

**IN THE CIRCUIT COURT FOR THE SECOND JUDICIAL CIRCUIT  
IN AND FOR LEON COUNTY, FLORIDA**

THOMAS R. WHITE,

Plaintiff.

vs.

Case No.:

THE FLORIDA, DEPARTMENT OF ENVIRONMENTAL PROTECTION and THE STATE OF FLORIDA, COMMISSION ON HUMAN RELATIONS and PINKY G. HALL, individually and in her capacity as an employee of the State of Florida, Department of Environmental Protection and ROY C. DICKEY, individually and in his capacity as an employee of the State of Florida, Department of Environmental Protection and AMY M. SCHMIDT, individually and in her capacity as an employee of the State of Florida, Department of Environmental Protection and KEVIN R. NEAL individually and in her capacity as an employee of the State of Florida, Department of Environmental Protection and TIMOTHY RACH, individually and in his capacity as an employee of the State of Florida, Department of Environmental Protection and MARY C. MURPHY individually and in her capacity as an employee of the State of Florida, Department of Environmental Protection and THOMAS FRICK, individually and in his capacity as an employee of the State of Florida, Department of Environmental Protection,

Defendants.

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## **COMPLAINT**

This is a Complaint for relief, including temporary reinstatement, against Defendant, The State of Florida, Department of Environmental Protection, under the Florida Whistleblower Act, §112.3187, Florida Statutes, and for relief under the Florida Tort Claims Act, §768.28, Florida Statutes.

The Plaintiff also seeks injunctive relief against Defendants State of Florida, Department of Environmental Protection and State of Florida, Commission on Human Relations, under the Due Process Clause of the Constitution of the United States pursuant to Title 42, Section 1983, U.S.C.

The Plaintiff also seeks monetary damages against the individual Defendants Pinky G. Hall, Roy C. Dickey and Amy M. Schmidt, individually and jointly for spoliation.

The Plaintiff also seeks monetary damages against the individual Defendants Pinky G. Hall, Roy C. Dickey, Amy M. Schmidt, Kevin R. Neal, Timothy Rach, Mary Murphy and Thomas Frick, individually and jointly for criminal conduct, including misuse of public office and misuse of public records, pursuant to Section 772.104, Florida Statutes and against Defendants Pinky G. Hall, Roy C. Dickey, Amy M. Schmidt and Thomas Frick for claims of Tortious Interference with Contractual/Employment Relationship.

### **Jurisdiction and Venue**

1. The events identified herein that form the basis for this complaint occurred in Leon, Palm Beach and St. Lucie Counties.

2. Defendant, the State of Florida, Department of Environmental Protection (FDEP or the Department) maintains its headquarters in Leon County, Florida and a District Office in Palm Beach County, Florida with a satellite office in St. Lucie County.

3. Defendant, the State of Florida, Commission on Human Relations (FCHR) maintains its headquarters in Leon County, Florida.

4. Defendants Hall Schmidt and Frick reside in Leon County, Florida.

5. Defendant Dickey resides in Madison County, Florida.

6. Defendant Neal resides in Broward County, Florida.

7. Defendants Rach resides in Palm Beach County, Florida.

8. Defendant Murphy resides in St. Lucie County, Florida.

9. Damages sustained by the Plaintiff exceed \$15,000.00.

10. This court has jurisdiction over this matter by virtue of §112.3187(8)(a), Fla. Stat., §768.28, Fla. Stat., Article V, Section 5 of the Constitution of the State of Florida, and §26.012, Fla. Stat.

11. Venue is appropriate in Leon County pursuant to §47.021, Fla. Stat. and §768.28(1), Fla. Stat.

## **General Allegations**

### **A. The Parties**

#### **1. The Plaintiff**

12. Plaintiff, Thomas R. White (White or Plaintiff), a citizen of the United States and a longtime resident of the State of Florida, was employed continuously with the State of Florida,

Department of Environmental Protection, from April, 1987, through February 16, 2007. At all times pertinent hereto he was an employee, as defined under §112.3187(3)(b), Fla. Stat.

13. Plaintiff is a resident of the State of Florida and lives in Stuart, Florida.

14. Plaintiff is a chemist and was assigned to work in the FDEP's laboratory in Port St. Lucie, Florida (Lab or PSL Lab), upon beginning employment with the FDEP. Until January 2004, he held the position of Chemist III and Lab Manager. In January 2004, he was also given the responsibilities of Quality Assurance Officer.

15. At all times pertinent hereto Plaintiff was a career service employee under Chapter 110, Florida Statutes.

16. In his position with the FDEP Plaintiff has performed audits of other FDEP laboratories, as well as private laboratories operating in the region.

17. The PSL Lab is under the supervision of the FDEP's Southeast District Office (SED) in West Palm Beach, Florida.

## **2. The Defendants**

18. The Florida, Department of Environmental Protection is an executive agency of the State of Florida, created under §20.555, Fla. Stat., and charged under §403.061, Fla. Stat., with controlling and prohibiting the pollution of Florida's environment.

19. Defendant, the State of Florida, Commission on Human Relations, is a Commission established under §760.03(1), Fla. Stat. and assigned to the State of Florida, Department of Management Services, an executive agency of the State of Florida, under §760.04, Fla. Stat. Pursuant to §760.06(13), Fla. Stat., Defendant FCHR is charged with receiving and coordinating all whistleblower complaints filed pursuant to §§112.3187-112.31895, Fla. Stat.

20. Defendant, Pinky G. Hall, at all times material hereto, has been an employee of the FDEP. She serves the FDEP as its Inspector General.

21. Defendant, Roy C. Dickey, at all times material hereto, has been an employee of the FDEP. Dickey serves the FDEP as its Director of Investigations in the Office of Inspector General.

22. Defendant, Amy M Schmidt, at all times material hereto, has been an employee of the FDEP. Schmidt serves the FDEP as a Captain in the Office of Inspector General.

23. Defendant, Kevin R. Neal, was the District Director of the Defendant, Florida, Department of Environmental Protection's Southeast District Office when the personnel action against the Plaintiff was initiated. Neal served in that capacity until early January 2007 at which time, upon information and belief, he left his employment with the FDEP.

24. Defendant, Timothy Rach, at all times material hereto, has been an employee of the FDEP. At the time when the events complained of herein occurred, Rach has served the FDEP as an Assistant Director of District Management and Acting District Director for the Southeast District of FDEP (SED).

25. Defendant, Mary C. Murphy, at all times material hereto, has been an employee of the FDEP. At the time when the events complained of herein occurred, Murphy served the FDEP as an Environmental Administrator.

26. Defendant, Thomas Frick, at all times material hereto has been an Environmental Manager. Frick, an employee of the FDEP, works in the TMDL Program in Tallahassee.

**B. Port St. Lucie Laboratory Structure, Functions and Certification**

**1. The Laboratory Structure**

27. The Port St. Lucie Lab has many responsibilities including:

- a. Conducting water quality sampling and analysis as requested by the SED and Tallahassee offices.
  - b. Assisting the FDEP in enforcement cases brought by the agency against industrial wastewater and domestic wastewater permittees.
28. The Lab is divided into two sections:
- a. The field operations section, which is responsible for conducting requested sampling of water bodies.
  - b. The analysis section, which is responsible for conducting analyses on the samples that are brought to it by the field operations section.

**2. The Lab's Function In Identifying Florida's Impaired Waters**

29. The State of Florida is obligated under Section 303(d) of the federal Clean Water Act (CWA), 33 U.S.C. §§ 1251, et seq., to identify its waters that are impaired, i.e. seriously contaminated with pollutants, and to then adopt measures designed to clean up those waterbodies that are so impaired.

30. The program that is primarily involved with this cleanup activity is called the Total Maximum Daily Load (TMDL) Program.

31. The FDEP administers the TMDL Program and receives federal funds to assist in the administration of the same.

32. In or about 2002 the FDEP adopted administrative rule, 62-303, F.A.C., commonly referred to as the Impaired Waters Rule.

33. The purpose of the Impaired Waters Rule is to provide a formal mechanism that the FDEP is to follow in identifying the impaired waters within its jurisdiction.

34. After adopting the Impaired Waters Rule the FDEP tasked each of its district labs, including the PSL Lab, with the job of sampling all suspected impaired waters within each district's jurisdiction.

35. The FDEP's headquarters in Tallahassee wished to have the identification of Florida's water bodies completed within a five (5) year period, i.e. by approximately 2007-2008.

36. The Lab, as part of the FDEP, was expected to conclude the sampling of water bodies within its area within the five year period.

37. The job of identifying all impaired waters within the SED was enormous, occupying a significant majority of the Lab's resources and time.

38. The Lab's water samples were to be collected, analyzed, and reported to the FDEP's offices at its headquarters in Tallahassee.

39. If the test results supported a conclusion that a water body was impaired, as defined under the provision of the Impaired Water Rule, the FDEP's obligation was to include said water body on what is known as the "303(d) List" that is filed, pursuant to federal law, with the EPA.

### **3. The Lab's Certification Under NELAC**

40. In or about 2002 and 2003 White and his colleagues were in the process of acquiring formal certification for the Port St. Lucie Lab.

41. The certification was to be obtained from the National Environmental Laboratory Accreditation Conference (NELAC).

42. NELAC accreditation dealt primarily with the analytical aspects of the Lab's work.

43. In order to attain NELAC accreditation the Lab had to be audited by the NELAC auditors from the State of Florida, Department of Health.

44. The NELAC audit that was performed prior to granting certification dealt primarily with the analytical functions of the Lab.

45. During the NELAC audit the NELAC auditor became concerned that the Lab's QA Officer had not been following laboratory protocols.

46. The violation of protocols included the placement of the QA Officer in a position of authority to supervise all Lab operations. The QA Officer, as a supervisor, was expected to be independent of other laboratory sections in order to guard against actual or perceived conflicts in the analytical process.

47. Gregory Graves (Graves), an FDEP employee, was the QA Officer at the time that this concern arose. Graves, as QA Officer, was improperly allowed by Defendant FDEP to oversee both the field and analytical sections of the Lab.

48. The Lab nevertheless received NELAC certification in or about January 2004.

49. As a result of the NELAC audit, however, Graves resigned from his responsibilities as QA Officer.

50. The FDEP then appointed the Plaintiff to the position of QA Officer for the Lab's analytical section.

51. Notwithstanding the appointment of Plaintiff to the position of QA Officer, the FDEP still improperly allowed Graves to directly supervise White's work in the Lab, even though Graves was still in charge of the PSL Lab's field sampling section.

#### **4. Gregory Graves' Oversight Of The Lab**

52. In addition to other duties, for a majority of the time at issue in this case FDEP employee/manager, Gregory Graves, was improperly overseeing both sections of the Lab.

53. Graves was a select exempt employee who had been employed with the FDEP in excess of twenty years.

54. During Graves' long tenure he served on approximately seven committees for the FDEP and carried significant influence within the FDEP's senior management structure, particularly in the SED.

55. Graves' influence resulted in the FDEP's significant investment in his issues and positions.

### **Specific Allegations**

#### **A. White's 2003 Disclosure To Management**

56. White's job, as a chemist for the Department required him to perform many functions, including:

- a. analyzing a significant number of the water samples that were conducted,
- b. conducting sampling on limited occasions where necessary to fill in for other employees,
- c. reporting his findings to his supervisor within the Port St. Lucie Lab, i.e. to Graves.

57. On May 20, 2003, when the impaired water sampling process was in its early stages in the SED, White sent an email to his supervisor, Graves. This email formally advised Graves of White's concern that the Lab was not following proper protocols in carrying out its responsibilities.

58. Graves was White's direct supervisor at this time.

59. Graves was the Quality Assurance Officer in charge of and responsible for the accuracy of the analyses that the Lab performed during this time.

60. The Plaintiff sent the email because he was concerned that this issue would impact negatively upon the Lab's then pending efforts to acquire NELAC accreditation. Such problems would also have had the potential to negatively affect the FDEP's TMDL Program.

61. Graves was in a position at the time to correct the deficiencies that White brought to his attention.

62. In the May 20 email White further advised Graves that he had spoken with Ms. Silky Labie, an administrator in FDEP's central laboratory in Tallahassee (Central Lab) about his concerns. White also advised Graves that he had requested an audit of the Lab.

63. In her position as an administrator, Labie was also in a position to correct the deficiencies that White brought to her attention.

64. Graves responded to White's email by writing on the body of the email a note chastising him for having allegedly waited seven months to bring the matter to Graves' attention, although, as the QA Officer at the time, Graves should have already known and taken steps to correct the issues raised by White.

**B. Mirna Alpizar's Complaint To The OIG Against Graves**

**1. Alpizar's Efforts To Have SED Management Intervene**

65. Notwithstanding the NELAC certification, the working environment at the Lab was one of increasing tension exacerbated by Graves' management style and constant concern about what he perceived to be unnecessary meddling by the Central Lab and the administration officials charged with overseeing the TMDL Program for the FDEP.

66. The tension increased to the point that in April 2006, Mirna Alpizar (Alpizar) (an OPS Environmental Specialist I in the Lab) went to White, as well as to SED Program

Administrator, Anne McCarthy, in an effort to correct problems that she saw with Graves' management style and failure to abide by proper laboratory protocols.

67. In April 2006 Alpizar reported directly to Plaintiff, White.

68. White also spoke with management at this time in an effort to impress upon management the seriousness of Alpizar's complaints and to explain to them that, in his opinion, Alpizar's complaints were well founded.

69. On May 1, 2006, McCarthy communicated with FDEP personnel in Tallahassee. In furtherance of her efforts to resolve Alpizar's, and the Lab's, situation, she sent an email to Vanessa Brown (Brown) wherein she acknowledged that Alpizar's allegations were very serious in nature.

70. Brown is a Management Review Specialist who works in the FDEP's Employee Relations Section, Bureau of Personnel Services, in Tallahassee.

71. Brown approved the email and then sent the email to the FDEP's Office of Inspector General (OIG) two days later.

72. Management within FDEP nevertheless refused to address Alpizar's complaints in a straightforward fashion, because to do so would have required taking serious disciplinary action against Graves.

73. On May 2, 2006, therefore, Alpizar formally charged Graves with directing her to violate lab regulations, verbally intimidating her and threatening to slander her professional reputation.

74. Alpizar's charge was forwarded to the OIG the following day by former District Director, Kevin Neal, Co-Defendant herein.

75. In an effort to assuage Alpizar's concerns over Graves' management style, FDEP then removed Graves from all supervisory responsibilities and the entire section was put under the supervision of FDEP employee Anne McCarthy.

## **2. The OIG Investigation Of Graves**

76. The OIG was the primary office responsible for investigating Alpizar's formal complaint.

77. The OIG assigned Defendant Schmidt to handle the investigation into Alpizar's complaint.

78. On June 1, 2006, Defendant Schmidt spoke by telephone with the Plaintiff regarding Alpizar's complaint. White cooperated with the OIG at that time.

79. White advised Schmidt, during his telephonic interview with her on June 1, 2006, of other specific examples of problems with Graves's refusal to follow NELAC standards.

80. In his position as an analyst, White was in a position to witness Graves' failure to require strict adherence to protocol.

81. The examples of Graves' refusal to follow NELAC standards as relayed to Defendant Schmidt by the Plaintiff included, but are not limited to:

- a. Graves' improper supervision of both field sampling and analysis personnel.
- b. The Laboratory Information Management System (LIMS) developed by Graves and used by the Lab to record and maintain data did not, and does not, have security to prevent breaches.
- c. Graves consistently refused, over objection from White and Alpizar, to follow Standard Operating Procedures (SOPs) developed by the Central Lab.

82. The disclosures made by White to Schmidt were significant disclosures that dealt with the issue of whether or not the sampling procedures used by the Lab were consistent with Tallahassee's SOPs and Graves' continual overriding of QA protocols and QA Officer authority.

83. A failure to abide by the SOPs would mean that the credibility of the samples was questionable. This, in turn, would jeopardize the usability of the samples in the TMDL Program.

84. The second disclosure was equally significant in that the data base used for storage of data by the Lab was susceptible to being compromised because of a lack of security. The LIMS System was used by at least two other FDEP laboratories in the state. If the data's security is vulnerable the agency's administration of the TMDL Program would be compromised.

### **3. Initiation of the TMDL Audit**

85. On June 1, 2006, during the pendency of the Graves investigation, the FDEP's Division of Resource Assessment and Management sent a memo to each FDEP District Office advising them that TMDL Program audits would be conducted for purposes of evaluating each laboratory's compliance with TMDL requirements.

86. On or about June 26, 2006, the TMDL Program in Tallahassee dispatched an audit team from the FDEP's Tallahassee office to Port St. Lucie, the alleged purpose of which was to conduct the above-stated audit.

87. The audit (TMDL Audit) concentrated on the analytical aspects of the Lab's performance with only limited emphasis being placed on the field sampling section, which was also closely controlled by Graves.

88. There were a total of five auditors. One of the auditors was Defendant Frick.

#### **4. Graves' Departure and the OIG Report**

89. On June 21, 2006, Graves resigned his position with the FDEP. Graves' final day in the office was June 30, 2006. His final day of employment with the FDEP was July 7, 2006.

90. Prior to Graves' departure he sent a packet of material to the OIG. This material consisted of documents that he considered to be derogatory information about White.

91. On July 7, 2006, the OIG sent a closure memorandum to FDEP administration officials regarding its investigation of Graves. The memorandum advised Defendant FDEP that the charges against Graves were not going to be sustained.

92. On July 18, 2006, the OIG issued Investigations Report No. II-01-18-2006-028. (Graves Report)

93. The Graves Report concluded that Alpizar's complaint about not following NELAC protocols was **not sustainable**.

94. Absent from the Graves Report is any mention of specific allegations of misconduct by Graves with respect to laboratory procedures, other than the allegations recited in Alpizar's written complaint.

95. The OIG report summarized White's claims, in pertinent part, as follows:

"White advised Graves had a history of being difficult and used the power of his position in a way he shouldn't. White advised he saw Graves as an abuser and that whenever there was trouble, Graves would comment that it needed to be kept *'in the family.'* White stated Graves had overridden his authority and described Graves as *'anti quality assurance'* as Graves thought it was a waste of time.

"White advised Graves did not need to supervise sampling protocols or lab protocols. White expressed he was concerned about the upcoming TMDL audit because of the *'Greg Methods'* Graves used to run the lab." (Emphasis in original)

96. The OIG's findings concluded by saying that, "[a]ny recommended program changes should be closely related to the pending outcome of the most recent TMDL audit."

97. Graves' packet of derogatory information about White was attached to the Graves Report.

98. The report was signed by Defendant Schmidt and approved by Defendant Dickey. The report was submitted by the OIG to Defendant Kevin Neal, the then District Director of the SED.

### **3. The Conclusion and Findings of the TMDL Audit**

99. The TMDL audit was completed on or about June 29, 2006.

100. At the conclusion of the audit both sections of the Lab were put under Defendant Murphy's supervision.

101. White advised Defendant Kevin Neal at that time that:

- a. the auditors had found deficiencies,
- b. that White had not been informed of the exact nature of the deficiencies,
- c. that White would have to wait for the TMDL audit report in order to know

what the exact deficiencies were and how to respond to the same.

102. On June 30, 2006, on his final day in the office at the FDEP and prior to formal issuance of the Graves Report, Graves sent a memo to Defendant Schmidt, advising her that the TMDL audit was completed and that the majority of the problems had been found, not with the field/sampling section of the Lab, but rather, with the analytical section, i.e. the section in which White worked.

103. Graves also advised Defendant Schmidt at that time that she could contact Defendant Frick for the details. Graves stated in the memo, "I am sure they uncovered a number of problems."

104. The TMDL Audit results were not mentioned in the OIG's Graves Report.

105. Unlike Graves who had resigned his position, White was not advised of these results until the audit findings were drafted and sent to him for his response.

106. The TMDL Audit was formally issued to the Lab in or about August 2006.

107. The TMDL Audit highlighted what the audit team believed was a lack of what is known as "data qualifiers" on the data created by the Lab.

108. A lack of data qualifiers has historically been characterized as what is known as a simple laboratory deficiency.

109. The data that the TMDL auditor used to reach the conclusion that data qualifiers had not been properly utilized was predominately data that predates January 1, 2004, when Graves, not White, was the QA Officer over the Lab.

110. In September 2006, White prepared and submitted a written response to the TMDL Audit.

111. White forwarded the response to the FDEP's Central laboratory.

112. In his response, Plaintiff White addressed a number of issues, advising his superiors and the FDEP's Central Lab that his superiors had been well aware of the problems associated with the data qualifier issue and that they had done nothing about it.

113. Defendant FDEP's Central Lab's manager, William Coppenger (Coppenger), had the authority to take corrective measures to address White's complaint.

114. Coppenger used his authority, not to correct any alleged deficiencies, but rather, to complain to Defendant Murphy that White's assertion should not have been put in writing.

115. Defendant Murphy then directed White to rewrite the response in order to direct attention away from the superiors who had previously known about and encouraged the alleged problem.

#### **4. The OIG Investigation Of White**

116. On October 30, 2006, Defendant FDEP's District Director, Defendant Kevin Neal, sent a written complaint to the OIG in Tallahassee in which he requested an investigation into what he termed "Falsification of Official Documents."

117. On October 31, 2006, while White was at work, he was suddenly asked by Defendant Murphy to go to her office at which time he was confronted by Defendant Dickey and Defendant Frick.

118. White was then immediately directed to speak with Defendants Dickey and Frick both of whom had traveled to the SED from Tallahassee.

119. Defendant Murphy, White's supervisor, was present during the above questioning of Plaintiff White.

120. Prior to White being questioned by Defendant Dickey the Plaintiff was advised of his right to have counsel or another representative present.

121. Without knowing the specific nature of the charges, or even that any charges were being brought against him, the Plaintiff asked Defendant Murphy to be his representative.

122. Defendant Murphy agreed to represent the Plaintiff during his questioning after which the questioning began.

123. White thereupon proceeded to give a recorded, sworn statement to Defendants Dickey and Frick with Defendant Murphy acting as White's representative.

124. At the conclusion of the questioning on October 31, 2006, Defendant Dickey provided White with a written letter signed by Defendant Neal advising him that an internal investigation was being initiated and that he was being placed on administrative leave.

125. The letter signed by Defendant Neal and given to White did not apprise Mr. White of the charges against him or the basis for his placement on administrative leave.

126. The Plaintiff was then directed to leave the premises. He was advised to have no contact with Defendant FDEP's employees. He was not given an opportunity to retrieve any of his personal belongings before leaving.

127. Defendant Dickey met with Graves the following day, November 1, 2006. Graves, then a state employee with the South Florida Water Management District, refused to give Dickey a recorded statement, but allegedly spoke with Defendant Dickey.

128. Based upon White's statement and Graves' alleged statement to Defendant Dickey, the FDEP OIG issued Investigation Report No. II-01-18-2006-066 (White Report).

129. The White Report was issued on December 20, 2006, by the OIG.

130. Defendant Dickey signed the White Report and his supervisor, Defendant Hall approved it.

131. The White Report concluded that Plaintiff had engaged in what Defendant Dickey termed "data fraud" based upon a lack of use of data qualifiers.

132. The report did not conclude that the FDEP's OIG found any actual evidence of "data fraud." Rather, the White Report concluded that it was statistically likely that such fraud existed.

133. The White Report fails to note substantial and material facts that supported White's innocence and Graves' guilt and that otherwise demonstrated a lack of support upon which to base and sustain the charges against him.

#### **5. Defendant, FDEP's Termination of Plaintiff**

134. On January 3, 2007, the Defendant FDEP mailed a predetermination letter to Plaintiff's residence. In this letter, signed by Defendant Neal, the FDEP charged him with "data fraud" and negligence. The FDEP, in this letter, advised Mr. White that Defendant FDEP intended to take adverse action against him, up to and including dismissal.

135. Plaintiff received Defendant FDEP's predetermination letter on January 4, 2007.

136. Defendant FDEP conducted a predetermination hearing with Mr. White on January 30, 2007.

137. At the predetermination hearing Mr. White provided the FDEP with a written response to the charges against him.

138. On February 16, 2007, Mr. White met with Defendants Rach and Murphy, at their request, at which time Mr. White was formally notified that he was being terminated by the FDEP as of the close of business that day.

139. The formal charges purportedly justifying the Defendants' action were "Violation of Law or Agency Rules To Wit: Falsification of Official Document(s) or Recording and Negligence," however, Defendant's termination of Plaintiff was also improperly based, in part,

upon alleged past conduct of the Plaintiff. A copy of the termination letter is included in Exhibit A, which is attached hereto and incorporated by reference herein.

140. Defendants Rach and Murphy then advised the Plaintiff that he could change the termination into a resignation by submitting a letter of resignation to them on or before February 23, 2007.

141. Defendants Rach and Murphy instructed the Plaintiff that in order for him to take advantage of the opportunity to resign he would need to backdate the letter of resignation to February 16, 2007. Mr. White refused to participate in the requested conduct and the Defendants thus finalized the termination.

## **COUNT I**

### **(Whistleblower Complaint)**

Plaintiff sues Defendant, FDEP, and for complaint alleges:

142. Plaintiff incorporates paragraphs 1 through 141, above herein as if fully restated herein.

143. Defendant FDEP was satisfied with the Plaintiff's past and recent performance to the point that he was given Lab Manager responsibilities, supervisory authority over Alpizar and auditing responsibilities over other districts and private laboratories.

144. Defendant FDEP's personnel action against White was instituted only after White complained to superiors, including the OIG, that his superiors were not abiding by laboratory protocols, which were important to the success of the TMDL Program and other Department programs.

145. White's disclosures to his superiors were repeated, the two most significant and recent being in mid-2006 and in September 2006, when he responded, in writing, to the TMDL Audit.

146. White's disclosures included repeated violations of Lab protocols by his supervisor, Graves, which were resulting in the creation of questionable data by the Lab. This data was then being uploaded into the EPA's data base called STORET by other FDEP employees. It was Graves' section that uploaded this data, which is used by both Defendant FDEP and the EPA for purposes of evaluating the health of Florida's waters.

147. Plaintiff's disclosures dealt with ongoing violations by Defendant FDEP of their own rules, to wit: 62-160.110 et seq., F.A.C. and 62-303, F.A.C.

148. The disclosure of these matters to management by the Plaintiff meant that the district managers and program administrators who had allowed the activities to continue unabated could have faced disciplinary actions by the Department. Defendant FDEP's senior management knew of these problems and allowed them to continue and worsen in order to protect Graves and to protect the Department's image with the public and other agencies.

149. The disclosure of these matters to management also meant that Defendant FDEP's retention of another federal program, the National Pollutant Discharge Elimination System (NPDES), currently administered by the Department under a federal grant, could be jeopardized inasmuch as the Lab's water sampling data was also used by that program.

150. Plaintiff's allegations disclosed gross mismanagement, malfeasance and misfeasance on the part of his superiors that will likely result in the expenditure of significant public funds to correct.

151. By deliberately waiting to act until late 2006, three years after White first raised the issue with Graves, Defendant FDEP has jeopardized the usability of over 24,000 data points and delayed by years the cleanup of polluted waters in South Florida.

152. Both Alpizar's complaint in which Plaintiff assisted and Plaintiff's later written disclosure to the OIG involved facts that, if not corrected, would involve a substantial and specific danger to the public, to wit.: improper water sampling and failure to follow proper protocols the effect of which was to jeopardize the assessment of water bodies in South Florida that were seriously contaminated. The water bodies are regularly and routinely used by the public for recreational and business purposes.

153. Defendant FDEP's response to White's disclosures was to initiate another OIG investigation designed to terminate White.

154. Defendant, FDEP's actions against White were retaliatory and designed to punish him for participating in the OIG action initiated by Alpizar, as well as for his allegations in response to the TMDL Audit that the alleged problems raised by the audit were known to his superiors who had approved and encouraged the same.

155. On March 2, 2007, Plaintiff filed a complaint for whistleblower relief (Whistleblower Complaint) with the Defendant Florida, Commission on Human Relations (Commission), pursuant to §112.3187(7), Fla. Stat. A copy of the Whistleblower Complaint and its exhibits is attached as Exhibit B hereto and incorporated by reference herein.

156. Plaintiff's whistleblowing activities were not made in bad faith or for a wrongful purpose. They did not occur after an agency's initiation of a personnel action against him.

157. In response to the Defendant FCHR's, Plaintiff filed a second "form" complaint with the Commission on March 12, 2007. This complaint incorporated the allegations of the

Whistleblower Complaint. A copy of the second complaint is attached as Exhibit C hereto and is incorporated by reference herein .

158. White supplemented his Whistleblower Complaint on April 23, 2007. A copy of this supplement and its exhibits is attached as Exhibit D, hereto and incorporated by reference herein.

159. White supplemented his Whistleblower Complaint again on May 4, 2007. A copy of this supplement and its exhibits is attached as Exhibit E, hereto and incorporated by reference herein.

160. Pursuant to §112.31895(2)(c), Fla. Stat. the Defendant FCHR was required to submit a written report of its findings to the parties within ninety (90) days of the filing of Plaintiff's Whistleblower Complaint on March 2, 2007.

161. The Commission failed to meet its deadline under §112.31895(2)(c), Fla. Stat.

162. On September 10, 2007, the Commission notified counsel for Plaintiff that it was permitting Plaintiff to withdraw his Whistleblower Complaint and to file the same with the circuit court inasmuch as 180 days had passed since the Whistleblower Complaint was filed. A copy of the Defendant FCHR's notice to Plaintiff is attached as Exhibit F, hereto and incorporated by reference herein.

163. Plaintiff acknowledged the Defendant FCHR's position in writing on September 21, 2007, and elected to proceed with the instant action.

164. The Plaintiff has retained the services of undersigned counsel and is obligated to pay counsel a reasonable attorney's fee and costs should he prevail in this action.

**WHEREFORE**, Plaintiff prays for the following relief against the Defendant, State of Florida, Department of Environmental Protection:

A. Pursuant to §112.3187(9)(e) and (f), Fla. Stat., Plaintiff petitions this Court to enter an order temporarily reinstating him in his position with the FDEP pending the outcome of the instant proceedings.

B. Pursuant to §112.3187(9)(a)-(c), Fla. Stat., White petitions the Court for permanent reinstatement to the same position held by him prior to the FDEP bringing the personnel action against him, along with payment of all lost wages and benefits and interest accrued on the same associated with the FDEP's actions.

C. Pursuant to §112.3187(9)(d), Fla. Stat., White petitions this Court for an order awarding him reasonable attorney's fees and costs associated with bringing this action.

## **COUNT II**

(Violation of Procedural Due Process)

(42 U.S.C. §1983)

Plaintiff sues Defendants FDEP and FCHR and for complaint alleges:

165. Plaintiff incorporates paragraphs 1 through 141, and 155 through 159 above and 192 through 195 below herein as if fully restated herein.

166. As a citizen of the United States, Plaintiff was entitled to enjoy the rights and protections afforded him under the Constitution of the United States and, in particular, the Due Process Clause contained in the Fourteenth Amendment to the Constitution.

167. Among the rights and protections afforded Plaintiff were the rights and protections to be free from adverse governmental action unless and until the government of the State of Florida followed well known and accepted procedural guidelines in its personnel action against the Plaintiff.

168. Among the rights and protections afforded Plaintiff were the rights and protections to be free from adverse governmental action unless and until the government of the State of Florida first provided the Plaintiff with a process that was substantially timely, unbiased and fair and that enabled him to effectively defend himself against said governmental intrusion.

169. Defendants' actions, individually and collectively were undertaken in direct response to Plaintiff's exercise of his rights as a career service employee of the Defendant, State of Florida.

170. The Whistleblower Complaint sought, inter alia, action on the part of the Florida, Commission on Human Relations to seek immediate relief in a court of competent jurisdiction the purpose of said relief being to temporarily reinstate Plaintiff to his old position, pending the resolution of his Whistleblower Complaint.

171. The FCHR had the authority and duty to pursue temporary reinstatement on the Plaintiff's behalf pursuant to §112.3187(9)(f) and §112.31895(3)(b), Fla. Stat.

172. The FCHR unreasonably failed to seek temporary reinstatement of the Plaintiff to his previous position with the Defendant FDEP.

173. During the period that the Whistleblower Complaint has been in the FCHR, the FCHR coordinated its alleged investigation with the Chief Inspector General in the Executive Office of the Governor pursuant to §760.06(13) and §112.31895(3)(a)5., Fla. Stat.

174. The Chief Inspector General's Office, in turn, initiated a review of Plaintiff's claims against the FDEP.

175. The Chief Inspector General's Office, in turn, coordinated its review of the Plaintiff's claims with the Office of Inspector General of the Defendant, FDEP, even though the Chief Inspector General's Office knew, or should have known from the allegations contained in

the Whistleblower Complaint, that the FDEP's OIG had a substantial conflict of interest in the outcome of the investigation.

176. Upon learning of the coordination between the Chief Inspector General's Office and the OIG, Plaintiff notified the Chief Inspector General of the conflict of interest and requested that the OIG be removed from the alleged investigation.

177. The Chief Inspector's Office, in response to Plaintiff's request, refused to remove the OIG from the alleged investigation, thus tainting the alleged investigation's outcome.

178. The Chief Inspector's Office, in response to Plaintiff's request, further notified Plaintiff that it was not investigating Plaintiff's allegations in the Whistleblower Complaint.

179. Pursuant to §112.31895(2)(c), Fla. Stat., the FCHR was required to conclude its investigation of the Whistleblower Complaint and to report its findings to the Plaintiff and to the FDEP within ninety (90) days of the filing of the Whistleblower Complaint on March 2, 2007.

180. Pursuant to §112.31895(2)(c), Fla. Stat., the FCHR's report of its findings was due on or about June 1, 2007.

181. The FCHR failed to issue its report within the ninety (90) day deadline imposed upon it pursuant to §112.31895(2)(c), Fla. Stat.

182. By way of letter dated September 10, 2007, the FCHR notified the Plaintiff that the FCHR still had not completed what it termed its investigation into the Whistleblower Complaint and that the FCHR was providing the Plaintiff with the right to pursue his Whistleblower Complaint in a civil circuit court of competent jurisdiction.

183. The Plaintiff responded to the FCHR's September 10, 2007, letter by signing and returning the FCHR's form advising the FCHR that he intended to accept the FCHR's offer and to pursue his claim in civil circuit court. The form that Plaintiff signed and returned had been

amended by the Plaintiff to clarify that by accepting the FCHR's offer the FCHR was agreeing, in accordance with §112.3187, Fla. Stat., that it had terminated what it termed its investigation into the Whistleblower Complaint.

184. On October 3, 2007, the FCHR responded to Plaintiff by way of letter in which the FCHR advised Plaintiff that the FCHR was rescinding its offer to allow Plaintiff to pursue his action in civil circuit court and that the FCHR was not agreeing that it had terminated its investigation.

185. After the Plaintiff submitted his signed acknowledgment to the FCHR the FCHR arbitrarily and capriciously changed its position and notified the Plaintiff that it was rescinding its offer and that it intended to maintain control over the case.

186. Upon information and belief, the FCHR has conducted no meaningful investigation into the allegations contained in the Whistleblower Complaint.

187. The FCHR's and the Chief Inspector General Office's handling of the Whistleblower Complaint has been unreasonable and has violated Plaintiff's rights to procedural due process by virtue of:

a. denying Plaintiff a meaningful post-deprivation review of Plaintiff's termination by Defendant FDEP,

b. denying Plaintiff a timely post-deprivation review of Plaintiff's termination by Defendant FDEP.

188. As of the date of the filing of this Complaint the FCHR has failed to issue its report to the agency head and to Plaintiff, as required under §112.31895(2)(c), Fla. Stat.

189. As a result of the actions of Defendants, FDEP and FCHR, the Plaintiff was injured through continued loss of his job and the income generated by said job, loss of his ability to

secure new employment, loss of future earning potential, loss of his standing in his profession and community, mental anguish and other losses directly attributable to Defendants' actions.

190. The Plaintiff has retained the services of undersigned counsel and is obligated to pay counsel a reasonable attorney's fee and costs should he prevail in this action.

**WHEREFORE**, pursuant to 42 U.S.C. §1983, Plaintiff seeks damages in excess of \$15,000 against Defendants, FDEP and FCHR in the form of:

A. Issuance of temporary injunctive relief against the Defendants the purpose of said temporary injunctive relief being to reinstate Plaintiff in his position, including all benefits associated said position, with Defendant, FDEP, pending resolution of this litigation;

B. Issuance of permanent injunctive relief against the Defendants the purpose of said permanent injunctive relief being to reinstate Plaintiff in his position, including all benefits associated said position, with Defendant, FDEP and to prevent Defendants from further interfering with his employment relationship with the FDEP;

C. An award against the Defendant, FDEP, for all back pay and benefits, including interest, that have been withheld by Defendant, FDEP since its termination of the Plaintiff;

D. An award of attorneys fees and costs, pursuant to 42 U.S.C. §1988;

E. An award for such and further relief as the Court deems appropriate.

### **COUNT III**

(Negligence)

Plaintiff sues Defendant, FDEP, and for complaint alleges:

191. Plaintiff incorporates paragraphs 1 through 141, above herein as if fully restated herein.

192. Plaintiff, as a career service employee of Defendant FDEP, was entitled to continue his employment so long as he continued to perform his job in a satisfactory manner in keeping with the standards of his profession.

193. As a career service employee, the Plaintiff could only face formal discipline in the event that he had been guilty of poor performance, negligence, inefficiency or inability to perform assigned duties, insubordination, violation of the provisions of law or agency rules, conduct unbecoming a public employee, misconduct, habitual drug abuse, or conviction of any crime.

194. Defendant FDEP owed Plaintiff a duty not to undertake a personnel action against him unless it first investigated any allegations against him and concluded, after a thorough and professional investigation, that Plaintiff was not performing his duties as reasonably expected by Defendant FDEP.

195. Defendant FDEP breached the duty it owed to Plaintiff by failing to interview all relevant witnesses prior to rendering a decision in the personnel matter against him, failing to maintain proper records regarding its investigation of Mr. White, failing to properly and fairly evaluate all evidence in the case and failing to otherwise properly investigate the circumstances surrounding the alleged problems with data generated by the Lab.

196. Plaintiff provided written notice of this claim to the State of Florida on June 5, 2007, in accordance with §768.28, Fla. Stat. A copy of this notice is attached as Exhibit G, hereto and incorporated by reference herein .

197. The State of Florida, Division of Risk Management, denied Plaintiff's claim on September 7, 2007. A copy of said denial is attached as Exhibit H, hereto and incorporated by reference herein.

198. As a result of Defendant FDEP's breaches of its duty owed to the Plaintiff, the Plaintiff was injured through loss of his job and the income generated by said job, loss of his ability to secure new employment, loss of future earning potential, loss of his standing in his profession and community, mental anguish and other losses directly attributable to Defendant FDEP's actions.

199. The Plaintiff has retained the services of undersigned counsel and is obligated to pay counsel a reasonable attorney's fee and costs should he prevail in this action.

**WHEREFORE,** Plaintiff seeks damages in excess of \$15,000 against Defendant FDEP in such amounts as will fully and fairly compensate him for the injuries identified above and for attorneys fees and costs and for such and further relief as the Court deems appropriate.

#### **COUNT IV**

(Negligent Supervision)

Plaintiff sues Defendant, FDEP, and for complaint alleges:

200. Plaintiff incorporates paragraphs 1 through 141, and 192 through 195, above herein as if fully restated herein.

201. Defendant FDEP owed a duty to Plaintiff to properly supervise employees under its control in order to ensure that its employees who were charged with the responsibility of investigating personnel complaints such as those lodged against Plaintiff were investigated in a competent and professional manner.

202. In spite of the duties owed by Defendant FDEP to Plaintiff, as identified in Paragraph 201, above, Defendant FDEP failed to properly train, supervise and discipline as necessary the employees in its organization who were responsible for hiring and firing its

employees and those employees responsible for conducting investigations into personnel complaints.

203. As a direct and proximate result of Defendant FDEP's failure to properly train, supervise and discipline its employees:

- a. the OIG was allowed to routinely and improperly use its position of authority in the FDEP, not to impartially and professionally investigate those cases assigned to it; but rather, to manipulate the investigation of said cases so that the final outcome would be supportive of management's ultimate position in each case.
- b. non-OIG employees were improperly allowed to use the OIG as a mechanism for achieving their objectives, including, the improper removal of employees such as Plaintiff who were viewed as not being supportive of or otherwise hindering administration policies and objectives.

204. Defendant FDEP breached the duty owed to Plaintiff inasmuch as it failed to address what it knew to be the above-alleged continuing pattern of incompetent and unprofessional investigatory techniques routinely used by the OIG that undermined the reliability of investigative findings reached by the OIG in personnel and other cases. The result of this breach directly and proximately resulted in Plaintiff's termination by Defendant FDEP.

205. Defendant FDEP further breached the duty owed to Plaintiff by failing to properly train and supervise non-OIG employees within its management structure who were obligated, as a part of their management duties, to render fair and impartial personnel decisions in cases such as the Plaintiff's case when Defendant FDEP knew, or should have known, that said employees were using their positions to utilize the OIG as a mechanism for removing employees who were viewed as not being supportive of or otherwise hindering administration policies and objectives.

The result of this breach directly and proximately resulted in Plaintiff's termination by Defendant FDEP.

206. Plaintiff provided written notice of this claim to the State of Florida on June 5, 2007, in accordance with §768.28, Fla. Stat. A copy of this notice is attached as Exhibit G, hereto and incorporated by reference herein .

207. The State of Florida, Division of Risk Management, denied Plaintiff's claim on September 7, 2007. A copy of said denial is attached as Exhibit H, hereto and incorporated by reference herein.

208. As a result of Defendant FDEP's breaches of its duty owed to the Plaintiff, the Plaintiff was injured through loss of his job and the income generated by said job, loss of his ability to secure new employment, loss of future earning potential, loss of his standing in his profession and community, mental anguish and other losses directly attributable to Defendant FDEP's actions.

209. The Plaintiff has retained the services of undersigned counsel and is obligated to pay counsel a reasonable attorney's fee and costs should he prevail in this action.

**WHEREFORE**, Plaintiff seeks damages in excess of \$15,000 against Defendant FDEP in such amounts as will fully and fairly compensate him for the injuries identified above and for attorneys fees and costs and for such and further relief as the Court deems appropriate.

### **COUNT V**

(Tortious Interference With Contractual and Employment Relations)

Plaintiff sues Defendants Frick, Dickey, Schmidt and Hall and for complaint alleges:

210. Plaintiff incorporates paragraphs 1 through 141, and 192 through 195, above herein as if fully restated herein.

211. Defendants duties as employees of Defendant FDEP did not include the hiring or firing of FDEP employees such as Plaintiff.

212. Defendants, as part of their duties as Defendant FDEP's employees, conducted investigations into the performance of the PSL Lab.

213. Defendants, as FDEP employees, owed Plaintiff a duty to investigate the PSL Lab in a prompt, professional and impartial manner before reporting the results of their investigations to Defendant FDEP employees who had the authority to hire and fire FDEP employees, including Plaintiff.

214. Defendants knew, or should have known, when they initiated their investigation into the PSL Lab that Plaintiff was an integral part of the Lab.

215. As a career service employee of the FDEP, the Plaintiff could only face formal discipline in the event that he had been guilty of poor performance, negligence, inefficiency or inability to perform assigned duties, insubordination, violation of the provisions of law or agency rules, conduct unbecoming a public employee, misconduct, habitual drug abuse, or conviction of any crime.

216. Defendants breached their duty to Plaintiff in that they intentionally, recklessly and through a pattern of willful misconduct, used their positions as FDEP employees to improperly manipulate their investigations into the PSL Lab, the ultimate purpose of said actions being to interfere with the employment relationship then existing between Plaintiff and the State of Florida.

217. Defendants' conduct towards Plaintiff was outrageous and intolerable and was undertaken in bad faith with malicious purpose against the Plaintiff.

218. As a direct and proximate result of Defendants' actions the Plaintiff was injured through loss of his job and the income generated by said job, loss of his ability to secure new employment, loss of future earning potential, loss of his standing in his profession and community, mental anguish and other losses directly attributable to Defendants' actions.

219. The Plaintiff has retained the services of undersigned counsel and is obligated to pay counsel a reasonable attorney's fee and costs should he prevail in this action.

**WHEREFORE**, Plaintiff seeks damages in excess of \$15,000 against Defendants Frick, Dickey, Schmidt and Hall, jointly and severally, in such amounts as will fully and fairly compensate him for the injuries identified above, for punitive damages and for attorneys fees and costs and for such and further relief as the Court deems appropriate.

## **COUNT VI**

(Spoliation)

Plaintiff sues Defendants, Hall, Dickey and Schmidt and for complaint alleges:

220. Plaintiff incorporates paragraphs 1 through 141, above herein as if fully restated herein.

221. Defendants Dickey and Schmidt, as part of their investigation into the Alpizar Complaint and the subsequent complaint against Plaintiff made notes of their interviews with witnesses.

222. Defendants Dickey and Schmidt made said notes in furtherance of their positions as public employees of the State of Florida.

223. Defendants Hall, Dickey and Schmidt, as employees of the State of Florida, had the legal duty to preserve said notes and all evidence accumulated by them in their investigations into the Alpizar Complaint and the complaint against Plaintiff.

224. Defendants Hall, Dickey and Schmidt intentionally concealed and destroyed said notes and other evidence in an effort to avoid giving Plaintiff an opportunity to fairly and fully refute the charges brought by the Defendant FDEP against him.

225. The evidence concealed and destroyed by Defendants Hall, Dickey and Schmidt was material to and significantly impaired the Plaintiff's ability to refute the charges brought against Plaintiff by Defendant FDEP.

226. As a result of the actions of Defendants Hall, Dickey and Schmidt, Plaintiff was injured through loss of his job and the income generated by said job, loss of his ability to secure new employment, loss of future earning potential, loss of his standing in his profession and community, mental anguish and other losses directly attributable to Defendants' actions.

227. The Plaintiff has retained the services of undersigned counsel and is obligated to pay counsel a reasonable attorney's fee and costs should he prevail in this action.

**WHEREFORE,** Plaintiff seeks damages in excess of \$15,000 against Defendants Hall, Dickey and Schmidt, jointly and severally, in such amounts as will fully and fairly compensate him for the injuries identified above, for punitive damages and for attorneys fees and costs and for such and further relief as the Court deems appropriate.

## COUNT VII

(Criminal Actions Resulting In Injury To Plaintiff)

(Chapter 772, Florida Statutes)

Plaintiff sues Defendants, Dickey, Schmidt, Neal, Rach, Murphy, Frick and Hall and for complaint alleges:

228. Plaintiff incorporates paragraphs 1 through 141, 143 through 153, and 221-225, above herein as if fully restated herein.

229. At all times material hereto Defendants were, and continue to be, public officials of the State of Florida.

230. Defendants Hall, Dickey and Schmidt, have continuously operated and associated themselves together as an enterprise as defined under §772.102(3), Fla. Stat.

231. Defendants Hall, Dickey and Schmidt have repeatedly within the past five years used their public offices as state employees of FDEP's OIG, to engage in the intentional production of false and misleading public records called "investigative reports" in cases involving multiple individuals and issues.

232. The investigative reports produced by Defendants have distinguishing characteristics including, but not limited to (a) selectively choosing witnesses to interview for individual cases in order to slant the outcome of investigations, (b) selectively choosing only selected witnesses to interview under oath, (c) repeatedly failing to maintain records of interrogations in order to prevent the honest evaluation of investigative reports, and (d) otherwise maneuvering said investigations in a manner that would favor outcomes desired by management within the Defendant FDEP.

233. Through their efforts as set forth in the immediately preceding paragraph Defendants Hall, Dickey and Schmidt have repeatedly issued reports designed to interfere with the employment of multiple FDEP employees, including career service employees, whom administration officials considered to be at odds with the officials' interests and/or policies.

234. The conduct of Defendants Hall, Dickey and Schmidt constitutes repeated violations of §838.022, Fla. Stat prohibiting the misuse of public office and §817.569, Fla. Stat., prohibiting the use of public records in said actions, both of which are third degree felonies and defined as criminal activity under §§772.102(1)(a)28 and 772.102(1)(a)22, Fla. Stat., respectively.

235. The conduct of Defendants Hall, Dickey and Schmidt, as herein alleged, constitutes a repetitious pattern of criminal activity within the meaning of §772.102(4), Fla. Stat.

236. Defendants Hall, Dickey and Schmidt have repeatedly engaged in the actions herein alleged for the express benefit of senior administration officials thereby continuing the Defendants' own employment with Defendant FDEP.

237. Defendants Neal, Rach, Murphy and Frick, individually and collectively, in an effort to orchestrate the removal of Plaintiff from his position in the Lab associated themselves with Defendants Hall, Dickey and Schmidt.

238. Defendants, Dickey, Schmidt, Neal, Rach, Murphy, Frick and Hall individually and collectively as an enterprise then used their positions as public officials of the State of Florida in order to retaliate against Plaintiff for disclosures made by Plaintiff as delineated in Count I, above.

239. Defendants individually and collectively engaged in the conduct herein alleged intentionally and with reckless disregard for Plaintiff's rights as a career service employee and for his welfare as a resident of the State of Florida.

240. In retaliating against Plaintiff the Defendants individually and collectively acted consistent with their previously established pattern of criminal activity as herein alleged and thereby allowed and encouraged the creation of false and misleading public records that would further their design without regard to the adverse consequences to Plaintiff's welfare and the public's interest in the honest performance and discharge of its public servants at the FDEP in their duties to protect Florida's environment.

241. Defendants' participation in the above-alleged pattern of criminal activity and in associating with an enterprise connected therewith constituted a violation of §772.103(3), Fla. Stat.

242. As a result of the actions of Defendants Dickey, Schmidt, Neal, Rach, Murphy, Frick and Hall Plaintiff was injured through loss of his job and the income generated by said job, loss of his ability to secure new employment, loss of future earning potential, loss of his standing in his profession and community, mental anguish and other losses directly attributable to Defendants' actions.

243. The Plaintiff has retained the services of undersigned counsel and is obligated to pay counsel a reasonable attorney's fee and costs should he prevail in this action.

**WHEREFORE**, pursuant to §772.104(1), Fla. Stat., Plaintiff seeks damages in excess of \$15,000 against Defendants Dickey, Schmidt, Neal, Rach, Murphy, Frick and Hall, jointly and severally, in such amounts as will fully and fairly compensate him for the injuries identified

above, for treble damages pursuant to §772.104(1) Fla. Stat., and for attorneys fees and costs pursuant to §772.104(1) Fla. Stat., and for such and further relief as the Court deems appropriate.

**JURY TRIAL DEMAND**

Plaintiff demands a jury trial on all issues so triable.

**VERIFICATION**

I, Thomas R. White, hereby affirm, under penalty of perjury, that the above-stated facts are true and correct to the best of my knowledge, information, and belief.

\_\_\_\_\_  
Thomas R. White

On Behalf of Plaintiff,  
Thomas R. White,

\_\_\_\_\_  
Jerrel E. Phillips  
Attorney at Law  
P.O. Box 14463  
Tallahassee, Florida 32317  
Telephone: (850) 877-8097  
Facsimile: (850) 942-5264  
Florida Bar No.: 0878219

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Danielle Joyner-Kelley  
Erickson-McDaniel & Kelley, P A  
6753 Thomasville Rd Ste 108-209  
Tallahassee, Florida 323123966  
Telephone: (850) 907-8231  
Facsimile: (850) 907-8231  
Florida Bar No.: 729515