

SUPREME COURT OF THE STATE OF NEW YORK
COUNTY OF KINGS

-----X
SCOTT P. SPECHT,

Plaintiff,

Date Filed:

Index No.

-against-

THE CITY OF NEW YORK, THOMAS KANE
and JOHN DAVID LYNN,

Defendants.

----- X

TO THE ABOVE-NAMED DEFENDANTS:

You are hereby summoned and required to answer the complaint in this action and to serve upon Nathaniel B. Smith, plaintiffs’ attorneys, whose address is 225 Broadway – Suite 1901, New York, New York 10007, an answer to the attached complaint which is herewith served upon you, within twenty (20) days after service of this summons upon you, exclusive of the day of service (or within 30 days after service is complete if this summons is not personally delivered to you within the State of New York). If you fail to appear or answer, judgment by default will be taken against you for the relief demanded in the complaint.

The basis of venue in this action is the place where the causes of action arose, which is in the County of Kings.

Dated: September 16, 2019
New York, New York

Nathaniel B. Smith

s/Nathaniel B. Smith

By: _____
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Plaintiff, Scott P. Specht, by and through his undersigned attorneys, hereby
alleges as and for his complaint the following:

PARTIES

1. Plaintiff, Scott P. Specht (“Specht” or “Plaintiff”) is an individual with a residence in the State of New York and at all relevant times was and is a Fire Marshal in the Bureau of Fire Investigation for the Fire Department of the City of New York (the “FDNY”), which is a department of the City of New York.

2. Defendant, the City of New York, is a municipal corporation duly constituted as such under the laws of the State of New York and at all relevant times was a public employer as defined by Section 75-b of the Civil Service Law.

3. Defendant, Thomas Kane (“Kane”) was at all relevant times the Chief Fire Marshal of the Bureau of Fire Investigation.

4. Defendant, John David Lynn (“Lynn”) was at all relevant times the Assistant Chief Fire Marshal at the Bureau of Fire Investigation and as such he directly reported to Kane as the Chief Fire Marshal.

PLAINTIFF’S BACKGROUND

5. Specht became an employee of the City of New York when he joined the FDNY in September of 2003 as an Emergency Medical Technician (“EMT”).

6. For the next three years, Specht satisfactorily performed his duties as an EMT and was not the subject of any kind of disciplinary action by the FDNY.

7. In October of 2006, Specht was promoted to the position of Firefighter in the FDNY.

8. For the next eight years, Specht satisfactorily performed his duties as a Firefighter and was not the subject of any kind of disciplinary action by the FDNY.

9. In September of 2014, Specht was promoted to the position of Fire Marshal in the FDNY, and as of the filing of this Complaint Specht, continues to hold the rank of Fire Marshal at the Bureau of Fire Investigation.

10. Concurrently with his work at the FDNY, for the past sixteen years Specht has been (and still is) actively serving his country as a soldier in the United States Army. Specht has served as a Field Grade U.S. Army Warrant Officer, a Black Hawk helicopter pilot, an Aviation Safety Officer, and is an Iraq War

combat veteran. Specht is currently serving in an active duty status with the New York Army National Guard.

SPECHT'S DUTIES AT THE FIRE MARSHAL'S BUREAU

11. Fire Marshals are responsible for, among other things, investigating the point of origin and the causes of fires in the City of New York.

12. A Fire Marshal is a public servant under the law of the State of New York, who takes an oath of office to faithfully carry out the duties of his or her office.

13. A Fire Marshal is a law enforcement officer with arrest and other powers and investigatory authority to enforce laws pertaining to arson and other crimes relating to fires. As such, a Fire Marshal is required to carry a firearm, an official badge and an official identification card.

14. Since being promoted to the position of Fire Marshal, Specht has satisfactorily performed his duties as a Fire Marshal and has not been the subject of any kind of disciplinary action by the FDNY, other than the retaliatory actions that are the subject of this action.

THE MARCH 22, 2018 FIRE

15. On March 22, 2018, Specht was assigned to be the lead investigator for a fire at a five-story brownstone apartment building located in Manhattan at 773 Saint Nicholas Avenue, New York, New York.

16. The fire was a major, five-alarm fire that destroyed the building and killed one of the first responders, Firefighter Michael Davidson, who was the “nozzle man,” the first in the line of firefighters who carried the water hose into the burning building.

17. Soon after being assigned the investigation, Specht began to focus his attention on two possible theories for the cause of the fire.

18. Specht initially learned that in the days just before the fire, the owner of the building had personally done some unlicensed repairs on the boiler, which was located in the cellar of the building.

19. As such, Specht began focusing his investigation on the possibility that the cause and/or origin of the fire was the boiler.

20. Specht also learned that at the time of the fire, the building was being used as a movie set for a movie named “Motherless Brooklyn.”

21. Based on information Specht obtained during the course of his investigation, he also began focusing his investigation on the possibility that the movie production process caused and/or accelerated the intensity of the fire.

22. Upon information and belief, shortly before the time of the fire, the building’s sprinkler system had been recently inspected and was operational, but at the time of the fire, the sprinkler system in the building had been shut off and was not activated by the fire.

23. As a result of the sprinkler system being shut off it, the fire, which killed Firefighter Davidson, was more dangerous than it would have been had the sprinkler system been operating properly.

24. During the course of his investigation, Specht also learned that at the time of the fire, movie production personnel were actively involved in shooting scenes for the movie inside the building and directly in front of the building.

25. At the time of the fire, the movie production personnel had installed high-intensity lighting using extensive and high-voltage electrical lines inside the building.

26. At the time of the fire, the movie production personnel had installed a full production movie set in the basement of the building using, among other things, wood, foam, plastic, and other highly inflammable and petroleum-based materials that become highly toxic when burned.

27. At the time of the fire and based on common practice in the industry, the movie production personnel had, upon information and belief, shut off the sprinkler system in the building so that the high-intensity lighting would not trigger the sprinkler system and damage the movie set or the movie-making equipment in the building.

28. On the last day that the Bureau of Fire Investigation physically examined the scene, Lynn order the improper removal of the building's fire

sprinkler valves, and contrary to good and accepted practices, at the direction of Lynn, no photographs or other records were made to document this event, even though the investigators logged into the files over one thousand photographs documenting the investigation.

29. Upon information and belief, Lynn hid the fire sprinkler valves in the basement of an FDNY facility.

30. Two days after the fire, on March 24th, the *Daily News* ran a story, based on an unidentified FDNY source, that stated that investigators believed that the “balky basement boiler emerged Saturday as the possible cause” for the fire.

31. As of the time of the story, Specht and the other Fire Marshals working with him on the investigation did not believe that the boiler was the cause of the fire.

32. Specht was not the source for the March 24th *Daily News* story and became upset when he learned that others, apparently within the FDNY, were seeking, without a factual or scientific basis, to blame the boiler and the African American owner of the building for the fire in order to shift attention away from the movie production personnel who were also potentially responsible for the fire and the death of Firefighter Davidson.

33. For at least a day and a half after the fire started, Specht and his team of investigators were not able to gain access to the boiler room because the

building had been destroyed by the fire and debris and hazardous and toxic materials were covering the entire site of the fire.

34. On the afternoon of March 24th, Specht and his assistant, Fire Marshal Branford, obtained permission from NYC Department of Buildings personnel to gain access to the building cellar.

35. At about 4:15 PM on March 24th, Specht and Branford crawled underneath and through toxic building debris and gained access to the cellar room.

36. Upon inspection of the boiler room, Specht determined that the boiler room conditions suggested that the boiler was not the origin or cause of the fire. Specht noted during his inspection that the boiler room appeared intact with no visible signs of fire damage in the room. Specht also observed that plastic and rubber at the ceiling level of the boiler room were also intact and that there were no signs of excessive heat or damage to the boiler room or to the boiler systems.

37. Based on this information about the condition of the boiler and the boiler room, Specht began to focus his investigation more directly on the role of the movie production personnel in causing and/or aggravating the fire.

38. Specht came to understand and believe that the movie production personnel may have shut off the sprinkler system.

39. Specht came to understand and believe that the movie production personnel used high-speed drills to construct the movie set in the basement of the

building and that that during the course of the construction of the movie set, the movie production personnel drilled holes into the walls, floors and ceilings of the basement, which could have damaged the buildings' high-voltage electrical wiring.

40. Specht came to understand and believe that the origin of the fire was in the area where the movie set had been established in the basement, and not in the area of the boiler, which was one level below the basement in the building's cellar.

41. Specht came to understand and believe that the fire may have started or spread in the space between the building's original walls, floors and ceilings and the movie productions' temporary walls, floors and ceilings; and that the space between the original and the temporary walls, floors and ceilings hid the full extent of the fire and the danger it posed until it was too late for Firefighter Davidson and others to understand the peril that they were in when they entered the fire.

42. In accordance with established scientific methods and practices at the FDNY and as established on a nation-wide basis by industry standards, Specht sought to first identify the possible causes of a fire and then, by testing each possible cause, proceeded to rule out possible causes until a final cause had been determined.

43. During the course of his investigation, Specht determined that there were two possible causes of the fire. Specht's primary theory was that the

electrical and other work done inside the building caused the fire. Specht's other theory was that an unknown defect in the boiler caused the fire.

44. Over the course of the month after the fire, Specht and his partner worked full time on their investigation of the March 22nd fire. Virtually every day for several weeks after the fire, Specht and his partner went to the site of the fire, sorting through debris, examining physical evidence and interviewing witnesses.

45. Over the course of the month after the fire, Specht and his partner became very sick with serious respiratory infections but continued with their duties nonetheless.

46. In the days and weeks after the fire, Specht kept his superior officers at the Bureau of Fire Investigation, including Supervising Fire Marshal Constantine Kanelopoulos, and Defendants Kane and Lynn, informed on the status of his investigation and that his primary theory was that the movie production personnel were the possible cause of the fire.

47. Upon information and belief, Defendants, the City of New York, Kane and Lynn wanted to pin the blame for the fire on the boiler to deflect blame and attention away from the movie production companies involved in the production of the movie.

48. The movie production business is a high profile and lucrative business that generates substantial benefits for the City of New York, including jobs, tax

and fee income, tourism, and positive publicity for the City and for its senior executives and officers, including senior FDNY officers such as Kane and Lynn.

49. In recent years, the movie and television industry in the City of New York has exploded with tremendous growth and a recent *New York Times* story about the growth dubbed New York City as the “new Hollywood.”

50. Upon information and belief, 332 movies were filmed in New York City in 2018 according to New York City officials; up from 121 in 1980.

51. Upon information and belief, 67 television shows were shot in New York City within the past year, more than double the number shot during the 2013-2014 season.

52. Movies and television shows are expected to spend \$4 billion this year in the State of New York. Since 2004, productions have spent more than \$33 billion and filled about 1.8 million jobs in New York.

53. The City of New York and its officers have important political, financial, personal, and cultural relationships with the movie and television production businesses that would be significantly damaged in the event that the producers and directors of “Motherless Brooklyn” were seen as being responsible, in whole or in part, for a major fire that killed an FDNY firefighter and destroyed a multiple dwelling apartment building in Manhattan.

54. On April 13, 2018, Defendants Kane and Lynn called Specht to a meeting at FDNY headquarters at 9 Metrotech Center, Brooklyn, New York, and ordered him to file a final report for his investigation concluding that a flue connected to the boiler caused the fire and that the fire originated in the boiler flue.

55. Specht refused to file that report as ordered because it was false. Specht told Kane and Lynn that he had not completed his investigation and that the cause and origin of the fire remained at the time undetermined.

56. Specht also told Kane and Lynn at the April 13th meeting that there was insufficient evidence to place the origin or the cause of the fire on the boiler or the boiler flue; that he did not believe that the boiler or the boiler flue was the fire's cause; and that his primary theory was that the movie production personnel caused the fire and that their practices may have contributed to the dangerous and toxic conditions that killed Firefighter Davidson.

57. The April 13th meeting lasted several hours and during the course of the meeting, Kane, Lynn and others browbeat, insulted, abused, and threatened Specht in order to coerce Specht into filing his official report stating the boiler flue as the cause of the fire.

58. At the end of the meeting, Specht told his superiors, as directed, that he would draft a final report blaming the boiler flue for the fire.

59. About two days after the April 13th meeting, however, Specht told his direct supervisor, Supervising Fire Marshal (“SFM”) Kanelopoulos, that he could not and would not file a false report as directed by Kane and Lynn.

60. SFM Kanelopoulos told Specht that Specht was committing “career suicide” if he did not comply with Kane and Lynn’s order.

61. About two weeks later, on April 30, 2018, Specht was called back to headquarters and was again attacked by Kane, Lynn and all other FDNY officers at the meeting for failing to file the as-ordered official report as directed.

62. During the course of their discussions, Specht suggested that agents from another governmental agency, the Federal Bureau of Alcohol, Tobacco, Firearms and Explosives (“ATF”), which was also investigating the March 22nd fire, examine the boiler, and Lynn unreasonably and without justification refused Specht’s suggestion and refused to even permit ATF investigative agents to participate in the discussion about the investigation.

63. Rather than permit ATF to examine the boiler, Lynn released the boiler to agents of the movie production personnel, another act that was inconsistent with good and accepted investigative practices.

64. At the end of the April 30th meeting, Kane and Lynn removed Specht from the investigation and relieved him of his duties as a Fire Marshal on the fire.

65. At the end of the April 30th meeting, Specht reported to his superiors that he was sick and was going to report to FDNY medical personnel for an evaluation of his medical condition.

66. Upon information and belief, SFM Kanelopoulos was told by Kane and Lynn to file the official report that identified the boiler flue as the cause and origin of the March 22nd fire.

67. Upon information and belief, sometime shortly after April 30th, SFM Kanelopoulos filed an official report that falsely identified the boiler flue as the cause and origin of the March 22nd fire.

68. Upon information and belief, Kane and Lynn promoted SFM Kanelopoulos to the position of Supervising Fire Marshal, Level II, as a reward to SFM Kanelopoulos for filing the false report on the fire.

69. After the April 30th meeting, on about May 1, 2018, Specht sent to all Fire Marshals at the Bureau of Fire Investigation an email to document the status and results of his investigation into the fire.

70. At the end of his email, Specht told his fellow Fire Marshals: “My advice to the member of the Bureau of Fire Investigation is to stay true to your methodology, your training, and yourself. Do not succumb to the great pressures that will be placed upon you by the supervisory members of this bureau. At the

end of the day, it will be YOU answering to your methods under oath. More importantly, it will be YOU answering to the reflection you see in the mirror.”

71. Upon information and belief, Defendants Kane and Lynn learned about the content of, and obtain copies of, Specht’s May 1st email.

72. After Specht was removed from the investigation that he had been working on full time for the past five weeks, Specht reported in as sick and went to see an FDNY doctor for his respiratory condition, which ultimately was diagnosed as asthma and obstructive airway disease.

73. On May 8, 2018, the *Daily News* published a story reporting that FDNY fire marshals had determined that a faulty boiler caused the March 22nd fire.

74. On about May 10, 2018, Specht received a light duty assignment as a result of his medical condition.

75. After being removed from the investigation, Specht reasonably believed that Defendants Kane and Lynn violated their oaths of office and abused their positions as public officers when they attempted to have Specht file a false official report and when they removed him from the investigation because Specht refused to file a false official report.

76. After being removed from the investigation, Specht reasonably believed that Defendants Kane and Lynn abused their positions as public officers

when they obstructed, hindered and interfered with his investigation, which was a lawful governmental process.

77. After being removed from the investigation, Specht reasonably believed that Defendants Kane and Lynn attempted to coerce him into filing a false report and did coerce SFM Kanelopoulos into filing a false official report as to the cause and origin of the March 22nd fire by stating that the boiler flue was the origin and cause of the fire.

78. On about June 7, 2018, Specht reported his concerns about the misconduct by Kane and Lynn to the New York City Department of Investigation by meeting with officers from that office and informing them of the facts set forth above in this complaint.

79. On about July 11, 2018, Specht filed, through his counsel, a Notice of Claim with the New York City Controller's Office, giving notice of his intention to bring a civil action against Defendants, the City of New York and Lynn, for retaliation arising from Specht's activities in connection with the March 22nd fire investigation and Specht's improper removal from the investigation.

80. On about July 12, 2018, Specht reported his concerns about the misconduct by Kane and Lynn to the New York County District Attorney's Office by meeting with officers from that office and informing them of the facts set forth above in this complaint.

81. On about July 12, 2018, the *Daily News* published a story about Specht's Notice of Claim, stating that a "top FDNY fire marshal torched an underling for suggesting actor Edward Norton's production company caused a raging Harlem fire that killed a veteran firefighter." The story also stated that Defendant Lynn "was further accused of unlawfully ending 'an ongoing fire investigation, on a movie set, where a firefighter lost his life.' "

82. On September 19, 2018, while Specht was still on a light-duty assignment for his medical condition, Defendants Kane and Lynn ordered that Specht be placed on "modified duty" status without any basis.

83. Pursuant to the modification order and the change in status, Specht was directed to discontinue all operational and investigative activity; Specht was directed to remain at an assigned work location on an administrative schedule (Mondays-through Fridays from 8:00 AM to 5:00 PM); Specht was ordered not to use FDNY vehicles; Specht was denied any and all opportunity to work overtime or exchange, change, or alter any of his tours or hours of work; and Specht was directed to sign in and out of his work location.

84. On September 19, 2018, Kane and Lynn, directed that Specht turn in his firearm, badge and identification card, and Specht complied with the directive to turn in his firearm, badge and identification card.

85. The modification of Specht became common knowledge and destroyed Specht's career and his good name and reputation at the FDNY, and as a result, Specht filed paperwork to see if he could retire rather than to continue to endure the ongoing humiliation, isolation and retaliation on the job.

86. On November 15, 2018, the Medical Board for the New York Fire Department Pension Fund made a determination that Specht was disabled due to asthma and recommended that the New York Fire Department Pension Fund grant Specht disability retirement.

87. On December 4, 2018, the New York Fire Department Pension Fund informed Specht that the Board of Trustees of the New York Fire Department Pension Fund was scheduled to calendar a determination on Specht's disability retirement application.

88. Two days later, however, New York Fire Department Pension Fund notified Specht that his retirement application was being held up due to an "ongoing investigation."

89. Upon information and belief, there is no basis to hold up Specht's application for retirement.

90. Upon information and belief, Defendants, Kane and Lynn are responsible for the delay in the processing of Specht's retirement application.

91. Upon information and belief, Defendant, the City of New York is responsible for the delay in the processing of Specht's retirement application.

92. Upon information and belief, the amount of Specht's retirement benefits will be reduced because Specht has been denied the opportunity to work any overtime hours as result of his "modification" on September 19, 2018.

93. As a result of the Defendants' conduct in retaliating against Specht, Specht has been damaged and has lost valuable employment and pension benefits in an amount to be determined at trial.

94. Defendants Kane and Lynn have spread false rumors about how Specht was seeking to harm the family of Firefighter Davidson by damaging the family's ability to hold accountable the parties who should be held accountable for the death of Firefighter Davidson.

95. The Defendants' conduct has caused Specht to feel humiliated and isolated in this job and Specht has suffered significant and severe mental anguish as a result of the retaliatory actions taken against him.

FIRST CAUSE OF ACTION

96. Plaintiff repeats and realleges all the foregoing allegations as if set forth herein at length.

97. The City of New York is a "public employer" within the meaning of Civil Service Law Section 75-b (1)(a) in that it is a city and political subdivision of

the State of New York and a public corporation, instrumentality and unit of government that exercises governmental powers under the laws of the State of New York.

98. Specht is a “public employee” and “employee” of the City of New York within the meaning of Civil Service Law Section 75-b (1)(a) in that he holds an appointment as a Fire Marshal and is employed in the service of the City of New York.

99. On September 19, 2018, the City of New York, by its agents, Defendants, Kane and Lynn, who are also aiders and abettors in the unlawful actions of the City of New York, placed Specht on modified duty, effective September 19, 2018. As a result of the Defendants’ actions, Specht was directed to discontinue all operational and investigative activity; was directed to remain at an assigned work location on an administrative schedule (Mondays-through Fridays from 8:00 AM to 5:00 PM); was ordered not to use FDNY vehicles; was denied any and all opportunity to work overtime or exchange, change, or alter any of his tours or hours of work; and was directed to sign in and out of his work location.

100. On September 19, 2018, City of New York, by its agents, Kane and Lynn, directed that Specht turn in his gun, badge and identification card.

101. Specht complied with those directives and turned in his gun, badge and identification card.

102. The actions taken by the Defendants against Specht on September 19, 2018 have stigmatized Specht in the workplace, ruined his career, and caused him to suffer pervasive feelings of humiliation and disgrace.

103. The actions taken by the Defendants against Specht on September 19, 2018 constitute a disciplinary and adverse personnel action regarding Specht's employment as a Fire Marshal.

104. The actions taken by the Defendants against Specht on September 19, 2018 and thereafter were taken because Specht disclosed to governmental officers and governmental bodies information that Specht reasonably believed to be true and that Specht reasonably believed constituted improper governmental action, as that phrase is defined by Civil Service Law Section 75-b (2)(a).

105. The actions taken by the Defendants against Specht on September 19, 2018 and thereafter were taken because Specht disclosed to governmental officers and governmental bodies information about violations of laws, rules and regulations that created and presented a substantial danger to the public health and safety.

106. FDNY and nationwide fire investigation policies, practices and guidelines understand and hold that accurate and scientific investigations into the causes and origins of fires are indispensable to fire prevention and that a failure to conduct a complete, correct and scientific investigations into the causes and origins

of fires creates a clear and substantial danger to the public's safety, health and welfare.

107. The retaliatory actions by Defendants Kane and Lynn in connection with Specht's investigation of the cause and origin of the March 22, 2018 fire were actions taken in the performance of their official duties as the Chief Fire Marshal and Assistant Chief Fire Marshal and violated numerous state and local laws, rules and regulations set forth below.

108. The investigation of the March 22, 2018 fire was being conducted pursuant to the power to investigate the cause and origin of fires vested in the Fire Commissioner under New York City Charter Section 488 and FDNY Regulations, Chapter 8, Sections 8.2.1 and 8.2.6.

109. Defendants Kane and Lynn violated New York City Charter Section 1128 and FDNY Regulation, Chapter 30, § 30.1.3, which respectively provide that (a) no person shall prevent, seek to prevent, interfere with, obstruct or otherwise hinder any study or investigation being conducted pursuant to the charter; and (b) FDNY reports shall not be intercepted, interfered with, or withheld.

110. Defendants Kane and Lynn attempted to violate and did violate New York Penal Law Section 195.05, which provides that the crime of obstruction of governmental administration has been committed when a person "intentionally obstructs, impairs or perverts the administration of laws or other governmental

function or prevents or attempts to prevent a public servant from performing an official function, by means of intimidation, physical force or interference, or by means of any independently unlawful act.

111. Defendants Kane and Lynn attempted to violate and did violate New York Penal Law Section 135.60(8), which provides that the crime of coercion has been committed when an actor compels or induces another person to engage in conduct that the latter person has a legal right to refrain from engaging in by means of instilling in him or her a fear that, if the demand is not complied with, the actor or another will use or abuse his or her position as a public servant by performing some act within or related to his or her official duties in such a manner as to affect another person adversely.

112. Defendants Kane and Lynn attempted to violate and did violate New York Penal Law Sections 100.00 & 100.10, which provide that the crime of criminal solicitation has been committed when, with the intent that another person engage in criminal conduct, he solicits, requests, commands, importunes or otherwise attempts to cause such other person to engage in such conduct.

113. Defendants Kane and Lynn also violated FDNY Regulations and have solicited others to violate FDNY Regulations as set forth below.

114. FDNY Regulation, Chapter 25, Section 25.1.10 provides that “members shall not knowingly make a false official entry, statement or report or record.”

115. FDNY Regulation, Chapter 25, Sections 25.1.1 and 25.1.3 provide that members shall not violate their oaths of office and that members shall conduct themselves at all times in a manner that will not bring reproach or reflect discredit upon the FDNY.

116. Specht’s claims are not subject to a final and binding arbitration provision of any collective bargaining agreement.

117. Upon information and belief, Specht’s union, the Uniform Firefighters’ Association, does not have an agreement with the City of New York that contains a final and binding arbitration provision.

118. Upon information and belief, Specht’s union, the Uniform Firefighters’ Association, does not have an agreement with the City of New York that contains a final and binding arbitration provision that prevents an employer from taking adverse personnel actions against its union members.

119. There is no existing and specific provision of any collective bargaining agreement that governs the claims being asserted in this Complaint or that requires that the claims in this complaint be resolved by final and binding arbitration.

120. As a result of the Defendants' conduct and actions, Specht is entitled to an injunction restraining continued retaliation or adverse action against him; reinstatement to his status before September 19, 2018; the reinstatement of Specht's full fringe, employment and pension benefits and seniority rights; compensatory damages for lost wages, lost benefits, lost enhanced pension benefits; and all other forms of lost remuneration; and the payment of reasonable costs, disbursements and attorney's fees.

SECOND CAUSE OF ACTION

121. Plaintiff repeats and realleges all the foregoing allegations as if set forth herein at length.

122. The Defendants, the City of New York, Kane and Lynn, have taken retaliatory and adverse action against Specht because he filed a Notice of Claim stating his intent to commence a civil action against the Defendants in violation of Specht's constitutional rights to petition the government for a redress of his grievances.

123. The First Amendment to the United States Constitution prohibits the Defendants from retaliating against Specht because he exercised his right to petition the government for a redress of grievances.

124. Specht filed a Notice of Claim that alleged that the Defendants improperly terminated the investigation of the March 22nd fire; that the

Defendants' conduct improperly permitted a Hollywood movie company to circumvent scrutiny of a full and fair fire investigation; that the movie production personnel misled Specht as to the presence of combustible materials used on the movie set; and that Specht was thereafter improperly removed from the investigation as part of a cover-up of the movie production company's role in the fire that killed Firefighter Davidson.

125. The Notice of Claim was filed by Specht as a citizen on matters of public concern.

126. The Defendants are persons within the meaning of 42 U. S. C. Section 1983 and at all relevant times were acting as agents of the State under color of law.

127. As a result of the Defendants' conduct, they are jointly and severally liable to Specht for damages and punitive damages in an amount to be established at trial together with all costs and expenses of this action, including reasonable attorney's fees, pursuant to 42 U. S. C. § 1988.

THIRD CAUSE OF ACTION

128. Plaintiff repeats and realleges all the foregoing allegations as if set forth herein at length.

129. The Defendants, the City of New York, Kane and Lynn have taken retaliatory and adverse action against Specht because they believed that he spoke to the *Daily News* about his Notice of Claim.

130. The First Amendment to the United States Constitution prohibits the Defendants from retaliating against Specht because the Defendants believed that he exercised his right to speak as a citizen on matters of public concern.

131. The Defendants are persons within the meaning of 42 U. S. C. Section 1983 and at all relevant times were acting as agents of the State under color of law.

132. As a result of the Defendants' conduct, they are jointly and severally liable to Specht for damages and punitive damages in an amount to be established at trial together with all costs and expenses of this action, including reasonable attorney's fees, pursuant to 42 U. S. C. § 1988.

FOURTH CAUSE OF ACTION

133. Plaintiff repeats and realleges all the foregoing allegations as if set forth herein at length.

134. The Defendants, the City of New York, Kane and Lynn, have taken retaliatory and adverse action against Specht because Specht spoke to the New York City Department of Investigation and the New York County District Attorneys' Office on matters of public concern as a citizen.

135. The First Amendment to the United States Constitution prohibits the Defendants from retaliating against Specht because he exercised his right to speak as a citizen on matters of public concern.

136. The Defendants are persons within the meaning of 42 U. S. C. Section 1983 and at all relevant times were acting as agents of the State under color of law.

137. As a result of the Defendants' conduct, they are jointly and severally liable to Specht for damages and punitive damages in an amount to be established at trial together with all costs and expenses of this action, including reasonable attorney's fees, pursuant to 42 U. S. C. § 1988.

FIFTH CAUSE OF ACTION

138. Plaintiff repeats and realleges all the foregoing allegations as if set forth herein at length.

139. The Defendants' conduct toward Specht was without any justification and was taken intentionally and maliciously against Specht for the purpose of inflicting extreme emotional distress on Specht.

140. The Defendants' conduct toward Specht was extreme and outrageous conduct that sought to cover up the true or likely causes for the March 22nd fire and to punish Specht for refusing to cover up the facts pertaining to fire that killed a Firefighter in the line of duty.

141. Each year in the City of New York hundreds of movies and television shows are produced in the City of New York where scenes are shot inside multiple dwellings and other buildings employing highly dangerous practices such as the ones employed on March 22nd at the fire that killed Firefighter Davidson.

142. The Defendants' conduct toward Specht was extreme and outrageous conduct that sought to cover up the fact that highly dangerous methods are being used by the movie industry in the City of New York and that those methods continue to threaten the lives of Firefighters and residents of the City of New York.

143. The Defendants conduct is extreme and outrageous because they know that the movie industry maintains a practice of using high-powered electrical lines; they know that the movie industry uses highly inflammable and toxic materials for movie sets in multiple dwellings; and they know that the movie industry maintains a practice of shutting off sprinkler systems for the purpose of protecting their property at the risk of the lives of Firefighters and residents of the City of New York.

144. The City of New York is liable for the conduct of Defendants Kane and Lynn because those individual defendants were acting in their capacities as employees and officers of the City of New York and were acting within the scope of their employment when they took their actions against Specht.

WHEREFORE, Plaintiff, Scott P. Specht, demands that judgment be entered in his favor and against the Defendants, jointly and severally, for injunctive relief restraining continued retaliatory or adverse action against Specht; reinstatement to his status before September 19, 2018; the reinstatement of Specht's full fringe, employment and pension benefits and seniority rights; compensatory damages for

lost wages, lost benefits, lost enhanced pension benefits and all other forms of lost remuneration; compensatory damages for emotional stress and pain and suffering; punitive damages against all Defendants; and the payment of reasonable costs, disbursements and attorney's fees.

Dated: September 16, 2019

s/Nathaniel B. Smith

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