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UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA

M. DENNIS SCULIMBRENE
807 Seven Fountains Road
Fort Valley, Virginia 22652,

Plaintiff,

vs.

JANET RENO, in her official
capacity as Attorney General
of the United States
950 Pennsylvania Avenue, N.W.
Washington, DC 20530,

and

THE EXECUTIVE OFFICE OF
THE PRESIDENT
1600 Pennsylvania Avenue, N.W.
Washington, D.C. 20500,

and

JACK QUINN
501 Slaters Lane, #306
Alexandria, Virginia 22314,

and

HOWARD SHAPIRO
8303 Bryant Drive
Bethesda, Maryland 20817,

and

LANNY J. DAVIS
12517 Bracken Hill Lane
Rockville, Maryland 20854,

and

CASE NUMBER 1:99CV02010
JUDGE: Royce C. Lamberth
DECK TYPE: Civil General
DATE STAMP: 07/26/1999

JOHN AND JANE DOES NOS. 1-5,
Certain Unknown Officials and/or
~~Agents of The White House, and/or~~
Certain Unknown Officials of the
Federal Bureau of Investigation,

Defendants.

COMPLAINT

This is an action for violations of Rehabilitation Act, 29 U.S.C. § 701, *et seq.*, the Privacy Act, 5 U.S.C. § 552a, the Klu Klux Klan Act, 42 U.S.C. §§ 1985(1) and 1985(2), and the First and Fifth Amendments of the United States Constitution.

PARTIES

1. M. Dennis Sculimbrene is a citizen of the Commonwealth of Virginia and resides at 807 Seven Fountains Road, Fort Valley, Virginia 22652.
2. Janet Reno is the Attorney General of the United States and is being named in her official capacity as head of the Federal Bureau of Investigation (hereinafter the "FBI"). Attorney General Reno's offices are located at 950 Pennsylvania Avenue, N.W., Washington, D.C. 20530.
3. The Executive Office of the President (hereinafter "The White House") is an agency of the U.S. Government and is headquartered at 1600 Pennsylvania Avenue, N.W., Washington, D.C. 20500.
4. Jack Quinn is a citizen of the Commonwealth of Virginia and resides at 501 Slaters Lane, #306, Alexandria, Virginia 22314.
5. Howard Shapiro is a citizen of State of Maryland and resides at 8303 Bryant Drive, Bethesda, Maryland 20817.

6. Lanny J. Davis is a citizen of the State of Maryland and resides at 12517 Bracken Hill Lane, Rockville, Maryland 20854.

7. John and Jane Does Nos. 1-5 are currently unknown officials and/or agents of The White House and/or officials of the FBI who agreed to participated in, and did participate in the matters alleged herein.

JURISDICTION AND VENUE

8. Jurisdiction over this matter is proper under 28 U.S.C. § 1331, as Plaintiff asserts claims arising under the laws of the United States.

9. Venue is proper in this district pursuant to the provisions of 28 U.S.C. § 1391(a)(2) because a substantial part of the events or omissions giving rise to Plaintiff's claims occurred in the District of Columbia.

STATEMENT OF FACTS

10. Plaintiff is a former Air Force pilot who served in the Vietnam War and thereafter worked as an FBI Special Agent for twenty-three (23) years.

11. In July 1976, Plaintiff was assigned to the FBI's Washington Field Office, where his duties and responsibilities included conducting background investigations on persons employed by or seeking employment with the U.S. Government.

12. In approximately December 1985, Plaintiff was detailed to the FBI's White House Liaison Office, where he worked out of an office in the Old Executive Office Building (hereinafter "OEEOB").

13. Plaintiff's duties and responsibilities in the FBI's White House Liaison Office consisted of interviewing White House executives and staff, as well as detailees, volunteers and

contractors requiring access to The White House, preparing memoranda of his interviews, and transmitting his memoranda to the Washington Field Office.

14. At no point did Plaintiffs' daily duties and responsibilities at The White House require him to carry a gun, make arrests or even work in the field. Plaintiff's duties and responsibilities were in large part limited to office work.

15. In January 1993, the Clinton Administration took over control of The White House from the Bush Administration. Consequently, there was a large influx of new political appointees and employees at The White House.

16. At that time, Plaintiff was the senior FBI Special Agent detailed to The White House. Consequently, he was the only FBI agent at The White House with a special "Secret Compartmentalized Information" security clearance, which allowed him to have access to highly classified information.

17. In early March 1993, Assistant White House Counsel William H. Kennedy, III, Deputy White House Communications Director Jeff Eller and Director of White House Management and Administration David Watkins tried to question Plaintiff about the backgrounds and political views of the staff of The White House Travel Office.

18. Because the Privacy Act prohibited Plaintiff from revealing information about specific persons, Plaintiff advised Kennedy, Eller and Watkins that, based upon his memory of previous background investigations, he was not aware of any derogatory information about any persons employed in The White House Travel Office.

19. Plaintiff notified his supervisor about being questioned by Kennedy, Eller and Watkins. Plaintiff suggested to his supervisor that The White House was looking for an excuse to

fire The White House Travel Office employees and that the FBI was being "used" to provide that excuse.

20. Also in early March 1993, Plaintiff conducted several interviews in conjunction with a background investigation of David Craig Livingstone, whom the Clinton Administration had appointed, or was considering for appointment as the Director of The White House Office of Personnel Security.

21. FBI procedures required that Livingstone's supervisors be interviewed. Thus, Plaintiff was required to interview both Assistant White House Counsel William H. Kennedy III and White House Counsel Bernard Nussbaum.

22. Nussbaum related to Plaintiff that he did not know Livingstone well, but that he had been highly recommended by Hillary Clinton, who apparently knew Livingstone's mother.

23. Plaintiff then typed a contemporaneous memorandum, which is formally called an "insert" in FBI nomenclature. Plaintiff was not required by FBI procedures to record or maintain notes of this interview since the information obtained was considered positive. The insert states, in pertinent part:

The following investigation was conducted by SA M. Dennis Sculimbrene regarding
DAVID CRAIG LIVINGSTONE on 3/1 - 3/99

BERNARD NUSSBAUM, Counsel to the President, advised that he has known the appointee for the period of time that he has been employed in the new administration. He had come highly recommended to him by HILLARY CLINTON, who has known his mother for a longer period of time. . . .

24. Plaintiff then sent the insert the Washington Field Office, where it became part of Livingstone's permanent FBI background investigation file. Plaintiff eventually forgot that he had even prepared the insert of the Nussbaum interview.

25. Because subsequent interviews into Livingstone's background had uncovered potentially conflicting information, Plaintiff was required by FBI procedures to interview Livingstone himself several times. During the course of one of these interviews, Livingstone claimed a personal connection between himself, his mother and Hillary Rodham Clinton.

26. Subsequent to Plaintiff's first interview of Kennedy, when neither Plaintiff nor Kennedy were aware of the potentially conflicting information that had been uncovered, Kennedy called Plaintiff to his office to discuss Livingstone. Kennedy indicated his personal concerns with Livingstone and asked Plaintiff for an opinion regarding Livingstone's continued employment. Plaintiff offered an opinion, albeit hesitatingly because his obligations did not include making recommendations. Plaintiff advised Kennedy that Jackie Dinwiddie, who had been Director of The White House Office of Personnel Security during the Carter Administration (then known as the Security Office), was interested in Livingstone's position. Kennedy then inferred to Plaintiff that he was "stuck" with Livingstone. Plaintiff inferred that Hillary Rodham Clinton wanted Livingstone in the position.

27. In May, 1993, The White House publicly announced that The White House Travel Office staff was being fired for alleged financial improprieties and that the FBI would be undertaking a criminal investigation.

28. Because of allegations that The White House Travel Office firings and subsequent criminal investigation were politically-motivated, the firings became a major political scandal for the Clinton Administration.

29. "Travelgate," as the scandal was popularly known, became the subject of congressional hearings and a committee report by the U.S. House of Representatives Government Reform and Oversight Committee.

30. "Travelgate" was also the subject of an investigation by Independent Counsel Kenneth W. Starr.

31. Shortly after the firings and criminal investigation by the FBI were announced, Plaintiff walked by The White House Travel Office and observed that the office itself had not been secured. Plaintiff observed numerous unknown persons going through files and throwing items away, some of which appeared to be official documents.

32. In May and early June, 1993, Plaintiff advised his immediate supervisor, Supervisory Special Agent (hereinafter "SSA") Thomas Reneghan, and SSA David Bowie, the supervisor of the criminal case that was eventually brought against former White House Travel Office Director Billy Dale, that he was concerned about chain of custody issues. Plaintiff recommended that he be interviewed. Eventually, Plaintiff gave a memorandum to his immediate supervisor which set forth his observations and concerns. Plaintiff would not be interviewed until 1995.

33. On August 9, 1993, The White House Office of Personnel Security obtained Plaintiff's FBI background investigation summary and materials.

34. As of January 24, 1994, Plaintiff had a current pilot's licenses. He had formerly flown surveillance for the FBI.

35. On that date, Plaintiff was attempting to gain access to the engine of his personal aircraft to clean the starter solenoid. As Plaintiff moved the propeller slightly, the engine

inadvertently started. Plaintiff suffered an open, indented skull fracture which was life-threatening and required air evacuation to Fairfax Hospital, where he underwent emergency surgery.

36. Plaintiff suffered a number of physical, neurological and cognitive deficits as a result of the accident. A few months after the accident, Plaintiff experienced the effects of Post Traumatic Stress Syndrome, which were exhibited by a period of deep depression, anxiety and severe insomnia. Plaintiff lost vision in his lower left quadrant and, for a time, could not read, do simple math, use a computer or drive. Plaintiff was unable to work for the next eight (8) months.

37. After Plaintiff's physical health returned to an acceptable level, he was enrolled at Shenandoah Learning Services, a medical rehabilitation facility in Manassas, Virginia.

38. While enrolled at Shenandoah Learning Services from June 1994 to October 1994, Plaintiff recovered his ability to read, do math, use a computer and generally function at a level where it was recommended that he return to work at the FBI.

39. Ms. Sue Collins, an occupational therapist at Shenandoah Learning Services, contacted Plaintiff's supervisors, SSA Tom Reneghan and Primary Relief Supervisor Jim Mahoney, and made arrangements for Plaintiff to return to work at the FBI.

40. In order to return to work, however, Plaintiff required and was granted several reasonable accommodations, which were approved by FBI-HQ.

41. Plaintiff's neurological and cognitive deficits had impaired his spatial orientation and prevented him from tasks such as map-reading and finding his way to new locations. Consequently, he was and is no longer capable of conducting field investigations.

42. Plaintiff also has some difficulty learning new tasks. He suffers from a loss of vision in the lower left quadrant and chronic tinnitus, or ringing in the ears.

43. Consequently, when Plaintiff returned to work, he was placed on "limited duty" status. He was detailed back to his previous position at The White House, where he was not required to perform field investigations or learn new tasks, but was limited to conducting interviews within The White House complex itself and preparing memoranda of his interviews.

44. Plaintiff was also exempted from night and week-end duty, and was relieved of firearms and fitness training.

45. Plaintiff was also temporarily given a reduced work load, and granted permission to work at home part-time.

46. To confirm the need for these accommodations, in October 1994 FBI Nurse Pat Regan requested that Plaintiff obtain a letter from his personal physician and have him complete a medical form assessing Plaintiff's condition.

47. On October 25, 1994, Plaintiff's personal physician, Frederick W. Parker, M.D., M.S. Ed., sent a letter to FBI Nurse Regan. Dr. Parker's letter stated:

As you know, Mr. Sculimbrene suffered an open depressed skull fracture on the right occipital and central occipital regions on January 24, 1994 after an injury sustained from an airplane propellor blade. After initial surgery he has been undergoing intensive rehabilitation, most recently at the Learning Services Corporation on Fairview Avenue in Manassas, Virginia. He is now felt to be capable of returning to his prior occupation. He was quick to emphasize the fact that he is office-stationed and will not be doing any 'field work.' I feel it would be in his best interest to avoid any aerobic activity, therefore he should avoid any fitness test as per your general regulations. It would also be helpful for him to avoid any firearms training since he has chronic tinnitus or ringing in his ears. . . .

Dr. Parker's letter concluded "It is my recommendation that he return to full-time office based activities as was his pre-injury occupation."

48. Within several months after his return to work, Plaintiff gradually returned to a full work load at The White House, but his duties and responsibilities were still limited to conducting

interviews within The White House complex and preparing memoranda of his interviews. Plaintiff continued to be relieved of firearms and fitness training, and was also allowed to work from 10:00 a.m to 6:00 p.m. so as to avoid night and week-end duty, as well as the morning rush hour.

49. On April 21, 1995, Plaintiff received an "Exceptional" performance rating from his supervisor, the highest possible rating that can be achieved.

50. Plaintiff's April 21, 1995 Performance Appraisal Report specifically describes Plaintiff's work assignments:

Within a month after return to duty, SA Sculimbrene had returned to his usual assignment of conducting background investigations at The White House complex. In this capacity, he is required to conduct a significant number of interviews within short deadlines of White House executives and staff, as well as detailees, volunteers and contractors requiring access to The White House. These interviews are often highly sensitive and require tact, polished interviewing skills, experience and professionalism. This assignment is also particularly sensitive because of the requirement for constant interacting with various White House personnel as an FBI representative.

51. On May 12, 1995, Dr. Parker wrote a second letter to FBI Nurse Regan that concluded, "I would recommend that he continue his employment at his present capacity; however, he should avoid firearms training and physical fitness, at least at present.

52. In the interim, congressional and Independent Counsel investigations into "Travelgate" had continued. Mr. Billy Dale, the former Director of The White House Travel Office had been indicted and was due to be tried for alleged financial improprieties.

53. On or about August 4, 1995, the FBI agent leading the investigation into the alleged financial improprieties at The White House Travel Office, Supervisory Special Agent (hereinafter "SSA") David Bowie, threatened Plaintiff with an Office of Professional Responsibility (hereinafter

"OPR") complaint after Plaintiff suggested that Mr. Dale's upcoming criminal trial was a "political football" and that Plaintiff should have been interviewed as part of the investigation.

54. Plaintiff related the substance of his discussion with SSA Bowie to one of his supervisors, Assistant Supervisory Agent in Charge (hereinafter "ASAC") Ed Shubert, during a subsequent telephone conversation and a meeting on August 8, 1995, and memorialized both the telephone conversation and meeting in a memorandum to ASAC Shubert. During his conversation and meeting with ASAC Shubert, Plaintiff again suggested that he be interviewed in conjunction with the FBI investigation into The White House Travel Office firings.

55. On or about August 10, 1995, shortly after his August 4, 1995 discussion with SSA Bowie and his telephone conversation, meeting and memorandum to ASAC Shubert, Plaintiff was subject to a random drug test for the first time in what was then his twenty-two (22) year career with the FBI.

56. After several requests, Plaintiff was finally interviewed by SSA Thomas Becker in conjunction with The White House Travel Office investigation on August 14, 1995.

57. In September 1995, Plaintiff interviewed Wade Plunkett, a detailee assigned to The White House Personnel Office. A few days later, Plunkett returned to Plaintiff's office in the OEOB. Plunkett stated that he had a conversation about Plaintiff with Patsy Thomasson, who at the time was the Deputy Director of Presidential Personnel. "As a favor," Plunkett asked Plaintiff to submit his name as a candidate for Inspector General of the Department of Veterans Affairs because the Administration allegedly did not have many qualified applicants who were veterans. Plaintiff submitted such a letter on or about October 28, 1995.

58. On or about October 25, 1995, Plaintiff was subpoenaed by Mr. Dale to testify at his upcoming criminal trial.

59. Plaintiff immediately advised his acting supervisor, Primary Relief Supervisor James Mahoney, that he had been subpoenaed and gave him a copy of the subpoena. Plaintiff also personally gave a copy of the subpoena to the secretary to ASAC Shubert, Ms. Inez Territo.

60. On or about November 3, 1995, Plaintiff testified as a defense witness at Mr. Dale's criminal trial. Immediately prior to his testimony, the prosecution attempted to prevent Plaintiff from testifying by incorrectly claiming that Plaintiff had not given a copy of the subpoena to the FBI. Plaintiff was ultimately allowed to testify, however.

61. The following day, Plaintiff's testimony received substantial press coverage, much of which was unfavorable towards both The White House or the FBI. *See e.g.*, Tony Loci, "FBI Agent Says Travel Office Unsecured on Day of Firings; Ex-Director's Defense Suggests White House Moved Files," *The Washington Post*, November 4, 1995; Paul Bedard, "Dale jury told of travel file looting; Defense attorney demands papers," *The Washington Times*, November 4, 1995.

62. Mr. Dale was subsequently acquitted of all charges against him.

63. After his testimony at Mr. Dale's criminal trial, Plaintiff was subjected to repeated "pranks." Plaintiff's complaints to management went unheeded.

64. Also after his testimony at Mr. Dale's criminal trial, Plaintiff happened to meet Plunkett — the Office of White House Personnel detailee who asked Plaintiff to submit his name as potential candidate for Inspector General of the Department of Veterans Affairs — in the OEOB cafeteria. Plunkett advised Plaintiff that his consideration for the Inspector General position was "out of the question," or used similar words to that effect.

65. In approximately December 1995, SSA Brad Wambach became Plaintiff's supervisor.

~~66. Shortly after SSA Wambach became Plaintiff's supervisor, Plaintiff began receiving~~
work assignments that were contrary to the reasonable accommodations previously granted to him.

67. For example, even though Plaintiff's duties and responsibilities had been limited to conducting interviews within The White House complex itself, SSA Wambach requested that Plaintiff assist in a research and development project regarding personnel and program responsibilities for the FBI's White House Liaison Office and Capitol Hill office, prepare a detailed report concerning the FBI's White House Liaison Office's operational structure and personnel needs, and assist in the development of operational guidelines for conducting interviews at The White House.

68. Plaintiff requested that he be relieved of these assignments because they were contrary to the reasonable accommodations previously granted to him. Plaintiff's requests were overruled, and he performed the assignments to the best of his ability.

69. Plaintiff prepared the requested report and submitted it to SSA Wambach on or about January 11, 1996. The report again notes that the Livingstone, the Director of The White House Office of Personnel Security, is a political appointee whose mother and Hillary Rodham Clinton are personal friends.

70. In late January, two (2) articles appeared in *The Washington Times*, both authored by Mark R. Levin, stating that, contrary to information he had provided to federal investigators, Assistant White House Counsel William H. Kennedy had discussed his allegations of criminality at The White House Travel Office with FBI agents assigned to The White House weeks before contacting FBI headquarters about the alleged wrongdoing. See Mark R. Levin, "Travelgate and the

FBI," *The Washington Times*, January 26, 1999; Mark R. Levin, "The FBI, Mr. Kennedy and the Clintons," *The Washington Times*, January 31, 1996. Although Plaintiff was not identified by name

in the articles, they obviously referred to him. Plaintiff had not provided the information contained in the articles to the press.

71. Days after the articles concerning Kennedy had appeared in *The Washington Times*, Plaintiff received word that Howard Shapiro, then General Counsel to the FBI, wanted to see him.

72. Rather than meet with Plaintiff himself, Shapiro sent two (2) representatives from the FBI General Counsel's Office to meet with Plaintiff and his supervisor.

73. During the course of this meeting, Plaintiff confirmed that Kennedy, Eller and Watkins had tried to pry him for information about the backgrounds and political views of the staff of The White House Travel Office before the firings. However, Plaintiff denied being the source of the articles in *The Washington Times*.

74. Also during the course of this meeting, Plaintiff was given parts of a manuscript written by Gary Aldrich, a former FBI Special Agent who had been assigned to White House along with Plaintiff.

75. Plaintiff confirmed the accuracy of several statements attributed to him in the manuscript, but denied any participation in writing it. The manuscript was later published under the title *Unlimited Access* and was widely know for its highly unflattering portrayal of the Clinton White House. It made numerous references to Plaintiff and attributed several direct quotes to him.

76. During this same time period, Plaintiff continued to receive assignments that were contrary to the reasonable accommodations previously granted to him.

77. For example, Plaintiff was assigned several field investigations outside The White House complex. Plaintiff was thus required to travel to and find new locations in order to conduct interviews. Such assignments were directly contrary to the reasonable accommodations previously granted him.

78. In addition, Plaintiff was assigned investigations of persons who worked night shifts at The White House, thus requiring him to conduct interviews at night, outside his regularly scheduled hours. This was also contrary to the reasonable accommodations previously granted to him, namely, that he be allowed to avoid night-duty.

79. Plaintiff was also assigned new duties and responsibilities associated with the training of new agents. This was also contrary to the reasonable accommodations previously granted to him, namely, that his duties and responsibilities be limited to conducting interviews within The White House complex and preparing memoranda of his interviews.

80. Plaintiff objected to these assignments as being contrary to the reasonable accommodations previously granted to him, but nonetheless attempted to perform them to the best of his ability.

81. On February 28, 1996, Plaintiff receive an unsealed envelope in his mailbox at the FBI's Washington Field Office in Tyson's Corner, Virginia. The envelope contained a notice, dated January 5, 1996, stating that Plaintiff was to be investigated for unprofessional conduct, namely the alleged misuse of his U.S. Government parking pass. This type of internal investigation is undertaken by the FBI's Office of Professional Responsibility (hereinafter "OPR").

82. Following receipt of the notice, Plaintiff learned from conversations with ASAC Shubert and the OPR case agent assigned to the matter, SSA Resnick, that the investigation was

based on a single, anonymous letter. SSA Resnick further advised Plaintiff that the purported misuse was Plaintiff's allegedly giving the parking pass to his son, who at the time was an employee of the

National Security Counsel.

83. Plaintiff advised ASAC Shubert and SSA Resnick that, not only was the charge false, but that his son had his own parking pass which allowed him to park closer to his work than Plaintiff's pass would have allowed.

84. Nonetheless, the OPR investigation proceeded, and was a source of substantial stress to Plaintiff. Plaintiff's ability to handle the stress caused by the false accusation raised against him in the OPR investigation was made more difficult because of Plaintiff's 1994 accident.

85. FBI procedures require that the subject of an OPR investigation be formally interviewed. Plaintiff was interviewed about the OPR investigation on April 4, 1996.

86. During the interview, Plaintiff was distressed to learn that additional allegations had been raised against him. These additional charges were set forth in a March 6, 1996 notice that Plaintiff previously had not seen.

87. The additional charges against Plaintiff also were allegedly based on an anonymous letter and were as equally baseless as the charge that Plaintiff allegedly misused his U.S. Government parking pass.

88. The two (2) FBI Special Agents who interviewed Plaintiff, SA Dave Stewart and SA Warren Linscott would not allow Plaintiff to see the anonymous letter that was allegedly the basis for the charges against him.

89. Moreover, SA Stewart and SA Linscott had not even seen the January 5, 1995 notice setting forth the charge that Plaintiff had allegedly misused his U.S. Government parking pass.

90. SA Steward and SA Linscott nonetheless proceeded to question Plaintiff about the new charges.

91. Plaintiff found the baseless allegations and procedural irregularities of the OPR investigation it to be very stressful. Consequently, he immediately went home, then requested that he be placed on administrative leave until the OPR investigation was completed.

92. Plaintiff's request was denied, and he thus elected to take extended sick leave.

93. Later in April 1996, on the advise of a counselor, Plaintiff scheduled an appointment with SSA Wambach to discuss the OPR investigation and the changes that were being made to the reasonable accommodations he had previously been granted.

94. The meeting between Plaintiff and SSA Wambach took place on April 24, 1996.

95. During the meeting, Plaintiff described to SSA Wambach the stress being placed on him by the OPR investigation and the removal of the reasonable accommodations previously granted to him. SSA Wambach denied that Plaintiff had ever been provided any reasonable accommodations.

96. The following day, April 25, 1996, SSA Wambach advised Plaintiff that his detail to The White House was being terminated and that, when he returned from sick leave, he was to report to the Washington Field Office headquarters at Tysons Corner, Virginia.

97. When Plaintiff returned from sick leave, he reported to the Washington Field Office headquarters as instructed by SSA Wambach. However, Plaintiff was given literally no work assignments. He was told by SSA Wambach to sit at his desk, without even access to a computer, until the FBI could figure out what to do with him.

98. On May 13, 1996, Plaintiff again received another "Exceptional" performance rating from his supervisor, the highest possible rating that can be achieved.

99. On May 23, 1996, the FBI issued a notification that the OPR investigation of Plaintiff was being closed. Despite repeated requests, Plaintiff did not receive confirmation that the OPR investigation was being closed until approximately June 26, 1996.

100. On May 24, 1996, Plaintiff filed a timely administrative complaint against the FBI, *M. Dennis Sculimbrene v. Federal Bureau of Investigation*, Agency Complaint No. F-96-4839, DJ Number 187-2-99, alleging that the FBI had unlawfully removed the reasonable accommodations previously granted him and otherwise discriminated against him because of his disabilities.

101. During this same time period, Plaintiff was subject to a battery of medical and psychiatric examinations allegedly to determine his "fitness for duty" and whether he should be granted any accommodations. Plaintiff fully cooperated with all of the tests required of him.

102. On May 30, 1996, Livingstone, head of The White House Office of Personnel Security, requested that the FBI conduct a five (5) year background re-investigation of Plaintiff despite the fact that Plaintiff's White House detail had ended and Plaintiff was not due for a five (5) year background re-investigation for another two (2) years.

103. In early June 1996, it became known that Livingstone and Anthony Marceca, a detailee assigned to The White House Office of Personnel Security, had obtained FBI background investigation summaries and materials on hundreds of former Reagan and Bush Administration appointees and employees, a political scandal that George Stephanopoulos, then a Senior Assistant to the President, would describe as having "the potential to be our most serious scandal yet."

104. Like "Travelgate," "Filegate," as the scandal was popularly known, became the subject of congressional hearings and a committee report by the U.S. House of Representatives Government Reform and Oversight Committee.

105. "Filegate" was also the subject of an investigation by Independent Counsel Kenneth

W. Starr.

106. On June 19, 1996, Plaintiff gave an unsworn interview to Senate Judiciary Committee investigators concerning "Filegate."

107. During the course of this interview, Plaintiff told Senate Judiciary Committee investigators that he complained to his supervisors about the chaotic management of The White House Office of Personnel Security, delays in the clearance process for White House employees and the fact that many persons, including employees, were being given access to The White House complex without proper passes.

108. In addition, Plaintiff told Senate Judiciary Committee investigators Livingstone himself told Plaintiff that his mother knew Hillary Rodham Clinton. Plaintiff further told Senate Judiciary Committee investigators that Kennedy told Plaintiff he was "stuck" with Livingstone, and that Plaintiff thus inferred Hillary Rodham Clinton wanted Livingstone in the position.

109. Plaintiff also told Senate Judiciary Committee investigators that, at one point he suggested that The White House Office of Personnel Security be headed by a professional career person rather than a political appointee.

110. Plaintiff also told Senate Judiciary Committee investigators that Kennedy, Eller and Watkins had tried to pry him for information about the backgrounds and political views of the staff of The White House Travel Office. Plaintiff thus contradicted information that Kennedy had provided to federal investigators.

111. Plaintiff also told Senate Judiciary Committee investigators that he was concerned he was being retaliated against for testifying on behalf of Mr. Dale at Mr. Dale's criminal trial.

112. Plaintiff's interview with Senate Judiciary Committee investigators was leaked to the press almost immediately and resulted in substantial, unfavorable press coverage for The White House. "Former Top FBI Agent at White House Raises Questions About Security Office," *The Wall Street Journal*, June 25, 1996; "FBI Agent Says Aides Inquired on Travel Staff; White House Firings Followed, Probers Told," *The Washington Post*, June 26, 1996.

113. On June 28, 1996, Plaintiff's permanent White House pass was canceled. Plaintiff asked for a formal record of the action, but was refused. SSA Wambach verbally told Plaintiff that his pass was being revoked for his own safety and because his presence "made the First Family uncomfortable."

114. In July 1996, OPR contacted Plaintiff and requested that he submit to an interview and provide a sworn written statement for an OPR investigation into the OPR investigation of Plaintiff.

115. On July 15, 1996, Plaintiff gave a sworn deposition to U.S. House of Representatives investigators concerning "Filegate." During his testimony, Plaintiff again linked Livingstone's hiring to Hillary Rodham Clinton.

116. On or about that same day, FBI General Counsel Howard Shapiro alerted The White House that, in reviewing Livingstone's FBI background investigation file, it located Plaintiff's three-year old insert of his interview with then White House Counsel Bernard Nussbaum, which memorialized Nussbaum's statement linking Livingstone's hiring to Hillary Rodham Clinton.

117. The following morning, July 16, 1996, Shapiro and Deputy General Counsel Thomas A. Kelley dispatched two (2) FBI agents to Plaintiff's home to interview Plaintiff about the three-year old insert.

118. During the course of the interview, the FBI agents asked Plaintiff approximately thirty (30) times if he had any notes of his three-year old interview with Bernard Nussbaum, despite the fact that FBI procedures prohibit agents from maintaining notes of inserts for more than ninety (90) days.

119. Also during the course of the course of the interview, the FBI agents repeatedly told Plaintiff that President Clinton, Hillary Rodham Clinton and White House Counsel Bernard Nussbaum had contradicted Plaintiff's three-year old insert, pitting Plaintiff's credibility against the credibility of President Clinton, Hillary Rodham Clinton and White House Counsel Bernard Nussbaum approximately four (4) times.

120. While the FBI agents stated that the purpose of the interview was to "clarify" certain issues, Plaintiff's efforts to provide clarification were rebuffed.

121. Also during the course of this interview, Plaintiff's supervisor, SSA Wambach, telephoned Plaintiff to advised him that he had to fly to Chicago, Illinois for a psychiatric examination to determine his fitness for further duty with the FBI.

122. That same afternoon, on July 16, 1996, OPR investigators interviewed Plaintiff at his home, under oath, with the stated intention of taking a signed, sworn statement from Plaintiff that would initiate an OPR investigation into the circumstances surrounding the OPR investigation of Plaintiff. Pursuant to FBI procedures, the statement should have been prepared and ready for Plaintiff's signature within five (5) days, or by July 21, 1996. However, the sworn statement was not presented to Plaintiff for his signature until August 9, 1996, and only after Plaintiff's attorney sent several letters requesting that an OPR investigation proceed. Plaintiff has never been informed of the results of any OPR investigation.

123. On July 18, 1996, Plaintiff received a letter formally advising him the Department of Veterans Affairs was no longer considering him for appointment to the Department's Inspector General position.

124. In mid- to late July 1996, Plaintiff received several anonymous telephone calls warning him that White House Counsel Jack Quinn and FBI General Counsel Howard Shapiro were planning to discredit and harm Plaintiff by attempting to tie him to another FBI agent detailed to The White House who had recently been convicted of falsifying FBI background investigation records.

125. In point of fact, Plaintiff had attempted to have the FBI agent in question removed from The White House. During a meeting between Plaintiff, another agent and SSA Reneghan in May 1993, Plaintiff expressed concern about the agent's conduct and professionalism.

126. On July 25, 1996 White House Counsel Jack Quinn sent a false and disparaging letter to FBI Director Louis J. Freeh wrongfully accusing Plaintiff of falsifying his three-year old insert about Livingstone's hiring. The letter specifically states:

According to [Chairman of the House Government Reform and Oversight Committee William Clinger]'s statement today, the background investigation file on Mr. Livingstone includes a report by Agent Dennis Sculimbrene on a conversation he says he had with White House Counsel Bernard Nussbaum concerning Mr. Livingstone's hiring. But according to a statement issued by Mr. Nussbaum today, that conversation never took place.

This Administration and the American People have enormous confidence in the FBI, for good reason. And, the role that the agency plays in conducting background investigations and helping to ensure the suitability of appointees for their posts cannot be overstated. The President, you and the American people have a large stake indeed in the fairness and accuracy of this process.

That is why we are troubled, as we know you must be, by the implication that a background investigation might include a false report. This matter is especially worrisome coming as it does on the heels of published reports of the conviction of one of the agents who did background checks at The White House on charges of falsifying at least 50 interviews that he claimed to have conducted.

127. On information and belief, FBI General Counsel Howard Shapiro, other, unknown White House officials and agents, and other unknown FBI officials participated in drafting Quinn's July 25, 1996 letter to Director Freeh.

128. Shapiro admittedly reviewed different drafts of Quinn's July 25, 1996 letter and recommended which draft to send to Director Freeh.

129. Because the letter itself makes clear that fabrication of a FBI background investigation report is a criminal offense, Quinn, Shapiro, and anyone else who participated in preparation of the letter obviously knew or had reason to know that they were accusing Plaintiff, albeit wrongfully, of committing a criminal offense.

130. The following day, on July 26, 1996, Lanny J. Davis appeared on CNN's *Cross-Fire*. During this appearance, Davis wrongfully accused Plaintiff of falsifying his three-year old insert about Livingstone's hiring, disparaged Plaintiff's credibility, and otherwise harmed Plaintiff:

[By Lanny Davis] This . . . contemporaneous document contains an absolute fabrication that Mrs. Livingstone has denied . . .

* * *

[By Robert Novak] Lanny Davis, let me just see if I can get to comment on the procedure that was used here. We have a case where the FBI gives Congressman Clinger a three year old report which is highly incriminating, if true, to the First Lady. It then, the FBI then goes to The White House, and it says -- it says it has given this information to the committee -- what Congressman Clinger calls a 'heads up' and then they send FBI agents to the home of Agent Sculimbrene who is on leave and they say to him that The White House is very upset about this material. Now, if you were on the other side of the fence would you like the way the FBI has been politicized in this operation?

[By Lanny Davis] I don't think they've been politicized at all. I think they should have immediately interviewed Sculimbrene and inquired as to why he is suddenly changing his story after being under oath and testifying to the Senate Judiciary Committee. Let me read to you, if you will, Bob, from the Washington Post, an FBI agent named David Bowie, who worked with Sculimbrene, who knew that

Sculimbrene was a close friend of Gary Aldrich, another great font of credibility, and here is what Bowie said, the FBI that the Congressman was just vouching for. He said that Sculimbrene quite 'had a very bitter political feelings about the Clinton White House,' and further, quote, 'that he was exhibiting irrational behavior.' Now why haven't you called Sculimbrene before your committee publically and have him be -- and have him testify.

* * *

[By Robert Novak] Let me just ask you one -- I don't understand the time line on this Lanny. You are accusing Sculimbrene of changing his story? This is -- this is at the beginning of the Clinton Administration there -- he professes he wanted the Clinton Administration to succeed . . . how could he change his story if this is a three year old document? I don't understand how that works.

[By Lanny Davis] First of all, I am accusing Sculimbrene of having a political bias and that report is filled with lies . . .

* * *

[By Lanny J. Davis] I just told you Robert and I will tell you once again; that why isn't this Congressman and why are you supporting calling Sculimbrene before [the House Government Reform and Oversight Committee] . . . you want to know the answer? The reason he's not answering is because Sculimbrene has no credibility . . . and they know it and they are embarrassed and that's why . . . they're not calling him.

131. On August 2, 1996, Davis appeared on CNBC's *Rivera Live*. During this appearance, Davis again wrongfully accused Plaintiff of falsifying his three-year old insert about Livingstone's hiring, disparaged Plaintiff's credibility, and otherwise harmed Plaintiff:

[By Lanny J. Davis] He -- he -- he is -- whatever smacked him in the head has affected his credibility because they won't call him. . . . The -- the -- the point number one is he wouldn't give an answer and we know that he's now being quoted anonymously. He was good enough to have a deposition taken, despite the head injury, but they didn't call him, and we know the reason, because he has little credibility. And the second point to make is, remember that Sculimbrene is the man who said Hillary Clinton knew Craig Livingstone's mother and, therefore, that's why she is culpable in the hiring of Craig Livingstone. When Mrs. Livingstone was asked that question, she said . . . I've never met Hillary Clinton in my life.

132. Prior to his appearances on *Cross Fire* and *Rivera Live*, Davis had appeared frequently on television programs as a spokesman and surrogate for The White House.

133. On information and belief, prior to his television appearances, Davis participated in meetings and telephone conference calls and/or had other communications with currently unknown White House officials and agents to discuss what he would say on television on behalf of The White House.

134. On information and belief, Davis also received background information and reference materials from currently unknown White House officials and agents to assist him during his appearances.

135. On information and belief, Davis communicated with Quinn, Shapiro and other currently unknown White House officials and agents to discuss what he would say about Plaintiff on behalf of The White House during his July 26, 1996 and August 2, 1996 appearances on *Cross Fire* and *Rivera Live*.

136. On information and belief, Davis also received background information and reference materials concerning Plaintiff from Quinn and other currently unknown White House officials and agents before his July 26, 1996 and August 2, 1996 appearances on *Cross Fire* and *Rivera Live*, including but not limited to the *Washington Post* article referred to during Davis' July 26, 1996 appearance on *Cross Fire*.

137. On information and belief, Davis also knew that he was accusing Plaintiff, albeit wrongfully, of committing a criminal offense.

138. Only four (4) months later, Davis was formally hired by The White House as Special Counsel to the President and joined Quinn in The White House Counsel's Office. His duties and

responsibilities included appearing on television on behalf of The White House to discuss various political scandals.

139. The same day that Davis appeared on *Rivera Live*, August 2, 1996, Plaintiff was forced to take an early retirement from the FBI as a result of the withdrawal of the reasonable accommodations previously granted him by the FBI, the false accusations and disparagement to which he been subjected, and the other, unwarranted retaliation and harassment alleged herein.

140. On March 5, 1998, Plaintiff wrote to EOP requesting access to any White House records pertaining to himself. Plaintiff's request was made pursuant to the Privacy Act, 5 U.S.C. § 552a.

141. On April 1, 1998, EOP denied Plaintiff's Privacy Act request, claiming that "[t]he Privacy Act does not establish a statutory right to the records you have requested from The White House, if such records exist," despite the fact that a U.S. District Court had previously ruled to the contrary. See *Alexander v. Federal Bureau of Investigation*, 971 F. Supp. 603 (D.D.C. 1997) (Lamberth, J.).

142. On April 29, 1999, Plaintiff's employment discrimination complaint against the FBI was denied.

COUNT I
(Violation of the Rehabilitation Act - FBI)

143. Plaintiff realleges paragraphs 1 through 142 as if fully set forth herein.

144. Plaintiff is an individual with a disability as defined under the Rehabilitation Act, 29 U.S.C. § 701 *et seq.*

145. Plaintiff is otherwise qualified to perform the duties and responsibilities of the job in question, and, in fact, excelled at those duties and responsibilities when provided with reasonable accommodations.

146. Plaintiff was adversely treated or denied the benefits of his position solely because of his disability, in violation of the Rehabilitation Act, 29 U.S.C. § 701 *et seq.*

147. As a proximate result of the FBI's violation of the Rehabilitation Act, 29 U.S.C. § 701 *et seq.*, Plaintiff suffered substantial damages, including but not limited to loss of income.

WHEREFORE, Plaintiff demands: (1) that judgment be entered against the FBI; (2) an award of compensatory damages in excess of \$300,000; (3) an award of costs and reasonable attorneys' fees pursuant to 27 U.S.C. § 794a, among other applicable laws; and (4) such other relief as the Court deems just and proper.

COUNT II

(Violation of the Privacy Act — EOP)

148. Plaintiff realleges paragraphs 1 through 147 as if fully set forth herein.

149. EOP willfully and intentionally maintained, and maintains, confidential records on individuals, including Plaintiff, as part of a system of records.

150. The maintenance of this system of records by EOP is not relevant to accomplish any purpose required by statute or executive order of the President, but is part of a pattern of willful and intentional misconduct undertaken for purposes of injuring and/or retaliating against Plaintiff.

151. EOP's willful and intentional refusal to allow Plaintiff access to records and information pertaining him in its system of records violates 5 U.S.C. §§ 552a(d)(1) and g(1)(B), among other relevant provisions of the Privacy Act.

152. EOP's willful and intentional maintenance of this system of records on individuals, including Plaintiff, against them, violates 5 U.S.C. §§ 552a(c)(1) and (g)(1)(D), among other relevant provisions of the Privacy Act.

153. As a proximate result of EOP's willful, intentional and unlawful maintenance of this system of records on individuals, including Plaintiff, Plaintiff has suffered damages.

WHEREFORE, Plaintiff demands: (1) that judgment be entered against EOP; (2) that EOP be enjoined from withholding all records concerning Plaintiff and be ordered to produce such records pursuant to 5 U.S.C. § 552a(g)(3)(A); (3) an award of compensatory damages in an amount not less than the \$1,000 statutory minimum set forth at 5 U.S.C. § 552a(g)(4)(A); (4) an award of costs and reasonable attorneys' fees pursuant to 5 U.S.C. § 552a(g)(4)(B), among other applicable laws; and (5) such other relief as the Court deems just and proper.

COUNT III

(Violation of the 42 U.S.C. § 1985(1) and (2) -- Quinn, Shapiro, Davis and John and Jane Does Nos. 1-5)

154. Plaintiff realleges paragraphs 1 through 153 as if fully set forth herein.

155. Defendants Quinn, Shapiro, Davis and John and Jane Does Nos. 1-5 intentionally, maliciously and wrongfully conspired to injure Plaintiff in his person and property on account of his lawful discharge of the duties of his office, namely, that of a Special Agent for the FBI, in violation of 42 U.S.C. § 1985(1).

156. Defendants Quinn, Shapiro, Davis and John and Jane Does Nos. 1-5 intentionally, maliciously and wrongfully conspired to injure Plaintiff in his person and property on account of Plaintiff's having provided testimony in a court of law of the United States, in violation of 42 U.S.C. § 1985(2).

157. As a proximate result, Plaintiff suffered substantial damages, including but not limited to loss of income, loss of reputation and emotional distress.

WHEREFORE, Plaintiff demands: (1) that judgment be entered against Defendants Quinn, Shapiro, Davis and John and Jane Does Nos. 1-5, jointly and severally; (2) an award of compensatory damages in excess of \$5,000,000.00; (3) an award of costs and reasonable attorneys' fees pursuant to 42 U.S.C. § 1988, among other applicable laws; and (4) such other relief as the Court deems just and proper.

COUNT IV

(Violations of the First and Fifth Amendment to the U.S. Constitution -- Quinn, Shapiro and John and Jane Does Nos. 1-5)

158. Plaintiff realleges paragraphs 1 through 157 as if fully set forth herein.

159. Quinn, Shapiro and John and Jane Does Nos. 1-5, acting under color of law, deprived Plaintiff of his First Amendment rights by retaliating against him for testifying in a court of law of the United States and before the U.S. House of Representatives Government Reform and Oversight Committee, and for giving an unsworn interview to the U.S. Senate Judiciary Committee.

160. Quinn, Shapiro and John and Jane Does Nos. 1-5, acting under color of law, deprived Plaintiff of his Fifth Amendment rights by wrongfully and maliciously causing damage to Plaintiff's good name, reputation, honor and integrity without due process of law.

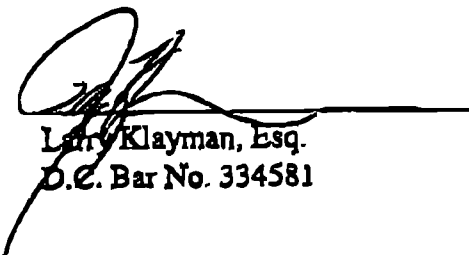
161. As a proximate result, Plaintiff suffered substantial damages, including but not limited to loss of income, loss of reputation and emotional distress.

WHEREFORE, Plaintiff demands: (1) that judgment be entered against Defendants Quinn, Shapiro and John and Jane Does Nos. 1-5, jointly and severally; (2) an award of compensatory

damages in excess of \$5,000,000.00; (3) an award of punitive damages; (4) an award of costs; and
(5) such other relief as the Court deems just and proper.

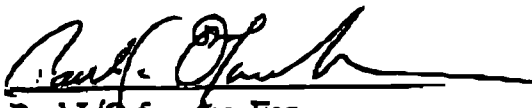
Plaintiff demands trial by jury.

JUDICIAL WATCH, INC.



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**UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA**

**NOTICE OF DESIGNATION OF RELATED CIVIL/MISCELLANEOUS CASES
PENDING IN THIS OR ANY OTHER UNITED STATES COURT**

Civil Action No. _____
(To be supplied by the Clerk)

NOTICE TO THE PLAINTIFF:

Pursuant to Rule 405(b)(2), you are required to prepare and submit this form at the time of filing any civil or miscellaneous case which is related to any pending case(s) or which involves the same parties and relates to the same subject matter of any dismissed related case(s). This form must be prepared in sufficient quantity to provide one copy for the Clerk's records, one copy for the Judge to whom the case is assigned and one copy for each defendant, so that you must prepare 3 copies for a one defendant case, 4 copies for a two defendant case, etc.

NOTICE TO DEFENDANT:

Rule 405(b)(2) of this Court requires that you serve upon the plaintiff and file with your first responsive pleading or motion any objection you have to the related case designation.

NOTICE TO ALL COUNSEL

Rules 405(b)(3) of this Court requires that as soon as an attorney for a party becomes aware of the existence of a related case or cases, such attorney shall immediately notify, in writing, the Judges on whose calendars the cases appear and shall serve such notice on counsel for all other parties.

The plaintiff or counsel for plaintiff will please complete the following:

1. RELATIONSHIP OF NEW CASE TO PENDING RELATED CASE(S).

A new case is deemed related to a case pending in this or another U.S. Court if the new case: [Check appropriate box(es) below.]

- ☐ (a) relates to common property
- ☒ (b) involves common issues of fact
- ☒ (c) grows out of the same event or transaction
- ☐ (d) involves the validity or infringement of the same patent
- ☐ (e) is filed by the same pro se litigant

2. RELATIONSHIP OF NEW CASES TO DISMISSED RELATED CASE(S).

A new case is deemed related to a case dismissed, with or without prejudice, in this or any other U.S. Court, if the new case involves the same parties and relates to the same subject matter.

Check box if new cases is related to a dismissed case: ☐

3. NAME THE U.S. COURT IN WHICH THE RELATED CASE IS FILED (IF OTHER THAN THIS COURT):

4. CAPTION AND CASE NUMBER OF RELATED CASE(S). IF MORE ROOM IS NEEDED PLEASE USE THE OTHER SIDE.

Alexander, et al. vs FBI, et al., CA No. 96-2123/97-1288

Paul C. O'Farrell
Signature of Plaintiff (or counsel)