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**IN THE UNITED STATES DISTRICT COURT  
FOR THE MIDDLE DISTRICT OF PENNSYLVANIA**

RONALD SCAVONE	:	CIVIL ACTION – LAW
	:	
Plaintiff	:	JURY TRIAL DEMANDED
	:	
v.	:	
	:	
PENNSYLVANIA STATE POLICE <sup>1</sup> ,	:	
COL. JEFFREY B. MILLER, in his Official :	:	
Capacity only, and LINDA BONNEY,	:	
in her Individual Capacity only	:	
	:	
Defendants	:	NO.

**COMPLAINT**

NOW comes the Plaintiff, RONALD SCAVONE, by his attorney, Cynthia L. Pollick, Esquire, and files the following Complaint against Defendants and avers as follows:

1. This case will answer the question of whether the government can require you to physically alter your body in exchange for employment.

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<sup>1</sup> The Pennsylvania State Police and Col. Miller are not being sued for monetary damages only injunctive relief in all counts of the complaint. Therefore, there is no Eleventh Amendment issue.

2. Prior to filing the instant lawsuit, Plaintiff RONALD SCAVONE requested that he simply be allowed employment with the Pennsylvania State Police (PSP) since he successfully completed the selection and background check process to be a Liquor Enforcement Officer and that the PSP cease and desist enforcement of the tattoo removal policy. PSP refused to do so, therefore, leaving Plaintiff, RONALD SCAVONE, no choice but to request the court declare the invasive tattoo removal policy unconstitutional as well as find that his First Amendment constitutional rights were violated.

#### **PARTIES**

3. Plaintiff, RONALD SCAVONE, presently resides in Luzerne County. Plaintiff, RONALD SCAVONE, successful completed the selection process and background check to be employed with the Defendant PENNSYLVANIA STATE POLICE (PSP) in the position of Liquor Enforcement Officer Trainee; however SCAVONE was not hired in the position because of his free speech along with a violation of his constitutional rights that he must physically alter his body by way of having a tattoo removed to be allowed employment with the government.

4. Plaintiff SCAVONE seeks redress for his First Amendment failure to hire along with declaring unconstitutional the PSP Tattoo Removal policy, which does not require applicants/employees to cover tattoos, but rather forces them

to remove the tattoo, which is an extremely painful and costly process and has no guarantee of success in erasing the tattoo 100%.

5. Defendant, PENNSYLVANIA STATE POLICE (hereinafter "PSP"), is a Commonwealth entity with a principal office at 1800 Elmerton Avenue, Harrisburg, Pennsylvania.

6. Defendant, JEFFREY B. MILLER, is the State Police Commissioner, who has a principal office at 1800 Elmerton Avenue, Harrisburg, Pennsylvania.

7. Defendant, LINDA M. BONNEY (hereinafter referred to as "BONNEY"), was the Director of the Bureau of Human Resources for Defendant PSP, and was acting under color of state law when she engaged in official policy, custom, and decision to reject SCAVONE for employment on or about June 11, 2008, and on-going.

8. Defendant LINDA M. BONNEY, was the official decision maker who denied Plaintiff employment with the Pennsylvania State Police.

9. At all times, Defendants, PSP, MILLER, and BONNEY and their agents, were acting under color of state law when they violated SCAVONE's constitutional rights found under Pennsylvania and Federal laws of Equal Protection, Due Process and First Amendment.

## **JURISDICTION**

10. This suit is brought and jurisdiction lies based on a federal question. 28 U.S.C. § 1331. The injuries sustained are pursuant to 42 U.S.C. § 1983 for constitutional violations of SCAVONE's rights pursuant to the First, Fourth, and Fourteenth Amendments. Plaintiff also asserts state claims for which there is supplemental jurisdiction. 28 USCS § 1367.

### **COUNT I** **FIRST AMENDMENT** **FIRST AMENDMENT RETALIATION** **FREE SPEECH** **PLAINTIFF V. DEFENDANTS**

11. Plaintiff, SCAVONE, hereby incorporates by reference paragraphs one (1) through ten (10) above as if set forth herein at length.

12. Plaintiff SCAVONE spoke out when he protested the tattoo removal policy along with the selection system process to Defendant LINDA BONNEY in or around June 2008. Instead of doing the right thing and not using SCAVONE's free speech against him, Defendant LINDA BONNEY made the decision to reject SCAVONE's employment application thereafter.

13. Plaintiff SCAVONE was retaliated against when he told the truth, questioned Human Resource Director Defendant LINDA BONNEY about her faulty

conclusions and decisions, as well as when he protested the tattoo removal policy.

14. Interestingly, Defendant BONNEY never provided a copy of the tattoo removal policy even though SCAVONE requested it on several occasions. Plaintiff SCAVONE has knowledge and belief that the tattoo policy in effect at the time should not have caused his employment to be rejected.

**WHEREFORE**, Plaintiff seeks all remedies available pursuant to U.S.C. § 1983, including but not limited to cease and desist enforcement of the Tattoo Removal Policy, installment into the position, compensatory and punitive damages against individual only, attorney fees and costs, pre- and post- interest, delay damages, reformation of Plaintiff's application/employment records.

**COUNT II**  
**DECLARATION THAT PSP TATTOO REMOVAL POLICY IS UNCONSTITUTIONAL**  
**VIOLATIONS OF DUE PROCESS AND EQUAL PROTECTION**  
**PLAINTIFF V. DEFENDANTS**

15. Plaintiff, SCAVONE, hereby incorporates by reference paragraphs one (1) through fourteen (14) above as if set forth herein at length.

16. The Pennsylvania State Police Tattoo Removal Policy is unconstitutional because it violations the Equal Protection Clause of the Federal and Pennsylvania Constitutions as well as the Due Process Clause.

17. The Pennsylvania State Police Tattoo Removal Policy on its face and as applied is constitutionally vague and overbroad.

18. The Pennsylvania State Police Tattoo Removal Policy infringes on Plaintiff Scavone's freedom of choice in personal matters and his personal/bodily appearance grounded in a person's liberty interest.

19. There is absolutely no legitimate or rational purpose in barring from employment applicants who do not remove tattoos since currently employed individuals by the State Police have tattoos.

20. "No State shall... deprive any person of life, liberty, or property, without due process of law." Section 1 of the Fourteenth Amendment of the United States Constitution.

21. Article I, Section 26 of Pennsylvania Constitution, adopted May 16, 1967, declares unconstitutional discrimination by the Commonwealth. "Neither the Commonwealth nor any political subdivision thereof shall deny to any person the enjoyment of any civil right, nor discriminate against any person in the exercise of any civil right." Constitution of Pennsylvania, Section 26.

22. Although courts have upheld policies involving the covering of tattoos, it appears the courts have not addressed policies that require the removing of tattoos, which involves an intrusion into one's physical appearance

and permanently alters the way someone looks. *See Inturri v. City of Hartford*, 365 F. Supp.2d 240 (D. Conn. 2005), *aff'd*, 165 Fed. Appx. 66 (2<sup>nd</sup> Cir. 2006).

**WHEREFORE**, Plaintiff seeks this Court declare the Pennsylvania State Police Tattoo Removal Policy unconstitutional, install Plaintiff into the position sought, compensatory and punitive damages against individual only, attorney fees and costs, pre- and post- interest, delay damages, reformation of Plaintiff's application/employment records.

**COUNT III**  
**VIOLATION OF FEDERAL AND PA CONSTITUTION**  
**EQUAL PROTECTION**  
**PLAINTIFF vs. DEFENDANTS**

23. Plaintiff, SCAVONE, hereby incorporates by reference paragraphs one (1) through twenty-two (22) above as if set forth herein at length.

24. Plaintiff, SCAVONE, was treated differently than individuals who do not have tattoos as well as those state police employees who have tattoos and have been allowed to work.

25. Plaintiff, SCAVONE, was treated differently because of his tattoo and his First Amendment free speech.

**WHEREFORE**, Plaintiff seeks this Court declare the Pennsylvania State Police Tattoo Removal Policy unconstitutional, install Plaintiff into the position sought, compensatory and punitive damages against individual only, attorney fees and costs, pre- and post- interest, delay damages, reformation of Plaintiff's application/employment records.

A Jury Trial is demanded on all counts.

By: s/ Cynthia L. Pollick  
Cynthia L. Pollick, Esquire  
Pa. I.D. No.: 83826  
363 Laurel Street  
Pittston, PA 18640  
(570) 654-9675  
pollick@lawyer.com