

EXHIBIT A

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NYSCEF DOC. NO. 1

RECEIVED NYSCEF: 03/06/2020

SUPREME COURT OF THE STATE OF NEW YORK
COUNTY OF SUFFOLK-----X
COUNTY OF SUFFOLK,

Index No.:

Plaintiff,

-against-

**VERIFIED
COMPLAINT**JAMES BURKE, CHRISTOPHER MCPARTLAND, and
THOMAS J. SPOTA,Defendants.
-----X

Plaintiff County of Suffolk ("Plaintiff"), by and through its attorneys, Stagg Wabnik Law Group LLP, as and for its Verified Complaint ("Complaint") against Defendants James Burke, Christopher McPartland and Thomas J. Spota (collectively, "Defendants"), alleges the following:

NATURE OF THE CASE

1. This is an action for fraud, breach of fiduciary duty, breach of the fiduciary duty of loyalty (faithless servant doctrine), and unjust enrichment against Defendants, former Suffolk County Police Chief James Burke ("Burke"), former Chief of Investigations and Chief of the Government Corruption Bureau of the Suffolk County District Attorney's Office ("SCDAO") Christopher McPartland ("McPartland"), and former Suffolk County District Attorney Thomas J. Spota ("Spota").

2. By pleading guilty in federal court, Burke admitted to assaulting and violating the civil rights of an in-custody arrestee, and purposefully engaging in a systematic and calculated conspiracy to obstruct the federal investigation into the assault and violation of the in-custody arrestee's civil rights.

3. McPartland and Spota were found guilty by a jury after trial of conspiracy to tamper with witnesses and obstruct an official proceeding, witness tampering and obstruction of an official proceeding,

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obstruction of justice, and accessory after the fact to the deprivation of the civil rights of the in-custody arrestee.

4. Burke violated his oath and responsibilities as a law enforcement officer and Police Chief, committed fraud and breached his fiduciary duties and fiduciary duty of loyalty owed to Plaintiff, and in doing so, damaged the integrity of the highest-ranking uniformed position in the Suffolk County Police Department ("SCPD").

5. Prior to Burke's admission to the federal crimes which resulted in a 41-month prison sentence, Plaintiff paid Burke \$630,000 upon his resignation and retirement from the SCPD for unused vacation and sick time. Plaintiff now seeks to recover the portion of the \$630,000 paid to Burke which accrued during the period he engaged in the disloyal and illegal conduct, and all other compensation paid to him (e.g., salary and benefits) during the period he engaged in the disloyal and illegal conduct.

6. McPartland violated his oath and responsibilities as a prosecutor, the Chief of Investigations and Chief of the Government Corruption Bureau of the SCDAO committed fraud and breached his fiduciary duties and fiduciary duty of loyalty owed to Plaintiff, and in so doing damaged the integrity of the SCDAO.

7. Prior to McPartland being found guilty of all charges on the four-count federal indictment, Plaintiff paid McPartland his salary and other payments, including payments upon his departure from the SCDAO, while he was committing the crimes of which he was found guilty, all unbeknownst to Plaintiff at the time. Plaintiff now seeks to recover the portion of the payouts which accrued, and all other compensation paid to him, during the period he engaged in the disloyal and illegal conduct.

8. Spota violated his oath and responsibilities as a prosecutor and the Suffolk County District Attorney, committed fraud and breached his fiduciary duties and fiduciary duty of loyalty owed to Plaintiff, and in doing so, damaged the integrity of the SCDAO.

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9. Prior to Spota being found guilty of all charges on the four-count federal indictment, Plaintiff paid him his salary and other payments, including payments upon his resignation from the SCDAO, as he was committing these crimes, all unbeknownst to Plaintiff. Plaintiff now seeks to recover the portion of any payouts which accrued, and all other compensation paid to Spota, during the period he engaged in the disloyal and illegal conduct.

PARTIES

10. At all times relevant, Plaintiff was and is a municipal corporation with various governmental departments and agencies, located in the State of New York, County of Suffolk.

11. At all times relevant, the SCPD was and is an accredited law enforcement agency created under the laws of the State of New York, and is an administrative agency of the Plaintiff with an office located at 30 Yaphank Avenue, Yaphank, New York.

12. At all times relevant, the SCDAO was and is an accredited law enforcement agency created under the laws of the State of New York, and maintains an office located at 725 Veterans Memorial Highway, Hauppauge, New York.

13. At all times relevant, Burke is an individual who is a resident of the State of New York, County of Suffolk.

14. At all times relevant, Burke was an employee of the SCPD, holding the position of Suffolk County Police Chief.

15. At all times relevant, Burke, holding the position of Suffolk County Police Chief, was an appointed Suffolk County official and thereby an employee of Plaintiff.

16. As an employee and Police Chief, Burke owed Plaintiff a fiduciary duty of loyalty and other fiduciary duties to, among other things, discharge his duties in good faith and in the interests of Plaintiff, the SCPD and the people of Suffolk County.

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17. At all times relevant, McPartland is an individual who is a resident of the State of New York, County of Suffolk.

18. At all times relevant, McPartland was an employee of the SCDAO, holding the position of Chief of Investigations and Chief of the Government Corruption Bureau.

19. At all times relevant, McPartland, holding the position of Chief of Investigations and Chief of the Government Corruption Bureau, was an appointed Suffolk County official and thereby an employee of Plaintiff.

20. As Plaintiff's employee and Bureau Chief, McPartland owed Plaintiff a fiduciary duty of loyalty and other fiduciary duties to, among other things, discharge his duties in good faith and in the interests of Plaintiff, the SCDAO and the people of Suffolk County.

21. At all times relevant, Spota is an individual who is a resident of the State of New York, County of Suffolk.

22. At all times relevant, Spota held the position of Suffolk County District Attorney.

23. At all times relevant, Spota, holding the position of District Attorney, was an elected Suffolk County official and an employee of Plaintiff

24. Spota owed Plaintiff a fiduciary duty of loyalty and other fiduciary duties to, among other things, discharge his duties in good faith and in the interests of Plaintiff, the SCDAO and the people of Suffolk County.

MATERIAL FACTS

25. On or about August 1986, Burke joined the SCPD, where he remained for approximately thirty years.

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26. As a law enforcement officer, Burke took a solemn oath of office to uphold and defend the Constitution of the United States and the Constitution of the State of New York, to bear true faith and allegiance to the same, and to faithfully discharge his duties.

27. In or around 2001, Spota was elected to the position of Suffolk County District Attorney.

28. Thereafter, Spota appointed McPartland to the position of Chief of Investigations and Chief of the Government Corruption Bureau of the SCDAO.

29. As prosecutors, Spota and McPartland took solemn oaths to pursue justice and enforce the law.

30. Defendants Burke, Spota and McPartland received bi-weekly wages from Plaintiff during the course of their employment and service for Plaintiff.

31. In or about 2012, Burke was promoted to Suffolk County Police Chief with a strong recommendation from Spota.

32. Like the oath he took when he became a law enforcement officer, as Suffolk County Police Chief, Burke was bound by his solemn oath of office to uphold and defend the Constitution of the United States and the Constitution of the State of New York, to bear true faith and allegiance to the same, and to faithfully discharge his duties.

33. On December 14, 2012, Suffolk County Probation Department and SCPD officers arrested probationer Christopher Loeb ("Loeb") at his mother's home in Smithtown, New York, for various probation violations and for other crimes.

34. During the arrest and search of the Loeb residence, officers discovered a collection of merchandise stolen from over a dozen vehicles, including an SCPD-issued SUV operated by and assigned to Burke.

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35. After Loeb was arrested on or about December 14, 2012, he was transported to SCPD's Fourth Precinct for processing.

36. Burke drove to the SCPD's Fourth Precinct in Smithtown where detectives had begun interrogating Loeb.

37. Burke cleared the interrogation room and entered the interrogation room where Loeb was handcuffed and chained to an eyebolt fastened to the floor.

38. Even though Loeb was handcuffed and secured, Burke assaulted and threatened Loeb.

39. In December 2012, Loeb was indicted by a grand jury for burglary in the Suffolk County Criminal Court in Riverhead, New York.

40. In March 2013, a special prosecutor was appointed in Loeb's state criminal case after Loeb alleged that Burke assaulted him while he was in custody.

41. In or about April 2013, the United States Attorney's Office for the Eastern District of New York and the Federal Bureau of Investigation ("FBI") opened a civil rights investigation into the assault of Loeb by Burke.

42. On June 25, 2013, the FBI served grand jury subpoenas on several SCPD members, and that same day, Defendants were informed of both the existence of the federal investigation and the service of the federal grand jury subpoenas.

43. From the moment the federal investigation began, Defendants engaged in a systematic effort to obstruct the federal investigation.

44. Defendants had numerous meetings and telephone conversations wherein they discussed the assault of Loeb, Loeb's allegations against Burke, and the federal investigation.

45. In those meetings and during those telephone conversations, Defendants agreed to conceal Burke's role in the assault and to obstruct and attempt to obstruct the federal investigation to protect Burke.

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46. Burke interrogated the SCPD members served with subpoenas to influence their testimony and gather information about the questions the FBI was asking the SCPD members

47. When Loeb's allegations regarding the assault became public, Burke directed that the witnesses to his crimes meet at his office at SCPD headquarters in Yaphank, New York, to influence and coordinate their testimony in an attempt to cover up his crimes.

48. In October 2013, Burke confronted a SCPD officer who was subpoenaed to testify at a pre-trial evidentiary hearing on Loeb's motion to suppress evidence in his state criminal case held in Suffolk County Court, and told the SCPD officer that he expected him to falsely deny Loeb's allegations regarding the in-custody assault. At Burke's behest and fearing retribution if he testified truthfully or asserted his Fifth Amendment privilege against self-incrimination, the witness committed perjury at the hearing and falsely denied that Loeb had been assaulted.

49. In another attempt to instill fear in the SCPD witnesses and obstruct the federal investigation, Defendants told several SCPD members that they had secretly obtained copies of FBI memoranda of interviews with witnesses in the federal investigation and knew who was talking to federal law enforcement.

50. Further, Burke ordered SCPD officers assigned to a joint state-federal task force to report back to him if they observed witnesses meeting with federal agents or federal prosecutors.

51. McPartland and Spota directly aided Burke in Burke's effort to cover up his crimes. McPartland and Spota, along with Burke, used the power of their positions within the SCPD and SCDAO to obstruct and attempt to obstruct the federal investigation by, among other means, using intimidation, threats and corrupt persuasion to pressure witnesses not to cooperate with the federal investigation, to provide false information, including false testimony under oath, and to withhold relevant information from the FBI investigating the assault of the in-custody arrestee.

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52. The relentless efforts of Defendants to obstruct the federal investigation were successful at first, and as of May 2015, the investigation had not resulted in any criminal charges.

53. Defendants continued to hold a series of meetings and conduct telephone conversations to facilitate the obstruction and attempted to intimidate members of the SCPD and other witnesses.

54. Several witnesses stated that as late as October 2015, Burke handed or attempted to hand them a fabricated "timeline" of the Loeb arrest that contained false events and talking points to cover up his crimes.

55. Burke also ordered other high-ranking Suffolk County law enforcement officials to speak with eyewitnesses to the assault and remind them of potential retribution by Defendants should they cooperate with federal authorities. McPartland and Spota actively aided Burke in his effort intimidate and tamper with witnesses and cover up his crimes.

56. On or about October 27, 2015, Burke announced his resignation from his position as Suffolk County Police Chief and received an approximately \$630,000 payout based on accrued vacation and sick leave, and began receiving his pension, which amounted to \$145,000 per year.

57. Despite the systemic efforts by Defendants to obstruct the federal investigation, on December 8, 2015, the federal grand jury returned a two-count indictment against Burke. Count One charged Burke with a civil rights violation in connection with the December 14, 2012 assault of Loeb while Loeb was in custody and handcuffed, in violation of 18 U.S.C. § 242. Count Two charged Burke with spearheading a conspiracy to obstruct the federal investigation into the December 14, 2012 assault, in violation of 18 U.S.C. §§ 1512(c)(2) and 1512(k).

58. On or about December 9, 2015, Burke was arrested by FBI agents and arraigned on those federal charges.

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59. The United States District Court for the Eastern District of New York ordered that Burke be detained pending trial after a finding that there was a serious risk that he would endanger the safety of another person or the community in light of his previous efforts to intimidate witnesses.

60. Burke initially pleaded not guilty to the charges.

61. On February 26, 2016, Burke pled guilty to both counts of the federal grand jury indictment.

62. At no time prior to Burke's guilty plea did Burke ever disclose to Plaintiff that he was guilty of the assault, the civil rights violations or the cover up of those crimes.

63. In fact, in the years subsequent to the Loeb incident, Burke repeatedly lied to officials of Plaintiff stating that he did not commit any wrongdoing.

64. On or about November 2, 2016, Burke was sentenced to 46 months incarceration and mandatory supervised release for a term of three years.

65. During the period in which Burke was indicted and pled guilty to crimes, Spota and McPartland continued to act in their official capacity as Suffolk County District Attorney, and Chief of Investigations and Chief of the Government Corruption Bureau of the SCDAO, respectively.

66. Given the evidence of the conspiracy headed by Burke, the United States Attorney's Office for the Eastern District of New York and the FBI focused their investigation on Spota and McPartland, and their involvement in the systematic coverup and three-year obstruction of the federal investigation.

67. On October 25, 2017, a federal grand jury returned a four-count indictment against McPartland and Spota. Count One charged McPartland and Spota with conspiracy to tamper with witnesses and obstruct an official proceeding, in violation of 18 U.S.C. § 1512(k). Count Two charged McPartland and Spota with witness tampering and obstruction of an official proceeding, in violation of 18 U.S.C. §§ 1512(b)(2), 1512 (b)(2)(A), 1512 (b)(3), 1512(c)(2). Count Three charged McPartland and

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Spota with obstruction of justice, in violation of 18 U.S.C. § 1503(a). Count Four charged McPartland and Spota with being an accessory after the fact to the deprivation of the civil rights of the in-custody arrestee, in violation of 18 U.S.C. § 3.

68. A day later, on October 26, 2017, Spota announced his resignation from the SCDAO.

69. In or around November 2017, McPartland was replaced by the incoming District Attorney Timothy Sini and left the office as of December 31, 2017.

70. On December 17, 2019, McPartland and Spota were found guilty on all four counts of the federal indictment.

71. At no time prior to McPartland's and Spota's guilty verdict did those Defendants ever disclose to Plaintiff that they were guilty of witness tampering, conspiracy, obstruction of justice, or being an accessory after the fact to the deprivation of an in-custody arrestee's civil rights.

72. Burke's willful disregard of Loeb's civil rights on December 14, 2012, and Defendants' nearly three-year cover-up and obstruction of the federal investigation into the vicious assault, disgraced the highest-ranking uniformed position in the SCPD and the highest-ranking position in the SCDAO.

73. Burke received his salary and benefits during the period he was actively committing crimes, and accrued vacation and sick time during that period which was included in the payout upon his resignation. McPartland and Spota received their salaries and benefits from Plaintiff all while they were actively covering up Burke's crimes. McPartland and Spota also received pay upon their departures from Plaintiff, a portion of which was accrued while they were committing crimes.

**AS AND FOR A FIRST CAUSE OF ACTION
FOR BREACH OF THE FAITHLESS SERVANT DOCTRINE**

74. Plaintiff repeats and realleges each and every allegation made in the above paragraphs of this Complaint as if fully set forth herein.

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75. In or around 2012, Burke was appointed as the Suffolk County Police Chief; in or about 2001 Spota was elected as the District Attorney for Suffolk County; and in or about 2001 McPartland was appointed as Chief of Investigations and Chief of the Government Corruption Bureau of the SCDAO.

76. From 2012 through October 2015, Burke used his position as Police Chief to engage in fraudulent, dishonest and illegal actions, including assaulting a handcuffed, in-custody person and obstructing the federal investigation into the assault, without Plaintiff's permission.

77. On February 26, 2016, Burke pled guilty to a civil rights violation in connection with the December 14, 2012 assault of Loeb in violation of 18 U.S.C. § 242, and conspiracy to obstruct the federal investigation into the December 14, 2012 assault, in violation of 18 U.S.C. § 1512(c)(2); 1512(k).

78. Burke's guilty plea is an admission that he repeatedly engaged in disloyal conduct.

79. From December 2012 to December 2019, Spota and McPartland used their positions as Suffolk County District Attorney, and Chief of Investigations and Chief of the Government Corruption Bureau of the SCDAO, respectively, to engage in fraudulent, dishonest and illegal actions, including covering up Burke's assault of Loeb, tampering and intimidating witnesses, obstructing justice and lying to investigators, without Plaintiff's permission.

80. On December 17, 2019, Spota and McPartland were each found guilty of four crimes relating to witness tampering, obstruction of justice and being an accessory after the fact to a civil rights violation.

81. Defendants' fraudulent, dishonest, improper, and illegal conduct occurred while Defendants were on duty and in their official roles and positions as described above.

82. Defendants' fraudulent, dishonest, improper, and illegal conduct was directly related to Defendants' respective duties as servants to Plaintiff and directly related to their areas of responsibility—law enforcement, criminal investigations, prosecuting crimes and stopping government corruption.

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83. Burke's fraudulent, dishonest, improper, and illegal actions were committed to intimidate and punish Loeb for his own personal gratification and thwart the federal investigation into his assault of Loeb.

84. Burke's fraudulent, dishonest, improper, and illegal conduct placed his interests ahead of Plaintiff's interests and were actions that were contrary to Plaintiff's interests.

85. Spota and McPartland's fraudulent, dishonest, improper and illegal actions were committed to aid Burke to thwart the federal investigation into Burke's assault and to protect Burke's personal interests.

86. Spota and McPartland's fraudulent, dishonest, improper and illegal conduct placed their interests and those of Burke ahead of Plaintiff's interests and were actions contrary to Plaintiff's interests.

87. As servants of Plaintiff in their respective positions, Defendants owed a fiduciary duty of loyalty and fidelity to Plaintiff in the performance of their duties.

88. As servants of Plaintiff in their respective positions, Defendants owed a duty to Plaintiff to not commit dishonest, improper, and illegal actions, as well as actions that were against Plaintiff's interests.

89. Defendants' illegal and disloyal conduct was directly against Plaintiff, and in direct contravention of the purpose and ethic of the law enforcement.

90. Defendant's impropriety and dishonesty materially and substantially permeated their service to Plaintiff.

91. Based on the foregoing, Defendants were faithless servants to Plaintiff.

92. Defendants' faithlessness breached their fiduciary duty of loyalty they owed Plaintiff as servants in their official positions.

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93. Under the doctrine of faithless servant, Plaintiff has a right to recover the entire compensation received by the faithless servants during the period of their disloyalty and impropriety.

94. For all the foregoing reasons, Plaintiff demands that Defendants forfeit all compensation, including wages, bonuses, and benefits they received after and during the period they committed and were committing their faithless and disloyal acts. This includes their salaries earned during the period of faithlessness and disloyalty, the value of any benefits, and the value of any vacation or sick time which resulted in payouts that accrued during that time.

95. Because Defendants' conduct evinced a high degree of moral turpitude, and reckless disregard for the law, justice, and public safety, Plaintiff is entitled to the penalty of punitive damages.

96. Because Defendants' conduct was egregious and outrageous, Plaintiff is entitled to attorney's fees and costs.

**AS AND FOR A SECOND CAUSE OF ACTION
FOR BREACH OF FIDUCIARY DUTIES**

97. Plaintiff repeats and realleges each and every allegation set forth in the above paragraphs of this Complaint as if fully set forth herein.

98. Burke, as Police Chief, owed fiduciary duties to Plaintiff.

99. Spota, as Suffolk County District Attorney, owed fiduciary duties to Plaintiff.

100. McPartland, as Chief of Investigations and Chief of Government Corruption of the SCDAO, owed fiduciary duties to Plaintiff.

101. These fiduciary duties included upholding the law and the United States and New York Constitutions, pursuing justice, enforcing the law, acting in the interest of Plaintiff, and ensuring SCPD's and SCDAO's compliance with policies and protocol.

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102. In their respective positions, Defendants were bound to exercise their duties of good faith and undivided loyalty to Plaintiff. Defendants also had an obligation to act in Plaintiff's best interests, and not for their own personal interests.

103. Defendants were well aware of their fiduciary duties to Plaintiff based on their respective positions and long careers with Plaintiff.

104. Defendants breached their fiduciary duties by repeatedly engaging in disloyal activity adverse to Plaintiff, including Burke's assaulting an in-custody, handcuffed person in violation of the federal civil rights laws and spearheading a three-year conspiracy to cover up his crimes. The conspiracy to cover up his crimes included intimidating, threatening and improperly influencing witnesses.

105. McPartland and Spota breached their fiduciary duties by conspiring with Burke to cover up Burke's crimes, which included tampering with and intimidating witnesses, obstructing justice, and being an accessory after the fact to the deprivation of Loeb's civil rights.

106. On February 26, 2016, Burke pled guilty to a civil rights violation in connection with the December 14, 2012 assault of Loeb in violation of 18 U.S.C. § 242, and conspiracy to obstruct the federal investigation into the December 14, 2012 assault in violation of 18 U.S.C. §§ 1512(c)(2) and 1512(k).

107. Burke's guilty plea is an admission of the breach of his fiduciary duties owed to Plaintiff.

108. McPartland and Spota were each found guilty of four counts on December 17, 2019 for witness tampering, obstructing justice and being an accessory after the fact to Burke's violation of Loeb's civil rights.

109. Burke acted only in his own best interests and in direct opposition to Plaintiff's interests when assaulting Loeb and violating his civil rights. All of the Defendants acted in their own best interests and in direct opposition to Plaintiff's interest when obstructing the federal investigation into Burke's assault of Loeb. Defendants' actions threatened the integrity of the entire SCPD and SCDAO and violated

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their respective oaths as a police officer and Chief, Suffolk County District Attorney, and Chief of Investigations and Chief of Government Corruption of the SCDAO, as well as Plaintiff's trust.

110. Plaintiff paid Defendants an annual base salary. Plaintiff is entitled to damages in the amount of Defendants' entire salaries for the period during which they were acting disloyally, illegally and unethically.

111. Plaintiff is also entitled to recoup the portion of any vacation or sick time payout which accrued while Defendants were in breach of their fiduciary duties and while they were covering up the assault of Loeb and breaches of the fiduciary duties owed to Plaintiff.

112. Plaintiff demands that Defendants forfeit all the compensation, including wages, bonuses, benefits and other payments made to Defendants during the period in which they were in breach of their fiduciary duties.

113. Defendants' conduct was intentional and evinced a high degree of moral turpitude, and reckless disregard for the law, justice, and public safety, and as such, Plaintiff also seeks the penalty of punitive damages.

114. Because Defendants' conduct was egregious and outrageous, Plaintiff is entitled to attorney's fees and costs.

AS AND FOR A THIRD CAUSE OF ACTION FOR FRAUD

115. Plaintiff repeats and realleges each and every allegation set forth in the above paragraphs of this Complaint as if fully set forth herein.

116. To induce Plaintiff to pay and continue to pay their compensation, Defendants repeatedly lied to Plaintiff, falsely represented that Burke did not violate Loeb's civil rights, and failed to reveal that Burke assaulted Loeb and that they were working to cover up Burke's assault of Loeb.

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117. These misrepresentations and omissions were made by Burke repeatedly from the time Burke assaulted Loeb and violated Loeb's civil rights to the time of Burke's guilty plea in February 2016.

118. McPartland and Spota continued their lies, misrepresentations and omissions to Plaintiff about their involvement in the conspiracy to cover up Burke's assault of Loeb through their guilty verdict on December 17, 2019.

119. Defendants knew these representations were false when they made them, and that their omissions would result in the obstruction of the investigation.

120. Defendants made these false representations and omissions with a specific intent to deceive Plaintiff.

121. Plaintiff reasonably and actually relied upon the foregoing representations to provide Defendants their salaries, bonuses, pay outs and other remuneration. For Burke, that includes his salary from December 2012 to on or about October 27, 2015, and the portion of the \$630,000 payout that accrued during his engagement of illegal and disloyal activities. For McPartland, that includes his salary from December 2012 to on or about November 2017 when he was replaced, as well as any other remuneration received from Plaintiff, or the accrual of any benefits, while deceiving Plaintiff. For Spota, that includes his salary from December 2012 to on or about October 26, 2017 when he resigned, as well as any other remuneration he received from Plaintiff, or the accrual of any benefits, while deceiving Plaintiff.

122. Had Plaintiff known the truth, it would not have paid Defendants' salaries from December 2012, nor would it have paid the portion of any payout for accrued vacation and sick time to Burke that accrued from December 2012, or any other remuneration to McPartland and Spota.

123. As a direct and proximate result of Defendants' fraud, Plaintiff has been damaged in an amount to be determined at trial, but not less than all the compensation, including wages, bonuses and benefits Defendants received or accrued from 2012.

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124. Because Defendants' conduct evinced a high degree of moral turpitude, and reckless disregard for the law, justice, and public safety, Plaintiff is entitled to the penalty of punitive damages.

AS AND FOR A FOURTH CAUSE OF ACTION FOR UNJUST ENRICHMENT

125. Plaintiff repeats and realleges each and every allegation set forth in the above paragraphs of this Complaint as if fully set forth herein.
126. By Plaintiff paying Defendants during the period they were disloyal and committing state and federal crimes, including salary, benefits and bonuses, and providing Defendants with vacation and sick time payouts which accrued during that same period, Defendants have been unjustly enriched.
127. Plaintiff is entitled to an award representing Defendants' unjust enrichment.

WHEREFORE, Plaintiff respectfully requests a judgment against Defendants:

- A. Awarding Plaintiff damages resulting from Defendants' breach of the faithless servant doctrine;
- B. Awarding Plaintiff damages for Defendants' breach of their fiduciary duties;
- C. Awarding Plaintiff damages based on Defendants' fraud;
- D. Awarding Plaintiff damages and other relief based on unjust enrichment;
- E. Awarding Plaintiff punitive damages;
- F. Awarding Plaintiff costs;
- G. Awarding Plaintiff attorney's fees and expenses incurred in the prosecution of this action; and
- H. Awarding Plaintiff such other and further relief as the Court may deem equitable, just and proper to remedy Defendants' willful misconduct.

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Dated: Garden City, New York
March 6, 2020

Stagg Wabnik Law Group LLP

By: /s/ Debra L Wabnik

Debra L. Wabnik

David R. Ehrlich

Attorneys for Plaintiff

County of Suffolk

401 Franklin Avenue, Suite 300

Garden City, New York 11530

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VERIFICATION**RE: County of Suffolk v. James Burke, et al.**

I, the undersigned, an attorney duly admitted to practice in the Courts of the State of New York, state that I am the attorney of record for Plaintiff County of Suffolk in the within action. I have read the foregoing Verified Complaint and know the contents thereof. The same is true to my own knowledge, except as to the matters therein stated to be alleged on information and belief, and as to those matters, I believe them to be true. The reason this verification is made by me and not by the County of Suffolk is because the County of Suffolk resides outside of the county in which my principal place of business is located.

The grounds for my belief as to all matters not stated upon my own knowledge are as follows: documents in my file and conversations with the County of Suffolk.

I affirm the foregoing statements are true, under the penalties of perjury.

Dated: Garden City, New York
March 6, 2020

By: /s/ Debra L. Wabnik
Debra L. Wabnik