in her individual capacity.

31. Defendant THE COUNTY OF NASSAU is a municipal corporation duly organized and existing under the laws of the State of New York.

32. Defendant PATRICK J. RYDER was, at all relevant times, the Police Commissioner of the Nassau County Police Department and is sued in his official capacity and, where supported by the facts alleged herein, in his individual capacity.

33. Defendant JOHANNA M. ESPOSITO was, at all relevant times, an appeals officer and/or licensing official involved in plaintiff’s Nassau County pistol-license appeal and is sued in her official capacity and, where supported by the facts alleged herein, in her individual capacity.

34. At all relevant times, each individual defendant acted under color of law and/or as an agent, employee, supervisor, policymaker, final decision-maker, or participant acting on behalf of his or her respective municipal defendant.

35. At all relevant times, defendants acted individually, jointly, severally, and/or in concert as alleged herein.

**BACKGROUND**

**THE DOMESTIC INCIDENT INVESTIGATION**

**CHARGES AND SPECIFICATIONS**

- Police Officer Nicholas Hernandez, while off-duty and assigned to the 94 Precinct, on or about October 27, 2022, engaged in conduct prejudicial to the good order, efficiency, or discipline of the Department, to wit: said Police Officer engaged in a physical altercation with an individual known to the Department, causing injury.

A.G. 304-06, Page 1, Paragraph 1

PROHIBITED CONDUCT

- Police Officer Nicholas Hernandez, while off-duty and assigned to the 94 Precinct, on or about October 27, 2022, engaged in conduct prejudicial to the good order, efficiency, or discipline of the Department, to wit: said Police Officer damaged the glasses of an individual known to the Department while engaging in a physical altercation.

A.G. 304-06, Page 1, Paragraph 1

PROHIBITED CONDUCT

- Police Officer Nicholas Hernandez, while off-duty and assigned to the 94 Precinct, on or about October 27, 2022, wrongfully failed to remain on scene of an off-duty incident involving an individual known to the Department.

P.G. 212-32, Page 1, Paragraph 1

OFF-DUTY INCIDENTS  
INVOLVING UNIFORM  
MEMBERS OF SERVICE

## **REPORT AND RECOMMENDATION**

36. Plaintiff NICHOLAS HERNANDEZ alleges that he appeared before NYPD Assistant Deputy Trial Commissioner Jeff S. Adler on June 29, 2023.

37. Plaintiff NICHOLAS HERNANDEZ alleges that he entered a plea of Not Guilty to the subject charges through his counsel.

38. Plaintiff NICHOLAS HERNANDEZ alleges that the Department called NYPD Sergeant Victor Torres, Patrol Borough Brooklyn North Investigations Unit, and Nassau County Police Officer Louis Ignarro as witnesses and introduced into evidence Body-Worn Camera footage from responding police officers a recording of a 911 call, a Domestic Incident Report, photographs of the complainant's injuries, and a recorded interview of the complainant.

39. Plaintiff NICHOLAS HERNANDEZ alleges that he testified on his behalf.

40. Plaintiff NICHOLAS HERNANDEZ alleges that on August 4, 2023, NYPD Assistant Deputy Trial Commissioner Jeff S. Adler recommended for Defendant EDWARD A. CABAN to adopt his findings that HERNANDEZ be found Guilty, he forfeits 30 days previously served on suspension without pay, 20 additional vacation days, counseling, and that he be placed on one-year dismissal probation.

### **The Department Trial**

41. Plaintiff NICHOLAS HERNANDEZ alleges that he was employed as a police officer with the Police Department City of New York (NYPD) and maintained an exemplary record until his forced retirement and selective enforcement of discipline.

42. In the early morning hours of October 27, 2022, Plaintiff NICHOLAS HERNANDEZ was involved in an altercation with his girlfriend (“the complainant”), inside the Nassau County apartment that they shared at the time.

43. Plaintiff NICHOLAS HERNANDEZ alleges that they had met about a year-and-a-half earlier when the complainant and he were both police officers assigned to the 94 Precinct.

44. Plaintiff NICHOLAS HERNANDEZ alleges that the complainant subsequently left the NYPD and joined the Suffolk County Police Department, with whom she was employed at the time of this incident.

45. Plaintiff NICHOLAS HERNANDEZ alleges that the parties offer conflicting versions of what occurred on October 27, 2022.

46. Plaintiff NICHOLAS HERNANDEZ alleges that the complainant did not appear to testify at this trial despite numerous phone messages and a subpoena requesting her to do so.

47. Plaintiff NICHOLAS HERNANDEZ alleges that instead, the Department Advocate offered into evidence several prior statements made by the complainant, including some that were hearsay.

48. Plaintiff NICHOLAS HERNANDEZ alleges that NYPD Assistant Deputy Trial Commissioner Jeff S. Adler cautioned that it is well-settled that hearsay evidence is admissible in administrative proceedings and may form the sole basis for a finding of fact.

49. Plaintiff NICHOLAS HERNANDEZ alleges that NYPD Assistant Deputy Trial Commissioner Jeff S. Adler cautioned the hearsay; however, it must be carefully evaluated to determine whether it is sufficiently reliable.

50. Plaintiff NICHOLAS HERNANDEZ alleges that NYPD Assistant Deputy Trial Commissioner Jeff S. Adler cautioned it is preferable to have testimony from a witness, where opposing counsel can cross-examine, and the tribunal can observe witness demeanor.

51. Plaintiff NICHOLAS HERNANDEZ alleges that NYPD Assistant Deputy Trial Commissioner Jeff S. Adler cautioned in the absence of live testimony from the complainant here

that this tribunal carefully considered her multiple prior statements in conjunction with the other evidence presented.

52. Plaintiff NICHOLAS HERNANDEZ alleges that the Department Advocate offered into evidence a recording of the complainant's 911 call, along with the accompanying transcript.

53. Plaintiff NICHOLAS HERNANDEZ alleges that in that call, the complainant stated that she needed help because her boyfriend was hitting her.

54. Plaintiff NICHOLAS HERNANDEZ alleges that she is crying and is sometimes difficult to understand.

55. Plaintiff NICHOLAS HERNANDEZ alleges that she also says that her boyfriend is hitting himself.

#### **Summary of Police Officer Louis Ignarro's Testimony**

56. Plaintiff NICHOLAS HERNANDEZ alleges that Police Officer Louis Ignarro of the Nassau County Police Department responded to a 911 call regarding a domestic incident. He arrived at the scene within 10 minutes but waited about 30 minutes before the complainant allowed officers inside. When she finally opened the door, she appeared scared and upset and had visible injuries:

- Bleeding and swollen lip
- Small cuts on her face
- Redness and bruising on her neck

57. Plaintiff NICHOLAS HERNANDEZ alleges that although she did not request medical attention, EMS was called to examine her. Photographs of her injuries were taken at the scene.

58. Plaintiff NICHOLAS HERNANDEZ alleges that initially, the complainant was reluctant to provide her name or details of the incident. However, after Officer Ignarro built rapport, she identified herself as an officer with the Suffolk County Police Department and

recounted what happened. According to her:

- She and Hernandez argued over alleged infidelity.
- She went to bed, but Hernandez got on top of her and punched her in the face and neck.
- She could not recall if he strangled her, but had difficulty breathing and swallowing afterward.
- When she later saw marks on her neck in a mirror, she suspected she had been strangled.
- Her eyeglasses were damaged during the altercation.

59. Plaintiff NICHOLAS HERNANDEZ alleges that Officer Ignarro confirmed damage to the glasses but did not vouch for them, and no photographs of the glasses were provided as evidence.

60. Plaintiff NICHOLAS HERNANDEZ alleges that Officer Ignarro completed a Domestic Incident Report (DIR) with the complainant, reading through each section with her before she signed it, attesting to its accuracy. The report stated that:

- Hernandez punched her multiple times in the face and neck, causing pain and swelling.
- She had trouble breathing and swallowing but could not confirm being strangled.
- Her eyeglasses were damaged during the assault.
- Hernandez fled the scene before officers arrived.

61. Plaintiff NICHOLAS HERNANDEZ alleges that the testimony was supported by Body-Worn Camera (BWC) footage from multiple officers, which documented the complainant's demeanor, injuries, and statements.

### **Summary of Sergeant Victor Torres' Testimony**

62. Plaintiff NICHOLAS HERNANDEZ alleges Sergeant Victor Torres of Brooklyn North Investigations was assigned to the case.

63. Plaintiff NICHOLAS HERNANDEZ alleges that Sergeant Torres testified that Queens North Investigations officers interviewed the complainant by phone on the same day of the incident. A recording and transcript of this interview were entered into evidence.

64. Plaintiff NICHOLAS HERNANDEZ alleges that during the interview, the complainant reiterated that:

- Hernandez suspected her of cheating, which led to an argument.
- While she was lying on the bed, Hernandez got on top of her and began hitting her with his fist, causing bruising and swelling to her face and neck.
- After Hernandez got off of her, she could call 911.
- Hernandez saw her making the call and immediately left the scene.

65. Plaintiff NICHOLAS HERNANDEZ alleges that Sergeant Torres did not conduct a follow-up interview with the complainant, stating that he believed he already had enough information and that re-interviewing her might cause further trauma.

66. Plaintiff NICHOLAS HERNANDEZ alleges that he failed to report the incident to the NYPD until approximately 6:02 AM, about three hours after it occurred.

67. Plaintiff NICHOLAS HERNANDEZ alleges that he was arrested in connection with the incident, but the criminal charges were later adjourned in contemplation of dismissal.

#### **Legal Defenses Designed to Prevent False Arrests and Other Constitutional Violations**

68. Plaintiff NICHOLAS HERNANDEZ alleges that under New York State Criminal Procedure § 140.10 (4)(c), ... when an officer has reasonable cause to believe that more than one family or household member has committed such a misdemeanor, the officer is not required to arrest each such person. In such circumstances, the officer shall attempt to identify and arrest the primary physical aggressor... The officer shall evaluate each complaint separately to determine who the primary physical aggressor is and shall not base the decision to arrest or not to arrest on the willingness of a person to testify or otherwise participate in a judicial proceeding.

69. Plaintiff NICHOLAS HERNANDEZ alleges that under New York State Penal Law § 35.10 (6), the use of physical force upon another person which would otherwise constitute an offense is justifiable and not criminal under any of the following circumstances: ... A person may, under the ensuing provisions of this article, use physical force upon another person in self-

defense or defense of a third person, or defense of premises, or to prevent theft of or criminal mischief to property, or to effect an arrest or prevent an escape from custody.

70. Plaintiff NICHOLAS HERNANDEZ alleges that under New York State Penal Law § 35.15 (1), a person may, subject to the provisions of subdivision two, use physical force upon another person when and to the extent he or she reasonably believes such to be necessary to defend himself, herself or a third person from what he or she reasonably believes to be the use or imminent use of unlawful physical force by such other person...

71. Plaintiff NICHOLAS HERNANDEZ alleges that under New York State Penal Law § 35.20 (2), a person in possession or control of any premises, or a person licensed or privileged to be thereon or therein, may use physical force upon another person when he or she reasonably believes such to be necessary to prevent or terminate what he or she reasonably believes to be the commission or attempted commission by such other person of a criminal trespass upon such premises. Such person may use any degree of physical force, other than deadly physical force, which he or she reasonably believes to be necessary for such purpose, and may use deadly physical force to prevent or terminate the commission or attempted commission of arson, as prescribed in subdivision one, or in the course of a burglary or attempted burglary, as prescribed in subdivision three.

**New York City Administrative Code § 8-107.1**  
**Victims of domestic violence, sex offenses or stalking**

72. Under §8-107.1, ... because [victims of domestic violence] are embarrassed or because they fear losing their jobs, [they] are often reticent about informing their employers about incidents of domestic violence or about requesting simple accommodations that might assist them in fulfilling their job duties. A growing body of anecdotal evidence suggests that the fear of negative employment actions such as demotion, suspension, loss of pay and/or benefits or

termination against employees who have revealed that they are victims of domestic violence is not unwarranted. For example, victims of domestic violence have been terminated or demoted after requesting simple protective measures such as time off or flexible hours to confer with an attorney or a domestic violence counselor, obtain an order of protection or obtain medical or other services for themselves or family members...

73. Plaintiff NICHOLAS HERNANDEZ alleges that Defendant THE CITY OF NEW YORK, through Defendant EDWARD A. CABAN, using ‘arbitrary standards’ failed to ensure its designees Defendant AMY J. LITWIN and NYPD Assistant Deputy Trial Commissioner Jeff S. Adler applied the legal defenses designed to prevent false arrests and other constitutional violations due to his gender [he couldn’t be a victim of domestic violence] and ‘lack’ of political affiliation with the administration.

**THE NYPD DISCIPLINARY AND REVIEW PROCESS**

74. Plaintiff NICHOLAS HERNANDEZ alleges that Defendant EDWARD A. CABAN, is the former Police Commissioner, Police Department City of New York, and while appointed, an authorized agent acting on behalf of Defendant THE CITY OF NEW YORK.

75. Plaintiff NICHOLAS HERNANDEZ alleges that Defendant THE CITY OF NEW YORK designates the Police Department City of New York [NYPD] as a mayoral agency to engage in law enforcement activities with the general public and to manage its employees, including handling disciplinary matters.

76. Defendant THE CITY OF NEW YORK, is a municipal corporation and public employer duly incorporated under the laws of the State of New York, with its principal place of business located within the County of New York.

77. Plaintiff NICHOLAS HERNANDEZ alleges that under § 14-115[a] of the New York City Administrative Code, the Commissioner “shall have power, in his or her discretion, on

conviction by the commissioner, or by any court or officer of competent jurisdiction, of a member of the force of any criminal offense, or neglect of duty, violation of rules, or neglect or disobedience of orders, or absence without leave, or any conduct injurious to the public peace or welfare, or immoral conduct or conduct unbecoming an officer, or any breach of discipline, to punish the offending party by reprimand, forfeiting and withholding pay for a specified time, suspension without pay during such suspension, or by dismissal from the force.” Moreover, while the Commissioner has delegated to other bodies the responsibility of reviewing, investigating, and prosecuting complaints and making disciplinary recommendations to h[er], [s]he has retained complete power and discretion to modify disciplinary decisions.

78. Plaintiff NICHOLAS HERNANDEZ alleges that Defendant THE CITY OF NEW YORK, through Defendant EDWARD A. CABAN, operated the Patrol Borough Brooklyn North Investigations Unit [PBBN IU], which is allegedly dedicated to preserving the integrity of the NYPD.

79. Plaintiff NICHOLAS HERNANDEZ alleges that Defendant THE CITY OF NEW YORK, through Defendants’ EDWARD A. CABAN and AMY J. LITWIN, operated the Department Advocates Office [DAO], which allegedly prosecutes civilian and uniformed members of the service accused of violating department policies.

80. Plaintiff NICHOLAS HERNANDEZ alleges that Defendant THE CITY OF NEW YORK, through Defendant EDWARD A. CABAN, operated the Office of the Deputy Commissioner of Trials [DCT], which allegedly ensures that department members are held to the highest standard of conduct and conduct fair and impartial disciplinary trials.

81. Plaintiff NICHOLAS HERNANDEZ alleges that on or about June 21, 2018, former Police Commissioner James P. O’Neill appointed an “Independent Panel” to conduct a

“review” of the internal disciplinary system of the NYPD or “Department” and to propose recommendations to improve it.

82. Plaintiff NICHOLAS HERNANDEZ alleges that according to the report summary, the “Panel” consisted of the Honorable Mary Jo White, its chair, the Honorable Robert L. Capers, and the Honorable Barbara S. Jones.

83. Plaintiff NICHOLAS HERNANDEZ alleges that according to the report summary, to carry out its mandate, the “Panel” allegedly surveyed “Department” policies and procedures governing how internal disciplinary cases are initiated, prosecuted, and resolved.

84. Plaintiff NICHOLAS HERNANDEZ alleges that on or about January 25, 2019, in the final report, the “Panel” included a section relating to allegations of systemic favoritism, bias, or significant inconsistencies.

85. Plaintiff NICHOLAS HERNANDEZ alleges that according to the “Panel,” “in any adjudicatory system, allegations of systemic favoritism, bias, or significant inconsistencies strike at the core of its legitimacy.”

86. Plaintiff NICHOLAS HERNANDEZ alleges that under at least the past four [4] administrations, police commissioners [Defendant EDWARD A. CABAN, Keechant L. Sewell, Dermot F. Shea and James P. O’Neill], abused their statutory authority by using ‘arbitrary standards’ to determine how disciplinary cases are initiated, prosecuted, and resolved including using gender and political affiliations as impermissible factors.

87. Plaintiff NICHOLAS HERNANDEZ alleges that Agency Attorney Samuel Yee alleged in Samuel Yee v. The City of New York, et al., filed on February 14, 2023, in the Supreme Court, New York County Index No.: 151387/2023, during Defendant AMY J. LITWIN’S tenure [Defendant EDWARD A. CABAN, Keechant L. Sewell, Dermot F. Shea and

James P. O'Neill], she engaged in discriminatory practices including intentionally removing lawyers of color off cases involving allegations of discrimination, domestic violence, and sex offenses.

88. Plaintiff NICHOLAS HERNANDEZ alleges that upon information and belief, during Defendant AMY J. LITWIN'S tenure [under Defendant EDWARD A. CABAN, Keechant L. Sewell, Dermot F. Shea and James P. O'Neill], the overwhelming majority of cases involving domestic violence were sustained against male police officers than similarly situated female police officers resulting in a disproportionate disparity in outcomes with male police officers receiving more substantial penalties including termination and the female police officers receiving fewer substantial penalties.

89. Plaintiff NICHOLAS HERNANDEZ alleges that upon information and belief, during Defendant AMY J. LITWIN'S tenure [under Defendant EDWARD A. CABAN, Keechant L. Sewell, Dermot F. Shea and James P. O'Neill], male police officers were less likely to have cases involving domestic violence dismissed than similarly situated female police officers.

90. Plaintiff NICHOLAS HERNANDEZ alleges that during Deputy Commissioner Trials – Rosemarie Maldonado's tenure [under Defendant EDWARD A. CABAN, Keechant L. Sewell, Dermot F. Shea and James P. O'Neill], she and her assistant deputy commissioners upon information and belief, the overwhelming majority of cases involving domestic violence are sustained against male police officers than similarly situated female police officers resulting in a disproportionate disparity in outcomes with male police officers receiving more substantial penalties including termination and the female police officers receiving fewer substantial penalties.

91. Plaintiff NICHOLAS HERNANDEZ alleges that during Deputy Commissioner Trials – Rosemarie Maldonado’s tenure [under Defendant EDWARD A. CABAN, Keechant L. Sewell, Dermot F. Shea and James P. O’Neill], she and her assistant deputy commissioners, upon information and belief, male police officers are less likely to have cases involving domestic violence dismissed than similarly situated female police officers.

92. Plaintiff NICHOLAS HERNANDEZ alleges that he raised several defenses related to the Criminal Procedure Law, Penal Law, and New York City Administrative Code during the department trial. Yet, Assistant Deputy Commissioner - Trials Jeff S. Adler declined to apply them.

93. Plaintiff NICHOLAS HERNANDEZ alleges that this is due to the blatant ‘arbitrary standards,’ gender, and political affiliation bias that’s openly practiced within the NYPD Disciplinary System.

**The NYPD Disciplinary Process Uses ‘Arbitrary Standards’ Supported With the Hypocritical ‘Conduct’ of the Police Commissioners’**

94. Plaintiff NICHOLAS HERNANDEZ alleges that for at least the past four [4] administrations under police commissioners [Defendant EDWARD A. CABAN and Keechant L. Sewell and Dermot F. Shea and James P. O’Neill], they knowingly violated NYPD Patrol Guide Procedure No.: 203-10, Page 1, Paragraph 2(c) PUBLIC CONTACT – PROHIBITED CONDUCT GENERAL REGULATIONS: “wrongfully and knowingly associated with a person, reasonably believed to be engaged in, likely to engage in or to have engaged in criminal activities.”

95. Plaintiff NICHOLAS HERNANDEZ alleges that Defendant EDWARD A. CABAN and its executive management knowingly associate[d] and in some instances still associate with Jimmy Rodriguez, aka Jamie Rodriguez, the former operator of Jimmy’s Bronx

Café associated with Con Sofrito, formerly located at 1315 Commerce Avenue Bronx, N.Y. 10461. The establishment was owned by the 1315 Restaurant Group Corp. DOS ID: 5690783, registered as a Domestic Business Corporation on January 16, 2020. The registered agent is Mr. Richard Caban, retired lieutenant and brother of Defendant EDWARD A. CABAN.

96. Plaintiff NICHOLAS HERNANDEZ alleges that Jimmy Rodriguez, aka Jamie Rodriguez, has a criminal history [acknowledged during interviews with several publications, including The New Yorker on November 9, 1997] with recurring allegations related to the sale of narcotics, prostitution, and other criminal conduct within the former Jimmy's Bronx Café and now Con Sofrito.<sup>1</sup>

97. Plaintiff NICHOLAS HERNANDEZ alleges that, as coined in the publication City and State, Con Sofrito was listed as one of the Top 50 Political Hangouts in New York. [There's a plethora of social media data to support numerous powerful democratic public officials patronizing the establishment].

98. Plaintiff NICHOLAS HERNANDEZ alleges that over the past four [4] years, supported by social media posts and other related data, literally hundreds of NYPD personnel patronized Con Sofrito but were not disciplined for violating NYPD Patrol Guide Procedure No.: 203-10, Page 1, Paragraph 2(c) PUBLIC CONTACT – PROHIBITED CONDUCT GENERAL REGULATIONS: “wrongfully and knowingly associated with a person, reasonably believed to be engaged in, likely to engage in or to have engaged in criminal activities.”

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<sup>1</sup> Moreover, there's some suggestion from a mob associate John Pennisi, Sitdownnews that he and Anthony Guzzo were considering a money and narcotic deal with Jimmy Rodriguez, former owner of Don Coqui, Jimmy's Bronx Café and Jimmy's Uptown who wanted to become a member of the Lucchese Crime family. They believe it was a setup in retaliation for an incident with a Genovese Crime family associate. <https://youtu.be/m9Yp342sPEo?si=DYwa8b5a6OMZJZMh>

99. Plaintiff NICHOLAS HERNANDEZ alleges that this is possible because the NYPD Disciplinary System uses ‘Arbitrary Standards’ and ‘lacks transparency’ over the past four [4] administrations under Defendant EDWARD A. CABAN, Keechant L. Sewell, Dermot F. Shea and James P. O’Neill and their hypocritical ‘conduct’ including its executive management, supports the proposition of systemic favoritism, bias, and significant inconsistencies how disciplinary cases are initiated, prosecuted, and resolved.



## Jimmy's ConSofrito

Oct 8, 2022 · 🌐

[Mobile uploads](#)

Police Commissioners Keechant L. Sewell, Edward A. Caban and former Chief of Department Kenneth E. Corey



## Jimmy's ConSofrito

Oct 8, 2022 · 

Police Commissioners Keechant L. Sewell and Edward A. Caban



**Jimmy's ConSofrito**  
Oct 8, 2022 · 🌐

Jimmy Rodriguez with former Chief of Department Kenneth E. Corey



Mayor Eric L. Adams, Speaker of the New York State Assembly  
Carl E. Heastie with Jimmy Rodriguez



Police Commissioner Edward A. Caban with brothers Richard Caban [owner of 1315 Restaurant Group Corp.] and former NYPD Sergeant James Caban [termination in January 2001]



Jimmy Rodriguez with Patrick J. Lynch, former president of the Police Benevolent Association of the City of New York



Richard Caban [owner of 1315 Restaurant Group Corp.], former Police Commissioner Dermot F. Shea with Jimmy Rodriguez



Jimmy Rodriguez with former Police Commissioner Dermot F. Shea



Police Commissioner Edward A. Caban with Patrick J. Lynch, former president of the Police Benevolent Association of the City of New York



Jimmy Rodriguez with Chief of Housing Martine N. Materasso and Patrick J. Lynch, former president of the Police Benevolent Association of the City of New York



Deputy Commissioner Community Affairs Mark T. Stewart,  
Inspector Victoria C. Perry with unidentified person



Former Chief of Training Juanita N. Holmes and Police Commissioner Edward A. Caban



Jimmy Rodriguez with Deputy Commissioner Equity and Inclusion  
Wendy Garcia [dark clothing with pink shoes]



Jimmy Rodriguez attending the swearing in ceremony of Police Commissioner Edward A. Caban

100. Plaintiff NICHOLAS HERNANDEZ alleges that upon information and belief, none of those mentioned above NYPD personnel or the hundreds of other NYPD personnel patronizing Con Sofrito were terminated for violating NYPD Patrol Guide Procedure No.: 203-10, Page 1, Paragraph 2(c) PUBLIC CONTACT – PROHIBITED CONDUCT GENERAL REGULATIONS: “wrongfully and knowingly associated with a person, reasonably believed to be engaged in, likely to engage in or to have engaged in criminal activities.”

**Defendants’ Own Reports Confirm Continuing Transparency  
Deficiencies in the NYPD Disciplinary System**

**The 2016–2017 NYPD Discipline Report**

101. Plaintiff NICHOLAS HERNANDEZ alleges that the New York City Police Department published an official report entitled “**Discipline in the NYPD 2016–2017,**” in which the Department described its disciplinary system, its stated objectives, and the manner in which disciplinary matters were investigated and resolved.

102. Plaintiff NICHOLAS HERNANDEZ alleges that, in the Introduction to that report, the Department represented that public trust is eroded each time a New York City police officer’s conduct fails to conform to Department values and standards, and further represented that when misconduct is substantiated, discipline is imposed to correct employee misconduct, maintain the orderly functioning of the Department, ensure compliance with high standards of conduct, and assure the public that the Department will hold employees accountable for misconduct.

103. Plaintiff NICHOLAS HERNANDEZ alleges that the same report affirmatively states that discipline “must be imposed fairly and with equity,” and defines “equity” to mean that unacceptable behavior for one employee is unacceptable for all employees, “regardless of rank, demographic, assignment or tenure.”

104. Plaintiff NICHOLAS HERNANDEZ alleges that, according to the report, the Department receives misconduct complaints from the public, from Department personnel, and from proactive internal investigations, and that such complaints may range from simple policy violations to serious allegations of unlawful or criminal conduct. The report further states that criminal allegations may result in both criminal prosecution and internal disciplinary proceedings.

105. Plaintiff NICHOLAS HERNANDEZ alleges that the report identifies the Internal Affairs Bureau as conducting comprehensive investigations of corruption and misconduct complaints, including criminal conduct, and also identifies the Equal Employment Opportunity Division within the Department's Office of Equity and Inclusion as the unit that investigates allegations of employment discrimination and harassment and provides training and advice on equality and fairness in the workplace.

106. Plaintiff NICHOLAS HERNANDEZ alleges that the report also recognizes that outside entities examine Department policies and procedures regarding misconduct and discipline, including the Commission to Combat Police Corruption and the Inspector General for the NYPD, thereby acknowledging that oversight of disciplinary integrity and accountability extends beyond the Department's own internal processes.

107. Plaintiff NICHOLAS HERNANDEZ alleges that the report states that in calendar year **2017** the NYPD closed discipline cases involving **480 officers**, and that those cases represented **1.3%** of the Department's staff during that year. The report further breaks out those cases by rank and staffing percentages.

108. Plaintiff NICHOLAS HERNANDEZ alleges that the report further states that, of the officers charged with disciplinary cases who pleaded guilty or were found guilty in 2017, the

majority involved **Department Rule Violations (223 officers)** and **Misconduct Involving Public Interaction (47 officers)**, and that **67%** of those officers had **no prior disciplinary history**.

109. Plaintiff NICHOLAS HERNANDEZ alleges that the report separately includes a category labeled “**Domestic Incident**,” showing **23 officers** in 2017 within that category, all of whom were listed as having pleaded or been found guilty, with penalties including dismissals, penalty days, and dismissal probation.

110. Plaintiff NICHOLAS HERNANDEZ alleges that the report’s own language is significant because the Department publicly represented that its disciplinary system operated fairly, equitably, and without distinction based on rank, demographic, assignment, or tenure, while also publishing only aggregate disciplinary outcomes rather than the kind of comparator-specific material necessary to test whether that stated principle was consistently honored in practice.

111. Plaintiff NICHOLAS HERNANDEZ alleges that the Department’s own 2016–2017 discipline report publicly proclaimed that discipline must be imposed fairly and with equity regardless of rank, demographic, assignment, or tenure, yet disclosed only aggregate disciplinary outcomes, thereby leaving unresolved whether that professed equity was actually borne out in practice and limiting meaningful scrutiny of whether similarly situated officers were treated differently on impermissible grounds.

### **The 2018 NYPD Discipline Report**

112. Plaintiff NICHOLAS HERNANDEZ alleges that in its official report, **Discipline in the NYPD 2018**, the Department again represented that discipline “must be imposed fairly and with equity,” and that unacceptable behavior is unacceptable for all employees “regardless of

rank, demographic, assignment or tenure.” The report further stated that each disciplinary matter is “unique,” requires a comprehensive analysis, and must be evaluated based upon the totality of the circumstances.

113. Plaintiff NICHOLAS HERNANDEZ alleges that the Department’s 2018 report also published aggregate statistical data concerning disciplinary outcomes, including that **303 officers** had disciplinary cases resolved in 2018, representing approximately **0.8%** of the Department’s staff. The report further segmented those cases down by rank, stating that **66.0%** involved police officers, **10.9%** detectives, **15.2%** sergeants, **6.6%** lieutenants, and **1.3%** captains and above.

114. Plaintiff NICHOLAS HERNANDEZ alleges that the same report further segmented disciplinary cases down by years of service, stating that **56.8%** of charged officers had between **six and fifteen years of service**, and further reported that **292 officers**, or **96%**, either pleaded guilty or were found guilty.

115. The report identified the leading categories of sustained or adjudicated misconduct as including **Department Rule Violations** and **DWI/Alcohol Related Infractions**, and further stated that **35%** of officers who pleaded guilty or were found guilty had **no prior disciplinary history**.

116. Plaintiff NICHOLAS HERNANDEZ alleges that the report also included a category labeled “**Domestic Incident**,” reflecting **23 cases** in that category, with **22** resulting in a guilty finding or plea, and penalties including forced separation, dismissal probation with penalty days, and penalty-day dispositions.

117. Plaintiff NICHOLAS HERNANDEZ alleges that, although the 2018 report publicly reaffirmed the Department’s stated commitment to fairness and equity and provided

broad statistical summaries regarding rank, years of service, charge categories, and penalty outcomes, it did not provide the comparator-specific transparency necessary to meaningfully test whether similarly situated officers were in fact treated alike in practice.

118. Plaintiff alleges that the Department's own 2018 reporting therefore left unresolved whether its professed principle of equitable discipline was actually being applied consistently and free from selective, retaliatory, or discriminatory enforcement.

#### **The 2019 NYPD Discipline Report**

119. Plaintiff NICHOLAS HERNANDEZ alleges that in its official report, **Discipline in the NYPD 2019**, the Department again represented that discipline "must be imposed fairly and with equity," and that unacceptable behavior is unacceptable for all employees "regardless of rank, demographic, assignment, or tenure." The report further stated that each disciplinary matter is unique, requires a comprehensive analysis, and must consider the totality of the circumstances.

120. Plaintiff NICHOLAS HERNANDEZ alleges that the Department's 2019 report also published aggregate statistical data concerning disciplinary outcomes, including that **339 UMOS** had disciplinary cases resolved in calendar year 2019, representing **0.9%** of the Department's staff. The report further segmented those cases down by rank, stating that **64.6%** involved police officers, **13.0%** detectives, **14.7%** sergeants, **6.2%** lieutenants, and **1.5%** captains and above.

121. Plaintiff NICHOLAS HERNANDEZ alleges that the same report further segmented disciplinary cases down by years of service, stating that **50.2%** of UMOS with disciplinary charges in 2019 had between **six and fifteen years of service**. The report additionally stated that, in 2019, there were **79 department trials**, of which **13 UMOS** pleaded

guilty and had a mitigation hearing, **49 UMOS** were found guilty of at least one charge after trial, and **17 UMOS** were found not guilty of all charges.

122. Plaintiff NICHOLAS HERNANDEZ alleges that the report further stated that **322**, or **95%**, of UMOS charged with a disciplinary case either pleaded guilty and entered into settlement agreements or were found guilty after trial. The report identified the leading categories of adjudicated or sustained misconduct as including **Department Rule Violations (187 UMOS)**, **DWI/Alcohol Related infractions (25 UMOS)**, **Force (18 UMOS)**, **Domestic Incident (17 UMOS)**, **Misconduct Involving Public Interaction (17 UMOS)**, **False Statements (20 UMOS)**, **Firearms (16 UMOS)**, **Unlawful/Criminal Conduct (18 UMOS)**, **Narcotics Related (2 UMOS)**, and **Sexual Misconduct (2 UMOS)**. The report further stated that **26%** of UMOS who pleaded guilty or were found guilty after trial had **no prior disciplinary history**.

123. Plaintiff NICHOLAS HERNANDEZ alleges that the report also included a category labeled “**Domestic Incident**,” reflecting **17 cases** in that category, with **17** resulting in a guilty finding or plea, and penalties including **1 dismissal**, **2 forced separations**, **8 dismissal-probation-and-penalty-day dispositions**, and **6 penalty-day dispositions**. The report further stated that, of the **322 UMOS** who pleaded guilty or were found guilty after trial, **3.1%** were dismissed, **5.3%** submitted for service or vested retirement, **29.2%** received dismissal probation with forfeited penalty days, and reprimand was not used in any disciplinary case closed in 2019.

124. Plaintiff NICHOLAS HERNANDEZ alleges that, although the 2019 report publicly reaffirmed the Department’s stated commitment to fairness and equity and provided broad statistical summaries regarding rank, years of service, charge categories, and penalty

outcomes, it did not provide the comparator-specific transparency necessary to meaningfully test whether similarly situated officers were in fact treated alike in practice.

125. Plaintiff NICHOLAS HERNANDEZ alleges that the Department's own 2019 reporting therefore left unresolved whether its professed principle of equitable discipline was actually being applied consistently and free from selective, retaliatory, or discriminatory enforcement.

### **The 2020 NYPD Discipline Report**

126. Plaintiff NICHOLAS HERNANDEZ alleges that in its official report, **2020 Discipline Report**, the Department represented that it was committed to a "fair, effective, timely, and transparent disciplinary process." The report further stated that discipline must be imposed fairly and with equity, and that unacceptable behavior for one employee is unacceptable for all, regardless of rank, demographic, assignment, or tenure.

127. Plaintiff NICHOLAS HERNANDEZ alleges that the same report also emphasized that each disciplinary matter is unique, requires a comprehensive analysis, and must consider the totality of the circumstances, including mitigating and aggravating factors, disciplinary history, and the number of charges in a case.

128. Plaintiff NICHOLAS HERNANDEZ alleges that the Department's 2020 report published aggregate statistical data concerning disciplinary outcomes, including that **619 cases** in which charges were preferred were disposed of with a penalty in 2020, of which **489 cases (79.0%)** involved uniformed members of the service and **130 cases (21.0%)** involved civilian members of the service. Plaintiff further alleges that the report stated that **49 members** were subject to forced separation from Department employment in 2020 as a result of disciplinary matters.

129. Plaintiff NICHOLAS HERNANDEZ alleges that the report further summarized the disciplinary process through aggregate measures, including the volume of cases, broad categories of penalties, and overall case outcomes, rather than through comparator-specific disclosures that would permit meaningful case-to-case analysis of whether similarly situated employees were treated consistently.

130. Plaintiff NICHOLAS HERNANDEZ alleges that, although the 2020 report publicly reaffirmed the Department's stated commitment to fairness, equity, and transparency, the report continued to present disciplinary information in broad statistical form and did not provide the degree of comparator-level transparency necessary to meaningfully test whether similarly situated officers were in fact treated alike in practice.

131. Plaintiff NICHOLAS HERNANDEZ alleges that the Department's own 2020 reporting therefore left unresolved whether its professed principle of equitable discipline was actually being applied consistently and free from selective, retaliatory, or discriminatory enforcement.

#### **The 2021 NYPD Discipline Report**

132. Plaintiff NICHOLAS HERNANDEZ alleges that in its official report, **2021 Discipline Report**, the Department represented that it was committed to a "fair, effective, timely, and transparent disciplinary process." The report further stated that discipline must be imposed fairly and with equity, and that unacceptable behavior for one employee is unacceptable for all, regardless of rank, demographic, assignment, or tenure.

133. Plaintiff NICHOLAS HERNANDEZ alleges that the same report emphasized that each disciplinary matter is unique, requires a comprehensive analysis, and must consider the

totality of the circumstances, including mitigating and aggravating factors, disciplinary history, and the number of charges in a case.

134. Plaintiff NICHOLAS HERNANDEZ alleges that the Department's 2021 report also published aggregate statistical data concerning disciplinary outcomes, including that in 2021 more than **13,300 penalty days** were forfeited by members of the service in disciplinary cases, that **72 members** were subject to forced separation from Department employment as a result of disciplinary matters, and that as of **December 31, 2021**, there were **984 active cases** with charges preferred against members of the service.

135. Plaintiff NICHOLAS HERNANDEZ alleges that the 2021 report also highlighted what the Department characterized as “transformative changes” in transparency and accountability, including the release of disciplinary guidelines, publication of deviation explanations, trial decisions, and other public-facing materials concerning disciplinary outcomes.

136. Plaintiff NICHOLAS HERNANDEZ alleges that, notwithstanding those claimed reforms, the 2021 report continued to present discipline information in broad aggregate form rather than through comparator-specific disclosures that would permit meaningful case-to-case testing of whether similarly situated employees were treated consistently.

137. Plaintiff NICHOLAS HERNANDEZ alleges that the Department's own 2021 reporting therefore continued to leave unresolved whether its professed commitment to fairness, equity, and transparency was being carried out consistently in practice and free from selective, retaliatory, or discriminatory enforcement.

### **The 2022 NYPD Discipline Report**

138. Plaintiff NICHOLAS HERNANDEZ alleges that in its official report, **Discipline in the NYPD 2022**, the Department continued to represent that it was committed to a “fair,

effective, timely, and transparent disciplinary process.” The report further stated that discipline must be imposed fairly and equitably, and that unacceptable behavior for one employee is unacceptable for all, regardless of rank, demographic, assignment, or tenure.

139. Plaintiff NICHOLAS HERNANDEZ alleges that the same report again emphasized that each disciplinary matter is “unique,” requires a comprehensive analysis, and must consider the totality of the circumstances, including mitigating and aggravating factors, disciplinary history, and the number of charges in a case.

140. Plaintiff NICHOLAS HERNANDEZ alleges that the Department’s 2022 report published aggregate statistical data concerning disciplinary outcomes, including those members of the service forfeited more than **13,272 penalty days** in 2022, that **84 members** were subjected to forced separation from Department employment as a result of disciplinary action, and that as of **December 31, 2022**, there were **1,097 active cases** with charges preferred against members of the service.

141. Plaintiff NICHOLAS HERNANDEZ alleges that the 2022 report further stated that the Department preferred **54.2%**, or **570**, of active cases with charges, while the CCRB preferred **45.8%**, or **482**, and that as of **December 31, 2022**, **806 uniformed members of the service**, representing **2.3%** of the uniformed workforce, had active charges and specifications.

142. Plaintiff NICHOLAS HERNANDEZ alleges that the 2022 report also described what the Department characterized as expanded transparency measures, including continued public use of the internal discipline matrix, publication of written deviation explanations, operation of the Officer Profile Portal, and public access to trial decisions.

143. Plaintiff NICHOLAS HERNANDEZ alleges that, notwithstanding those claimed transparency measures, the Department expressly admitted in the same 2022 report that its

formal discipline data are stored in a **case-management style database**, that the purpose of that database is to manage cases rather than to catalog and manipulate data, and that **lateral comparisons** are difficult because mitigating and aggravating factors, the number of charges per case, and disciplinary history make each case unique.

144. Plaintiff NICHOLAS HERNANDEZ alleges that the Department further stated that, as a result of those limitations, the 2022 report was confined to “broad data points” such as intake volume, active cases, case length, and separations, rather than the kind of comparator-specific data necessary to permit meaningful scrutiny of whether similarly situated members were treated consistently.

145. Plaintiff NICHOLAS HERNANDEZ alleges that the 2022 report also included demographic data concerning closed disciplinary cases involving charges preferred against uniformed members of the service, stating that **White officers comprised 43.6% of UMOS and 36.2% of closed cases, Black officers comprised 15.5% of UMOS and 19.9% of closed cases, Hispanic officers comprised 30.6% of UMOS and 33.0% of closed cases, and Asian-American/Pacific Islander officers comprised 10.2% of UMOS and 10.6% of closed cases.**

146. Plaintiff NICHOLAS HERNANDEZ alleges that the same report further included gender data for uniformed members of the service, stating that **male officers comprised 80.4% of UMOS but 84.3% of closed disciplinary cases, while female officers comprised 19.6% of UMOS and 15.7% of closed disciplinary cases.**

147. Plaintiff NICHOLAS HERNANDEZ alleges that the 2022 report also stated that **police officers comprised 71.0%** of uniformed members with charges preferred in closed cases, compared to **10.1%** for detectives, **11.4%** for sergeants, **5.1%** for lieutenants, and **2.4%** for captains and above.

148. Plaintiff NICHOLAS HERNANDEZ alleges that, although the 2022 report publicly reaffirmed the Department's stated commitment to fairness, equity, and transparency, and although it disclosed broad data regarding discipline volume, demographics, rank, and penalties, the Department simultaneously admitted that its own system was not structured for the cataloging and manipulation of data necessary for meaningful lateral comparison across cases.

149. Plaintiff NICHOLAS HERNANDEZ alleges that the Department's own 2022 reporting therefore continued to leave unresolved whether its professed principles of equitable and transparent discipline were being applied consistently in practice, and continued to limit meaningful scrutiny of whether similarly situated officers were treated differently in disciplinary matters.

#### **The 2023 NYPD Discipline Report**

150. Plaintiff NICHOLAS HERNANDEZ alleges that in its official report, **Discipline in the NYPD 2023**, the Department again represented that it "continues to be committed to a fair, effective, timely, and transparent disciplinary process." The report further stated that discipline must be imposed fairly and equitably, and that all employees are to be held accountable regardless of rank, demographic, assignment, or tenure.

151. Plaintiff NICHOLAS HERNANDEZ alleges that the same report again emphasized that each disciplinary matter is unique, requires a comprehensive analysis, and must consider the totality of the circumstances, including mitigating and aggravating factors, disciplinary history, and the number of charges in a case.

152. Plaintiff NICHOLAS HERNANDEZ alleges that the Department's 2023 report published aggregate statistical data concerning disciplinary activity, including that in 2023 there were **1,720 disciplinary cases** referred to the Department for investigation, that as of **December**

**31, 2023, 967 members of the service, or 2.9%**, had active investigations of serious misconduct, that members of the service forfeited **12,768 penalty days** due to disciplinary cases, and that **78 members** were subjected to forced separation from the Department as a result of disciplinary action.

153. Plaintiff NICHOLAS HERNANDEZ alleges that the 2023 report further stated that the Department and CCRB each contributed nearly half of all disciplinary intake in 2023, with **862 cases** initiated by the CCRB and **858 cases** initiated by the Department, and that as of **December 31, 2023**, there were **1,079 active cases** in which charges had been preferred.

154. Plaintiff NICHOLAS HERNANDEZ alleges that the 2023 report also included demographic data concerning closed disciplinary cases involving uniformed members of the service. The report stated that **White officers comprised 41.9% of UMOS and 33.5% of closed cases, Black officers comprised 15.9% of UMOS and 20.1% of closed cases, Hispanic officers comprised 31.5% of UMOS and 37.8% of closed cases, and Asian-American/Pacific Islander officers comprised 10.7% of UMOS and 8.6% of closed cases.**

155. Plaintiff NICHOLAS HERNANDEZ alleges that the same report further included gender data for uniformed members of the service, stating that **male officers comprised 79.7% of UMOS but 87.5% of closed disciplinary cases**, while **female officers comprised 20.2% of UMOS but only 12.5% of closed disciplinary cases.**

156. Plaintiff NICHOLAS HERNANDEZ alleges that the 2023 report also included rank data for uniformed members of the service, stating that **police officers comprised 64.7% of UMOS but 70.0% of closed disciplinary cases**, while **detectives comprised 15.3% of UMOS and 9.7% of closed disciplinary cases, sergeants comprised 12.8% of UMOS and 12.1% of closed disciplinary cases, lieutenants comprised 4.9% of UMOS and 6.0% of**

**closed disciplinary cases, and captains and above comprised 2.3% of UMOS and 2.2% of closed disciplinary cases.**

157. Plaintiff NICHOLAS HERNANDEZ alleges that the 2023 report also described what the Department characterized as transparency measures, including public release of the Discipline Matrix, use of written deviation explanations, operation of the Officer Profile Portal, and publication of trial decisions.

158. Plaintiff NICHOLAS HERNANDEZ alleges that, notwithstanding those claimed transparency measures, the Department expressly admitted in the same 2023 report that its formal discipline data are stored in a **case management database** intended to manage cases rather than to catalog and manipulate data, that the complexity of individual cases makes **lateral comparisons difficult**, and that the report is therefore limited to broad data points such as intake volume, active cases, case length, and separations.

159. Plaintiff NICHOLAS HERNANDEZ alleges that the 2023 report also acknowledged that when a Department employee is charged criminally with a violation of federal or state law, the Department also files internal disciplinary charges because criminal conduct is treated as a violation of Department policy, and further acknowledged that disciplinary matters involving parallel criminal prosecutions may proceed in tandem where the Department determines that doing so will not compromise the criminal case.

160. Plaintiff NICHOLAS HERNANDEZ alleges that, although the 2023 report publicly reaffirmed the Department's stated commitment to fairness, equity, and transparency, and although it disclosed broad data concerning discipline volume, demographics, rank, penalties, and case processing, the Department simultaneously admitted that its own system was

not structured for the cataloging and manipulation of data necessary for meaningful lateral comparison across cases.

161. Plaintiff NICHOLAS HERNANDEZ alleges that the Department's own 2023 reporting therefore continued to leave unresolved whether its professed principles of equitable and transparent discipline were being applied consistently in practice, and continued to limit meaningful scrutiny of whether similarly situated officers were treated differently in disciplinary matters.

**The Department's Own Reports Support Plaintiff's Claims of  
Continuing Transparency Failures**

162. Plaintiff NICHOLAS HERNANDEZ alleges that, taken together, the Department's own reports and review materials demonstrate a continuing pattern under Defendants THE CITY OF NEW YORK, EDWARD A. CABAN, and AMY J. LITWIN, and Keechant L. Sewell: the NYPD repeatedly proclaimed that its disciplinary system was fair, equitable, and transparent, while simultaneously maintaining a reporting structure that, by the Department's own description, was too limited to permit meaningful lateral comparison across materially similar cases.

163. Plaintiff NICHOLAS HERNANDEZ alleges that this continuing lack of comparator-specific transparency is not collateral or academic. It bears directly on plaintiff's ability to test whether the discipline imposed against him, the treatment of arrest-related information concerning him, the Department's handling of domestic-violence-related allegations, and the retaliatory actions alleged herein were consistent with the treatment of similarly situated members of the service or instead reflected selective discipline, unequal treatment, retaliation, or other unlawful bias.

164. Plaintiff NICHOLAS HERNANDEZ alleges that Defendants THE CITY OF NEW YORK, KEECHANT L. SEWELL, EDWARD A. CABAN, and AMY J. LITWIN maintained, implemented, enforced, ratified, and/or permitted the continuation of a disciplinary reporting and review structure that invoked the appearance of fairness, equity, and transparency while withholding the kind of reliable, comparator-level disclosure necessary for meaningful scrutiny of consistency in disciplinary decision-making, including deviations from stated standards and the treatment of similarly situated officers.

**The Unlawful Use of Sealed Records in the NYPD Disciplinary Process**

165. Plaintiff NICHOLAS HERNANDEZ repeats and realleges the preceding paragraphs as if fully set forth herein.

166. Plaintiff NICHOLAS HERNANDEZ alleges that New York law forbids the use of criminal matters terminated in favor of the accused and sealed under CPL §§ 160.50 and 160.60 as a basis for adverse treatment, except as otherwise permitted by law.

167. Plaintiff NICHOLAS HERNANDEZ alleges that, on April 29, 2019, in *R.C., A.G., J.J. v. The City of New York, et al.*, Index No. 153739/2018, the Supreme Court, New York County, through Defendant THE CITY OF NEW YORK and former Police Commissioner James P. O'Neill, Hon. Alexander M. Tisch, held that the sealing statutes do not permit the NYPD to use sealed records for investigatory purposes absent a lawful basis and rejected the Department's contrary interpretation of the law.

168. As later recognized by the same court, Justice Tisch had already ruled that sealed records could not be used for investigatory purposes, subject only to narrow exceptions and lawful unsealing procedures.

169. Plaintiff NICHOLAS HERNANDEZ alleges that Defendant THE CITY OF NEW YORK and the NYPD were on notice of that ruling no later than April 29, 2019, because the City was a defendant in *R.C.* and the ruling expressly addressed NYPD access to and use of sealed records.

170. Plaintiff NICHOLAS HERNANDEZ alleges that, notwithstanding Justice Tisch's ruling, the Department continued to maintain and use training and operational practices that permitted access to and use of sealed arrest information.

171. Plaintiff NICHOLAS HERNANDEZ alleges that, on September 27, 2021, in the same action, the Supreme Court, New York County, through Hon. Lyle E. Frank, granted plaintiffs' motion for a preliminary injunction and held that defendants' prior training regarding the sealing of records was "contrary to law."

172. Justice Frank further held that sealed records may not be used for investigatory purposes without a properly obtained unsealing order, except as provided in enumerated statutory exceptions and applicable case law.

173. Plaintiff NICHOLAS HERNANDEZ alleges that Justice Frank also found it "concerning" that, according to the defendants, more than **800 people** had access to sealed records within the NYPD, and held that the breadth of such access itself ran afoul of the sealing statutes.

174. Plaintiff NICHOLAS HERNANDEZ alleges that Justice Frank's September 27, 2021 Order expressly enjoined defendants from instructing NYPD personnel in a manner that violates the sealing statutes, required the Department to issue guidance stating that NYPD personnel may not access sealed arrest information without a court order, and directed the City to

submit a compliance plan concerning the cessation of the use of sealed records for investigatory purposes unless an unsealing order had been obtained or a recognized exception applied.

175. Plaintiff NICHOLAS HERNANDEZ alleges that Defendant THE CITY OF NEW YORK and the NYPD were on notice of Justice Frank's September 27, 2021 Decision and Order no later than September 27, 2021, when the Decision and Order was filed in *R.C.*, and certainly by the time defendants were required to comply with its injunctive directives.

176. Plaintiff NICHOLAS HERNANDEZ alleges that, despite these rulings and despite the injunctive relief entered against Defendant THE CITY OF NEW YORK and the NYPD, the Department under Defendants EDWARD A. CABAN, and AMY J. LITWIN, and Keechant L. Sewell continued to maintain, implement, enforce, ratify, and/or permit disciplinary practices in which sealed arrest information was used as part of charging decisions, prosecutorial decisions, adjudicative decisions, penalty determinations, and related adverse employment action.

177. Plaintiff NICHOLAS HERNANDEZ alleges that this continued use of sealed records was especially significant because the Department's own disciplinary materials acknowledge that criminal allegations and internal disciplinary charges may proceed in tandem, that the Department files internal charges when a member is charged with a crime because criminal conduct is treated as a violation of Department policy, and that such internal matters may proceed on a parallel track or remain pending while the criminal case is being resolved.

178. Plaintiff NICHOLAS HERNANDEZ alleges that, taken together, the April 29, 2019 ruling by Justice Tisch and the September 27, 2021 Decision and Order by Justice Frank placed Defendant THE CITY OF NEW YORK and the Department on actual notice that the use of sealed records for internal investigatory and disciplinary purposes was unlawful absent lawful

authorization, yet the Department under these defendants continued to use sealed records as part of its disciplinary charging, prosecution, and adjudication decisions.

179. Plaintiff NICHOLAS HERNANDEZ alleges that Defendants THE CITY OF NEW YORK, EDWARD A. CABAN, and AMY J. LITWIN and Keechant L. Sewell continued use of sealed records during the disciplinary process infected the fairness of that process, permitted adverse inferences and decisions to be shaped by arrest-related information that New York law required to be sealed, and supports plaintiff's claims that the adverse actions challenged herein were tainted by unlawful reliance on arrest-related information.

**Defendants' Control Over Prior Disciplinary Files, Comparator Outcomes, and Settlements**

180. Plaintiff NICHOLAS HERNANDEZ repeats and realleges the preceding paragraphs as if fully set forth herein.

181. Plaintiff NICHOLAS HERNANDEZ alleges that Defendants THE CITY OF NEW YORK, EDWARD A. CABAN, and AMY J. LITWIN, and Keechant L. Sewell through the Department's disciplinary infrastructure, maintain and have access to an extensive body of prior disciplinary matters, including charges, specifications, negotiated resolutions, penalty recommendations, trial decisions, deviation determinations, and settlement outcomes.

182. Plaintiff NICHOLAS HERNANDEZ alleges that this body of prior disciplinary information functions as a comparative library of disciplinary treatment, from which the Department may assess prior cases, invoke precedent, evaluate penalties, argue aggravation or mitigation, and position current cases against prior disciplinary outcomes.

183. Plaintiff NICHOLAS HERNANDEZ alleges that, notwithstanding defendants' access to that body of prior disciplinary information, plaintiff and other similarly situated officers, their counsel, and their representatives do not have ready, equal, or meaningful access to

the same full universe of prior disciplinary cases, settlements, and outcomes necessary to test whether disciplinary standards are being applied consistently.

184. Plaintiff NICHOLAS HERNANDEZ alleges that this asymmetry in access is material because Defendants THE CITY OF NEW YORK, EDWARD A. CABAN, and AMY J. LITWIN and Keechant L. Sewell may invoke prior cases, prior outcomes, prior settlements, and internal disciplinary practice as justification for charging decisions, prosecution strategy, trial positions, and penalty recommendations, while plaintiff and others are denied comparable visibility into the full set of matters needed to identify similarly situated comparators and challenge selective treatment.

185. Plaintiff NICHOLAS HERNANDEZ alleges that the Department's control over prior disciplinary files, comparator outcomes, and settlements contributes to the lack of meaningful transparency alleged herein and impairs plaintiff's ability to determine whether the discipline imposed against him was consistent with the treatment of similarly situated members of the service or instead reflected selective discipline, retaliation, unequal treatment, and/or other unlawful bias.

186. Plaintiff NICHOLAS HERNANDEZ alleges that this imbalance is especially significant in a disciplinary system that publicly proclaims fairness, equity, and transparency while preserving for Defendants THE CITY OF NEW YORK, EDWARD A. CABAN, and AMY J. LITWIN, and Keechant L. Sewell an internal comparative record that is not equally and readily accessible to the officers subjected to discipline.

**Table I: Master Comparator List (Disparate Treatment and Retention of Employees with Arrest Histories) - Pre-Trial<sup>2</sup>**

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<sup>2</sup> The longitudinal data set forth in **Table I** serves as a verified anchor proving that the NYPD operates an arbitrary disciplinary system that routinely retains members of service despite substantiated acts of moral turpitude, violence, and criminal convictions.

This table establishes the baseline for **Arrest History Discrimination** by documenting the retention of officers despite convictions or admissions of violent and dishonest acts.

Year	Name	Tax #	M / F	Offense(s)	Penalty	Fired
2008	Kaz R. Daughtry	940052	M	<b>Judicial Finding of False Testimony:</b> U.S. District Court found testimony regarding a defendant's status was <b>false</b> .	No Action Documented	<b>No</b>
2008	Kaz R. Daughtry	940052	M	<b>Computer Misuse:</b> Substantiated allegation of department rules and violations.	Schedule B Command Discipline	<b>No</b>
2009	Kaz R. Daughtry	940052	M	<b>Excessive Force/Abuse of Authority:</b> Pointed firearm at civilian and threatened: "I will fucking kill you"	Forfeiture of 10 Vacation Days	<b>No</b>
2012	Kaz R. Daughtry	940052	M	<b>Department Rule Violation:</b> Substantiated failure to request patrol	Forfeiture of 8 Vacation Days	<b>No</b>

This decade-long record demonstrates that the Department's purported "Zero-Tolerance" policies for offenses such as **Assault**, **Strangulation**, and **Endangering the Welfare of a Child**—as seen in the cases of Officers **Augustin**, **Sanchez**, **Nunez**, and **Korycki**—are selectively bypassed through the use of "unreviewable" dismissal probation.

Furthermore, the Department's practice of granting discretionary promotions to officers with criminal convictions, such as **Lieutenant Mullan** and **Detective Gries**, illustrates a systemic culture of nepotism that contradicts the assertion that such conduct poses an "unreasonable risk to the public". By maintaining a dual standard of justice that shields favored or well-connected officers like **Kaz R. Daughtry** from termination despite judicial findings of **False Testimony**, the Defendants have established an arbitrary threshold for "Integrity" that discriminates against individuals on the basis of their arrest history while weaponizing felony statutes against others.

Year	Name	Tax #	M / F	Offense(s)	Penalty	Fired
				supervisor for off-duty member incident.		
2013	Rohan L. Shaw	919965	M	<b>Insurance Fraud:</b> Pled guilty to "rate jumping," a version of insurance fraud.	Forfeiture of 25 Vacation Days	No
2015	Joseph M. Essig	956626	M	<b>Arrested:</b> Felony Criminal Sexual Misconduct; Pled to Health Code violation.	\$1,000 fine; Restored to full duty	No
2017	Marissa Sorocco	937119	F	<b>Arrested:</b> Arson (5th Degree) and Criminal Mischief (4th Degree).	30-Day Pay Forfeit; 1-Year Dismissal Probation.	No
2017	Mary Mullan	922843	F	<b>Arrested:</b> Drunk Driving (DWI) involving an accident.	23-Day Suspension; 20-Day Vacation Loss; <b>Promoted.</b>	No
2017	Jeffrey Augustin	944210	M	<b>Arrested:</b> Choking wife and threatening to kill her.	13-Day Suspension; 1-Year Dismissal Probation.	No
2018	Handoly Ramos	953297	M	Associated with criminals; Improper computer use; Misleading statements.	35-Day Vacation Loss; 1-Year Dismissal Probation.	No
2018	Edel D. Sanchez	935686	M	<b>Internal Finding of Choking:</b> Charged with Felony	26-Day Pay Forfeit; 30-Day Vacation	No

Year	Name	Tax #	M / F	Offense(s)	Penalty	Fired
				Strangulation and Assault.	Loss; 1-Year Probation.	
2018	Victor J. Cruz	957501	M	<b>Arrested:</b> Assault of girlfriend.	1-Year Dismissal Probation; Docked suspension days.	No
2018	Anthony Amirally	939872	M	<b>Internal Finding of Assault:</b> Arrested for choking his mother.	32-Day Suspension; 12-Month Dismissal Probation.	No
2018	Nalik O. Zeigler	951461	M	<b>Arrested:</b> DWI involving crashing into parked cars.	1-Year Dismissal Probation; Retained in Intelligence Bureau.	No
2019	Rohan L. Shaw	919965	M	<b>Fatal MVA:</b> Speeding (85 mph); .108 BAC; Refused all testing.	5 Department Charges mirroring arrest.	No
2019	Kaz R. Daughtry	940052	M	<b>Equipment Violation:</b> Failure to safeguard Body Worn Camera.	Schedule B Command Discipline.	No
2019	Philip H. Case	932140	M	<b>Pled Guilty:</b> Disorderly Conduct; Internal finding of Menacing (pulled gun in road rage).	1-Year Dismissal Probation; Docked vacation days.	No
2019	Chon Huang	960687	M	<b>Internal Finding of Assault:</b> Arrested for	30-Day Suspension;	No

Year	Name	Tax #	M / F	Offense(s)	Penalty	Fired
				punching an e-bike driver.	1-Year Dismissal Probation.	
2020	Oscar H. Nunez	935412	M	<b>Pled Guilty:</b> DWAI; Endangering Welfare of a Child; Unfit for Duty; Physical Altercation.	25-Day Vacation Loss; 1-Year Dismissal Probation.	No
2020	Rafal Korycki	952946	M	<b>Pled Guilty:</b> Endangering Welfare of a Child; Criminal Trespass; Criminal Mischief.	34-Day Vacation Loss; 1-Year Dismissal Probation.	No
2020	Chris Alvarado	933607	M	<b>Convicted:</b> Drunken off-duty incident; Fled scene; Impeded investigation.	Decision overturned by Commissioner; Remained on job.	No
2020	Nelson Reyes	953309	M	<b>Admitted:</b> Assaulted wife (smacked her in the chin).	35-Day Vacation Loss; 1-Year Dismissal Probation.	No
2020	Omar Salem	943768	M	<b>Guilty:</b> Physical altercation; Pushed and held wife down.	30-Day Pay Forfeit; 1-Year Dismissal Probation.	No
2021	Kaz R. Daughtry	940052	M	<b>Misleading Statements:</b> Pled guilty to misleading and inaccurate statements.	20-Day Vacation Loss.	No

Year	Name	Tax #	M / F	Offense(s)	Penalty	Fired
2021	Chris Valencia	963788	M	<b>Arrested:</b> Strangled, held prisoner, and bit girlfriend.	Offered ACD; Retained on Modified Duty.	No
2022	Aliea S. Persaud	951048	F	<b>Arrested/Pled:</b> Assault and Criminal Mischief (Domestic Dispute).	15-Day Vacation Loss; 1-Year Dismissal Probation.	No
2023	Willie Thompson	958120	M	Sexual relations with witness; Intimidating/threaten witness.	30-Day Vacation Loss; 1-Year Dismissal Probation.	No

**Table II: Official Misconduct & Coordinated Nonfeasance (The Shaw Case) - Pre-Trial<sup>3</sup>**

<sup>3</sup> The investigation into the December 8, 2019, fatal motor vehicle accident involving **Rohan L. Shaw [Tax #919965]** serves as a definitive anchor for the Department's arbitrary and capricious disciplinary standards, where a "Zero-Prosecution" threshold was established for the officers involved despite a civilian fatality.

Under the **Verified Anchor Rule** of *People v. Herlihy*, Duty Captain **Robert J. Dantone [946895]** and Lieutenant **Michael H. Solowitz [923197]** committed actionable **Official Misconduct** by failing to perform their "special duty" to suppress the intentional concealment of evidence by subordinates.

This coordinated nonfeasance included Sergeant **Christopher Muller [925795]** pointing his Body-Worn Camera (BWC) at the ceiling to avoid recording Shaw's intoxication and the collective failure of responders **Woodburn [947617]**, **Schwartz [961262]**, and **Grella [952810]** to activate BWCs at a fatal crime scene. Per *Sharp v. Erie R. Co.*, these officers were "liable to prosecution" for failing to arrest Shaw for a DUI committed in their presence, yet they received only negligible administrative penalties such as "2-day vacation loss" or "Letters of Instruction."

This disparate application of the law stands in direct contrast to the 2026 felony indictments of **Michael A. Caligiuri** and **Ryan P. McLoughlin** for similar BWC manipulation, proving that the Department weaponizes criminal statutes against some while granting immunity to others who facilitate a high-profile cover-up.

This table chronicles the specific timeline of the **Rohan L. Shaw [Tax #919965]** cover-up, where high-ranking officers and responders committed acts of **Official Misconduct** without criminal charge. This alignment demonstrates that while the 2026 felony comparators face indictment for evidence tampering, the officers involved in the 2019 fatal MVA investigation were granted administrative immunity or negligible penalties for the same category of **Official Misconduct**.

Year	Name	Tax No.	M/ F	Role	Misconduct (Dec 8, 2019 Fatal MVA)	Penalty
2020	Sean F. Kelleher	901759	M	Responder	Failed to activate BWC during transport of intoxicated officer.	None
2020	Terrence Creighton	921241	M	Cousin	Unauthorized crime scene entry; retrieved Shaw's Glock.	2-Day Vac. Loss
2020	Michael Solowitz	923197	M	Lieutenant	Failed to activate BWC; questioned intoxicated officer alone.	2-Day Vac. Loss
2020	Chris Muller	925795	M	Sergeant	Pointed BWC at ceiling to avoid recording; falsely reported fitness to DA.	2-Day Vac. Loss

Year	Name	Tax No.	M/ F	Role	Misconduct (Dec 8, 2019 Fatal MVA)	Penalty
2020	Robert J. Dantone	946895	M	Captain	Duty Captain; failed to suppress misconduct or discipline failures.	None
2020	Peter Woodburn	947617	M	Responder	First on scene; failed to record statements or activate BWC.	Instructi on
2020	Robert Grella	952810	M	Responder	Failure to activate BWC during a crime with a fatality.	Instructi on
2020	Mayer Schwartz	961262	M	Responder	Failure to activate BWC; failed to record evidence of intoxication.	Instructi on

### The Probation Period – Post-Trial

187. Plaintiff NICHOLAS HERNANDEZ alleges that on November 15, 2023, Defendant EDWARD A. CABAN adopted NYPD Assistant Deputy Commissioner Jeff S. Adler's findings, finding Plaintiff guilty and imposing a penalty of 30 days previously served on suspension without pay, forfeiture of 20 additional vacation days, mandatory counseling, and placement on one-year dismissal probation.

188. Plaintiff NICHOLAS HERNANDEZ alleges that on January 25, 2024, a video was posted on TikTok depicting his vehicle with a license plate covering.

189. Plaintiff NICHOLAS HERNANDEZ alleges that on January 29, 2024, Captain Joseph Mauccli, the commanding officer of Internal Affairs Bureau Group No. 31, issued an interoffice memorandum (UF49) to the Commanding Officer, 94th Precinct, regarding the TikTok video.

190. Plaintiff NICHOLAS HERNANDEZ alleges that the UF49 notified the Commanding Officer, 94th Precinct, that his vehicle appeared in the TikTok video displaying front and rear license plates containing what appeared to be Velcro strips in violation of VTL § 402.1(b). No disciplinary action was taken at that time.

191. Plaintiff NICHOLAS HERNANDEZ alleges that on April 17, 2025, despite being assured that no further action would be taken, he was summoned for a department interview regarding the alleged license plate violation from January 25, 2024.

192. Plaintiff NICHOLAS HERNANDEZ alleges that he is unaware of who initiated the reopening of the disciplinary matter regarding his vehicle license plate; however, as the final decision-maker, Defendant JESSICA S. TISCH had the authority to halt the proceedings but instead allowed the disciplinary investigation to move forward, despite prior assurances that no further action would be taken.

193. Plaintiff NICHOLAS HERNANDEZ alleges that shortly thereafter, members of the Internal Affairs Bureau modified his duty status to “no enforcement, no firearm” without due process, justification, or prior notice.

194. Plaintiff NICHOLAS HERNANDEZ alleges that on February 20, 2025, under direct threat of termination from Defendant JESSICA S. TISCH, he was coerced into applying for a Vested Interest Retirement Pension and immediately separated from service.

**Denying Plaintiff a Good Guy Letter, Police Identification Card, and Requesting  
Revocation of Plaintiff's POST Certification**

195. Plaintiff NICHOLAS HERNANDEZ alleges that after defendant JESSICA S. TISCH, acting as Police Commissioner of defendant THE CITY OF NEW YORK and the Police Department City of New York, forced plaintiff into vested-interest retirement under threat of termination, the City/NYPD defendants continued to impose adverse employment, credentialing, licensing, and professional consequences against him.

196. Plaintiff alleges that defendant THE CITY OF NEW YORK, acting through defendant JESSICA S. TISCH and other NYPD agents, denied plaintiff a "Good Guy Letter," retired police identification card, and/or other law-enforcement retirement credentials ordinarily associated with honorable or non-disqualifying separation from police service.

197. The significance of a Good Guy Letter is confirmed by *Perros v. County of Nassau*, No. 15-cv-5598 (GRB), Memorandum & Order Following Inquest on Damages (E.D.N.Y. Sept. 3, 2025). In *Perros*, former Nassau County corrections officers and a deputy sheriff challenged the withholding of Good Guy Letters after retirement. The court recognized that the recommendation form, formally titled "Recommendation for Consideration of Application for Pistol License for Retiring Peace/Police Officer," is commonly known in law-enforcement practice as a "Good Guy Letter." The court further recognized that denial of such a letter can have serious firearm-licensing, reputational, professional, and emotional consequences for retired law-enforcement personnel.

198. In *Perros*, the court explained that issuance of a Good Guy Letter was a retirement benefit upon which other benefits turned. Upon issuance of the recommendation, Nassau County could issue a retired law-enforcement pistol permit, allowing the retiree to carry a pistol. Without the recommendation, retirees could be prevented from retaining service pistols, required to surrender personally owned handguns, and issued credentials visually signaling that they were not authorized to carry a firearm.

199. The *Perros* court further recognized the dignitary and reputational harm caused by withholding such retirement credentials. The court credited testimony that denial of a Good Guy Letter functioned as an attack on the officer's moral character, professional service, and standing in the law-enforcement community. The court also recognized that the credentialing consequences could expose retired law-enforcement personnel to humiliation, stigma, and safety-related concerns.

200. Plaintiff alleges that the same credentialing logic applies here. The denial of plaintiff's Good Guy Letter and retired police identification card was not a minor administrative act. It impaired his ability to maintain firearm authorization, damaged his retired law-enforcement status, undermined his professional standing, and helped create the false appearance that he separated from the NYPD under disqualifying or dishonorable circumstances.

201. Plaintiff alleges that the denial of a Good Guy Letter and police identification card was not a neutral administrative consequence of his separation. It was a continuation of the same discriminatory and retaliatory chain that began with the October 27, 2022 domestic-incident accusation, the NYPD's gendered treatment of plaintiff as the presumptive aggressor, the use of his dismissed and sealed arrest history, the imposition of dismissal probation, and the

reopening of the Velcro/license-plate matter after that matter had already been addressed at the command level.

202. Plaintiff further alleges that defendant THE CITY OF NEW YORK, acting through defendant JESSICA S. TISCH and other NYPD agents, requested, caused, recommended, reported, or otherwise initiated the revocation or permanent invalidation of plaintiff's police officer basic training certification maintained by the New York State Division of Criminal Justice Services.

203. By letter dated May 21, 2025, the New York State Division of Criminal Justice Services advised plaintiff that his police officer basic training certification status had changed because of his recent removal from the NYPD on the Central State Registry of Police Officers and Peace Officers. The letter further stated that, on May 14, 2025, the NYPD reported plaintiff to DCJS as a removal for cause pursuant to 9 N.Y.C.R.R. § 6056.2(h)(2)(c), effective February 21, 2025.

204. The DCJS letter further stated that, effective October 16, 2021, pursuant to 9 N.Y.C.R.R. § 6056.4(f), a certificate awarded under General Municipal Law § 209-q(1)(b) may be permanently invalidated upon a police officer's removal for cause or removal during a probationary period. The letter advised plaintiff that, in accordance with General Municipal Law § 209-q(1)(b-1), his basic training certification had been permanently invalidated effective immediately and that he was ineligible for any future certification.

205. Plaintiff alleges that the NYPD's report to DCJS was false, misleading, discriminatory, retaliatory, and/or materially incomplete because plaintiff was not removed from the NYPD after a neutral disciplinary determination finding him unfit for future law-enforcement certification. Rather, plaintiff was forced to vest out under threat of termination after defendant

TISCH and the City/NYPD defendants reopened and relied upon a minor Velcro/license-plate matter that had already been addressed at the command level.

206. Plaintiff further alleges that the NYPD's report to DCJS improperly converted plaintiffs forced vested-interest retirement into a "removal for cause" and/or "removal during a probationary period" in a manner that foreseeably caused DCJS to permanently invalidate plaintiff's police officer basic training certification.

207. Plaintiff alleges that defendant THE CITY OF NEW YORK and defendant JESSICA S. TISCH knew, or should have known, that reporting plaintiff to DCJS as removed for cause or removed during probation would carry severe certification consequences. They further knew, or should have known, that those consequences would extend beyond plaintiff's NYPD employment and affect his ability to continue in law enforcement.

208. Plaintiff alleges that this action caused extraordinary professional harm. Permanent invalidation of plaintiff's basic training certification impaired or destroyed his ability to pursue future law-enforcement employment, including employment opportunities with the Suffolk County Police Department or other law-enforcement agencies. It also impaired plaintiff's professional reputation, employability, firearm eligibility, security-industry opportunities, and standing as a former police officer.

209. Plaintiff alleges that the denial of a Good Guy Letter, denial of a retired police identification card, and request or report leading to revocation of plaintiff's POST/basic training certification were separate adverse actions and/or continuing consequences of defendants' discriminatory and retaliatory conduct.

210. Plaintiff alleges that these actions constitute additional arrest-history discrimination because defendants relied, directly or indirectly, on the October 27, 2022

domestic-incident accusation, dismissed and sealed arrest history, and related non-conviction information to impose post-employment credentialing and certification disabilities.

211. Plaintiff alleges that these actions constitute additional gender discrimination because defendants continued to treat plaintiff as the presumptive aggressor in a domestic incident because he is male, refused to credit his defensive account and actual or perceived victim status, and imposed post-service consequences that flowed from that gendered disciplinary narrative.

212. Plaintiff alleges that these actions constitute additional discrimination based upon actual or perceived status as a victim of domestic violence because defendants refused to treat plaintiff's domestic-violence-victim claim as credible or protected, and instead used the domestic-incident allegation to strip him of law-enforcement credentials, firearm-related credentials, and future certification eligibility.

213. Plaintiff alleges that these actions also constitute retaliation because they occurred after plaintiff challenged the NYPD's discriminatory disciplinary process, asserted his defensive account, asserted actual or perceived domestic-violence-victim status, objected to the use of a dismissed and sealed arrest-related accusation, and pursued legal remedies against the City/NYPD defendants.

214. Plaintiff further alleges that these post-separation acts were intended to, and did, punish him for challenging defendants' disciplinary narrative, deter him from pursuing further legal remedies, impair his future employment, and preserve the City/NYPD defendants' characterization of him as unfit despite the dismissal and sealing of the underlying criminal matter.

215. Plaintiff alleges that, as a direct and proximate result of defendants THE CITY OF NEW YORK and JESSICA S. TISCH's denial of a Good Guy Letter, denial of a police identification card, and request or report leading to revocation or permanent invalidation of his POST/basic training certification, plaintiff suffered additional damages, including loss of law-enforcement credentials, loss of future certification eligibility, loss of firearm-related credentials, impairment of future law-enforcement employment opportunities, impairment of private-security employment opportunities, reputational harm, emotional distress, economic loss, and continuing professional injury.

#### **Denial of Pistol License — County of Nassau**

216. Plaintiff NICHOLAS HERNANDEZ alleges that the Nassau defendants imposed a separate adverse action when they denied his Nassau County concealed-carry pistol-license application based upon his dismissed and sealed arrest history, prior order-of-protection history, alleged domestic-violence history, alleged poor moral character, gender-based assumptions, and protected opposition to the NYPD disciplinary narrative.

217. On or about February 27, 2025, plaintiff completed Nassau County pistol-license paperwork, including the Pistol/Semi-Automatic Rifle License Applicant Questionnaire and related submissions. In those materials, plaintiff disclosed the October 27, 2022 arrest, identified the disposition as dismissed and sealed following an ACD, and acknowledged the prior order of protection and domestic-incident response.

218. On or about April 21, 2025, plaintiff's pistol-license application was sworn before Nassau County Police Department personnel and processed by the Pistol License Section. The application materials required plaintiff to disclose arrest information even if the case had been

dismissed, sealed, or nullified by operation of law, and warned that failure to report arrest details would result in disapproval of the application.

219. By Notice of Pistol License Application Denial dated May 22, 2025, the Nassau County Police Department Pistol License Section denied plaintiff's application. The denial identified three stated reasons: "Prior Arrest History," "Prior Order of Protection History," and "Display of Poor Moral Character."

220. On or about May 24, 2025, plaintiff appealed the adverse determination. In his written appeal, plaintiff advised Nassau County that the October 2022 arrest was his only arrest; that the criminal matter had been dismissed and sealed by the Nassau County Criminal Court; that the order of protection had been lifted before dismissal; and that he had lawfully possessed firearms from approximately 2019 until his forced separation from the NYPD in February 2025 without ever mishandling or acting irresponsibly with a firearm.

221. By internal correspondence dated August 20, 2025, defendant JOHANNA M. ESPOSITO, acting as Appeals Officer for the Nassau County Police Department, recommended that plaintiff's appeal be denied. Defendant ESPOSITO concluded that "substantial evidence" existed to uphold the Pistol License Section's denial based upon plaintiff's "prior arrest history, prior domestic violence history and display of poor moral character."

222. Defendant ESPOSITO's written recommendation did not merely evaluate firearm eligibility. It treated plaintiff's dismissed and sealed arrest and the October 2022 domestic-incident accusation as established misconduct, converted plaintiff's continued assertion of innocence, self-defense, and unfair treatment into evidence of alleged poor moral character, and criticized plaintiff for failing to accept Nassau County's preferred narrative of culpability.

223. Defendant ESPOSITO wrote that plaintiff's appeal materials "actually demonstrate in greater detail that he lacks the good judgment and measured temperament necessary to obtain a Concealed Carry Pistol License." She further criticized plaintiff because "at no time in his appeal did Appellant accept responsibility for any of his prior acts," because he allegedly failed to acknowledge his "heightened level of scrutiny and accountability," and because he allegedly "minimized the events altogether."

224. Defendant ESPOSITO further wrote that plaintiff dismissed his own conduct by "accusing others, namely two separate NYPD Police Commissioners, of corruption," and characterized those accusations as appearing to be rooted in "indignation over their refusal to sweep his wrongful conduct under the rug."

225. Plaintiff alleges that this language was not neutral licensing analysis. It was an adverse credibility and character judgment built around the premise that plaintiff was required to confess, accept blame, abandon his defensive account, and stop challenging the NYPD disciplinary process before Nassau County would treat him as morally fit.

226. Defendant ESPOSITO also treated plaintiff's protected legal advocacy as part of the pistol-license character analysis. In describing the appeal submission, she specifically referenced plaintiff's Internal Affairs history, his "perceived injustices at NYPD," and "a press release, authored by his attorney, relating to a federal discrimination lawsuit he filed against the NYPD."

227. Plaintiff alleges that defendant ESPOSITO had no legitimate basis to treat his attorney's press release, federal discrimination lawsuit, criticism of NYPD officials, or opposition to the NYPD disciplinary process as evidence of firearm unfitness. Those materials

were protected legal and public advocacy challenging alleged gender bias, arrest-history misuse, and retaliation.

228. Defendant ESPOSITO further stated that plaintiff's federal discrimination claims alleging disparate treatment of men by the NYPD in domestic-violence cases were annexed to the appeal package but "serve no purpose, or weight, in this pistol appeal." Plaintiff alleges that this statement is internally revealing because defendant ESPOSITO nevertheless referenced those claims, plaintiff's attorney-authored press release, and plaintiff's allegations against NYPD commissioners as part of the narrative supporting denial.

229. Defendant ESPOSITO also characterized plaintiff's explanation of the domestic incident as a "rather bland description," asserted that it raised concerns about his "overall truthfulness," and stated that plaintiff furnished "incomplete responses," omitted details that portrayed him "in negative light," and engaged in "self-serving omissions."

230. Plaintiff alleges that this reasoning re-adjudicated a dismissed and sealed arrest. Rather than evaluate whether plaintiff had a disqualifying conviction, pending criminal charge, firearm misuse, active order of protection, or present dangerousness, defendant ESPOSITO credited the accusation, rejected plaintiff's account, and used plaintiff's disagreement as proof of alleged poor moral character.

231. Defendant ESPOSITO's analysis of the Velcro/license-plate matter was similarly speculative and punitive. Although plaintiff explained that the matter had been addressed by his commanding officer with a verbal warning and closed without formal discipline, defendant ESPOSITO stated that plaintiff failed to acknowledge the "potential significance" of Velcro strips on license plates or his "own purpose for having them on his car." She further wrote that

Velcro strips are “often used as attachment points for plate covers intended to obscure plates from plate readers, red light and speed cameras and tolls.”

232. Plaintiff alleges that defendant ESPOSITO did not identify any finding that plaintiff used a plate cover, evaded tolls, obstructed camera enforcement, or falsified any firearm application information. Instead, she used a previously resolved vehicle-related matter to reinforce the conclusion that plaintiff lacked candor and moral character.

233. Defendant ESPOSITO also used plaintiff’s PBA representative’s advice against him. She described the PBA’s advice that plaintiff “vest out” as a “white-flag” stance, stated that it “stands out for its blunt surrender,” and suggested that it showed the evidence was “strongly against” plaintiff.

234. Plaintiff alleges that this was an improper and gratuitous inference. The PBA’s advice to preserve pension rights and future employment eligibility was not proof of firearm unfitness, moral deficiency, or domestic-violence culpability.

235. Defendant ESPOSITO further dismissed plaintiff’s evidence of public service and moral character in gratuitous terms. She wrote that plaintiff “unpersuasively” mentioned his Catholic upbringing and stated that while she “appreciates the reported kindness shown to animals,” plaintiff’s report of rescuing a kitten on the Brooklyn Queens Expressway did not mitigate what she characterized as prior physical violence and questionable license-plate conduct.

236. Plaintiff alleges that defendant ESPOSITO’s recommendation reflects arrest-history discrimination, gender discrimination, domestic-violence-victim-status discrimination, and retaliation. The recommendation relied on plaintiff’s dismissed and sealed arrest history, treated the domestic-incident accusation as established misconduct, adopted a gendered

presumption that plaintiff was the aggressor rather than a victim or defensive actor, and punished him for refusing to accept blame and for challenging the NYPD disciplinary narrative.

237. By Final Determination dated September 3, 2025, defendant PATRICK J. RYDER concurred with defendant ESPOSITO's recommendation, determined that plaintiff's application was properly denied, affirmed the denial, and dismissed the appeal.

238. Plaintiff alleges that defendant RYDER ratified defendant ESPOSITO's biased analysis, including her reliance upon plaintiff's dismissed and sealed arrest history, prior order-of-protection history, alleged domestic-violence history, alleged poor moral character, alleged failure to accept responsibility, attorney-authored press release, federal discrimination lawsuit, criticism of NYPD commissioners, PBA representative's advice, religious reference, and public-service evidence.

239. Plaintiff alleges that the Nassau defendants did not neutrally evaluate whether plaintiff could safely and lawfully possess a firearm. They demanded that plaintiff accept responsibility for a dismissed and sealed arrest, abandon his defensive account, and stop challenging the NYPD disciplinary narrative as discriminatory and retaliatory.

240. Plaintiff alleges that Nassau's mandatory arrest-disclosure process placed him in a discriminatory trap. If plaintiff disclosed the dismissed and sealed arrest, Nassau could use the arrest and related domestic-incident allegations against him. If plaintiff did not disclose it, Nassau could deny the application based upon omission or alleged lack of candor.

241. Plaintiff alleges that the denial of his Nassau County pistol-license application was not an isolated firearm-licensing decision. It was a separate adverse action and a continuation of the discriminatory chain that began with the NYPD's treatment of the October 2022 domestic-incident accusation.

242. Plaintiff alleges that the pistol-license denial constitutes arrest-history discrimination because the Nassau defendants relied upon, considered, or gave adverse weight to plaintiff's dismissed and sealed October 2022 arrest and related non-conviction information.

243. Plaintiff alleges that the pistol-license denial constitutes gender discrimination because the Nassau defendants adopted and applied a gendered domestic-violence stereotype that treated plaintiff as the presumptive aggressor because he is male.

244. Plaintiff alleges that the pistol-license denial constitutes discrimination based upon actual or perceived status as a victim of domestic violence because the Nassau defendants refused to credit plaintiff's assertion that he was also a victim or defensive actor and instead penalized him for asserting that protected status.

245. Plaintiff alleges that the pistol-license denial constitutes retaliation because it penalized plaintiff for challenging the NYPD's disciplinary process, asserting his defensive account, asserting actual or perceived domestic-violence-victim status, objecting to reliance on a dismissed and sealed arrest, and pursuing legal remedies.

246. Plaintiff alleges that, as a direct and proximate result of defendants THE COUNTY OF NASSAU, PATRICK J. RYDER, and JOHANNA M. ESPOSITO's conduct, plaintiff suffered additional damages, including loss of firearm authorization, impairment of law-enforcement and security employment opportunities, reputational harm, emotional distress, economic damages, and continuing professional injury.

### **Table III: Post-Termination Master Comparator List – Post Termination<sup>4</sup>**

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<sup>4</sup> The data contained in Table III is a critical evidentiary anchor because it exposes a continuing practice lacking transparency and a failure of the 2021 Disciplinary Matrix to ensure objective, uniform standards.

Specifically, the retention of Kimberly Lucas [958844] for substantiated false statements and Wojciech Bagan [948637] for Criminal Contempt—contrasted against the 2026 felony indictments

This table chronicles recent disciplinary outcomes and criminal arrests from 2024 through 2026 to establish a pattern of disparate treatment in the modern "Matrix" era.

Year	Name	Tax #	M/F	Offense(s)	Penalty	Terminated?
2024	Kimberly Lucas	958844	F	<b>Fraudulent COVID Cards:</b> Intentionally provided false statements during official interview.	85-Day Vacation Loss; 1-Year Dismissal Probation.	No
2024	Delare Rathour	952149	M	Reckless Endangerment (2nd); Criminal Contempt; Reckless Driving; Violation of Order of Protection.	30-Day Suspension; 1-Year Dismissal Probation.	No
2025	Wojciech Bagan	948637	M	<b>Criminal Contempt (2nd Degree):</b> Intentional disobedience of a Family Court Order of Protection.	Forfeit 30 suspension days; Counseling	No
2026	Michael A. Caligiuri	966975	M	<b>Felony Tampering;</b> Falsifying	Indicted	[Pending]

of Caligiuri [966975] and McLoughlin [975022]—illustrates an arbitrary threshold for prosecution that targets specific individuals while shielding others through 'unreviewable' dismissal probation.

Year	Name	Tax #	M/F	Offense(s)	Penalty	Terminated?
				Records; Official Misconduct related to evidence tampering.		
2026	Ryan P. McLoughlin	975022	M	<b>Felony Tampering;</b> Falsifying Records; Official Misconduct related to BWC	Indicted	[Pending]
2026	Caiden R. Martinez	968611	M	<b>Arrested:</b> Criminal Contempt (2nd Degree); Alleged possession of a "ghost gun".	Suspended Feb. 10; \$60K Cash Bail.	[Pending]

**VIOLATIONS AND CLAIMS ALLEGED**

**COUNT I  
ARREST HISTORY DISCRIMINATION  
IN VIOLATION OF  
NYS EXECUTIVE LAW § 296(16)  
(Against All Defendants)**

247. Plaintiff repeats, reiterates, and realleges each and every allegation set forth above as though fully set forth herein.

248. Plaintiff brings this claim against defendants THE CITY OF NEW YORK, JESSICA S. TISCH, EDWARD A. CABAN, AMY J. LITWIN, THE COUNTY OF NASSAU,

PATRICK J. RYDER, and JOHANNA M. ESPOSITO for arrest-history discrimination in violation of the New York State Human Rights Law, N.Y. Exec. Law § 296(16).

249. N.Y. Exec. Law § 296(16) prohibits, except where specifically required or permitted by statute, inquiry into, reliance upon, use, disclosure, or adverse treatment of a person based upon an arrest or criminal accusation that was terminated in that person's favor, sealed, or otherwise protected under New York law.

250. Plaintiff's October 27, 2022 arrest was adjourned in contemplation of dismissal, later dismissed, and sealed by the Nassau County Criminal Court.

251. Plaintiff alleges that the October 27, 2022 arrest was the only arrest he had ever sustained, and that the order of protection originally issued in connection with that matter was lifted before dismissal.

252. Plaintiff alleges that defendants treated his dismissed and sealed arrest, domestic-incident accusation, order-of-protection history, and related non-conviction information as continuing evidence of misconduct, poor moral character, unfitness, lack of judgment, and lack of temperament.

253. Plaintiff alleges that the City/NYPD defendants used, maintained, transmitted, relied upon, or took adverse action based upon plaintiff's dismissed and sealed arrest history and related non-conviction information in connection with the NYPD disciplinary process, dismissal probation, reopening of the Velcro/license-plate matter, forced vested-interest retirement, denial of retired law-enforcement credentials, denial of a Good Guy Letter, denial of a police identification card, and report to the New York State Division of Criminal Justice Services resulting in permanent invalidation of plaintiff's police officer basic training certification.

254. Plaintiff alleges that defendants THE CITY OF NEW YORK, EDWARD A.

CABAN, and AMY J. LITWIN caused, permitted, ratified, maintained, or failed to correct the discriminatory use of plaintiff's dismissed and sealed arrest history during the NYPD disciplinary process arising from the October 27, 2022 domestic incident.

255. Plaintiff alleges that defendant EDWARD A. CABAN adopted, approved, ratified, or imposed discipline based upon a disciplinary narrative that treated the dismissed and sealed arrest-related accusation as established misconduct and imposed dismissal probation, thereby converting the arrest-related accusation into a continuing employment disability.

256. Plaintiff alleges that defendant AMY J. LITWIN, directly and/or through the Department Advocate's Office, participated in, supervised, approved, ratified, maintained, or failed to correct the disciplinary prosecution of plaintiff in a manner that relied upon the dismissed and sealed arrest-related accusation and disregarded the legal effect of dismissal and sealing.

257. Plaintiff alleges that defendant JESSICA S. TISCH continued and ratified the discriminatory use of plaintiff's arrest history by permitting, approving, maintaining, or failing to correct post-disciplinary and post-separation consequences that flowed from the arrest-related disciplinary narrative, including the reopened Velcro/license-plate matter, denial of retired credentials, denial of a Good Guy Letter, denial of a police identification card, and DCJS-related certification consequences.

258. Plaintiff further alleges that the Nassau defendants independently violated N.Y. Exec. Law § 296(16) by relying upon plaintiff's dismissed and sealed October 27, 2022 arrest, order-of-protection history, domestic-incident accusation, and related non-conviction information in denying, affirming, recommending denial of, or ratifying the denial of plaintiff's Nassau County pistol-license application.

259. By Notice of Pistol License Application Denial dated May 22, 2025, the Nassau County Police Department Pistol License Section denied plaintiff's pistol-license application and expressly identified "Prior Arrest History," "Prior Order of Protection History," and "Display of Poor Moral Character" as reasons contributing to the denial.

260. By internal recommendation dated August 20, 2025, defendant JOHANNA M. ESPOSITO recommended that plaintiff's appeal be denied based upon plaintiff's "prior arrest history, prior domestic violence history and display of poor moral character."

261. Plaintiff alleges that defendant ESPOSITO's recommendation re-adjudicated the dismissed and sealed arrest-related accusation, treated it as established misconduct, and used plaintiff's refusal to accept Nassau County's preferred narrative of culpability as evidence of alleged poor moral character.

262. By Final Determination dated September 3, 2025, defendant PATRICK J. RYDER concurred with defendant ESPOSITO's recommendation, affirmed the denial of plaintiff's pistol-license application, and dismissed the appeal.

263. Plaintiff alleges that defendant RYDER thereby ratified the Nassau defendants' reliance upon plaintiff's dismissed and sealed arrest history, prior order-of-protection history, domestic-incident accusation, alleged poor moral character, and alleged failure to accept responsibility.

264. Plaintiff alleges that defendants THE COUNTY OF NASSAU, PATRICK J. RYDER, and JOHANNA M. ESPOSITO used mandatory arrest-disclosure procedures to force disclosure of protected arrest history and then used that disclosed protected information as a basis to deny plaintiff's pistol-license application.

265. Plaintiff alleges that defendants' use of plaintiff's dismissed and sealed arrest

history was not narrowly confined to any lawful inquiry permitted by statute and went beyond any permissible background review by treating protected non-conviction information as substantive proof of poor moral character, lack of judgment, lack of temperament, and unfitness.

266. Plaintiff alleges that defendants' conduct violated the policy and protections of CPL §§ 160.50 and 160.60, which are designed to prevent continuing stigma, disability, or adverse consequences from a criminal matter terminated in the accused's favor and sealed under New York law.

267. Plaintiff alleges that defendants' arrest-history discrimination caused him to suffer adverse employment, licensing, credentialing, certification, professional, reputational, economic, emotional, and firearm-authorization consequences.

268. Plaintiff alleges that the individual defendants directly participated in, aided, abetted, compelled, permitted, ratified, or failed to correct the discriminatory practices alleged herein, in violation of N.Y. Exec. Law § 296(6).

269. Plaintiff alleges that defendants' conduct was intentional, willful, malicious, reckless, and/or undertaken with deliberate indifference to plaintiff's rights under the New York State Human Rights Law.

270. By reason of defendants' unlawful conduct, plaintiff is entitled to all available legal and equitable relief, including compensatory damages, emotional-distress damages, economic damages, punitive damages against the individual defendants where legally available, pre-judgment and post-judgment interest, attorneys' fees, costs, and such other and further relief as this Court deems just and proper.

**COUNT II  
GENDER DISCRIMINATION  
IN VIOLATION OF  
NYS EXECUTIVE LAW § 296(1)  
(Against Defendants THE CITY OF NEW YORK, JESSICA S. TISCH,  
EDWARD A. CABAN, and AMY J. LITWIN)**

271. Plaintiff NICHOLAS HERNANDEZ repeats and realleges each and every allegation contained in the preceding paragraphs as if fully set forth herein.

272. New York State Executive Law § 296(1) makes it an unlawful discriminatory practice for an employer to discharge, refuse to hire, or otherwise discriminate against an individual in compensation or in the terms, conditions, or privileges of employment because of the individual's sex or gender.

273. At all relevant times, defendant THE CITY OF NEW YORK was plaintiff's employer within the meaning of the New York State Human Rights Law.

274. Plaintiff alleges that defendants JESSICA S. TISCH, EDWARD A. CABAN, and AMY J. LITWIN acted as agents, supervisors, policymakers, final decision-makers, and/or direct participants in the NYPD employment, disciplinary, credentialing, and separation actions challenged herein.

275. Plaintiff alleges that the City/NYPD defendants discriminated against him because he is male by treating him as the presumptive aggressor in the October 27, 2022 domestic incident, discounting his defensive account, and refusing to meaningfully credit his actual or perceived status as a victim of domestic violence.

276. Plaintiff alleges that the City/NYPD defendants applied a gender-based disciplinary presumption under which male officers accused in domestic-violence matters are treated as presumptive aggressors, while their claims of defensive conduct, victimization, or reciprocal violence are discounted, minimized, or treated as non-credible.

277. Plaintiff alleges that this gender-based presumption infected the investigation, charging process, disciplinary prosecution, penalty recommendation, penalty adoption, dismissal probation, reopened scrutiny, duty-status modification, denial of retired law-enforcement credentials, denial of a Good Guy Letter and police identification card, and forced vested-interest retirement.

278. Plaintiff alleges that defendant AMY J. LITWIN, directly and/or through the Department Advocate's Office, participated in, supervised, approved, ratified, maintained, or failed to correct a disciplinary prosecution that treated the October 2022 domestic-incident accusation as established male misconduct while disregarding plaintiff's defensive account and actual or perceived domestic-violence-victim status.

279. Plaintiff alleges that defendant EDWARD A. CABAN adopted, approved, ratified, or imposed discipline based upon that gendered disciplinary narrative, including dismissal probation, which exposed plaintiff to later heightened scrutiny and forced separation.

280. Plaintiff alleges that defendant JESSICA S. TISCH continued and ratified the discriminatory chain by permitting, approving, maintaining, or failing to correct post-disciplinary and post-separation consequences flowing from that gendered disciplinary narrative, including the reopened Velcro/license-plate matter, forced vested-interest retirement, denial of retired credentials, denial of a Good Guy Letter and police identification card, and DCJS-related certification consequences.

281. Plaintiff alleges that comparator evidence will show that similarly situated or more culpable female officers and favored officers received more favorable treatment, mitigation, retention, or less severe cumulative consequences, while plaintiff was subjected to

dismissal probation, renewed scrutiny, forced separation, credentialing consequences, and continuing professional disability.

282. Plaintiff alleges that defendants' discriminatory conduct altered the terms, conditions, and privileges of his employment and caused him to suffer loss of employment, loss of income and benefits, loss of law-enforcement credentials, impairment of future law-enforcement and private-security employment opportunities, reputational harm, emotional distress, and continuing professional injury.

283. Plaintiff alleges that defendants JESSICA S. TISCH, EDWARD A. CABAN, and AMY J. LITWIN directly participated in, aided, abetted, compelled, permitted, ratified, or failed to correct the discriminatory practices alleged herein, in violation of N.Y. Exec. Law § 296(6).

284. By reason of the foregoing, defendants THE CITY OF NEW YORK, JESSICA S. TISCH, EDWARD A. CABAN, and AMY J. LITWIN violated New York State Executive Law § 296(1), and plaintiff is entitled to all available legal and equitable relief.

**COUNT III  
RETALIATION  
IN VIOLATION OF  
NYS EXECUTIVE LAW § 296(7)  
(Against All Defendants)**

285. Plaintiff NICHOLAS HERNANDEZ repeats and realleges each and every allegation contained in the preceding paragraphs as if fully set forth herein.

286. New York State Executive Law § 296(7) makes it an unlawful discriminatory practice for any person to retaliate or discriminate against another person because that person opposed practices forbidden under the New York State Human Rights Law, filed or threatened to file a complaint, testified, assisted, participated in any manner in a proceeding, or otherwise engaged in protected activity.

287. Plaintiff engaged in protected activity by opposing arrest-history discrimination, gender discrimination, and discrimination based upon his actual or perceived status as a victim of domestic violence.

288. Plaintiff further engaged in protected activity by asserting his defensive account, asserting actual or perceived domestic-violence-victim status, challenging the gendered presumption that he was the aggressor because he is male, objecting to the use of his dismissed and sealed October 2022 arrest as a continuing employment and licensing disability, and pursuing legal remedies against the City/NYPD defendants.

289. Plaintiff also engaged in protected activity by commencing a prior federal discrimination action against defendants THE CITY OF NEW YORK, JESSICA S. TISCH, EDWARD A. CABAN, and AMY J. LITWIN, and by submitting Nassau County appeal materials challenging the NYPD's disciplinary process, dismissal probation, reopened Velcro/license-plate matter, forced vested-interest retirement, and reliance upon a dismissed and sealed arrest-related accusation.

290. The City/NYPD defendants knew of plaintiff's protected activity, including his defensive account, victim-status claim, objections to the NYPD disciplinary process, challenge to gender-based assumptions, and prior federal discrimination lawsuit.

291. The Nassau defendants knew of plaintiff's protected activity because plaintiff's Nassau pistol-license appeal materials referenced his allegations of NYPD discrimination, his federal discrimination lawsuit, his Internal Affairs history, and the attorney-authored press release challenging the NYPD's treatment of him.

292. After plaintiff engaged in protected activity, the City/NYPD defendants subjected him to adverse actions, including dismissal probation, heightened scrutiny, reopening of the

Velcro/license-plate matter after it had already been addressed at the command level, modification of duty status, threat of termination, forced vested-interest retirement, denial of retired law-enforcement credentials, denial of a Good Guy Letter, denial of a police identification card, and reporting or causing plaintiff to be reported to DCJS in a manner that resulted in permanent invalidation of his police officer basic training certification.

293. Plaintiff alleges that defendants EDWARD A. CABAN, AMY J. LITWIN, and JESSICA S. TISCH directly participated in, approved, ratified, maintained, or failed to correct retaliatory NYPD actions taken after plaintiff opposed the discriminatory disciplinary narrative and asserted protected rights.

294. Plaintiff alleges that defendant THE CITY OF NEW YORK is liable for the retaliatory acts, omissions, ratifications, and failures to correct committed by its policymakers, final decision-makers, supervisors, disciplinary officials, investigators, and agents.

295. The Nassau defendants also subjected plaintiff to retaliatory adverse action after he engaged in protected activity.

296. By Notice of Pistol License Application Denial dated May 22, 2025, the Nassau County Police Department Pistol License Section denied plaintiff's pistol-license application, citing "Prior Arrest History," "Prior Order of Protection History," and "Display of Poor Moral Character."

297. Defendant JOHANNA M. ESPOSITO thereafter issued an appeal recommendation dated August 20, 2025 recommending denial of plaintiff's appeal and expressly referenced plaintiff's protected opposition activity, including his alleged "perceived injustices at NYPD," his Internal Affairs history, and "a press release, authored by his attorney, relating to a federal discrimination lawsuit he filed against the NYPD."

298. Defendant ESPOSITO further relied upon plaintiff's federal discrimination claims, criticism of NYPD commissioners, and refusal to accept the government's preferred narrative as evidence that plaintiff lacked judgment, temperament, candor, and good moral character.

299. Plaintiff alleges that defendant ESPOSITO's recommendation constitutes direct and/or circumstantial evidence of retaliation because it treated plaintiff's protected opposition, federal discrimination lawsuit, attorney-authored press release, and challenge to the NYPD disciplinary narrative as negative character evidence.

300. By Final Determination dated September 3, 2025, defendant PATRICK J. RYDER concurred with defendant ESPOSITO's recommendation, affirmed the denial of plaintiff's pistol-license application, and dismissed the appeal.

301. Plaintiff alleges that defendant RYDER thereby ratified defendant ESPOSITO's retaliatory analysis and adopted the use of plaintiff's protected opposition, federal discrimination lawsuit, attorney-authored press release, and challenge to the NYPD disciplinary narrative as part of the basis for denying plaintiff's pistol-license application.

302. Plaintiff alleges that defendant THE COUNTY OF NASSAU is liable for the retaliatory acts, omissions, ratifications, and failures to correct committed by its police commissioner, appeals officer, Pistol License Section, licensing officials, supervisors, policymakers, and agents.

303. Plaintiff alleges that the temporal sequence and defendants' express references to his protected activity support an inference of retaliation.

304. Plaintiff alleges that defendants' retaliatory actions were reasonably likely to deter a person from opposing discrimination, asserting domestic-violence-victim status, challenging

use of dismissed and sealed arrest information, filing a discrimination action, submitting appeal materials, or pursuing legal remedies.

305. Plaintiff alleges that defendants' retaliation caused adverse employment, licensing, credentialing, certification, professional, reputational, emotional, economic, and firearm-authorization consequences.

306. Plaintiff alleges that the individual defendants directly participated in, aided, abetted, compelled, permitted, ratified, or failed to correct the retaliatory practices alleged herein, in violation of N.Y. Exec. Law § 296(6).

307. By reason of the foregoing, defendants violated New York State Executive Law § 296(7), and plaintiff is entitled to all available legal and equitable relief.

**COUNT IV**  
**ARREST HISTORY DISCRIMINATION**  
**IN VIOLATION OF**  
**NYC ADMIN. CODE § 8-107**  
**(Against Defendants THE CITY OF NEW YORK, JESSICA S. TISCH,**  
**EDWARD A. CABAN, and AMY J. LITWIN)**

308. Plaintiff NICHOLAS HERNANDEZ repeats and realleges each and every allegation contained in the preceding paragraphs as if fully set forth herein.

309. The New York City Human Rights Law prohibits discrimination in employment and related employment practices based upon protected arrest-history information and must be construed independently and liberally to accomplish its broad remedial purposes.

310. N.Y.C. Admin. Code § 8-107(11)(a) incorporates the protections of N.Y. Exec. Law § 296(16), including protections against adverse treatment based upon arrests and criminal accusations that were terminated in favor of the accused and sealed under New York law.

311. At all relevant times, defendant THE CITY OF NEW YORK was plaintiff's employer through the Police Department City of New York.

312. At all relevant times, defendants JESSICA S. TISCH, EDWARD A. CABAN, and AMY J. LITWIN acted as agents, supervisory officials, policymakers, final decision-makers, and/or direct participants in the NYPD disciplinary, employment-status, credentialing, and separation actions challenged herein.

313. Plaintiff's October 27, 2022 arrest was adjourned in contemplation of dismissal, later dismissed, and sealed by the Nassau County Criminal Court.

314. Plaintiff alleges that, despite the dismissal and sealing of the criminal matter, the City/NYPD defendants treated the October 27, 2022 arrest, domestic-incident accusation, order-of-protection history, and related non-conviction information as continuing evidence of misconduct, unfitness, poor judgment, lack of temperament, and professional disqualification.

315. Plaintiff alleges that the City/NYPD defendants used plaintiff's dismissed and sealed arrest history and related non-conviction information in connection with his disciplinary prosecution, penalty determination, dismissal probation, heightened post-probation scrutiny, forced vested-interest retirement, denial of retired law-enforcement credentials, denial of a Good Guy Letter, denial of a police identification card, and report to the New York State Division of Criminal Justice Services resulting in permanent invalidation of plaintiff's police officer basic training certification.

316. Plaintiff alleges that defendant AMY J. LITWIN, directly and/or through the Department Advocate's Office, participated in, supervised, approved, ratified, maintained, or failed to correct the disciplinary prosecution of plaintiff in a manner that relied upon the October 27, 2022 arrest-related accusation and disregarded the legal consequences of dismissal and sealing.

317. Plaintiff alleges that defendant EDWARD A. CABAN adopted, approved, ratified, or imposed discipline against plaintiff based upon a disciplinary narrative that treated the dismissed and sealed arrest-related accusation as established misconduct and imposed dismissal probation upon plaintiff.

318. Plaintiff alleges that defendant JESSICA S. TISCH continued and ratified the arrest-history discrimination by permitting, approving, maintaining, or failing to correct post-disciplinary and post-separation consequences flowing from the dismissed and sealed arrest-related disciplinary narrative, including the reopened Velcro/license-plate matter, denial of retired credentials, denial of a Good Guy Letter, denial of a police identification card, and DCJS-related certification consequences.

319. Plaintiff alleges that these acts were employment-related and post-employment adverse actions flowing from the City/NYPD defendants continued use of plaintiff's dismissed and sealed arrest history and related non-conviction information.

320. Plaintiff alleges that the City/NYPD defendants treated plaintiff less well and imposed materially adverse employment and post-employment consequences upon him because of protected arrest-history information.

321. Plaintiff alleges that *Holloway v. City of New York*, 2024 NY Slip Op 50812(U) (Sup. Ct., N.Y. County June 27, 2024), supports this claim because the court denied dismissal of NYSHRL and NYCHRL arrest-history discrimination claims where an NYPD officer alleged that the City used dismissed and sealed criminal charges to terminate his employment, rejected dismissal based on the City's "underlying conduct" argument at the pleading stage, and declined to require Article 78 treatment where the plaintiff pursued a plenary discrimination action.

322. Plaintiff alleges that the same reasoning applies here because the City/NYPD defendants-imposed employment and post-employment consequences after plaintiff's criminal matter had been dismissed and sealed.

323. Plaintiff alleges that defendants' conduct violated and/or was undertaken in derogation of CPL §§ 160.50 and 160.60, which are designed to prevent continuing stigma and adverse consequences from a criminal matter terminated in favor of the accused and sealed under New York law.

324. Plaintiff alleges that defendants' conduct caused him to suffer loss of employment, loss of income and benefits, denial of retired law-enforcement credentials, denial of a Good Guy Letter, denial of a police identification card, loss or impairment of firearm-related credentials, permanent invalidation of his police officer basic training certification, impairment of future law-enforcement employment opportunities, impairment of private-security employment opportunities, reputational harm, emotional distress, and economic loss.

325. Plaintiff alleges that defendants JESSICA S. TISCH, EDWARD A. CABAN, and AMY J. LITWIN directly participated in, aided, abetted, compelled, permitted, ratified, or failed to correct the discriminatory acts alleged herein, in violation of N.Y.C. Admin. Code § 8-107(6).

326. By reason of the foregoing, defendants THE CITY OF NEW YORK, JESSICA S. TISCH, EDWARD A. CABAN, and AMY J. LITWIN violated the New York City Human Rights Law, and plaintiff is entitled to all available legal and equitable relief.

**COUNT V**  
**GENDER DISCRIMINATION & STATUS AS A VICTIM OF DOMESTIC VIOLENCE**  
**IN VIOLATION OF**  
**NYC ADMIN. CODE §§ 8-107 AND 8-107.1**  
**(Against Defendants THE CITY OF NEW YORK, JESSICA S. TISCH,**  
**EDWARD A. CABAN, and AMY J. LITWIN)**

327. Plaintiff NICHOLAS HERNANDEZ repeats and realleges each and every allegation contained in the preceding paragraphs as if fully set forth herein.

328. The New York City Human Rights Law makes it an unlawful discriminatory practice for an employer, or an employee or agent thereof, to discriminate against an employee in the terms, conditions, or privileges of employment because of the employee's actual or perceived gender.

329. The New York City Human Rights Law also protects employees who are actual or perceived victims of domestic violence, sex offenses, or stalking, including by requiring reasonable accommodations where applicable and prohibiting adverse treatment based upon such protected status.

330. At all relevant times, defendant THE CITY OF NEW YORK was plaintiff's employer through the Police Department City of New York.

331. At all relevant times, defendants JESSICA S. TISCH, EDWARD A. CABAN, and AMY J. LITWIN acted as agents, supervisors, policymakers, final decision-makers, and/or direct participants in the NYPD employment, disciplinary, credentialing, and separation actions challenged herein.

332. Plaintiff alleges that the City/NYPD defendants discriminated against him because he is male by treating him as the presumptive aggressor in the October 27, 2022 domestic incident, refusing to meaningfully credit his defensive account, and refusing to meaningfully credit his actual or perceived status as a victim of domestic violence.

333. Plaintiff alleges that the City/NYPD defendants applied a gendered domestic-violence framework under which male officers involved in domestic incidents are treated as presumptive aggressors, while their claims of defensive conduct, victimization, or reciprocal

violence are discounted, minimized, or treated as non-credible.

334. Plaintiff alleges that this gender-based and domestic-violence-victim-status discrimination infected the NYPD investigation, disciplinary prosecution, evidentiary assessment, penalty recommendation, penalty adoption, dismissal probation, later reopened scrutiny, forced vested-interest retirement, and post-separation credentialing consequences.

335. Plaintiff alleges that defendant AMY J. LITWIN, directly and/or through the Department Advocate's Office, participated in, supervised, approved, ratified, maintained, or failed to correct a disciplinary prosecution that treated plaintiff as the presumptive aggressor because he is male and disregarded his actual or perceived status as a victim of domestic violence.

336. Plaintiff alleges that defendant EDWARD A. CABAN adopted, approved, ratified, or imposed discipline based upon that gendered disciplinary narrative, including dismissal probation, which exposed plaintiff to later heightened scrutiny and forced separation.

337. Plaintiff alleges that defendant JESSICA S. TISCH continued and ratified the discriminatory chain by permitting, approving, maintaining, or failing to correct post-disciplinary and post-separation consequences flowing from that gendered narrative, including the reopened Velcro/license-plate matter, forced vested-interest retirement, denial of retired credentials, denial of a Good Guy Letter and police identification card, and DCJS-related certification consequences.

338. Plaintiff alleges that comparator evidence will show that similarly situated or more culpable officers, including female officers and favored officers, received more favorable treatment, mitigation, retention, or less severe cumulative consequences, while plaintiff was subjected to dismissal probation, reopened scrutiny, forced retirement, credentialing denial, and

continuing professional disability.

339. Plaintiff alleges that the City/NYPD defendants treated him less well because of his gender and actual or perceived status as a victim of domestic violence.

340. Plaintiff alleges that defendants' discriminatory conduct altered the terms, conditions, and privileges of his employment and post-employment status and caused economic damages, loss of employment, loss of law-enforcement credentials, impairment of future law-enforcement and private-security opportunities, reputational harm, emotional distress, and continuing professional injury.

341. Plaintiff alleges that defendants JESSICA S. TISCH, EDWARD A. CABAN, and AMY J. LITWIN directly participated in, aided, abetted, compelled, permitted, ratified, or failed to correct the discriminatory acts alleged herein, in violation of N.Y.C. Admin. Code § 8-107(6).

342. By reason of the foregoing, defendants THE CITY OF NEW YORK, JESSICA S. TISCH, EDWARD A. CABAN, and AMY J. LITWIN violated the New York City Human Rights Law, N.Y.C. Admin. Code §§ 8-107(1)(a), 8-107(6), and 8-107(27), and plaintiff is entitled to all available legal and equitable relief.

**COUNT VI  
RETALIATION  
IN VIOLATION OF  
NYC ADMIN. CODE § 8-107(7)  
(Against All Defendants)**

343. Plaintiff NICHOLAS HERNANDEZ repeats and realleges each and every allegation contained in the preceding paragraphs as if fully set forth herein.

344. New York State Executive Law § 296(7) makes it an unlawful discriminatory practice for any person to retaliate or discriminate against another person because that person

opposed practices forbidden under the New York State Human Rights Law, filed or threatened to file a complaint, testified, assisted, participated in any manner in a proceeding, or otherwise engaged in protected activity.

345. Plaintiff engaged in protected activity by opposing arrest-history discrimination, gender discrimination, and discrimination based upon his actual or perceived status as a victim of domestic violence.

346. Plaintiff further engaged in protected activity by asserting his defensive account, asserting actual or perceived domestic-violence-victim status, challenging the gendered presumption that he was the aggressor because he is male, objecting to the use of his dismissed and sealed October 2022 arrest as a continuing employment and licensing disability, commencing a prior federal discrimination action, and submitting Nassau County appeal materials challenging the NYPD's disciplinary and post-disciplinary actions.

347. The City/NYPD defendants knew of plaintiff's protected activity, including his defensive account, victim-status claim, objections to the NYPD disciplinary process, challenge to gender-based assumptions, and prior federal discrimination lawsuit.

348. The Nassau defendants knew of plaintiff's protected activity because plaintiff's Nassau County pistol-license appeal materials referenced his allegations of NYPD discrimination, his federal discrimination lawsuit, his Internal Affairs history, and the attorney-authored press release challenging the NYPD's treatment of him.

349. After plaintiff engaged in protected activity, the City/NYPD defendants subjected him to adverse actions, including dismissal probation, heightened scrutiny, reopening of the Velcro/license-plate matter after it had already been addressed at the command level, modification of duty status, threat of termination, forced vested-interest retirement, denial of

retired law-enforcement credentials, denial of a Good Guy Letter, denial of a police identification card, and reporting or causing plaintiff to be reported to DCJS in a manner that resulted in permanent invalidation of his police officer basic training certification.

350. Plaintiff alleges that defendants EDWARD A. CABAN, AMY J. LITWIN, and JESSICA S. TISCH directly participated in, approved, ratified, maintained, or failed to correct retaliatory NYPD actions taken after plaintiff opposed the discriminatory disciplinary narrative and asserted protected rights.

351. Plaintiff alleges that defendant THE CITY OF NEW YORK is liable for the retaliatory acts, omissions, ratifications, and failures to correct committed by its policymakers, final decision-makers, supervisors, disciplinary officials, investigators, and agents.

352. The Nassau defendants also subjected plaintiff to retaliatory adverse action after he engaged in protected activity.

353. Defendant JOHANNA M. ESPOSITO issued an appeal recommendation dated August 20, 2025 recommending denial of plaintiff's Nassau County pistol-license appeal and expressly referenced plaintiff's protected opposition activity, including his alleged "perceived injustices at NYPD," his Internal Affairs history, and "a press release, authored by his attorney, relating to a federal discrimination lawsuit he filed against the NYPD."

354. Defendant ESPOSITO further relied upon plaintiff's federal discrimination claims, criticism of NYPD commissioners, and refusal to accept the government's preferred narrative as evidence that plaintiff lacked judgment, temperament, candor, and good moral character.

355. Plaintiff alleges that defendant ESPOSITO's recommendation constitutes direct and/or circumstantial evidence of retaliation because it treated plaintiff's protected opposition,

federal discrimination lawsuit, attorney-authored press release, and challenge to the NYPD disciplinary narrative as negative character evidence.

356. By Final Determination dated September 3, 2025, defendant PATRICK J. RYDER concurred with defendant ESPOSITO's recommendation, affirmed the denial of plaintiff's pistol-license application, and dismissed the appeal.

357. Plaintiff alleges that defendant RYDER thereby ratified defendant ESPOSITO's retaliatory analysis and adopted the use of plaintiff's protected opposition, federal discrimination lawsuit, attorney-authored press release, and challenge to the NYPD disciplinary narrative as part of the basis for denying plaintiff's pistol-license application.

358. Plaintiff alleges that defendant THE COUNTY OF NASSAU is liable for the retaliatory acts, omissions, ratifications, and failures to correct committed by its police commissioner, appeals officer, Pistol License Section, licensing officials, supervisors, policymakers, and agents.

359. Plaintiff alleges that the temporal sequence and defendants' express references to his protected activity support an inference of retaliation.

360. Plaintiff alleges that defendants' retaliatory actions were reasonably likely to deter a person from opposing discrimination, asserting domestic-violence-victim status, challenging use of dismissed and sealed arrest information, filing a discrimination action, submitting appeal materials, or pursuing legal remedies.

361. Plaintiff alleges that defendants' retaliation caused adverse employment, licensing, credentialing, certification, professional, reputational, emotional, economic, and firearm-authorization consequences.

362. Plaintiff alleges that the individual defendants directly participated in, aided, abetted, compelled, permitted, ratified, or failed to correct the retaliatory practices alleged herein, in violation of N.Y. Exec. Law § 296(6).

363. By reason of the foregoing, defendants violated New York State Executive Law § 296(7), and plaintiff is entitled to all available legal and equitable relief.

### **JURY TRIAL**

364. Plaintiff NICHOLAS HERNANDEZ demands a trial by jury of all issues in this action that are so triable.

### **PRAYER FOR RELIEF**

WHEREFORE, plaintiff NICHOLAS HERNANDEZ respectfully demands judgment against defendants THE CITY OF NEW YORK, JESSICA S. TISCH, EDWARD A. CABAN, AMY J. LITWIN, THE COUNTY OF NASSAU, PATRICK J. RYDER, and JOHANNA M. ESPOSITO, jointly and severally where legally applicable, as follows:

- a. awarding plaintiff compensatory damages in an amount to be determined at trial;
- b. awarding plaintiff damages for emotional distress, humiliation, reputational injury, loss of professional standing, and continuing dignitary harm in an amount to be determined at trial;
- c. awarding plaintiff economic damages, including lost wages, lost benefits, lost pension-related value where legally recoverable, lost law-enforcement employment opportunities, lost private-security employment opportunities, lost firearm-related employment opportunities, and other consequential economic damages in an amount to be determined at trial;

- d. awarding plaintiff damages arising from the denial of retired law-enforcement credentials, denial of a Good Guy Letter, denial of a police identification card, denial of a Nassau County pistol license, and permanent invalidation or impairment of plaintiff's police officer basic training certification;
- e. awarding punitive damages against the individual defendants to the fullest extent permitted by law;
- f. declaring that defendants violated plaintiff's rights under the New York State Human Rights Law;
- g. declaring that the City/NYPD defendants violated plaintiff's rights under the New York City Human Rights Law;
- h. declaring that the Nassau defendants' denial, affirmation, ratification, or maintenance of the denial of plaintiff's pistol-license application constituted unlawful arrest-history discrimination, retaliation, and, where legally applicable, gender-based discrimination;
- i. declaring that defendants' use, reliance upon, maintenance, disclosure, transmission, or adverse treatment of plaintiff based upon his dismissed and sealed arrest history violated, and/or was undertaken in derogation of, CPL §§ 160.50 and 160.60;
- j. declaring that plaintiffs dismissed and sealed October 2022 criminal matter may not lawfully be treated as continuing evidence of misconduct, poor moral character, lack of judgment, lack of temperament, unfitness, or professional disqualification, except as expressly authorized by law;

- k. enjoining defendants from continuing to use, rely upon, maintain, disclose, transmit, or take adverse action against plaintiff based upon protected dismissed and sealed arrest-related information, except as expressly authorized by law;
- l. directing the City/NYPD defendants, where legally authorized and appropriate, to correct, withdraw, amend, supplement, or cease reliance upon any record, report, communication, certification submission, personnel notation, credentialing determination, or agency transmission that improperly characterizes plaintiff's dismissed and sealed arrest-related matter as continuing evidence of misconduct, poor moral character, unfitness, lack of judgment, lack of temperament, or professional disqualification;
- m. directing the City/NYPD defendants, where legally authorized and appropriate, to withdraw, correct, amend, or supplement any communication to the New York State Division of Criminal Justice Services that caused, contributed to, or supported the permanent invalidation of plaintiff's police officer basic training certification;
- n. directing the City/NYPD defendants, where legally authorized and appropriate, to process or reconsider plaintiff's request for a Good Guy Letter, retired police identification card, retired law-enforcement credentials, and related post-separation credentialing without reliance upon unlawful arrest-history discrimination, gender discrimination, domestic-violence-victim-status discrimination, or retaliation;
- o. directing the Nassau defendants, where legally authorized and appropriate, to withdraw, correct, amend, or cease reliance upon any pistol-license denial, appeal

recommendation, final determination, record, or internal communication that improperly relies upon plaintiff's dismissed and sealed arrest history, prior order-of-protection history, non-conviction domestic-incident accusation, protected legal advocacy, or protected opposition activity as evidence of poor moral character or firearm unfitness;

- p. directing the Nassau defendants, where legally authorized and appropriate, to reconsider plaintiff's pistol-license application without reliance upon unlawful arrest-history discrimination, gender-based assumptions, retaliatory animus, or plaintiff's protected opposition to the NYPD's disciplinary process;
- q. awarding plaintiff pre-judgment and post-judgment interest;
- r. awarding plaintiff reasonable attorneys' fees, costs, and disbursements to the extent permitted by statute; and
- s. awarding such other and further legal, equitable, declaratory, injunctive, and statutory relief as this Court deems just and proper.

Dated: May 9, 2026  
New York, N.Y.

Respectfully submitted,

By: s/Eric Sanders  
Attorney for Plaintiff Nicholas Hernandez

**THE SANDERS FIRM, P.C.**  
30 Wall Street, 8<sup>th</sup> Floor  
New York, NY 10005  
(212) 652-2782 (Business Telephone)  
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Website: <http://www.thesandersfirm.com>

**ATTORNEY VERIFICATION**

STATE OF NEW YORK

ss:

COUNTY OF WESTCHESTER

ERIC SANDERS, ESQ., affirms as follows:

I am an attorney admitted to practice in the State of New York courts. As the attorney for the plaintiff in the action, I am familiar with all the facts and circumstances.

The Verified Complaint is true to the knowledge of the affirmant, except for those matters stated to be alleged upon information and belief, and he believes those matters to be factual.

The affirmant further states that this verification is made by the affirmant and not by the Plaintiff because the Plaintiff is not within the county of Westchester, where the affirmant maintains his office.

The undersigned attorney affirms that the previous statements are true under the penalties of perjury and Rule 2106 CPLR.

Dated: May 9, 2026  
New York, N.Y.

Respectfully submitted,

By: s/Eric Sanders  
Attorney for Plaintiff Nicholas Hernandez

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SUPREME COURT OF THE STATE OF NEW YORK  
COUNTY OF NEW YORK

INDEX NO.:

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NICHOLAS HERNANDEZ

Plaintiffs,

-against-

THE CITY OF NEW YORK, JESSICA S. TISCH, EDWARD  
A. CABAN, AMY J. LITWIN, THE COUNTY OF NASSAU,  
PATRICK J. RYDER, and JOHANNA M. ESPOSITO

Defendants'

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**SUMMONS WITH VERIFIED COMPLAINT**

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*Duly submitted by:*

By: s/Eric Sanders  
Attorney for Plaintiff Nicholas Hernandez

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