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**COMMONWEALTH OF MASSACHUSETTS
SUPERIOR COURT**

SUFFOLK, SS

Civil Action No. 22-0473 B

STATE POLICE ASSOCIATION
MASSACHUSETTS,

Plaintiff,

v.

COMMONWEALTH OF MASSACHUSETTS/
SECRETARIAT OF ADMINISTRATION &
RESOURCES DIVISION, THE DEPARTMENT
OF STATE POLICE, and COLONEL
CHRISTOPHER MASON,

Defendants

SUFFOLK SUPERIOR COURT
CIVIL CLERK'S OFFICE
2022 MAR -3 P 12:42
MICHAEL JOSEPH DONOVAN
CLERK / MAGISTRATE

**VERIFIED COMPLAINT FOR DECLARATORY
AND INJUNCTIVE RELIEF, AND SHORT ORDER OF NOTICE**

The Plaintiff, State Police Association of Massachusetts, hereby files this Verified Complaint and attached memorandum of law for declaratory and injunctive relief, pursuant to G.L. c. 231, §1 and/or G.L. c. 150C, to enjoin Defendants Commonwealth of Massachusetts /Secretariat of Administration & Finance, Human Resources Division, the Department of State Police, and Colonel Christopher Mason from terminating seven (7) of its members for their failure to comply with Governor Charlie Baker's Executive Order 595 requiring all executive branch employees get vaccinated for Covid-19. These members filed religious exemption request forms with Defendants verifying that their sincerely held religious beliefs conflict with Order 595, requesting to be exempt from the Covid-19 vaccine, and asking to wear appropriate gear and test in lieu of such. The Defendants failed to engage in a meaningful interactive process with these members and categorically denied their requests in a manner that is disparate from how the Defendants treated employees seeking a medical exemption from Executive 595 with similar accommodation requests. The Defendants' actions if not enjoined shall permit them to terminate these seven (7) SPAM members without due process and in violation of the collective bargaining agreement between the Commonwealth of Massachusetts and SPAM as well as the Massachusetts and federal anti-discrimination laws.

Plaintiffs seek a declaration that the Defendants violated the collective bargaining agreement between the Commonwealth of Massachusetts and SPAM when they denied religious exemptions for SPAM members Patrick Irwin, Paul Aten, Joseph Hanafin, David Hanafin, Jessie Barbosa, Christopher Dolan, and Lance Reed without due process and in a manner that was categorical and disparate from how the Defendants treated employees seeking a medical exemption from Order 595 with similar accommodation requests. Plaintiffs seek that Defendants be enjoined from terminating these members without due process which will result in irreparable harm to them and to Plaintiff.

This is not an action that questions the existence or severity of the Covid-19 pandemic or the validity or science of federally approved vaccines. This is not an action challenging Order 595 or the vaccination mandate contained therein.

PARTIES

1. The State Police Association of Massachusetts ("SPAM") is an employee organization as that term is defined in G.L. c. 150E, §1, is the Plaintiff. SPAM is an employee organization within the meaning of G.L. c. 150E, §1 and has a usual place of business in Boston, Suffolk County. SPAM is the exclusive bargaining representative for employees of the Commonwealth employed within the Department of State Police ("DSP") and holding the rank of State Police Trooper, State Police Trooper First Class, and State Police Sergeant, and excluding all other employees. The bargaining unit represented by SPAM is referred to as Unit 5A.
2. The Commonwealth of Massachusetts/Secretariat of Administration & Finance ("Commonwealth") is the Defendant. The Commonwealth is an employer as that term is defined in G.L. c. 150E, § 1. The Commonwealth is a party to an Agreement with SPAM that covers the terms and conditions of employment of the members of the bargaining unit represented by SPAM.
3. The Human Resources Division ("HRD") is an agency of the Commonwealth which operates under the Secretary of Administration. HRD has been designated by the Commonwealth for collective bargaining matters between SPAM and the Commonwealth.
4. The Department of State Police (DSP) is an agency of the Commonwealth which operates under the Executive Office of Public Safety and Security.
5. The Defendant Christopher Mason is the Superintendent of the Department of State Police and holds the rank of Colonel. Colonel Mason, as the head of the State Police, has responsibility for the executive and administrative functions of the DSP. Colonel Mason was appointed to his current position on or about November 15, 2019. Colonel Mason is named in his individual and official capacity.

JURISDICTION & VENUE

6. The Court has original and statutory jurisdiction over the subject matter of this action by virtue of G.L. c 212, §4, G.L. c. 214, §1, and G.L.c.150C. The relief is authorized by G.L. c. 231A, §§1 et. seq. and G.L. c. 214.
7. Venue is appropriate in this Court, pursuant to G.L c. 223, §1, in that the Plaintiffs and Defendants are in Suffolk County and that is their usual place of business.

FACTS

8. The DSP has approximately two thousand, ninety-seven (2,097) sworn members out of which approximately one thousand, eight hundred and nine (1,809) occupy the ranks of State Police Trooper, State Police Trooper First Class, and State Police Sergeant and are represented by SPAM.
9. The Commonwealth and SPAM are parties to a collective bargaining agreement ("Agreement") which covers the terms and conditions of employment of the bargaining unit represented by SPAM. (**Exhibit 1, appended hereto**)
10. Article 7, p. 9 of Agreement contains anti-discrimination provisions. Id.
11. Article 7 provides in relevant part:

Section 1:

The Employer and the Association agree not to discriminate in any way against employees covered by this Agreement on account of race, religion, creed, color, national origin, gender age or lawful union related concerted activities.

Section 2:

The Association and the Employer agree that when the effects of employment practices, regardless of their intent, discriminate against any group of people on the basis of race, religion, age, gender or national origin, specific, positive and aggressive measures must be taken to redress the effects of past discrimination, to eliminate present and future discrimination, and to ensure equal opportunity in the areas of appointments, promotions, demotions or transfers, recruitment, lay-offs or termination, rate of compensation, and in-service training programs. Therefore, the parties acknowledge the need for positive and aggressive affirmative action.

Id.

12. Article 22, p. 27 of the Agreement contains a grievance procedure that permits employees and SPAM to dispute the application or interpretation of the Agreement.
13. Section 2 provides in relevant part:

The grievance procedure shall be as follows:

Step I: An employee and/or the Association shall submit a grievance in writing to the employee's Troop Commander or Section Commander/Director not later than twenty-one (21) calendar days after the date of occurrence of the alleged act or omission giving rise to the grievance...

Step II: In the event the employee or the Association wishes to appeal an unsatisfactory decision at Step I, the appeal must be presented in writing to the appropriate Division Commander...

Step III: In the event the employee or the Association wish to appeal an unsatisfactory decision at Step II, the appeal must be presented, in writing, to the Colonel...Notwithstanding the foregoing, grievances of a general nature, and/or affecting a large portion of the unit, can be instituted, at the Association's discretion, at Step III of the grievance procedure. The Colonel *shall* meet with the employee...for review of the grievance and shall issue a written reply to the employee...

Step IV: In the event the employee or the Association wishes to appeal an unsatisfactory decision at Step III, the appeal must be presented to [HR]...

Step V: Grievances unresolved at Step IV may be brought to arbitration solely by the Association...

Id. (Emphasis added.)

14. The DSP has an Unlawful Harassment, Sexual Harassment and Discrimination Complaint Form that permits employees to report internal claims of discrimination. A DSP Harassment Officer is required to contact any employee who files a complaint to commence an investigation consistent with federal and state anti-discrimination laws.
15. On August 19, 2021, Governor Charlie Baker issued Executive Order 595 (Order 595), ordering executive branch employees to obtain COVID-19 vaccinations within 60 days. (**Exhibit 2, appended hereto**)
16. Order 595 directed the HRD to draft a policy within 60 days to effectuate the Order.
17. Order 595 stated that all executive department employees must demonstrate no later than October 17, 2021, that they have received a COVID-19 vaccination.

18. Order 595 instructed HRD to create “appropriate enforcement measures to ensure compliance, which shall include progressive discipline up to and including termination for non-compliance and termination of any misrepresentation by an employee regarding vaccination status.”
19. The press release announcing Order 595 stated: “Executive Department Employees who are not vaccinated or approved for an exemption as of October 17, 2021 will be subject to disciplinary action, up to and including termination. The Administration will continue to work with its union partners regarding this policy, and specific ramifications of non-compliance for staff represented by unions will be discussed well in advance of October 17 with each employee action.”
20. On or about September 10, 2021, HRD issued a “Process for Requesting an Exemption from Covid-19 Vaccination” which states, in relevant part:

Process for Requesting an Exemption from Covid-19 Vaccination

There are limited exemptions from the Covid-19 vaccination requirement where a reasonable accommodation can be reached for an employee who is unable to receive Covid-19 vaccination due to a medical disability or who is unwilling to receive Covid-19 vaccination due to a sincerely held religious belief.

The Diversity Officer/ADA Coordinator in each agency will manage the process for the medical disability or religious accommodations exemptions pursuant to Executive Order 595. If the request for accommodation is made through the employee’s supervisor/manager, the supervisor/manager should immediately refer the request to the Diversity Officer/ADA Coordinator.

Upon receipt of all the documentation for your medical or religious exemptions, the Diversity Officer/ADA Coordinator will engage in a good faith interactive process with you to determine whether a reasonable accommodation can be provided that will enable you to perform the essential functions of your position.

(Exhibit 3, appended hereto)

21. On September 13, 2021, SPAM member, Patrick Irwin, filed a Covid-19 Vaccination Religious Exemption Form with the Diversity Officer/ADA Coordinator verifying that his sincerely held religious belief conflicts with the Order and requesting to be exempt from the Covid-19 vaccine and in lieu of such to wear appropriate protective gear and test. **(Exhibit 4, appended hereto)**
22. On September 24, 2021, SPAM member, Paul Aten, filed a Covid-19 Vaccination Religious Exemption Form with the Diversity Officer/ADA Coordinator verifying that his sincerely held religious belief conflicts with the Order and requesting to be

exempt from the Covid-19 vaccine and in lieu of such to wear appropriate protective gear and test. **(Exhibit 5, appended hereto)**

23. On September 27, 2021, SPAM member, Joseph Hanafin, filed a Covid-19 Vaccination Religious Exemption Form with the Diversity Officer/ADA Coordinator verifying that his sincerely held religious belief conflicts with the Order and requesting to be exempt from the Covid-19 vaccine and in lieu of such to wear appropriate protective gear and test. **(Exhibit 6, appended hereto)**
24. On September 27, 2021, SPAM member, David Hanafin, filed a Covid-19 Vaccination Religious Exemption Form with the Diversity Officer/ADA Coordinator verifying that his sincerely held religious belief conflicts with the Order and requesting to be exempt from the Covid-19 vaccine and in lieu of such to wear appropriate protective gear and test. **(Exhibit 7, appended hereto)**
25. On October 6, 2021, SPAM member, Jessie Barbosa, filed a Covid-19 Vaccination Religious Exemption Form with the Diversity Officer/ADA Coordinator verifying that his sincerely held religious belief conflicts with the Order and requesting to be exempt from the Covid-19 vaccine and in lieu of such to wear appropriate protective gear, test, and if necessary, relocate to another unit within the department whereas the contact with the public would be minimal to none. **(Exhibit 8, appended hereto)**
26. On October 7, 2021, SPAM member, Christopher Dolan, filed a Covid-19 Vaccination Religious Exemption Form with the Diversity Officer/ADA Coordinator verifying that his sincerely held religious belief conflicts with the Order and requesting to be exempt from the Covid-19 vaccine and in lieu of such to wear appropriate protective gear, test, and if necessary, relocate to another unit within the department whereas the contact with the public would be minimal to none. **(Exhibit 9, appended hereto)**
27. On October 8, 2021, SPAM member, Lance Reed, filed a Covid-19 Vaccination Religious Exemption Form with the Diversity Officer/ADA Coordinator verifying that his sincerely held religious belief conflicts with the Order and requesting to be exempt from the Covid-19 vaccine and in lieu of such to wear appropriate protective gear and test. **(Exhibit 10, appended hereto)**
28. The Diversity Officer/ADA Coordinator met with Patrick Irwin, Paul Aten, Joseph Hanafin, David Hanafin, Jessie Barbosa, Christopher Dolan, and Lance Reed. *Many if not most of these meetings were not recorded. Some other members not named herein were denied SPAM and/or legal representation during their interviews, indicating the process was not properly vetted and all member rights were not properly considered.*
29. On October 15, 2021, HRD issued its policy entitled Covid-19 Vaccination Verification Policy for Executive Department Agencies ("Covid-19 Policy") effectuating the Order. **(Exhibit 11, appended hereto)**

30. Paragraph 6 of the Covid-19 Policy states, in relevant part:

Employees may be approved for exemption from the requirement to provide documentation confirming COVID-19 vaccination under the following circumstances:

1. Employees who verify and document that the vaccine is medically contraindicated, which means administration of the COVID-19 vaccine to that individual would likely be detrimental to the individual's health, provided any such employee is able to perform their essential job functions with a reasonable accommodation that is not an undue burden on the agency...
2. Employees who object to vaccination due to a sincerely held religious belief, provided that any such employee is able to perform their essential job functions with a reasonable accommodation that is not an undue burden on the agency.

Id.

31. 167 SPAM members filed requests for religious exemptions from compliance with Order 595. **(Exhibit 12, appended hereto)**

32. 167 religious exemption requests by SPAM members were denied. Id.

33. 25 SPAM members filed requests for temporary or permanent exemptions from compliance with Order 595. Id.

34. 8 temporary or permanent medical exemption requests by SPAM members were approved. Id.

35. A set of accommodations for certain SPAM members who received either temporary or permanent medical exemptions include, but are not limited to, the following: always wearing a mask; always maintaining appropriate social distance; refraining from interacting with the public, responding to crime scenes, and wearing a uniform or driving a marked cruiser to limit solicitation by the public; and, refraining from working overtime and details. These members are permitted to perform crime scene section responsibilities at any work location provided they wear a mask and practice social distancing. In addition, these members are permitted to attend court hearings, training at the State Police Academy, and other external trainings. Id.

36. For example, SPAM member Sarah Thompson, who is assigned to Crime Scene Services, received a medical exemption from Order 595 and the above accommodations. **(Exhibit 13, appended hereto)**

37. On October 23, 2021, the Diversity Officer/ADA Coordinator provided Patrick Irwin with a Covid-19 Vaccination Religious Exemption Response Form, which states, in relevant part:

Please be advised that your request for a religious exemption from compliance with Executive Order 595 based on a sincerely held religious belief has been received by the Massachusetts Department of State Police and the Executive Officer of Public Safety and Security and is hereby DENIED.

The information you presented on your conscience and fetal cell use in the development, research and testing of all three of the vaccines supports a finding that receiving one of the Covid-19 vaccines would offend your sincerely held religious beliefs. You demonstrated that your sincerely held religious beliefs are the foundation of your fervent commitment to the pro-life movement and rejection of anything associated with abortion in various areas of your life. Therefore, you have established that becoming vaccinated would conflict with your sincerely held religious beliefs, practices, or observations within the meaning of state and federal law.

Notwithstanding the finding that taking the vaccine would offend your sincerely held religious beliefs, the Department is unable to provide you with a reasonable accommodation. An accommodation would cause undue hardship because there is no accommodation that would still allow the Department to protect the safety of your colleagues and the public without sustaining a significant adverse impact on operations and undermining the public's trust in the State Police to keep them safe. Accordingly, your request for an exemption from Executive Order 595 is DENIED.

(Exhibit 14, appended hereto) (Emphasis added.)

38. On December 10, 2021, the Diversity Officer/ADA Coordinator provided Paul Aten with a Covid-19 Vaccination Religious Exemption Response Form, which stated, in relevant part:

Please be advised that your request for a religious exemption from compliance with Executive Order 595 based on a sincerely held religious belief has been received by the Massachusetts Department of State Police and the Executive Officer of Public Safety and Security and is hereby DENIED.

The information you presented supports a finding that receiving one of the COVID-19 vaccines would offend your sincerely held religious beliefs. The information you provided in your application and during the interactive discussion leads us to find that remaining unvaccinated runs contrary to a sincerely held religious belief. Therefore, you have

established that becoming vaccinated would conflict with sincerely held religious beliefs, practices, or observances within the meaning of state and federal law.

Notwithstanding the finding that taking the vaccine would offend your sincerely held religious beliefs, the Department is unable to provide you with a reasonable accommodation. An accommodation would cause undue hardship because there is no accommodation that would still allow the Department to protect the safety of your colleagues and the public without sustaining a significant adverse impact on operations and undermining the public's trust in the State Police to keep them safe. Accordingly, your request for an exemption from Executive Order 595 is DENIED.

(Exhibit 15, appended hereto) (Emphasis added.)

39. On November 24, 2021, the Diversity Officer/ADA Coordinator provided Joseph Hanafin with a Covid-19 Vaccination Religious Exemption Response Form, which stated, in relevant part:

Please be advised that your request for a religious exemption from compliance with Executive Order 595 based on a sincerely held religious belief has been received by the Massachusetts Department of State Police and the Executive Officer of Public Safety and Security and is hereby DENIED.

The information you presented supports a finding that receiving one of the COVID-19 vaccines would offend your sincerely held religious beliefs. The information you provided in your application and during the interactive discussion leads us to find that remaining unvaccinated runs contrary to a sincerely held religious belief. Therefore, you have established that becoming vaccinated would conflict with sincerely held religious beliefs, practices, or observances within the meaning of state and federal law.

Notwithstanding the finding that taking the vaccine would offend your sincerely held religious beliefs, the Department is unable to provide you with a reasonable accommodation. An accommodation would cause undue hardship because there is no accommodation that would still allow the Department to protect the safety of your colleagues and the public without sustaining a significant adverse impact on operations and undermining the public's trust in the State Police to keep them safe. Accordingly, your request for an exemption from Executive Order 595 is DENIED.

(Exhibit 16, appended hereto) (Emphasis added.)

40. On November 24, 2021, the Diversity Officer/ADA Coordinator provided David Hanafin with a Covid-19 Vaccination Religious Exemption Response Form, which stated, in relevant part:

Please be advised that your request for a religious exemption from compliance with Executive Order 595 based on a sincerely held religious belief has been received by the Massachusetts Department of State Police and the Executive Officer of Public Safety and Security and is hereby DENIED.

The information you presented supports a finding that receiving one of the COVID-19 vaccines would offend your sincerely held religious beliefs. The information you provided in your application and during the interactive discussion leads us to find that remaining unvaccinated runs contrary to a sincerely held religious belief. Therefore, you have established that becoming vaccinated would conflict with sincerely held religious beliefs, practices, or observances within the meaning of state and federal law.

Notwithstanding the finding that taking the vaccine would offend your sincerely held religious beliefs, the Department is unable to provide you with a reasonable accommodation. An accommodation would cause undue hardship because there is no accommodation that would still allow the Department to protect the safety of your colleagues and the public without sustaining a significant adverse impact on operations and undermining the public's trust in the State Police to keep them safe. Accordingly, your request for an exemption from Executive Order 595 is DENIED.

(Exhibit 17, appended hereto) (Emphasis added.)

41. On November 26, 2021, the Diversity Officer/ADA Coordinator provided Jessie Barbosa with a Covid-19 Vaccination Religious Exemption Response Form, which stated, in relevant part:

Please be advised that your request for a religious exemption from compliance with Executive Order 595 based on a sincerely held religious belief has been received by the Massachusetts Department of State Police and the Executive Officer of Public Safety and Security and is hereby DENIED.

The information you presented supports a finding that receiving one of the COVID-19 vaccines would offend your sincerely held religious beliefs. The information you provided in your application and during the interactive discussion leads us to find that remaining unvaccinated runs contrary to a sincerely held religious belief. Therefore, you have established that becoming vaccinated would conflict with sincerely held

religious beliefs, practices, or observances within the meaning of state and federal law.

Notwithstanding the finding that taking the vaccine would offend your sincerely held religious beliefs, the Department is unable to provide you with a reasonable accommodation. An accommodation would cause undue hardship because there is no accommodation that would still allow the Department to protect the safety of your colleagues and the public without sustaining a significant adverse impact on operations and undermining the public's trust in the State Police to keep them safe. Accordingly, your request for an exemption from Executive Order 595 is DENIED.

(Exhibit 18, appended hereto) (Emphasis added.)

42. On November 26, 2021, the Diversity Officer/ADA Coordinator provided Christopher Dolan with a Covid-19 Vaccination Religious Exemption Response Form, which stated, in relevant part:

Please be advised that your request for a religious exemption from compliance with Executive Order 595 based on a sincerely held religious belief has been received by the Massachusetts Department of State Police and the Executive Officer of Public Safety and Security and is hereby DENIED.

The information you presented supports a finding that receiving one of the COVID-19 vaccines would offend your sincerely held religious beliefs. The information you provided in your application and during the interactive discussion leads us to find that remaining unvaccinated runs contrary to a sincerely held religious belief. Therefore, you have established that becoming vaccinated would conflict with sincerely held religious beliefs, practices, or observances within the meaning of state and federal law.

Notwithstanding the finding that taking the vaccine would offend your sincerely held religious beliefs, the Department is unable to provide you with a reasonable accommodation. An accommodation would cause undue hardship because there is no accommodation that would still allow the Department to protect the safety of your colleagues and the public without sustaining a significant adverse impact on operations and undermining the public's trust in the State Police to keep them safe. Accordingly, your request for an exemption from Executive Order 595 is DENIED.

(Exhibit 19, appended hereto) (Emphasis added.)

43. On November 26, 2021, the Diversity Officer/ADA Coordinator provided Lance Reed with a Covid-19 Vaccination Religious Exemption Response Form, which stated, in relevant part:

Please be advised that your request for a religious exemption from compliance with Executive Order 595 based on a sincerely held religious belief has been received by the Massachusetts Department of State Police and the Executive Officer of Public Safety and Security and is hereby DENIED.

The information you presented supports a finding that receiving one of the COVID-19 vaccines would offend your sincerely held religious beliefs. The information you provided in your application and during the interactive discussion leads us to find that remaining unvaccinated runs contrary to a sincerely held religious belief. Therefore, you have established that becoming vaccinated would conflict with sincerely held religious beliefs, practices, or observances within the meaning of state and federal law.

Notwithstanding the finding that taking the vaccine would offend your sincerely held religious beliefs, the Department is unable to provide you with a reasonable accommodation. An accommodation would cause undue hardship because there is no accommodation that would still allow the Department to protect the safety of your colleagues and the public without sustaining a significant adverse impact on operations and undermining the public's trust in the State Police to keep them safe. Accordingly, your request for an exemption from Executive Order 595 is DENIED.

(Exhibit 20, appended hereto) (Emphasis added.)

44. *DSP did not afford Patrick Irwin, Paul Aten, Joseph Hanafin, David Hanafin, Jessie Barbosa, Christopher Dolan, and Lance Reed with a right to appeal its decisions to deny their requests for religious exemptions from compliance with Order 595.*
45. *DSP provided no evidence that they consulted with each member's supervisor to determine if the member could perform their essential job functions with reasonable accommodations. The members maintain that reasonable accommodations would allow them to perform their essential job functions safely and effectively.*
46. DSP informed Patrick Irwin, Paul Aten, Joseph Hanafin, David Hanafin, Jessie Barbosa, Christopher Dolan, and Lance Reed that they could either get vaccinated, resign, retire, or be relieved of duty effective on or about November 30, 2021 and then terminated.
47. Patrick Irwin, Paul Aten, Joseph Hanafin, David Hanafin, Jessie Barbosa, Christopher Dolan, and Lance Reed filed grievances under the Agreement challenging DSP's

denials of their accommodations as religious discrimination and arguing that they were done without due process, as they were categorical and disparate from accommodations that DSP has granted to members seeking a medical exemption from compliance with Order 595. **(Exhibit 21, appended hereto)**

48. The above-referenced grievances were advanced to Step III of the Agreement, however, SPAM members Patrick Irwin, Paul Aten, Joseph Hanafin, David Hanafin, Jessie Barbosa, Christopher Dolan, and Lance Reed have been denied their right to date to have a hearing on such grievance, which is required under the Agreement. **(Exhibit 22, appended hereto)**
49. Paul Aten, Joseph Hanafin, David Hanafin, and Lance Reed filed Unlawful Harassment, Sexual Harassment and Discrimination Complaint Forms with DSP alleging that they were denied reasonable accommodations for their religious exemption that others with a medical exemption were granted. ¹**(Exhibit 23, appended hereto)**
50. The DSP has yet to investigate the above-referenced internal complaints.
51. On October 22, 2021, SPAM filed a class action grievance on behalf of all 167 members who filed for religious exemptions from compliance with Order 595 arguing that such denials were religious discrimination and arguing that they lacked due process, were categorical, and were disparate from accommodations that DSP granted to members seeking a medical exemption from compliance with Order 595. **(Exhibit 24, appended hereto)**
52. On or about November 30, 2021, Patrick Irwin, Paul Aten, Joseph Hanafin, David Hanafin, Jessie Barbosa, Christopher Dolan, and Lance Reed were relieved from duty.
53. On February 7, 2022, SPAM filed another class action grievance on behalf of members Patrick Irwin, Paul Aten, Joseph Hanafin, David Hanafin, Jessie Barbosa, Christopher Dolan, and Lance Reed alleging that DSP had violated the Agreement by failing to provide them a hearing on their individual grievances referenced in paragraph 46 of this Verified Complaint. **(Exhibit 25, appended hereto)**
54. On February 23, 2022, Joseph Hanafin, David Hanafin, Christopher Dolan, and Jessie Barbosa had their final disciplinary hearing before DSP. That same day, DSP issued its proposed trial board decision and in it charged each with failing to conform to work standards established for his rank, title, and position under Order 595, and failing to comply with Order 595's directive that they be vaccinated. DSP has recommended their terminations. **(Exhibit 26, appended hereto)**

¹ Patrick Irwin, Paul Aten, Joseph Hanafin, David Hanafin, Jessie Barbosa, Christopher Dolan, and Lance Reed have also filed external complaints of religious discrimination with the Massachusetts Commission Against Discrimination.

55. On March 2, 2022, Joseph Hanafin, David Hanafin, Christopher Dolan, and Jessie Barbosa filed objections to their proposed trial board decisions. (**Exhibit 27, appended hereto**)
56. On February 28, 202, Patrick Irwin had his final disciplinary trial board before the DSP. That same day, the DSP issued its proposed trial board decision and in it charged him with failing to conform to work standards established for his rank, title, and position under Order 595, and failing to comply with Order 595's directive that they be vaccinated. DSP has recommended his termination. He has until on or about March 7, 2022 to file his objections to DSP's proposed trial board decision. (**Exhibit 28, appended hereto**)
57. Lance Reed's final disciplinary trial board is scheduled for March 7, 2022. ²
58. HRD and SPAM are scheduled to meet on Thursday, March 3, 2022, and participate in a conference regarding SPAM's October 22nd grievance referenced in paragraph 46 of this Verified Complaint, which shall constitute the parties' final pre-arbitration meeting.

CLAIMS FOR RELIEF

COUNT I – BREACH OF CONTRACT AND/OR MOTION TO COMPEL ARBITRATION, G.L.c. 150C

1. Defendants violated the collective bargaining agreement with SPAM, under which the Defendants are prohibited from engaging in practices that discriminate against members based on their religion. Defendants denied religious exemptions for SPAM members Patrick Irwin, Paul Aten, Joseph Hanafin, David Hanafin, Jessie Barbosa, Christopher Dolan, and Lance Reed without due process and in a manner that was categorial and disparate from accommodations that DSP granted to members seeking a medical exemption from compliance with Executive Order 595.

COUNT II – DECLARATORY RELIEF

2. An actual controversy exists between the parties in that the Defendants-violated the collective bargaining agreement between the Commonwealth and SPAM when it denied religious exemptions for SPAM members Patrick Irwin, Paul Aten, Joseph Hanafin, David Hanafin, Jessie Barbosa, Christopher Dolan, and Lance Reed without due process and in a manner that was categorial and disparate from accommodations that DSP granted to members seeking a medical exemption from compliance with Executive Order 595. A binding declaration about the rights and obligations of the parties under their collective bargaining agreement is

² Paul Aten is out on injury leave and therefore has yet to undergo any disciplinary hearing process.

necessary to settle the existing controversy and allow for resolution of this dispute before arbitrator(s) and/or the Court as the law requires.

**COUNT III –
INJUNCTIVE RELIEF IN AID OF CIVIL ACTION,
ARBITRATION AND/OR ADMINISTRATIVE PROCESS**

3. Unless the Defendants are enjoined on the terms set forth in the Plaintiffs' request for relief, the Plaintiffs lack any adequate administrative remedy. An arbitrator and/or the Courts cannot retroactively undo foreseeable, immediate harm to Plaintiffs and their members that would result from the impacts of a policy that subjects employees to discipline up to and including termination and violates existing collective bargaining obligations of the Defendants.
4. Any remedy provided through arbitration would be a hollow formality. Only injunctive relief can prevent irreparable harm and ensure that limited remedies of an arbitrator or the Court are able adequate.
5. Plaintiffs are therefore entitled to an order compelling the Defendants to participate in judicial, administrative and/or arbitral process to determine whether its actions violate the parties' collective bargaining agreement and/or Chapter 150E, the Massachusetts collective bargaining law.

WHEREFORE, Plaintiffs pray that this Honorable Court:

6. Issue a short order of notice requiring that Defendants appear and show cause why the following relief sought herein should not be granted.
7. Order the Defendants to proceed to hearing in appropriate forum on the breach of contract claims asserted by SPAM.
8. Enter a Temporary Restraining Order prohibiting the Defendants and their agents, attorneys and those acting pursuant to their authority from terminating SPAM members Patrick Irwin, Paul Aten, Joseph Hanafin, David Hanafin, Jessie Barbosa, Christopher Dolan, and Lance Reed pending resolution of SPAM's and their own breach of contract claims, as well as their internal complaints of discrimination.
9. Enter such other and further orders as the Court deems necessary and just.

Respectfully submitted,

**STATE POLICE ASSOCIATION OF
MASSACHUSETTS,**

Leah M. Barrault

Leah Marie Barrault, BBO # 661626
THE LABOR COLLABORATIVE
3 Boulevard Street
Milton, MA 02186
(617) 405-4271
lbarrault@laborcollaborative.com

Date: March 3, 2021

VERIFICATION

I, Patrick McNamara, President of SPAM hereby certify and verify that I have read the above Complaint, that the information contained therein is true and accurate as to allegations pertaining to the SPAM bargaining unit.

Signed under the pains and penalties of perjury, this 3rd day of March, 2022.

/s/ Patrick McNamara