

UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF MASSACHUSETTS

ROBERT J. WELCH,  
Plaintiff,

v.

CHRISTOPHER CIAMPA, individually  
and in his capacity as Police Chief of the  
Town of Stoughton, Massachusetts;  
MANUEL CACHOPA, individually  
and in his capacity as Police Chief of the  
Town of Stoughton, Massachusetts;  
TOWN OF STOUGHTON,  
MASSACHUSETTS; RICHARD LEVINE,  
Individually and in his capacity as  
a Select Person for the Town of  
Stoughton, Massachusetts; and  
JOHN KOWALCZYK, Individually and  
in his capacity as a Select Person  
for the Town of Stoughton,  
Massachusetts.

Civil Action No.  
05-CV-11916 GAO

**FIRST AMENDED COMPLAINT, COMPENSATORY AND INJUNCTIVE RELIEF  
REQUESTED, AND JURY DEMAND**

I. INTRODUCTION.

1. This is an action brought pursuant to 42 U.S.C. §1983 and the Massachusetts Civil Rights Act, challenging the defendants' actions in removing the plaintiff Robert J. Welch from his position as head of detectives for the Town of Stoughton, Massachusetts and subjecting him to threatening and intimidating behavior because of his refusal to support publicly or engage in election activity on behalf of a recall petition designed to reinstate the former police chief. As set forth below, Welch's conduct related to issues of public concern, and defendants' removal of Welch from his

position as supervisor of detectives violated the First Amendment and the free speech clause of the Massachusetts Constitution. Defendants' actions in removing Plaintiff from his position after he investigated and testified before a grand jury on matters relating to alleged misconduct involving the police chief of the Town of Stoughton also violated the Massachusetts Whistleblower Act. Plaintiff seeks reinstatement, compensatory and punitive damages, statutory trebling of damages, as well as attorney's fees and costs.

II. PARTIES.

2. The plaintiff, Robert J. Welch, is an adult resident of Stoughton, Massachusetts. He has been a uniformed officer of the Stoughton Police Department since 1987, a sergeant since 1999, and was head of the detective unit since July of 2000.

3. The defendant, Christopher Ciampa, is currently the Acting Police Chief for the Town of Stoughton, Massachusetts. He resides in Stoughton, Massachusetts.

4. The defendant, Manuel Cachopa, is the Police Chief for the Town of Stoughton, Massachusetts. He resides in Stoughton, Massachusetts.

5. The defendant, Town of Stoughton, Massachusetts, is a municipal corporation organized pursuant to the laws of the Commonwealth of Massachusetts, with a town/board of selectmen form of government.

6. The defendant, Richard Levine, resides in Stoughton, Massachusetts, and is a Selectman for the Town of Stoughton, Massachusetts.

7. The defendant, John Kowalczyk, is an adult resident of the Town of Stoughton, Massachusetts, and is a Selectman for the Town of Stoughton, Massachusetts.


III. STATEMENT OF FACTS.

8. Welch has served as a police officer for the Town of Stoughton, Massachusetts for 18 years. In 1999, he was promoted to the position of sergeant, and in 2000 he was made the supervisor of the detective unit, the highest-ranking position in the detective division. Welch's employment record is unblemished, having never been disciplined.


9. Between 2000 and 2004, Welch reported directly to then Chief Manuel Cachopa. Chief Cachopa expressed satisfaction with Welch's work on the detective unit and the two maintained a good professional relationship.

10. In July of 2004, as a result of allegations regarding official misconduct by Chief Cachopa, Cachopa was removed from his position as chief by the then constituted Board of Selectmen and demoted to the rank of lieutenant. The issue of Chief Cachopa's removal became a matter of public concern within the Town of Stoughton, and caused considerable controversy among elected officials, citizens of the Town, and in local and regional newspapers.


11. Welch had known Chief Cachopa for many years and had a good working relationship with him. Accordingly, Welch stayed neutral with respect to the controversy surrounding Chief Cachopa's removal. He neither indicated support for nor opposition to Chief Cachopa's removal.



12. In August of 2004, the new Acting Chief, David Chamberlin, approached Welch, in his capacity as supervisor of detectives, and requested that Welch investigate several allegations of alleged police misconduct. One of the cases involved several officers who were close personally and professionally to Chief Cachopa, and another case involved allegations relating to Chief Cachopa himself.



13. As part of the investigation, Welch located and interviewed potential witnesses and wrote reports relating to the investigation, concluding that there had been police misconduct, in violation of the law.



14. The information collected as a result of Welch's investigation was turned over to the District Attorney's Office, which, in turn, started a grand jury proceeding to investigate the charges.

15. In November of 2004, Welch was subpoenaed to testify before the grand jury investigating the allegations relating to Chief Cachopa and the other Stoughton police officers. Welch was called to testify as a result of his investigation into these allegations.

16. After his removal as police chief, a group of police officers and Stoughton citizens, including Sgt. Christopher Ciampa, organized a recall petition designed to recall two of the five selectmen who had been responsible for removing Chief Cachopa from office. The primary issue upon which the recall campaign was based, was the reinstatement of Chief Cachopa. Many police officers in the Town of Stoughton, including Ciampa, strongly supported the recall petition so that Cachopa could be reinstated. In fact, Ciampa actively engaged in electioneering activity on behalf of the recall petition, including holding signs, voicing strong vocal support, etc.

17. Welch was repeatedly approached by citizens and police officers, asking him to get involved in the recall campaign and to come out in public support of Chief Cachopa. Welch chose not to engage in any political activity relating to the recall campaign and did not personally come out either in support of or against Chief Cachopa.

18. In November of 2004, the recall petition was successful, two selectmen were removed from office and replaced with two Chief Cachopa supporters, defendants Levine and Kowalczyk. As a result, on November 24, 2004, Cachopa was reinstated as Chief of Police.



19. On November 18, 2004, while at the courthouse, in a waiting room, having been subpoenaed to testify before a grand jury, Welch was informed by Town Manager Mark Stankiewicz that the two newly elected Board of Selectmen wanted to get rid of Welch.

20. On November 30, 2004, after being reinstated to his position as Chief, Cachopa appointed Ciampa to the position of Deputy Chief.

21. After Chief Cachopa was reinstated, Chief Cachopa, Ciampa, and the police officers who had supported the recall campaign began treating those who had not publicly supported the recall campaign, including Welch, in a threatening and intimidating manner.

22. Cachopa made comments to Welch like, "you picked the wrong side" and "there are going to be changes in July."

23. When Cachopa passed Welch in the hallway in the police department, Cachopa stared Welch down. The other police officers who had supported the recall campaign also stared Welch down in the police station.

24. Cachopa began interfering with Welch's cases, falsely claiming that he had not been informed about investigations and undermining Welch's authority in front of defendants being arrested and in front of other police officers.

25. Welch has found a rubber rat and a bullet in his mailbox at the police department.

26. Welch has received telephone calls at his home in the middle of the night.

27. One of Welch's neighbors told him that he had been warned by other police officers against associating with Welch.

28. On or about February 28, 2005, Welch went to Town Hall and spoke to a consultant hired by the Town to investigate the hostile work environment in the Stoughton Police Department. At that time, Welch complained to the consultant about the hostile treatment that he was receiving from Cachopa and Ciampa.

29. On March 4, 2005, Chief Cachopa, along with the several other officers whom Welch had investigated, were indicted by a state superior court grand jury on numerous charges, based in part on Welch's investigation and grand jury testimony.

30. Shortly thereafter, Welch was approached by supporters of Cachopa and Ciampa, and asked if he would make a statement or otherwise support the proposition that the charges against Cachopa were false. Welch refused to make any statement, either in support of or in opposition to Cachopa and the indicted officers.

31. After Welch refused to make a statement either in support of or in opposition to Cachopa and the indicted officers, he was subjected to more intimidating and threatening treatment by Cachopa and other police officers, including being stared down and having his work criticized and overly scrutinized by Cachopa.

32. In March of 2005, Ciampa was appointed acting chief while Cachopa was under indictment. On June 28, 2005, Ciampa contacted Welch and informed him that he was not going to be reappointed to the supervisor of detectives position.

33. Welch was devastated by this news as he had been performing his detective position to the best of his abilities during a difficult period in which he was asked to investigate members of his own department.

34. Welch applied for reappointment as supervisor of detectives in 2006. He was informed on approximately June 16, 2006, that he was not reappointed.

#### COUNT I

(42 U.S.C. § 1983)

35. The actions of the defendants as set forth above constitute a violation of the First Amendment to the United States Constitution. This claim is asserted pursuant to 42 U.S.C. § 1983.

#### COUNT II

(Massachusetts Civil Rights Act, against Defendants Christopher Ciampa, Manuel Cachopa, Richard Levine, and John Kowalczyk)

36. The actions of the defendants as set forth above constitute a violation of the First Amendment to the United States Constitution and the free speech clause of the Massachusetts Constitution, art. 16 of the Declaration of Rights, as amended by art. 77

of the Amendments to the Mass. Const. This claim is asserted pursuant to the Massachusetts Civil Rights Act, Mass. Gen. L. c. 12 §§ 11H, 11I.

COUNT III

(Massachusetts Whistleblower Act, against Defendant Town of Stoughton)

37. The actions of the defendants as set forth above constitute a violation of the Massachusetts Whistleblower Act, Mass. Gen. L. c. 149 § 185. This claim is asserted pursuant to Mass. Gen. L. c. 149 § 185(d).

COUNT IV

38. The actions of defendant Ciampa constitute tortious interference with advantageous business relations.

WHEREFORE, plaintiff Robert J. Welch requests this Honorable Court to grant preliminary and permanent injunctive relief reinstating him to the position of supervisor of detectives, and to grant him such other back pay, front pay, treble damages, emotional distress and punitive damages as to the Court deems just and proper. Plaintiff also requests attorney's fees and costs for the prosecution of this action.

JURY DEMAND

Plaintiff demands a trial by jury on all of his claims.



Respectfully submitted,

ROBERT J. WELCH,  
By his attorneys,

Dated: July 7, 2006

s/ Harold L. Lichten  
Harold L. Lichten, BBO #549689  
Hillary Schwab, BBO #(pending)  
Pyle, Rome, Lichten, Ehrenberg &  
Liss-Riordan, P.C.  
18 Tremont St., Ste. 500  
Boston, MA 02108  
(617) 367-7200

**CERTIFICATE OF SERVICE**

I hereby certify that on July 7, 2006, I caused a copy of this document to be served by electronic filing on James W. Simpson, Jr., Esq., Merrick, Louison & Costello LLP, 67 Batterymarch Street, Boston, MA 02110, counsel for Defendants Christopher Ciampa, Richard Levine, and John Kowalczyk, and on Michele E. Randazzo, Esq., Kopelman and Paige, P.C., 31 St. James Avenue, Boston, MA 02116, counsel for the Town of Stoughton.

s/ Hillary Schwab  
Hillary Schwab, Esq.

**UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF MASSACHUSETTS**

ROBERT J. WELCH,	)	
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Plaintiff,	)	
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v.	)	Civil Action No.
	)	05-CV-11916 GAO
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CHRISTOPHER CIAMPA, individually and in	)	
his capacity as Policy Chief of the Town of	)	
Stoughton, TOWN OF STOUGHTON,	)	
RICHARD LEVINE, individually and in his	)	
capacity as Select Person for the Town of	)	
Stoughton, JOHN KOWALCZYK, individually	)	
and in his capacity as Select Person for the	)	
Town of Stoughton,	)	
	)	
Defendants.	)	
	)	

**PLAINTIFF’S LOCAL RULE 26.1(B)(1) SWORN STATEMENT**

Plaintiff Robert J. Welch submits this sworn statement pursuant to Local Rule 26.1(B)(1). Plaintiff attests that the following information is true and accurate to the best of his present information, knowledge, and/or belief, and reserves the right to amend and/or supplement the information provided here as discovery proceeds.

**I. ITEMIZATION OF ECONOMIC LOSS**

The following calculations represent Plaintiff’s current estimate of his damages. Plaintiff reserves the right to amend or alter these calculations as additional facts are adduced through discovery and as additional back pay and attorneys’ fees accrue.

Back pay <sup>1</sup> (June 2005-Feb. 2006)	Est. \$30,000
Front pay (Feb. 2006-June 2010)	Est. \$50,000
Emotional Distress	\$100,000
Punitive damages	\$200,000
<b>Total (excluding attorneys' fees)</b>	<b>\$405,000</b>

**II. INDIVIDUALS WHO ARE LIKELY TO HAVE DISCOVERABLE INFORMATION**

The following individuals may have information relevant to the claims in the case:

Robert J. Welch  
Christopher Ciampa  
Richard Levine  
John Kowalczyk  
Michael Blount  
Manuel Cachopa  
David Chamberlin  
Susan Dadak  
Joseph Desousa  
Richard Dicastro  
Gerald Goulston  
Paul McCallum  
Robert Mullen Jr.  
Tom Murphy  
Joseph Pascarelli  
Joseph Saccardo  
Brian Smith  
Mark Stankiewicz  
James Taxiera  
Francis Wohlgemuth

**III. REPRESENTATIVES OF DEFENDANT FROM WHOM PLAINTIFF HAS OBTAINED STATEMENTS REGARDING SUBJECT MATTER OF THE CLAIM**

None.

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<sup>1</sup>Back pay and front pay figures are calculated as the difference between plaintiff's wages as supervisor of detectives and his subsequent position as patrol sergeant.

**IV. GOVERNMENTAL AGENCIES OR OFFICIALS KNOWN TO HAVE INVESTIGATED THE OCCURRENCE**

None.

The above is true and correct to the best of Plaintiff's knowledge. Signed and sworn to under the pains and penalties of perjury this 6th day of February, 2006.

s/ Robert J. Welch  
Plaintiff Robert J. Welch

**CERTIFICATE OF SERVICE**

I hereby certify that on February 6, 2006, I caused a copy of this document to be served by electronic filing and first-class mail on James W. Simpson, Jr., Esq., Merrick, Louison & Costello LLP, 67 Batterymarch Street, Boston, MA 02110, counsel for Defendants Christopher Ciampa, Richard Levine, and John Kowalczyk, and on Michele E. Randazzo, Kopelman and Paige, P.C., 31 St. James Avenue, Boston, MA 02116, counsel for the Town of Stoughton.

s/Hillary Schwab  
Hillary Schwab, Esq.