

No. 23-777

ORIGINAL

FILED

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SUPREME COURT, U.S.

In The  
**Supreme Court of the United States**

HERBERT O. CHADBOURNE, JR.,

*Petitioner,*

v.

CUMBERLAND COUNTY DISTRICT COURT, et al.,

*Respondents.*

On Petition For Writ Of Certiorari  
To The United States Court Of Appeals  
For The First Circuit

**PETITION FOR WRIT OF CERTIORARI**

HERBERT O. CHADBOURNE, JR., *Petitioner*  
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## QUESTIONS PRESENTED FOR REVIEW

1. Since Maine's Attorney General: Aaron Frey, "*declined to participate*" for the entire 293-day duration of this case while it was before the United States Court of Appeals for the First Circuit thereby not opposing the Petitioner while leaving the respondents without any legal representation. [Perhaps AG Frey declined to participate because the interests of justice required it, pursuant to ABA Model Rule 1.19(a)(1) re duty to withdraw from representing a dishonest client and Rule 3.4 regarding "*Candor Toward the Tribunal*" did the US Court of Appeals for the First Circuit err when its clerk refused to implement the Petitioner's Request for Entry of a Default and/or for default judgment after more than nine months had passed without any opposition whatsoever to the Petitioner from Maine's Attorney General? [Were the clerk's refusal and omission to enter a default contrary to the Federal mandate in Rule 55 of the Federal Rules of Civil Procedure?]
2. In view of the Respondent's failure to participate, did the US Court of Appeals for the First Circuit impermissibly render the Petitioner a partial judgment ("mandate") on 8-14-2023 which in no way whatsoever addressed the legal responsibility of the second respondent: CARLA J SMITH, [formerly inmate 317481 in the Florida prison system?] whose 10-12 in-court perjuries to the Cumberland County District Court in Portland, Maine on 7-22-2021 wrongfully and illogically acquired her a Protection From Harassment

## **QUESTIONS PRESENTED FOR REVIEW –** **Continued**

Order against the then, 66 yr-old, 50% disabled but now 100% disabled, diminutive Petitioner with walking difficulties whose previously pristine, 66 yr-old civil record had merited an interim TOP SECRET clearance with a SPECIAL BACKGROUND INVESTIGATION so that he could help operate and repair a TOP SECRET Strategic Defense Satellite Communications terminal run by the NSA in proximity to the President of the United States?

- **According to WITNESS 1, Respondent Smith subsequently laughed about successfully using multiple perjuries in the district court of Portland, Maine while she was simultaneously evading an active warrant for her arrest in her home state of Florida.** Did Scarborough's authorities not know of Respondent Smith's criminal background and psychotic propensities when they officially and maliciously endorsed her falsely accusative request for a Protection from Harassment Order? [Note that no less than 17 states have made false reporting a felony and that this very issue may well be under consideration by the Maine State legislature again].
- **According to WITNESS 2, Respondent Smith was, at that time at least, medically prescribed four different medications which are typically dispensed for severe psychotic illness.** [which in retrospect, might explain why she had periodically snuck up from behind the frail and elderly Petitioner from the evergreen forested

## **QUESTIONS PRESENTED FOR REVIEW –** **Continued**

wood-line on several occasions from where she had been stalking him, before suddenly appearing behind him in a menacingly close manner, while he was periodically flattening muddy ruts from unidentified vehicles in his clearly posted, deeded right of way! NOTE that on or about July 9th, 2015, **the corpse of the Petitioner's camper had been removed from the petitioner's land, after the petitioner had sternly cautioned him to avoid the Petitioner's thrice-convicted felon of a neighbor**, and that the camper was allegedly killed from a lethal dose of heroin injected to the neck.]

3. Did the Cumberland County District Court deprive the petitioner of his 5th Amendment rights to Due Process on April 4th, 2002 when it administratively dismissed the Petitioner and his three supportive witnesses without permitting any of them to speak. Incredibly, to date, this controversy has NEVER been fully and fairly adjudicated on its merits.
4. Under Rules 18-20 of the Federal Rules of Civil Procedure regarding joinder of parties, and under the legal principles that delineate the state-created danger doctrine, [did Scarborough Police-affiliated social worker: Lauren Dembski-Martin and Scarborough Patrol Officer: Michael Beeler a) know of Respondent Smith's dangerous criminal propensities when they officially endorsed Respondent Smith's intentionally false accusations and subsequent, 10-12 in-court perjuries while

## **QUESTIONS PRESENTED FOR REVIEW –** **Continued**

willfully and persistently refusing to interview the Petitioner for his competing version of the facts, or to respond to, if not consider, the Petitioner's written statement of the facts?

If so, did this constitute: a) an oft-repeated, and on-going state-created danger b) Honest Services Fraud [contrary to 18 U.S.C. §§ 1346, et seq] and/or c) deprivation of the Petitioner's 5th Amendment Constitutional rights to Due Process under the color of law [contrary to 18 U.S.C. § 242 & 42 U.S.C. § 1983] and/or d) Pattern and Practice Harm [contrary to 42 U.S.C. § 14141] and/or d) Intentional Infliction of Emotional Distress [contrary to 14 MRSA § 8104-D] and/or e) Official Oppression [contrary to 17-A MRSA § 608] or f) a willful violation of the Petitioner's 6th Amendment Constitutional right to Equal Protection of the Law? [The three parties to be joined here have collusively targeted the Petitioner in an on-going pattern of disparate treatment by Officials over the past 15 years, as the brother of the Town's second largest commercial developer [and former Scarborough Police officer] warned the Petitioner in an unannounced, but recorded manner approx. 12 years ago while he was illegally trespassing on the Petitioner's posted land. **In simple fact, the Town will reap a greatly higher tax revenue if it can convey the Petitioner's real property to a commercial developer. In this case, over the past 13 years, approx, it has been**

## QUESTIONS PRESENTED FOR REVIEW – Continued

utilizing criminals to falsely accuse the Petitioner to complicitly eager authorities, perhaps to induce him to sell cheaply. This year, there were only five residential building lots available for sale in all of Scarborough, because of the extreme land rush into this area by monied buyers fleeing large city areas.

- Note that pursuant to Maine's One-Party Consent law in 15 MRSA 710-711, the Petitioner [in a legally permissible manner] has covertly recorded and carefully catalogued his face-to-face conversations with several area town officials incriminating themselves. Two helpful witnesses include two retired Maine municipal Police Officers, whose in-court testimonies can be subpoenaed. They have informed the Appellant that during their entire careers, they almost always interviewed both adversarial parties for their competing versions of the facts before they endorsed one party's request for a Protection Order [in order to provide equal protection and due process of law. Much to the Town attorney's horror, perhaps, the digitally recorded and self-incriminating statements of several other town officials, may clearly establish their guilt, if this matter ever reaches the discovery phase and if the Petitioner is permitted to live long enough to litigate this matter, instead of being murdered or falsely arrested by an eagerly complicit local Police officer under the color of law in response to a false report from one of the petitioner's

## QUESTIONS PRESENTED FOR REVIEW – Continued

**criminally credentialed neighbors.** [NOTE: The Maine AG's office has NEVER prosecuted a Police Officer for wrongfully killing someone and as of 2015, Maine has higher instance of Police killings than any other state in New England]

- In this matter, the Appellant's written attempts to inform Officer Beeler and Police affiliated social worker: Lauren Dembski-Martin, of his version of the facts were ignored, however.
- Note that after the Petitioner with his three witnesses had failed to successfully request a Protection Order against the second Respondent: CARLA SMITH, on or about May, 2021, and before Smith enlisted the official endorsement of the aforementioned municipal officers: a female clerk at the Cumberland County District Court informed the Petitioner that because of the sheer backlog of unheard cases with them caused by the COVID pandemic, the District Court Judges typically “*go through the motions of holding a fair trial*” and standardly deny any request for a PO which is not officially endorsed by a town officer. In fact, this admission was intimated by Scarborough Police Officer: Michael Beeler, in his one and only, one-sentenced email to the Petitioner after he learned of the Petitioner's uninformed request for a PO without Police endorsement, when Beeler stated, that, “*That's just not the way we do it*”. [copy of this email is available for trial, if one is permitted]

**QUESTIONS PRESENTED FOR REVIEW –**  
**Continued**

5. Should 11th Amendment sovereign immunity, which is variously misunderstood and disparately applied among the 50 states, protect, embolden and perpetuate the repeated and on-going violations of several employees of the self-insured municipality of Scarborough, Maine, toward the Petitioner, over the past 15 years? Since Scarborough has historically had to financially settle its own legal judgments, thereby defining it as not being an “*instrumentality or arm of the state*” for sovereign immunity purposes? [see Alden v. Maine, 527 U.S. 756 (1999) and see Ex parte Young, 209 U.S. 123 (1908) wherein this venerable Supreme Court held that a private litigant can bring suit against a state officer for prospective injunctive relief in order to end “*a continuing violation of federal law*.] Here, the Appellant is directly requesting: a) that his controversy be fully, fairly and finally adjudicated on its merits and that, b) an injunction from this venerable court to finally end a 15-year history of Honest Services Fraud [contrary to 18 U.S.C. §§ 1346, et seq] and pattern and practice harm [contrary to 42 U.S.C. § 14141] by several of the Town’s officials, whom the Petitioner hopes to indirectly hold liable through the joinder delineated by Rules 18-20 of the Federal Rules of Civil Procedure.

**NOTE that online publisher: Michael Doyle has authored, published and disseminated a 297-paged book devoted exclusively to the corruption and official oppression of Scarborough’s**

## QUESTIONS PRESENTED FOR REVIEW – Continued

**officials**, along with the fact that an employee at the Maine Attorney General’s Office has stated that NEVER in the 203-year legal history of Maine, has the Maine Attorney General prosecuted a Police officer for wrongfully killing someone. The regrettable result of this fact is that Maine’s instances of fatal Police shootings has been higher than any other New England state since 2015. [see online article titled, “*Database shows Maine’s rate of police shootings highest in New England since 2015*”, on March 2nd, 2022 in the Times Record] see also: an online news article by since-retired Maine representative: Jeff Evangelos in the Penobscot Bay Pilot, on 12-5-2022 titled, “*Rep. Evangelos asks U.S. DOJ to investigate Maine criminal justice system*” and reported by Samantha Hogan of the Maine Monitor. Mr. Evangelos claims therein that many innocent Maine people have been jailed and that Maine Attorney General: Aaron Frey, is part of the problem.

6. Since; a) public policy favors the full and fair adjudication of a controversy on its merits, and since b) an entire 297-paged book devoted exclusively to the continuing corruption of Scarborough’s officials has been authored, published and widely disseminated by author: Mike Doyle, not only the Petitioner, but 4-5 other individuals who have thanked the Petitioner for his courage and integrity in exposing the corruption of several officials employed by the self-insured municipality of Scarborough, will greatly benefit if this case is fully,

**QUESTIONS PRESENTED FOR REVIEW –**  
Continued

fairly and finally adjudicated on its merits. More importantly, perhaps, adjudicating the merits of this case will help clarify the current controversy among the Federal Circuits regarding the often misapplied and ambiguously delineated guidelines in the “*state-created danger doctrine*”.

## PARTIES TO THE PROCEEDING

### Petitioner and Defendant-Appellant:

- Herbert Otis Chadbourne, Jr owns real property in the municipality of Scarborough, Maine and herein pleads *in propria persona*. Approx 15 years ago, when he first acquired this forested 5.89 acre parcel at 96-C Broadturn Rd for only \$14,000 dollars, approx. plus \$7,400 dollars in legal fees for the seller's attorney to record its deed, Scarborough's then tax assessor: Paul Lesperance, informed the Petitioner that he, "*didn't deserve an address in that neighborhood*" [economic prejudice?] Although the Petitioner's unimproved forest was tax-assessed in 2010 as being worth \$97,000 dollars, its currently tax assessed value, [despite the Petitioner's fire access trail, house clearing and shallow-dug well is only \$3,100 dollars,] and perhaps "*because of the rain*", its recorded size is no longer 5.89 acres but is 4. something acres. [Honest services fraud because of economic prejudice?]

### Respondents and Appellees Below:

- The Cumberland County District Court, at 205 Newbury Street in Portland, Maine 04101 is located at the Edward T. Gignoux United States Courthouse and as of October 8, 2021 the U.S. attorney is Darcie N.
- CARLA JEAN SMITH: in her personal and professional capacities is a former neighbor of the Appellant.

## PARTIES TO THE PROCEEDING – Continued

- Joinder [under Rules 18-20 of the Federal Rules of Civil Procedure] of three officers employed by the *self-insured* municipality of Scarborough, Maine in their personal and professional capacities is permitted by Federal law, according to the delineated criteria in Ex Parte Young, 209 U.S. 123 (1908) and its extensive progeny of seminal cases.
- These parties are to be joined because they officially endorsed and knowingly enabled the 10-12 in-court perjuries of Respondent CARLA J. SMITH through their selectively prejudicial enforcement of the law. These parties are:
  - a) Police-affiliated social worker: Lauren Dembski-Martin, at Public Safety Building 275 US Route 1 Scarborough, ME 04074 Phone: (207) 883-6361 Fax: (207) 730-4250
  - b) Scarborough Patrol Officer: Michael Beeler, Public Safety Building 275 US Route 1 Scarborough, ME 04074 Phone: (207) 883-6361 Fax: (207) 730-4250
  - c) Brian Longstaff: Chief Code Administrator for the Town of Scarborough at Town of Scarborough 259 US-1 Scarborough, ME 04070 Phone: (207) 730-4000 Fax: (207) 730-4033

## PARTIES TO THE PROCEEDING – Continued

According to the existing caselaw within the First Circuit, Scarborough's self-insured status is a key factor that defines it as not being an *instrumentality, or arm of the state, protected by 11th Amendment sovereign immunity*] see Ex Parte Young, 209 U.S. 123 (1908) *supra* and Alden v. Maine, 527 U.S. 706 (1999).

## LIST OF RELATED PROCEEDINGS

- Cumberland County District Court, PORDC-PA-2021-00523 located at 205 Newbury Street in Portland, Maine 04101. The Trail Court did not hear oral argument or witness testimony [although 3 were present on behalf of Petitioner] 4-4-2022 and gave its final opinion on: 4-4-2022 by Judge Peter Darvin.
- United States District Court for the District of Maine, No. 2:22-cv-00112-NT. This Court is located in the Edward T. Gignoux U.S. Courthouse, at 156 Federal Street, United States Court of Appeals for the First Circuit, Portland, ME 04101/(207) 780-3356. Date of Final Opinion: 6-16-2022.
- United States Court of Appeals for the First Circuit No. 22-cv-1566. Date of Final Opinion entered on August 14th, 2023.

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## **PETITION FOR A WRIT OF CERTIORARI**

Petitioner Herbert Otis Chadbourne, Jr., herein prays that a writ of certiorari be granted by this venerable Court to review the judgment of the United States Court of Appeals for the First Circuit, which entered its one-paragraph summary judgment/administrative dismissal in this matter on 8-14-2023, while simultaneously failing to address any liability for the respondent: CARLA J. SMITH, whose municipally: a) enabled, b) if not encouraged and c) officially endorsed 10-12 in-court perjuries before a district court that was hastily anxious to clear its extensive list of unheard cases from its docket, caused by the COVID pandemic. Absent a judicially issued, affirmative injunction to finally cease the on-going enablement of criminal activity toward the Petitioner by several Town officials through their selective enforcement of the law, the Petitioner will probably lose his land and his potential place to live. Lastly, various game camera photos show that a threatened species of bobcat considers the Petitioner's forest its home.

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### **INTRODUCTION**

Although this is a classic dilemma, what has happened to the Petitioner in this matter is so extremely wrong that it shocks the conscience, while it perpetrates a fraud on the judicial system. The administrative dismissal by the Cumberland County District Court on 4-4-2022 regarding the Petitioner's request to

dissolve the Respondent's Protection Order [which she subsequently bragged to WITNESS 1 about wrongfully acquiring with 10-12 perjuries in the Portland Courtroom while she was simultaneously evading an active warrant for her arrest in her home state of Florida] violated the Petitioner's Constitutional rights to Due Process and Equal Protection, while perpetrating a fraud on the judicial system. Reportedly, Respondent Smith was arrested and returned to the Florida legal system last year. What concerns the Plaintiff most, however, is the municipal: a) enablement, b) if not encouragement and c) official endorsement, of her criminal activity under the color of law. **This is apparently being done so that a fiscally irresponsible town can wrongfully acquire the Petitioner's real property for commercial development.**

According to WITNESS 2, the previously incarcerated Respondent: Carla Smith, is/was forensically prescribed several medications for severe psychotic illness and is thereby *empowered to be a danger to herself and others with impunity*. Perhaps the most concerning aspect herein, however, is how desperately this fiscally irresponsible and rapidly developing town wants the Petitioner's land to belong to a commercial developer for far greater tax revenue, ostensibly to obtain "*the highest and best use of the land*", although the threatened species of bobcat therein may become as homeless as the petitioning and 100% disabled veteran. In evidence of this land rush which is currently occurring from the overwhelming entry of city residents into

Scarborough over the past several years, there were only five residential building lots available for sale this year.

With limited exceptions, the Eleventh Amendment provides non-consenting states with immunity from suits brought in federal courts by private parties. See Edelman v. Jordan, 415 U.S. 651 (1974). Although counties and local government entities are generally not protected by the Eleventh Amendment, see Mt. Healthy School Dist. Bd. of Educ. v. Doyle, 429 U.S. 274, 280 (1977), Here, the Petitioner's Constitutional claims arise from the on-going official misconduct of several employees of the self-insured municipality of Scarborough, Maine, [self-insurance has been considered a primary, if not quintessential factor under Ex parte Young, 209 U.S. 123 (1908) and its progeny of concurrent cases in determining when a municipality is not considered an instrumentality of the state and is not entitled to sovereign immunity.].

### **Disclaimer**

Absent a formal injunction from this venerable Court, it's likely that the officials who have previously endorsed the criminal activity toward the petitioner over the past 15 years through their selectively prejudicial enforcement of the law will become further emboldened and that: a) the 100% disabled veteran with a previously pristine civil record herein, will either become as homeless as the threatened species of bobcat that inhabits his forest or b) be either falsely accused,

maliciously prosecuted and wrongfully incarcerated or murdered under the color of law, thereby explaining why Maine has had an appreciably greater number of fatal Police shootings than any other state in New England since 2015.

### **District Court Proceedings**

On 7-22-2021 at an ex parte hearing before Cumberland County District Court Judge: Maria Woodman, [while perhaps utilizing the 10-12, municipally endorsed perjuries similar to the ones she subsequently used to acquire her permanent Protection Order against the Appellant from Judge Peter Darvin on 8-23-2021] Respondent CARLA SMITH [formerly inmate 317481 in the Florida prison system who was then prescribed 4 different medications for severe psychotic illness? per WITNESS 2] initially, but wrongfully, acquired her Temporary Protection From Harassment Order.

On 8-23-2021, with the help of the Appellant's elderly 70 yr-old and questionably competent attorney: Stephen Whiting, who twice refused to let the Appellant view the fabricated evidence which Respondent Smith had proffered, [she had illegally posted the land of a neighbor, who had given the Petitioner written permission to use, in order to avoid any further false reports from Respondent Smith, but Smith unethically photographed the Petitioner there and then convinced the Petitioner's elderly, and perhaps incompetent attorney, that the Petitioner had violated the Protection Order]

Respondent Smith acquired a mildly modified but permanent Protection From Harassment Order which lasted one year and which not surprisingly came and went without any violation whatsoever by the elderly, frail, semi-ambulatory and then 50% disabled Petitioner of diminutive stature, who is now rated by the Veterans Administration as being 100% disabled. Given the emboldened success of her in-court perjuries, which were officially endorsed by several apparently eager and tacitly complicit town authorities, this legally unjustified Protection Order effectively denied the Appellant any viable use of his deeded property for a year, much as it had done when Scarborough Police Officer: Michael Beeler had officially endorsed the false accusations of the Appellant's thrice-convicted felon of a neighbor 6 years earlier, on 9-12-2015, whom Respondent Smith claimed was her friend from the same town of Spring Hill, Florida. [see Civil Harassment Notice issued on 9-12-2015 in Exhibit E of Appellant's Opening Brief to the First Circuit Court of Appeals in case 22-CV-1566].

NOTE that on the day following the day of the Appellant's signing for receipt of this Notice, which needed to meet no burden of proof whatsoever, four different witnesses called for Officer Beeler at the Scarborough Police station to explain that Mr. Roberts; the Appellant's thrice-convicted felon of a neighbor, had been relentlessly and falsely accusing, stalking and criminally harassing the reclusive Appellant, but for political reasons perhaps, Officer Beeler remained stubbornly unwilling to change his decision to conform

to the clear weight of the evidence. Again, this Civil Harassment Notice expired after a year without incident [Could this prejudicial act have been a foretaste of the Honest Services fraud and/or Official Oppression to follow?]

On 1-12-2022, before Judge Peter Darvin, Respondent Smith and the Petitioner mutually agreed to a modification of the existing Protection From Harassment Order, since her rented dwelling was located so closely to the Petitioner's deeded right of way and since the Respondent had placed multiple false reports to the Scarborough Police about the Petitioner harassing her.

Did Officer Thibodeault encourage Respondent Smith's contempt of Court? Under this modified agreement, Judge Darvin ordered that the Petitioner have a surveyor clearly delineate and mark the boundary between the Petitioner's deeded right of way and the Respondent's rented dwelling [at that time], with fence posts connected by rope, but when the Petitioner's surveyor appeared, named Steve Everett, Respondent Smith chased him away from his contracted task with the help of a supportive phone call to a since-retired Scarborough Police Officer named Steven Thibodeault. [thereby showing contempt for Judge Darvin's Order by collusively violating it, or at the very least, **municipally endorsing the contempt and violation of respondent SMITH** (formerly inmate 317481 in the Florida prison system) **who laughed to WITNESS 1 about successfully acquiring her Protection Order against the hapless Petitioner through her**

**use of 10-12 in-court perjuries to the District Court in Portland, Maine while evading an active warrant for her arrest in Florida].**

On 1-21-2022 Petitioner filed a Motion to Dissolve the Protection Order with the Cumberland County District Court, which resulted in an amendment to it on 2-1-2022, followed by a continuance re the Petitioner's Motion to Dissolve granted to Respondent Smith on 2-24-2022 by Judge Deborah Cashman. On 3-31-2022 Respondent Smith filed a Motion to Modify the Protection Order with a hearing held on 4-4-2022, resulting in a denial by Judge Peter Darvin, reasoning that there were only two months left before the falsely acquired, and wrongfully issued, [but municipally endorsed] Order expired anyway.

#### **Appellate Court Proceedings**

**a) at the United States Court for the District of Maine.**

On 4-25-2022 the petitioner timely filed an appeal of District Court Judge Darvin's refusal to modify or dissolve the Protection Order with the United States Court for the District of Maine, which was docketed as, "COMPLAINT against CUMBERLAND COUNTY DISTRICT COURT, filed by HERBERT O. CHADBOURNE, JR. (Attachments: # 1 cover letter) (bfa) (Entered: 04/25/2022)."

On 4-27-2022, Federal Judge Jon D. Levy filed an ORDER OF RECUSAL, and thereby recused himself.

The case was then reassigned to JUDGE NANCY TORRESEN for all further proceedings By JUDGE JON D. LEVY. (clp).

On 5-12-2022 Federal Magistrate Judge John Nivision filed a REPORT AND RECOMMENDED DECISION re 1 Complaint filed by HERBERT O. CHADBOURNE, JR. with Objections to R&R due by 5/26/2022.

On 6-16-2022, an ORDER Affirming the Recommended Decision of the Magistrate Judge re 7 REPORT AND RECOMMENDED DECISION was entered by JUDGE NANCY TORRESEN.

On 7-15-2022, the petitioner timely filed his Notice of Appeal to the United States Court of Appeals for the First Circuit, with the clerk of the Federal Court In Portland, Maine, whose clerk transmitted the Petitioner's file to the First Circuit Court of Appeals on 7-18-2022.

**b) at the United States Court of Appeals for the First Circuit.**

On 7-19-2022, the United States Court of Appeals assigned case number 22-1566 to Petitioner's Notice of Appeal. (bfa) (which was docketed on 07/25/2022).

**On 8-4-2022, NOTICE was filed by the State of Maine Attorney General's Office notifying the court that they do not intend to participate in appeal. [22-1566] (GRC) [Entered: 08/04/2022 04:22 PM].**

On 9-28-2023, the petitioner timely filed his APPELLANT'S OPENING BRIEF, which was entered re case [22-1566] (AVN) [on: 09/29/2022 at 08:53 AM].

On 10-12-2022, the petitioner tendered a corrected brief in case [22-1566], followed by a Motion To Expand the Evidence on 2-15-2023, which was followed by Petitioner's Motion requesting an Injunction on 6-8-2023.

**On 6-20-2023, Petitioner requested via a letter, which was formerly docketed, that the Court's clerk record his unopposed request for entry of a default [pursuant to Rule 55(a) of the Federal Rules of Civil Procedure and/or, entry of a default judgment, pursuant to Rule 55(b)(1) with nominal costs of filing requested to which he never received a response.**

Subsequently, the Petitioner filed a petition for rehearing en banc on 5-23-2023, which resulted in a denial and final order on 8-14-2023, which alleged 11th Amendment sovereign immunity for the Cumberland County District Court [where Respondent Smith's 10-12 in-court perjuries, some of which were patently obvious, such as, ***'Your Honor ALL of the neighbors have protection orders against Mr. Chadbourne'*** (for which the Court has no record) and to which the Petitioner timely objected unsuccessfully, were judicially tolerated, despite Petitioner Chadbourne's objections, in violation of the Petitioner's 5th Amendment rights to Due Process.

**NOTE THAT:** a) ALTHOUGH THIS CASE HAS BEEN UNOPPOSED BY MAINE'S ATTORNEY GENERAL FOR ITS ENTIRE DURATION BEFORE THE FIRST CIRCUIT COURT OF APPEALS, WHICH LASTED APPROX 298 DAYS, **THIS CASE HAS NEVER BEEN OPPOSED BY THE MAINE ATTORNEY GENERAL NOR HAS IT EVER BEEN FULLY, FAIRLY AND FINALLY ADJUDICATED ON ITS MERITS.** Q: In the interests of public policy then, should preserving the status quo take priority over fully and fairly adjudicating this case on its merits by considering the totality of the facts and circumstances and thereby genuinely promoting the interests of justice?

### **Opinions and Orders**

Decision/mandate of the United States Court of Appeals for the First Circuit on August 14th, 2023 by Judges David J. Barron, Chief Appellate Judge; Jeffrey R. Howard, Appellate Judge and Gustavo A. Gelpí, Jr., Appellate Judge denied the Appellant's petition for rehearing and rehearing en banc.

Decision of the U.S. District Court for the District of Maine on 5-17-2022 by Judge Nancy Torreson, stating that,

*"Plaintiff-Appellant appeals from the district court's screening dismissal of his complaint under 28 U.S.C. § 1915(e)(2)(B). Upon de novo review and after careful consideration of appellant's submissions and the relevant*

*portions of the record, we hold that the Eleventh Amendment bars his section 1983 claims against the Cumberland County District Court. The judgment of the district court is affirmed. See 1st Cir. R. 27.0(c). All pending motions are denied.”*

Petitioner's question is: Does 11th Amendment sovereign immunity apply to a state agency when it is officially endorsing violations of the Appellant's 4th, 5th and 6th Amendment Constitutional rights? [see the exceptions in Ex parte Young, 209 U.S. 123 (1908) and its long line of concurrent cases].

Decision of the Cumberland County District Court in Portland, Maine on 4-4-2022 by Judge Peter Darvin, denying Petitioner's Motion to Dissolve Protection Order.

Section 1983 provides that:

*“Every person who, under color of any statute, ordinance, regulation, custom, or usage, of any State or Territory or the District of Columbia, subjects, or causes to be subjected, any citizen of the United States or other person within the jurisdiction thereof to the deprivation of any rights, privileges, or immunities secured by the Constitution and laws, shall be liable to the party injured in an action at law, suit in equity, or other proper proceeding for redress”....*

According to the Lawyers Practice edition regarding elements of a 42 U.S.C. § 1983 action:

“Traditionally, the requirements for relief under 1983 have been articulated as: (1) a violation of rights protected by the Constitution or created by federal statute, (2) Proximately caused (3) by conduct of a ‘person’ (4) acting under color of state law.” Crumpton v. Gates, 947 F.2d 1418, 1420 (9th Cir. 1991). Or, more simply, courts have required plaintiffs to “plead that (1) the defendants acting under color of state law (2) deprived plaintiffs of rights secured by the Constitution or federal statutes.” Gibson v. United States, 781 F.2d 1334, 1338 (9th Cir. 1986); see also Long v. County of Los Angeles, 442 F.3d 1178, 1185 (9th Cir. 2006); WMX Techs., Inc. v. Miller, 197 F.3d 367, 372 (9th Cir. 1999) (en banc); Ortez v. Washington County, Or., 88 F.3d 804, 810 (9th Cir. 1996).

Under Ex parte Young, *supra*, private parties can sue State officials in their official capacity to enforce federal laws and regulations, but only for prospective injunctive and declaratory relief. Accordingly, there must be an ongoing violation of federal law to support Prospective relief. Such relief may include Notice to the plaintiff class of the availability of remedies under state law. No damages are Recoverable in Ex parte Young suits, but Prospective relief May require the incidental Expenditure of state funds.

Furthermore, state officials may be sued for damages in their Individual capacity for violations of federal Constitutional or statutory rights committed in the course of official duties but are entitled to claim

qualified immunity. Qualified Immunity bars recovery insofar as the official's Conduct "did not violate clearly established Statutory or constitutional rights of which a Reasonable person would have known."

Although generally, states and state officials [to be differentiated from Scarborough's municipal employees] may not be sued in Federal court for violations of state law committed in their official capacity regardless of the relief sought. However, Federal courts have supplemental jurisdiction to hear state law claims against state officials sued in their individual capacity if the federal claims arise from the same subject matter and provide the Federal court with Jurisdiction. State Immunity rules apply to claims under state Law. Additionally, the provision in 28 U.S.C. § 1337(d), which generally tolls the statute of Limitations on supplemental claims dismissed in federal court, does not apply to state claims Against a state or state agency dismissed on Eleventh Amendment grounds. Tolling does apply to counties which do not have Eleventh Amendment immunity. States have no sovereign immunity protection if the proceeding is initiated or prosecuted by the federal government and this applies even if the federal government is seeking recovery of Damages on behalf of an individual, and Damages in a suit by the individual would be barred by the Eleventh Amendment. States also lack immunity from suits brought by other States; however, unlike the federal Government, a state can only sue another state to protect its own interests, not those of Individual citizens.

Cases regarding prospective Injunctive Relief under Ex parte Young in 1908, *supra*, established an exception to states' sovereign immunity under the Eleventh Amendment, holding that when a State official violates the federal constitution, the officer is "stripped of his official or Representative character and is subjected in His person to the consequences of his Individual conduct." Ex parte Young permits suits for prospective and injunctive relief against a state official, usually the official in charge of the agency responsible for the violation, to enforce federal rights. According to the Lawyers Practice Guide, Ex parte Young suits should expressly designate the Defendant official as being sued in her official capacity.

Cases seeking to apply Ex parte Young may be brought in several different ways. First, suits may be brought directly under a federal statute containing an explicit or implicit private cause of action. Second, suits may be brought Under 42 U.S.C. § 1983, which creates a federal Cause of action for violation of "rights" secured by the federal laws and the Constitution. Third, in some cases such as those involving claims of federal preemption, a suit is simply brought under the federal question Jurisdiction of the federal Courts.

11th Amendment sovereign immunity does not apply to:

- (a) Local Governmental Units

Local governmental units are not entitled to a Qualified-immunity defense to § 1983

liability. See Brandon v. Holt, 469 U.S. 464, 473 (1985); Owen v. City of Independence, Mo., 445 U.S. 622, 638 (1980); Hallstrom v. Garden City, 991 F.2d 1473, 1482 (9th Cir. 1992); L.A. Police Protective League v. Gates, 907 F.2d 879, 889 (9th Cir. 1990). Local governmental units are also unable to rely on the qualified-immunity defense available to municipal employees as a defense to § 1983 claims. See Hervey v. Estes, 65 F.3d 784, 791 (9th Cir. 1995).

(b) Municipal employees like Scarborough Patrol Officer: Michael Beeler, Police-affiliated social worker: Lauren Dembski-Martin, and Brian Longstaff; Chief code administrator for the Town of Scarborough are not immune under prevailing law, either.

In fact, municipal employees sued in their official capacity are not entitled to qualified immunity. see Eng v. Cooley, 552 F.3d 1062, 1064 n.1 (9th Cir. 2009); and Hallstrom v. Garden City, 991 F.2d 1473, 1482 (9th Cir. 1992).

(c) Private Individuals

The Ninth Circuit has concluded that private individuals are not entitled to qualified immunity in either § 1983 or Bivens actions. [see Clement v. City of Glendale, 518 F.3d 1090, 1096 (9th Cir. 2008); Franklin v. Fox, 312 F.3d 423, 444 (9th Cir. 2002); Conner v. City of Santa Ana, 897 F.2d 1487, 1492 n.9 (9th Cir. 1990); and F.E. Trotter, Inc. v. Watkins, 869 F.2d 1312, 1318 (9th Cir. 1989). The Supreme Court has further concluded that employees

of a private prison Management Company are not entitled to qualified immunity, but declined to express an opinion as to whether they may have a “good faith” defense. See Richardson v. McKnight, 521 U.S. 399, 401, 413-14 (1997); see also Jensen v. Lane County, 222 F.3d 570, 580 (9th Cir. 2000) (concluding that a private Psychiatrist was not entitled to qualified immunity); Halverson v. Baird, 146 F.3d 680, 685-86 (9th Cir. 1998) (applying Richardson and holding that a private detoxification center not entitled to qualified immunity); Ace Beverage Co. v. Lockheed Info. Mgmt. Serves., 144 F.3d 1218, 1219-20 (9th Cir. 1998) (per curiam) (applying Richardson, supra, and holding that private firm with Minimal government oversight is not entitled to qualified immunity); cf. Clement, 518 F.3d at 1096-97 (concluding that private towing Company entitled to invoke good faith defense).

The Supreme Court has previously concluded that private individuals who conspire with state officials to violate others’ constitutional rights are not entitled to qualified immunity in § 1983 actions. Wyatt v. Cole, 504 U.S. 158, 168-69 (1992) (noting in dicta that private defendants could be entitled to a “good faith” defense). For a discussion of when private individuals are acting under color of state law for purposes of § 1983, see *supra* I.A.2.b.(5).

Police officers are not entitled to absolute Immunity. See Ambler v. Pachman, 424 U.S. 409, 418-19 (1976); Pierson v. Ray, 386 U.S. 547, 555 (1967); Elliot

Park v. Manglona, 592 F.3d 1003, 1006 [9th Cir. 2010] [stating police Officers are entitled only to qualified Immunity in § 1983 cases, unlike Prosecutors who enjoy absolute immunity].

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### **OPINIONS BELOW**

The decision of the U.S. Court of Appeals for the First Circuit is docketed as case 22-CV-1566, was entered on 8-14-2023 and is reported on their website. Its immediately preceding case before the United States District Court for the District of Maine is reported by Justia under CHADBOURNE v. CUMBERLAND COUNTY DISTRICT COURT, No. 2:2022cv00112 – Document 7 (D. Me. 2022)

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### **JURISDICTION**

According to Article III, Section 2 of the United States Constitution and Title 28 of the United States Code, section 1251, this venerable Court has original and concurrent jurisdiction over all cases involving violations of the Constitution. Its venerable jurisdiction is further justified by 28 U.S.C. § 1254(1).

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## CONSTITUTIONAL AND STATUTORY PROVISIONS INVOLVED

28 U.S.C. § 1254(1) in regard to "Courts of Appeal, certiorari; certified questions", states that,

*"Cases in the courts of appeals may be reviewed by the Supreme Court by the following methods:*

*(1) By writ of certiorari granted upon the petition of any party to any civil or criminal case, before or after rendition of judgment or decree . . ."*

42 U.S.C. § 1983 provides in pertinent part that,

*"Every person who, under color of any statute, ordinance, regulation, custom, or usage, of any State or Territory or the District of Columbia, subjects, or causes to be subjected, any citizen of the United States or other person within the jurisdiction thereof to the deprivation of any rights, privileges, or immunities secured by the Constitution and laws, shall be liable to the party injured in an action at law, suit in equity, or other proper proceeding for redress . . ."*

U.S. Const., Amend. IV provides that,

*"The right of the people to be secure in their persons, houses, papers, and effects, against unreasonable searches and seizures, shall not be violated, and no warrants shall issue, but upon probable cause, supported by oath or affirmation, and particularly describing the*

*place to be searched, and the persons or things to be seized.”*

U.S. Const., Amend. V provides that,

*“No person shall be held to answer for a capital, or otherwise infamous crime, unless on a presentment or indictment of a Grand Jury, except in cases arising in the land or naval forces, or in the Militia, when in actual service in time of War or public danger; nor shall any person be subject for the same offence to be twice put in jeopardy of life or limb; nor shall be compelled in any criminal case to be a witness against himself, nor be deprived of life, liberty, or property, without due process of law; nor shall private property be taken for public use, without just compensation.”*

U.S. Const., Amend. VI provides that,

*“In all criminal prosecutions, the accused shall enjoy the right to a speedy and public trial, by an impartial jury of the State and district wherein the crime shall have been committed, which district shall have been previously ascertained by law, and to be informed of the nature and cause of the accusation; to be confronted with the witnesses against him; to have compulsory process for obtaining witnesses in his favor, and to have the Assistance of Counsel for his defense.”*

U.S. Const., Amend. XIV, sec. 1 provides that,

*“All persons born or naturalized in the United States, and subject to the jurisdiction thereof,*

*are citizens of the United States and of the State wherein they reside. No State shall make or enforce any law which shall abridge the privileges or immunities of citizens of the United States; nor shall any State deprive any person of life, liberty, or property, without due process of law; nor deny to any person within its jurisdiction the equal protection of the laws."*

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#### STATEMENT OF THE CASE

Approx. fifteen years ago on August 15th, 2008, the petitioner: Herbert O. Chadbourne, Jr. [hereafter, Chadbourne] acquired 5.89 acres at 96-C Broadturn Rd in Scarborough, Maine from seller/grantor: Charles Dickinson for only \$14,000 dollars approx., plus approx \$7,400 dollars for the seller's attorney: Amy Visintin, to record the quitclaim deed to Chadbourne and a co-tenant named Paul Selzer at the local registry of deeds.

Thinking that he had done well, the Petitioner learned two weeks later from Scarborough's angry tax assessor at that time: namely Paul Lesperance, that he, "... didn't deserve an address in that neighborhood" [Economic prejudice?] Approx. 2 years later, a widely disliked and former Scarborough Police Officer whose brother is perhaps the town's biggest commercial developer, illegally trespassed on the Petitioner's conspicuously posted property: [This parcel is still clearly posted, because of the Town's long-standing and horrific reputation for oppression and public

corruption, as depicted in author Michael Doyle's widely disseminated, 297-paged book.

Multiple violations of the 4th Amendment by several municipal officials: Although the Petitioner's game camera photos and written communications with the Town's attorney and with other town officials show that several of the town's authorities from code enforcement and from the Police have illegally and periodically trespassed on the Petitioner's clearly posted land a) without a warrant; whether administrative or otherwise (*despite the Petitioner's written request to Code enforcement officer: Brian Longstaff, that he first acquire an administrative warrant before entering the property on a land-grabbing, evidentiary fishing expedition*) b) in a civil matter c) absent exigent circumstances, reasonable suspicion or probable cause that a crime had been committed and d) in an apparent response to the multiple false reports of the Petitioner's i) falsely accusative, ii) relentlessly aggressive, iii) if not tacitly encouraged, enabled and officially endorsed Respondent [consider the judicial doctrine regarding state-created danger], and iv) who was a fugitive from justice because she was feeling from an outstanding warrant in Florida while she was falsely accusing the Petitioner with success in the Portland District court; [Respondent CARLA SMITH subsequently bragged to WITNESS 1 about her success, after being encouraged, enabled and officially endorsed by two officials to be joined to this proceeding: namely, by Police-affiliated social worker: Lauren Dembski-Martin and Scarborough Patrol Officer: Michael Beeler, without whose

endorsement this Protection Order would have probably never been acquired, according to one clerk at the Cumberland County District Court.]

Photographic evidence of fairly blatant violations of the Petitioner's 4th Amendment rights on several occasions by two code enforcement officials and by several Police officers is available from the Petitioner's on-site game cameras, should this matter ever be fully, fairly and finally adjudicated on its merits and ever progress to the discovery phase with supportive testimony.

Perhaps the economic prejudice and disregard for the rule of law was foreshadowed to the Petitioner by the widely disliked and trespassing former Police Officer who impermissibly left his business cards approx 800 feet inside the boundary line of the Petitioner's property around one of its interior "No Trespassing" signs when he subsequently met with the Petitioner after an intimidatingly aggressive phone call, before he pressured the petitioner into permitting his visit, wherein the Petitioner digitally recorded this former Police Officer aggressively telling the Petitioner that,

*"You're nobody in town, so you'd better wake up to reality, because we'll never let you do anything with this property, but you can always sell it to my brother cheaply, because you didn't pay anything for it, to begin with"* [If helpful, this recording can be submitted into evidence before trial].

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## REASONS FOR GRANTING THIS PETITION

Although this case has NEVER been fully and fairly adjudicated on its merits, this case presents the Court with the opportunity to clarify and refine the fairly nebulous, variously interpreted and diversely applied doctrine of 11th Amendment sovereign immunity by many of this nation's eastern states.

Perhaps the Petitioner's digitally recorded self-incriminating statements of several of the Town's officials and the clear weight of the existing evidence establish that this judicially created doctrine has been egregiously abused by several Scarborough respondents in this particular controversy. Specifically, should the doctrine of qualified immunity, which cannot be justified by reference to the text of 42 U.S.C. § 1983 or by the relevant common law background, and which has been shown by the caselaw to not serve its intended policy goals, be narrowed or even partially revised?

1. DOES PUBLIC POLICY CURRENTLY FAVOR JUDICIALLY PERPETUATING THE STATUS QUO over FULLY AND FAIRLY ADJUDICATING A CONTROVERSY ON ITS MERITS, THEREBY GENUINELY PROMOTING THE INTERESTS OF JUSTICE? [while simultaneously preserving the public's trust, instead of perpetuating public contempt] After successfully perjuring herself to the Cumberland District Court on 10-12 counts in order to wrongfully acquire her Protection From Harassment Order against the now 68 yr-old, fully disabled Petitioner with a

previously pristine civil record, the second defendant herein, namely CARLA J. SMITH [formerly inmate 317481 in the Florida Prison system?] bragged to WITNESS 1 about falsely accusing the elderly & disabled Petitioner in the Portland District Courtroom while she was simultaneously evading an arrest warrant in Florida!!!!

RE: the applicable standard of care: Did not, or should not, the Scarborough Police Officer and the town-affiliated social worker who enabled, encouraged and officially endorsed the false accusations of the Respondent CARLA J. SMITH, know of her criminal record, with her forensically prescribed medication for psychotic illness, and should they not have at least interviewed the Petitioner for his competing version of the facts before they enabled and officially endorsed her false accusations against the 66 yr-old, then 50% disabled Petitioner? [as has been the standard among Maine Municipal officials for several decades, according to two retired (and covertly recorded) Maine municipal Police Officers: WITNESSES 3 and 4] If permitted, the subpoenaed in-court testimonies of one to three covertly recorded and retired Maine municipal Police Officers, should clearly resolve this issue should this case finally reach the discovery and testimony phase.]

2. Since Justice Thomas recently opined in Baxter v. Bracey, 590 U.S. 1 (2020) that,

“At its heart, qualified immunity protects police officers’ split -second decisions. “[P]olice officers are often forced to make split-second

judgments – in circumstances that are tense, uncertain, and rapidly evolving . . . continue to have strong doubts about our § 1983 qualified immunity doctrine. Given the importance of this question, I would grant the petition for certiorari.”

... should several Maine municipal officials be permitted to continue their enablement of criminal activity against the Petitioner for commercial gain through their selectively prejudicial enforcement of the law? [The pending testimonies of several frightened witnesses perhaps suggest that several town officials want the Petitioner’s strategically located forest to be transferred to a wealthy commercial developer for purposes of greater annual tax revenue and have tacitly encouraged the aggression of three of the Appellant’s criminally credentialed neighbors to deny the Petitioner any viable use of his deeded property].

- This year, perhaps because of the alarming land rush into Scarborough by people escaping the cities, there were only 5 building lots available for sale in all of Scarborough. [Witness 2 is a well-known realtor in this area with over 36 years of experience and has remarked to the Petitioner about the official hostility of several town officers toward the Petitioner].
- The town of Scarborough has developed such a horrifically negative reputation for official oppression and for public

corruption that online publisher: Michael Doyle, [WITNESS 3] has authored, published and widely disseminated a 297-paged book devoted exclusively to the official corruption in Scarborough

- Perhaps the very last thing that the respondents herein want is for this controversy to reach the discovery and testimony phase because the Petitioner has carefully catalogued and recorded their self-incriminating statements [which were made in a legally permissible manner pursuant to Maine's One-Party Consent Rule in 15 MRA § 710-11] Moreover, if proven guilty beyond a reasonable doubt, their blatant, self-dealing violations of the Federal Honest Services Fraud statute in 18 U.S.C. § 1346 may entail some significant consequences.

3. Did the First Circuit Court of Appeals violate the Petitioner's 5th Amendment right to substantive and procedural Due Process by: a) denying his motion for default judgement after the Maine Attorney General had, “*... declined to participate*” on behalf of the defendants/respondents **FOR THE ENTIRE DURATION OF THE CASE**, equating to 296 days (perhaps because the interests of justice required it, pursuant to ABA Model Rule 1.16(a)) and pursuant to Rule 3.4 re *Candor to the Tribunal*).

4. Did the First Circuit Court of Appeals render a partial “mandate” by not addressing the legal infractions of the criminally credentialed Respondent: CARLA SMITH, whose judicially tolerated, 10-12

in-court perjuries deprived the Petitioner of a full and fair adjudication on its merits? . . . which began this legal odyssey, subsequently consuming much of the courts' time and resources.

All of the legally responsible and liable parties **do not** appear in the caption of this case on the cover page. Nevertheless, their joinder is provided for by Rules 18, 19 (required) and 20 (permissively) of the Federal Rules of Civil Procedure which therein allow "A party asserting a claim, counterclaim, crossclaim, or third-party claim" to "join, as independent or alternative claims, as many claims as it has against an opposing party." Consequently, a list of all parties to be joined to this proceeding, include:

- a) Lauren Dembski-Martin: the Police-affiliated social worker whose knowingly informed refusal to consider the Petitioner's competing version of the facts before officially endorsing the false accusations and 10-112 in-court perjuries deprived the Petitioner of his 5th & 6th Amendment Constitutional rights to: Due Process, Honest Services and Equal Protection of the Law.
- b) Michael Beeler, the Scarborough Police Officer who, for the second time, officially endorsed the criminal activity and false accusations of one of the Petitioner's criminally credentialed neighbors; to wit, of Respondent CARLA J. SMITH, in this matter, perhaps constituting: i) Honest Services Fraud under the Public Corruption Act [contrary to 18 U.S.C. §§ 1346, et

seq] ii) deprivation of rights under the color of law [contrary to 18 U.S.C. § 242 & 42 U.S.C. § 1983] and iii) pattern and practice harm via repeated refusal or failure to protect [contrary to 42 U.S.C. § 14141].

- c) Shawn Anastasoff: the Scarborough Police Officer who illegally trespassed on the Petitioner's conspicuously posted private property: i) without a warrant, despite the Petitioner's previously specific and written request to the Town code enforcement officer: Brian Longstaff, that his underlings first acquire an administrative warrant ii) in a civil matter, iii) without reasonable suspicion or probable cause, iv) absent exigent circumstances, v) in an apparent response to the relentlessly false reports of the criminally credentialed Respondent herein: namely CARLA J. SMITH, who in retrospect, was evading an arrest warrant in her home state of Florida, while being medically prescribed four different medications, alleged to be for severe psychotic illness by WITNESS 1. [Did the aforementioned Town officials then: knowingly enable, if not encourage and officially endorse the criminal trespassing, vandalism and false reports of Respondent SMITH, in order to illegally deny the Petitioner any viable use of his deeded property?] If discovery and testimony are permitted in this matter, the evidence suggests so.

d) Nicholas Cloutier: Property Tax Assessor for Scarborough, Maine. Despite the unprecedented and explosive development in close proximity to the Petitioner's forested 5.89 acres at 96-C Broadturn Rd over the past 15 years, along with the Petitioner's improvement of the land with: a) a fire access trail permitted by the Maine Dept of Forestry, b) house clearing, c) shallow-dug well and d) placement of a shed permitted by Scarborough code enforcement officer of that time: Robyn Dahms, the tax-assessed value of the Petitioner's property has: diminished in value from \$97,000 dollars in 2010 [EXHIBIT A] to \$3,100 dollars in 2023. It has also diminished in size from the surveyed dimensions of 5.89 acres to 4.8 acres. This has caused several potential buyers, along with the Petitioner's criminally recorded neighbor, to offer ridiculously unrealistic sums, which were limited to three to five thousand dollars. This dishonest tax assessment has further discouraged potential lenders from loaning the petitioner any money for the construction of a home by using the equity in the land for collateral.

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## CONCLUSION

Absent the issuance of a formal injunction from this venerable Court, the on-going enablement of criminal activity toward the petitioner by several municipal officials through their selectively prejudicial enforcement of the law will likely continue until not only the petitioner, but the threatened bobcat frequenting, if not inhabiting, his forest, are permanently displaced or "*otherwise eliminated*" under the color of law. Subsequently, this land will probably be conveyed to a large, local commercial developer who will pay the town far greater, property tax revenue per year than the petitioner can. Consequently, the petitioner hereby requests the aforementioned injunction, along with any and all further relief which this Court deems equitable, just and proper. For the foregoing reasons, the Court should grant this petition.

Respectfully submitted,

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