

FERRARA LAW GROUP, P.C.
Ralph P. Ferrara, Esq. (ID #024521985)
50 West State Street, Suite 1100
Trenton, New Jersey 08608
(609) 571-3738
Attorneys for Plaintiff

JOHN BOVERY,

Plaintiff,

v.

**MONMOUTH COUNTY PROSECUTOR'S
OFFICE, COUNTY OF MONMOUTH and
STATE OF NEW JERSEY**

Defendants.

**SUPERIOR COURT OF NEW JERSEY
LAW DIVISION
MONMOUTH COUNTY**

Docket No.:

Civil Action

**COMPLAINT, JURY DEMAND,
NOTICE OF TRIAL COUNSEL,
CERTIFICATIONS,
DEMAND FOR SERVICE OF
PLEADINGS AND DISCOVERY**

Plaintiff, John Boveri, residing at 1210 Harbour Club Drive, Parlin, New Jersey 08859, by way of Complaint against Defendants Monmouth County Prosecutor's Office, County of Monmouth and State of New Jersey states:

PARTIES

1. Plaintiff John Boveri is a resident of New Jersey residing 1210 Harbour Club Drive, Parlin, New Jersey 08859.
2. Defendant Monmouth County Prosecutor's Office is a public entity and/or entity in the County of Monmouth, and/or a subdivision thereof, organized and existing under the Constitution and/or laws of the State of New Jersey and/or the By Laws of Monmouth County, New Jersey. Defendant Monmouth County Prosecutor's Office is located at 132 Jerseyville Avenue, Freehold, New Jersey 07728.
3. Defendant County of Monmouth (hereinafter "Monmouth County"), is, and at all

relevant times was, a county and political subdivision of the State of New Jersey, duly organized and existing under the laws of the State of New Jersey. Defendant County of Monmouth has an address for service at One East Main Street, Hall of Records, Room 236, Freehold, New Jersey 07728.

4. Defendant State of New Jersey has an address for purposes of service c/o Office of Attorney General of New Jersey, RJ Hughes Justice Complex, 25 Market Street, Trenton, New Jersey 08625.

FACTUAL BACKGROUND

5. John Boverly first started running sports pools when he worked on Wall Street as a currency broker. Throughout the years, Boverly received optional gifts from the participants in these pools, sometimes from the winners and sometimes from the players in general. In some years there were no gifts at all, and the optional gifts were always at the discretion of the players and/or winners. As the pools grew, Boverly received a larger amount of gifts. Boverly decided to leave his Wall Street job, became a public school teacher and devoted more time to running the sports pools. There was nothing secret about Boverly's sports pools. He had a publicly available web site.

6. Boverly organized sports pools for approximately 20 years. Boverly would organize about 6 to 7 football pools throughout the season, one with a significant amount of money attached to it. He primarily organized football pools, but also organized similar pools in baseball, golf and basketball.

7. These pools were almost exclusively survival pools. In a football survival pool, individuals pay an entrance fee at the beginning of each season and select a football team each week. If the team selected loses, the participant is eliminated. If that football team wins, the

participant gets to make a pick the following week but cannot select a team he had previously picked in any prior week. As the football season proceeds, the pool of participants is reduced to a single winner or a handful of individuals who split the pool.

8. The pools Boverly ran were similar to office pools run by individuals at private businesses and public offices throughout the country. Boverly just did this on a larger scale and through a web site.

9. On May 4, 2010, two Monmouth County Detectives Maria Reverendo and Walter Mazariegos came to Boverly's home and asked that he help them with an ongoing investigation. Boverly was asked how he knew a Rocco LaVista since he had written \$90,000 in checks to him. Boverly explained that he did not know him, but LaVista had played Boverly's football pool and had won, along with his friends, a few years earlier. Boverly explained to the detectives what a survival pool is and how it operated. The detectives had to leave before they could finish meeting with Boverly and asked if he could come to their Asbury Park office on May 7th to continue helping with their investigation.

10. Prior to the meeting, Detective Mazariegos called to confirm. Boverly asked if he should bring a lawyer, and the detective replied that that was not necessary as he was only helping on an investigation focused on LaVista. To the contrary and unbeknownst to Boverly, the Prosecutor's Office had determined that Boverly was the target of a new investigation and had instructed that the meeting with Boverly be recorded.

11. On May 7, 2010, Boverly again met with Detectives Maria Reverendo and Detective Walter Mazariegos, during which time he spoke at great length about the sports pools he managed. The Detectives never suggested that Boverly was doing anything wrong or that he should stop running the pools. Boverly left and did not hear anything further from the detectives.

12. After the May 7, 2010 meeting, and unbeknownst to Boveri, Detective Mazariegos subpoenaed several bank accounts associated with Boveri and a separate bank account in the name of Boveri and his wife Mary Boveri. Detective Mazariegos checked the bank accounts during the summer via the subpoenas. Detective Mazariegos anticipated that the bank accounts would become significantly larger when football season began. All of the pool players would need to sign up by the first day of the NFL season, which was September 9, 2010. Defendants hatched a plan to seize the largest possible amount of money.

13. On September 9, 2010, the State executed an Order permitting the seizure and restraint of three bank accounts. The State also executed a search warrant for the Boveri home on September 9, 2010. The seizure took place the day football season began but before the first game started, which immediately served to shut down the pool. The State seized \$436,845.86 from one Amboy bank account; \$382,398.14 from another Amboy bank account; and \$17,950.14 from a third Amboy bank account. \$8,845 in cash was also seized from the home. The total amount seized was \$846,039.14. Approximately \$124,000 of the seized funds was Boveri's personal money and approximately \$722,000 of the seized funds was player money.

14. The money seized from the Boveri home included their personal money set aside to pay household bills. Both Boveri and his wife were working as teachers at that time and had undeniably legitimate sources of income.

15. One court has described the Defendants' actions as a "surreptitious cash grab" which presented a "web of contradictions, hypocrisy, and opportunism...." Over the next five years, Boveri became a pawn in the Defendants' efforts to keep the hundreds of thousands of dollars they seized on that day.

16. On that same day, September 9, 2010, Boveri was arrested for promoting

gambling, a third degree offense. He booked at the Sayreville police station. Bail was set at \$10,000, with a 10% cash bond option. Boverly was released when his wife posted \$1,000.

17. In the Fall of 2010, the State filed a civil forfeiture action, seeking to take all of the money seized including the players' money and Boverly's personal money. Boverly responded to the Complaint, indicating that he would be opposing the forfeiture.

18. On or about February 9, 2011, Boverly, his civil counsel as well as prosecutors on the civil and criminal cases and the two detectives attended a meeting at the Prosecutor's Office in Freehold. When Boverly attempted to make a statement at the meeting, Prosecutor Matthews said that he did not like Boverly's tone and abruptly ended the meeting and threatened "be prepared for things to change next week." Sensing that there may be a formal indictment coming, Boverly's civil counsel asked that he be contacted so that Boverly could self-surrender, to which Prosecutor Matthews agreed.

19. At the same time the Prosecutor's Office was negotiating with Boverly, the Prosecutor's Office was before the grand jury seeking an indictment on not only promotion of gambling charges but also first degree money laundering charges in order to turn up the heat on Boverly. The Prosecutor's Office had no intention of pursuing the money laundering charges through trial. The Office was adding the money laundering charges in order to turn up the heat on Boverly and get him to agree to allow the State to keep the proceeds of the cash grab.

20. On or about February 14, 2011 – Valentine's Day, Boverly was arrested outside of his home and was newly charged first degree money laundering on top of the third degree promotion of gambling. He was taken to the Monmouth County jail, and his bail was set at the draconian \$250,000 cash only bail, no bond permitted.

21. Prosecutor Matthews later admitted to Boverly's criminal counsel that the new

charges were intended to send Boverly a message as, in their opinion, he was not taking the legal matter serious enough.

22. From the time Boverly was arrested in September 2010 and the February 2011 indictment, there had been no additional investigation despite defendant's representations to the contrary. The money laundering charges were brought simply to turn the screws on Boverly and to get him to agree to the State's cash grab.

23. The inclusion of the "new" first degree money laundering charges had several devastating effects on Boverly.

24. First, Boverly was not able to post the high bail. He would spend 25 nights in jail until the Prosecutor's Office, faced with a bail reduction motion and having to somehow justify the exorbitant bail, sheepishly agreed to not oppose a 10% bond option.

25. Second, with first degree charges pending, Boverly could not obtain any work at all, which has economically crippled him. The State had already seized all of his funds in September 2010.

26. Third, the inclusion of these charges would hinder Boverly's admission into the Pretrial Intervention ("PTI"). Under the PTI program, a first time criminal offender is given the opportunity to have the charges dismissed pending the successful completion of a probationary period. Beginning in early 2011, Boverly's criminal attorney repeatedly requested that Boverly be admitted to the PTI program, and the Prosecutor's Office repeatedly refused. The Prosecutor's Office would not offer to allow Boverly to enter the PTI program until April 2016, more than 5 years after criminal charges were first brought against him.

27. In April 2016, Boverly was admitted into the PTI program. The charges against Boverly were amended to, solely, Third Degree Possession of Gambling Records in exchange for

6 months of PTI supervision.

28. On November 16, 2016, all complaints, indictments and accusations were dismissed against Boveri without costs and with a civil reservation of rights.

29. On March 29, 2017, Boveri served a tort claim notice on the State of New Jersey, Monmouth County and the Monmouth County Prosecutor's Office.

**COUNT ONE – VIOLATION
OF PLAINTIFF'S CIVIL RIGHTS**

30. Plaintiff incorporates by reference the statements set forth above as if fully set forth herein.

31. Defendants deprived Plaintiff of his rights and privileges set forth in the New Jersey State Constitution ("N.J. Constitution"), which deprivations are actionable pursuant to the New Jersey Civil Rights Act, N.J.S.A. 10:6-1 *et seq.* ("NJCRA").

32. At all relevant times, each of the Defendants were individuals and/or entities subject to the Constitution of the State of New Jersey.

33. Pursuant to the Constitution of the State of New Jersey, Plaintiff had an absolute right to: pursue safety and happiness; enjoy and defend life and liberty; privacy; due process of law; speedy trial; equal protection of the laws; be secure from unreasonable searches and seizures; and, any and all natural and unalienable rights retained by the people of the State of New Jersey.

34. Each of the respective Defendants through there aforesaid acts and/or omissions interfered with and deprived Plaintiff of his absolute rights guaranteed by the Constitution of the State of New Jersey, as set forth above.

35. Plaintiff was deprived of procedural and substantive due process, deprivation of rights and liberty of the New Jersey Constitution, which violations are actionable pursuant to the

NJCRA.

36. As a direct and proximate result of the Defendants' actions, Plaintiff has sustained and continues to sustain emotional distress, damages, pain and suffering, great mental and physical anguish, all to his great detriment and permanent damage.

37. Defendants have violated other rights of Plaintiff which were actionable.

WHEREFORE, Plaintiff demands judgment against all Defendants named herein, jointly and severally, for damages, punitive damages, costs of suit, interest, attorney's fees, all additional remedies provided for under common or statutory law and such other relief as the Court deems just and proper.

COUNT TWO – NEGLIGENT SUPERVISION/ RESPONDEAT SUPERIOR

38. Plaintiff incorporates by reference the statements set forth above as if fully set forth herein.

39. At all material times, Defendants, agents, officers, managers, managing members, employees, representatives, agents and/or servants had actual and/or apparent authority to act on behalf of the Defendants.

40. Defendants, individually and/or through their agents, officers, managers, managing members, employees, representatives, agents and/or servants owed a duty to the Plaintiff to act in a proper manner in accordance with their hiring, job roles, tasks and/or responsibilities in connection with this matter.

41. The conduct alleged above was committed by the Defendant, individually and/or through agents, officers, managers, managing members, employees, representatives, agents and/or servants, and are liable to the Plaintiff for the same.

42. The conduct alleged in the complaint was committed by the Defendant,

individually and/or through agents, officers, managers, managing members, employees, representatives, agents and/or servants, who failed to exercise their duties with due care, caution and/or circumspections and/or duties entrusted to them, and are liable to the Plaintiff for the same.

43. As a direct and proximate result of Defendant's actions or inaction, the Plaintiff has sustained and continues to sustain emotional distress, damages, pain and suffering, great mental and physical anguish, all to his great detriment and permanent damages.

WHEREFORE, Plaintiff demands judgment against all Defendants named herein, jointly and severally, for damages, punitive damages, costs of suit, interest, attorney's fees, all additional remedies provided for under common or statutory law and such other relief as the Court deems just and proper.

COUNT THREE – MALICIOUS PROSECUTION

44. Plaintiff incorporates by reference the statements set forth above as if fully set forth herein.

45. Defendants initiated criminal proceedings, namely the money laundering charges, against Plaintiff without probable cause, as set forth above and subjected Plaintiff to malicious prosecution. Defendants acted maliciously and for the purpose other than bringing Plaintiff to justice. Further, during the course of the proceedings, as set forth above, Plaintiff was deprived of liberty and other constitutional rights.

46. Defendants acted unreasonably and maliciously in the false and inappropriate charging and prosecution of Plaintiff with money laundering offenses without legal justification to do so.

47. As a result of the wrongful criminal charges initiated by Defendants, the Plaintiff

was forced to retain counsel and incur significant expense to defendant himself in the Superior Court.

48. Further, for the reasons set forth above, the Plaintiff was subjected to a loss of liberty and freedom of movement.

49. Defendants deprived Plaintiff of procedural and substantive due process, rights to liberty, freedom from unreasonable searches and seizures and other rights guaranteed by Article 1, Paragraphs 1 and 7 of the New Jersey Constitution, made actionable by the NJCRA.

50. As a direct and proximate result of Defendants' actions, Plaintiff has sustained and continues to sustain emotional distress, damages, pain and suffering, great mental and physical anguish, all to his detriment and permanent damages.

WHEREFORE, Plaintiff demands judgment against all Defendants named herein, jointly and severally, for damages, punitive damages, costs of suit, interest, attorney's fees, all additional remedies provided for under common or statutory law and such other relief as the Court deems just and proper.

COUNT FOUR – ABUSE OF PROCESS

51. Plaintiff incorporates by reference the statements set forth above as if fully set forth herein.

52. In instituting money laundering charges against Plaintiff, Defendants made an improper, illegal and perverted use of the legal procedure. Defendants had an ulterior motive in initiating these charges. The money laundering charges were brought in order to intimidate, harass and coerce Plaintiff in order to obtain a collateral advantage.

53. Defendants acted unreasonably and maliciously in the false and inappropriate charging and prosecution of Plaintiff with money laundering offenses without legal justification

to do so.

54. As a result of the wrongful criminal charges initiated by Defendants, the Plaintiff was forced to retain counsel and incur significant expense to defendant himself in the Superior Coujrt.

55. Further, for the reasons set forth above, the Plaintiff was subjected to a loss of liberty and freedom of movement.

56. Defendants deprived Plaintiff of procedural and substantive due process, rights to liberty, freedom from unreasonable searches and seizures and other rights guaranteed by Article 1, Paragraphs 1 and 7 of the New Jersey Constitution, made actionable by the NJCRA.

57. As a direct and proximate result of Defendants' actions, Plaintiff has sustained and continues to sustain emotional distress, damages, pain and suffering, great mental and physical anguish, all to his detriment and permanent damages.

WHEREFORE, Plaintiff demands judgment against all Defendants named herein, jointly and severally, for damages, punitive damages, costs of suit, interest, attorney's fees, all additional remedies provided for under common or statutory law and such other relief as the Court deems just and proper.

COUNT FIVE – INTENTIONAL INFLICTION OF EMOTIONAL DISTRESS

58. Plaintiff incorporates the allegations set forth above as if fully set forth herein.

59. The conduct of all of the Defendants named herein and their respective actions surrounding Plaintiff were knowingly, purposely and intentionally done.

60. The conduct of all of the Defendants and their respective actions were extreme, outrageous and excessive.

61. The acts and omissions of Defendants were made in an intentional fashion

intended to produce emotional distress and/or in deliberate disregard of a high degree of probability that emotional distress will follow.

62. As a direct and proximate cause/result of Defendants' misconduct, acts and/or omissions, Plaintiff sustained and continues to sustain emotional distress, damages, pain and suffering, great mental and physical anguish and to his great detriment and permanent damages.

63. The emotional distress sustained by Plaintiff was of a nature that a reasonable person would not be expected to be forced to endure it.

64. As set forth above, Defendant intentionally or recklessly engaged in extreme and outrageous conduct that was the proximate cause of plaintiff suffering emotional distress so severe that no reasonable person could be expected to endure it.

WHEREFORE, Plaintiff demands judgment against all Defendants named herein, jointly and severally, for damages, punitive damages, costs of suit, interest, attorney's fees, all additional remedies provided for under common or statutory law and such other relief as the Court deems just and proper.

FERRARA LAW GROUP, P.C.

BY: 
RALPH P. FERRARA, ESQUIRE
Attorney for Plaintiff

Dated: March 28, 2018

CERTIFICATION PURSUANT TO RULE 4:5-1

There are no other actions or arbitrations related to this suit pending or presently contemplated. Following my initial review of this matter, it appears that there are no other persons who should be joined as parties.

DESIGNATION OF TRIAL COUNSEL

Please take notice that pursuant to Rule 4:25-4, Ralph P. Ferrara, Esquire, is hereby designated as trial counsel.

DEMAND FOR TRIAL BY JURY

Plaintiff hereby demands a trial by jury as to all issues.

NOTICE PURSUANT TO RULES 1:5-1(a) and 4:17-4(c)

TAKE NOTICE that the undersigned attorney, counsel for Plaintiff, does hereby demand, pursuant to Rules 1:5-1(a) and 4:17(c) that each party herein serving pleadings and interrogatories and receiving answers thereto, serve copies of all such pleadings and answered interrogatories received from any other party, including any documents, papers and other materials referred to therein, upon the undersigned attorney, and TAKE NOTICE that this is a continuing demand.

FERRARA LAW GROUP, P.C.

BY: _____

RALPH P. FERRARA, ESQUIRE
Attorney for Plaintiff

Dated: March 28, 2018