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Attorney for Plaintiff, Estate of Frank P. Lagano

UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF NEW JERSEY  
NEWARK VICINAGE

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ESTATE OF FRANK P. LAGANO,	:	
	:	
Plaintiff,	:	DOCKET NO:
	:	
v.	:	
	:	
STATE OF NEW JERSEY by and	:	
through the DIVISION OF	:	
CRIMINAL JUSTICE; BERGEN	:	
COUNTY PROSECUTOR'S OFFICE	:	
MICHAEL MORDAGA; and various	:	
JOHN DOE defendants whose	:	
individual identities or	:	
wrongful acts are not now	:	COMPLAINT WITH JURY DEMAND
known to Plaintiff,	:	
	:	
Defendants.	:	

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The Estate of Frank P. Lagano, for its Complaint, states:

**JURISDICTION**

1. Plaintiff invokes this Court's federal question jurisdiction under 28 U.S.C. §1331 and its civil rights jurisdiction under 28 U.S.C. §1337. With respect to all matters arising under New Jersey law, Plaintiff invokes this Court's supplemental jurisdiction under 28 U.S.C. §1367.

**PARTIES**

2. Plaintiff is the Estate of Frank P. Lagano ("the Estate").
3. Defendant State of New Jersey is a public entity. This defendant is sued for wrongs committed by and through the Division of Criminal Justice, which, pursuant to New Jersey law, is housed within the Department of Law and Public Safety under the supervision of the Office of the Attorney General of New Jersey.
4. Defendant, Bergen County Prosecutor's Office, is a public entity subject to oversight by the Division of Criminal Justice.
5. Defendant, Michael Mordaga, was at all times pertinent, the Chief of Detectives in the Bergen County Prosecutor's Office.
6. The various John Doe Defendants participated in the wrongdoing at issue in this proceeding. Their individual identities or wrongs are not yet known to the Estate.
7. At all pertinent times each individual defendant acted under color of State law and authority.

**THE FACTS**

8. Plaintiff Decedent is the late Frank P. Lagano,

("Decedent"), formerly a resident of Tenafly, New Jersey.

9. The following factual averments are made upon information and belief, based in substantial part upon allegations made in the Complaint filed on September 1, 2010 by the late James Sweeney against the State of New Jersey, et als., Docket No. L-8430-10 in the Superior Court of New Jersey, Law Division, Bergen County.
10. On or about December 1, 2004, personnel of the Bergen County Prosecutor's Office, some of whom are likely John Doe Defendants, executed search and arrest warrants at Decedent's home.
11. Prior to December 1, 2004, Decedent enjoyed a personal and business relationship with Defendant Michael Mordaga.
12. Decedent vacationed, visited with and socialized with Mordaga.
13. Decedent lent money to Mordaga.
14. Decedent had multiple business ventures with Mordaga.
15. During the course of executing the search warrant on December 1, 2001, Bergen County Prosecutor's Office personnel, including John Doe Defendants, seized at least \$50,000.00 cash from Decedent's home and other items from

Decedent's safe deposit box.

16. Under standard police practices and the terms of any search warrant, the Bergen County Prosecutor's Office personnel who conducted the search were required to itemize the seized items mentioned in paragraph 15 in their inventory of the seizures.
17. Contrary to standard police practice and the terms of the search warrant, the Bergen County Prosecutor's Office personnel who conducted the search, including the John Doe Defendant's did not list the seized items mentioned in paragraph 15 in their inventory of the seizures.
18. Instead, the Bergen County Prosecutor's Office personnel who conducted the search, including the John Doe Defendants, converted the seized items mentioned in paragraph 15 to their own benefit or to the benefit of their confederates or supervisors.
19. Following his arrest on December 1, 2004, Decedent was taken to see Defendant Michael Mordaga.
20. At that time, Mordaga handed Decedent an attorney's business card, and told Decedent to provided that attorney with \$25,000.00 and then 90% of Decedent's problems would go away.

21. Decedent's relationship with Mordaga soon soured.
22. Subsequently, this late James Sweeney, perhaps together with others unknown at this time to the Estate, used his or their state authority to induce Frank P. Lagano to enter into a relationship as a confidential informant for the State of New Jersey's Division of Criminal Justice.
23. Establishing a confidential informant relationship with law enforcement personnel inherently creates a dangerous condition, in that disclosure of the confidential informant's identity will foreseeably result in harm to the confidential informant.
24. It was understood by all parties to the captioned litigation that during the course of any criminal investigation and prosecution the identity of a confidential informant must be protected scrupulously from disclosure.
25. Courts and law enforcement agencies routinely take extraordinary steps to assure that the identities of informants are not disclosed except on a need-to-know basis.
26. Courts and law enforcement personnel do this because they are well aware that disclosure of an informant's status creates a substantial danger that the informant will be killed.

27. Mordaga thereafter appeared at a dinner meeting Decedent was having with a mutual acquaintance.
28. At this meeting, Mordaga advised Decedent that half his money would be returned and guaranteed that Decedent would serve no prison time if Decedent hired the attorney Mordaga recommended.
29. Decedent rejected that offer.
30. Mordaga then told Decedent not to count on Sweeney helping, because Sweeney is going to jail.
31. Thus, Mordaga already knew that Decedent had become Sweeney's confidential informant.
32. Bergen County Prosecutor's Office personnel thereafter disclosed to alleged members of traditional Organized Crime families arrested in raids on December 1, 2004 that Decedent had been an informant.
33. On April 12, 2007, in the middle of the afternoon, in front of a diner he co-owned in East Brunswick, New Jersey, Decedent, then 71 years old, was fatally shot in the head.
34. Decedent had derived annual income of approximately \$300,000.00 from his ownership interest in the Diner.
35. The Defendants failed to protect from disclosure Frank P.

Lagano's status as a confidential informant.

36. By failing to protect from disclosure Frank P. Lagano's status as a confidential informant, one or more Defendants in the captioned litigation used his or their official authority to create an opportunity that otherwise would not have existed for a third party's crime of murder to occur.
37. The failure to protect from disclosure Frank P. Lagano's status as a confidential informant proximately caused his death by murder on April 12, 2007.
38. As a result of his untimely death, Frank P. Lagano lost future income for at least 14 years of life expectancy.
39. The foregoing facts state a claim for denial of substantive due process of law by creating dangerous condition under 42 U.S.C. §1983 within the meaning of Morse v. Lower Merion School Dist., 132 F.3d 902, 908 (3d Cir. 1997).
40. The foregoing facts state a claim for denial of substantive due process of law by creating a dangerous condition, in violation of N.J.S.A. 10:6-2.C.

#### **FIRST CAUSE OF ACTION**

41. The Estate repeats all of the foregoing.
42. When Sweeney and perhaps others, acting for the Division of

Criminal Justice, recruited Decedent to be an informant, Sweeney and his associates well understood that this established a state-created danger that the informant could be harmed for assisting law enforcement if the informant status were gratuitously disclosed.

43. Defendants, by breaching the secrecy of status to which every confidential informant is entitled, proximately caused the death of Decedent.
44. Wherefore, pursuant to 42 U.S.C. §1983, the Estate demands judgment against the Defendants, jointly and severally, for compensatory damages and against individual Defendants for punitive damages, together with interest, costs including attorney fees and such other and further relief as may be appropriate.

#### **SECOND CAUSE OF ACTION**

45. The Estate repeats all of the foregoing.
46. Based upon the foregoing, Defendants violated Decedent's right to substantive due process of law under the New Jersey Constitution, Art. I, para. 1.
47. Wherefore, pursuant to N.J.S.A. 10:6-2, the Estate demands judgment against the Defendants, jointly and severally, for compensatory damages and against individual Defendants for

punitive damages, together with interest and costs including attorney fees, and such other and further relief as may be appropriate.

**THIRD CAUSE OF ACTION**

48. The Estate repeats all of the foregoing.
49. Defendant Mordaga and other personnel associated with the Bergen County Prosecutor's Office conspired to and did steal and convert to their own benefit money and things seized from Decedent on the purported authority of a search warrant.
50. Such theft and conversion violated the Fourth Amendment's protections against unreasonable searches and seizures.
51. Wherefore, pursuant to 42 U.S.C. §§1983, 1985, the Estate demands judgment against the Defendants Mordaga, the Bergen County Prosecutor's Office, and those John Doe Defendants, namely persons affiliated with the Bergen County Bergen County Prosecutor's Office who had knowledge of the unlawful taking of the property of Decedent, jointly and severally, for compensatory damages and punitive damages, interest, costs including attorney fees, and such other and further relief as may be appropriate.

**JURY DEMAND**

The Estate hereby demands a trial by jury.

**TRIAL COUNSEL DESIGNATION**

William H. Buckman is designated trial counsel in this matter.

/s/William H. Buckman  
WILLIAM H. BUCKMAN,  
Attorney for Plaintiff,  
Estate of Frank P. Lagano