

UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF MASSACHUSETTS

Jeffrey Solomon,  
Plaintiff,

VS.

Annie Dookhan, Donald F. Keenan, Kate Corbett,  
JudyAnn Bigby, John Auerbach, Julie Nassif, Linda Han,  
Charles Salemi, Elizabeth O'Brien, Daniel Conley, and  
Suffolk County District Attorney's Office,  
Defendants.

Amended Complaint  
No. 13-CV-10208-GAO

## I. INTRODUCTION

This is an action for money damages for the violation of the Plaintiff's constitutional rights brought pursuant to 42 U.S.C. §1983 and M.G. L. c. 12, § 111. Plaintiff Jeffrey Solomon ["Solomon"] alleges that all Defendants acting under color of law contributed or conspired to deprive him of his constitutionally protected rights.

Specifically, once Solomon was arrested by members of the Boston Police Department Drug Control Unit [“DCU”] for selling a counterfeit substance, they forwarded the substances to the Department of Public Health’s Hinton Laboratory [“Hinton Laboratory”] in Jamaica Plain, where former state chemist Annie Dookhan [“Dookhan”] falsified the results of the chemical tests. At that time, Dookhan was engaged in large-scale criminal and fraudulent conduct, including falsifying results, dry labbing, perjury, and forgery. Meanwhile, Sergeant Detective Donald F. Keenan [“Keenan”] of the DCU destroyed exculpatory evidence, obstructed justice, engaged in intimidation tactics, and committed perjury before the Grand Jury in order to ensure Solomon’s prosecution in Suffolk Superior Court. Solomon was consequently indicted and threatened by the Boston Police Department and the Suffolk County District Attorney’s Office with two seven-year

mandatory minimum sentences in the state correctional institution.

Contributing to the numerous violations of Solomon's civil rights, Secretary JudyAnn Bigby failed to properly supervise, train, investigate, and monitor the Department of Public Health and the Hinton Laboratory which employed Dookhan. Likewise, the Department of Public Health and its Commissioner John Auerbach failed to adequately supervise, train, and monitor its Hinton Laboratory, and then engaged in a cover-up of their offenses. Moreover, the Suffolk County District Attorneys' Office failed to adequately supervise, train and monitor their Assistant District Attorneys, who communicated directly with Dookhan and other chemists during the pendency of their criminal matters, including Solomon's case. They further failed to provide exculpatory evidence that would have demonstrated prior inconsistent test results.

These failures resulted in the deprivation of Mr. Solomon's state and federal constitutionally protected rights, including his procedural and substantive due process rights, and the Fourth, Fifth and Fourteenth Amendments to the Constitution of the United States.

## **II. JURISDICTION**

Jurisdiction is based upon 28 U.S.C. §§1331 and 1343, and on the pendent jurisdiction of this court to entertain a claim arising under state law and under the Constitution of the United States.

## **III. PARTIES**

1. Plaintiff Jeffrey Solomon ["Solomon"], (also known as Jeffrey Banks) is a resident of Revere.
2. Defendant Annie Dookhan was at all times relevant to this complaint a chemist employed by the Commonwealth of Massachusetts Department of Public Health, and at all times relevant to the complaint acted under color of state law. She is being sued in her individual capacity.

3. Defendant Kate Corbett [“Corbett”] was at all times relevant to this complaint a chemist employed by the Commonwealth of Massachusetts Department of Public Health, and at all times relevant to the complaint acted under color of state law. She is being sued in her individual capacity.

4. Defendant Donald F. Keenan was at all times relevant to this complaint a police officer employed by the City of Boston, is currently employed as a Sergeant Detective [“Sgt. Det.”], and at all times relevant to the complaint acted under color of law. He is being sued in his individual capacity as a police officer for the City of Boston.

5. JudyAnn Bigby [“Secretary Bigby”] was at all times material to the allegations in this complaint the duly appointed Secretary of Executive Office of Health and Human Services [“EOHHS”] of the Commonwealth of Massachusetts. As such, she was responsible for oversight of the Department of Public Health and acted under the color of state law. She is being sued in her individual capacity.

6. Defendant John Auerbach was at all times relevant to this complaint the Commissioner of the Department of Public Health [“Commissioner Auerbach”], and at all times relevant to the complaint acted under color of state law. He is being sued in his individual capacity.

7. Linda Han [“Han”] was at all times relevant to this complaint employed by the Department of Public Health as the Director of Hinton Lab and acted under the color of state law. He is being sued in his individual capacity.

8. Julie Nassif [“Nassif”] was at all times relevant to this complaint employed by the Commonwealth of Massachusetts Department of Public Health and was in charge of the Division of Analytical Chemistry, including that at Hinton Lab, and acted under color of state law. She is being sued in her individual capacity.

9. Charles Salemi [“Salemi”] was at all times relevant to this complaint employed by the Department of Public Health as the supervisor of operations at Hinton Lab and acted under color of state law. He is being sued in his individual capacity.

10. Elizabeth O’Brien [“O’Brien”] was at all times relevant to this complaint employed by the Department of Public Health as a supervisory evidence officer at Hinton Lab and acted under color of state law. She is being sued in her individual capacity.

11. Daniel Conley is the Suffolk County District Attorney [“Suffolk DA”] for the Suffolk County District Attorney’s Office. His office is responsible for the prosecution of state cases in Suffolk County. He has a primary office in Boston, Massachusetts. He is being sued in his individual and official capacity, as both Daniel Conley and Suffolk County District Attorney’s Office.

#### **IV. FACTS**

12. On December 12, 2010, Keenan engaged Solomon in an undercover buy of alleged crack cocaine.

13. Upon being arrested, Solomon told one of the officers that the alleged controlled substance was counterfeit and not cocaine. Using a “Narc Swipe,” Keenan conducted a preliminary field test on the substance for cocaine. If the substance sold was cocaine, the swipe and the substance would turn blue. Keenan swiped a piece of substance and noted no color change to either the substance or the swipe. Keenan determined the alleged cocaine to be counterfeit and charged Solomon with distribution of a counterfeit substance, a misdemeanor with a maximum penalty of one year in the house of correction.

14. Keenan then destroyed the “Narc Swipe” and threw away the piece of the substance that he field tested. Keenan forwarded the entirety of the substance to the State Department of Public

Heath, Hinton Laboratory [“Hinton”] for chemical testing and analysis.

15. The alleged controlled substances were received by Hinton on December 16, 2010 and placed in its evidence safe. On February 28, 2011, the substances were released to chemist Dookhan, a Hinton employee.

16. On March 1, 2011, Dookhan falsely recorded that she conducted the following tests on two separate samples of the substances: a Cobalt Thiocynate spot test, a Gold Chloride Microcrystalline test, and a TLTA Microcrystalline test. In fact, Dookhan conducted no scientific testing on the substances. On the same date, Dookhan falsely recorded that the substances tested positive for cocaine.

17. On March 3, 2011, chemist Corbett recorded that she conducted “confirmatory testing” of the samples using gas chromatography-mass spectrometry (GC/MS).

18. The confirmatory testing indicted that both samples were too weak to confirm Dookhan’s results and Corbett returned the samples to Dookhan. The “weak” results were recorded on an initial “control sheet” and on the back of the “control card.”

19. On March 7, 2011, Dookhan provided a second set of samples to Corbett for testing, and on the same date Corbett recorded on a second control sheet that she confirmed the presence of cocaine.

20. In fact, Corbett never loaded the samples onto the GC/MS, in violation of the protocols. Rather, Corbett reviewed the results after Dookhan conducted the GC/MS testing.

21. In the months preceding Solomon’s tests, Corbett was aware that Dookhan was forging Corbett’s initials on documents provided to officials for use during criminal prosecutions and failed to report the forgery.

22. Two drug certificates issued, signed by Dookhan and Corbett, falsely certifying that the

substances submitted by Keenan were cocaine. On March 10, 2011 the substances were returned to the Hinton safe.

23. On April 13, 2011, Attorney Jennifer Sanders [“Attorney Sanders”] of the Committee for Public Counsel Services [“CPCS”] and Assistant District Attorney Mingo of the Suffolk County District Attorney’s Office met with Keenan at the Boston Municipal Court to inspect the evidence.

24. Keenan produced two bags of substances. Attorney Sanders inspected the substances and did not see any blue coloring on any of the seized substances.

25. Keenan stated that when he does field tests on substances, he throws the tested pieces on the ground, which is probably what happened to the piece that he allegedly swiped after he arrested Solomon.

26. Keenan then spoke privately with Attorney Sanders. Keenan began the conversation by saying he probably shouldn’t say this, but that they had had a lot of problems with CPCS, and that they could make things easy or not.

27. Keenan told Sanders that Solomon had been around a long time and in Keenan’s opinion, Solomon was not a good guy.

28. On July 1, 2011, Assistant District Attorney Tanya Platt [“ADA Platt”] of the Suffolk County District Attorney’s office convened a grand jury hearing in which Keenan was the sole witness.

29. On that date, the Suffolk County District Attorney’s Office elicited Keenan’s false testimony before the Grand Jury. Specifically, Keenan falsely testified in response to ADA Platt’s questioning that because crack cocaine can be homemade, the mixture would not be consistent throughout the whole entire piece of crack cocaine. Keenan also falsely testified that although the preliminary field testing showed no initial color change consistent with cocaine, he later viewed

the substance at an undisclosed date and observed a color change consistent with the presence of cocaine in the alleged substance.

30. At the request of the Suffolk County District Attorney's Office, Keenan introduced to the grand jury the two false certificates signed by Dookhan and Corbett.

31. At the request of the Suffolk County District Attorney's Office, and based on the evidence presented, the grand jury issued indictments against Solomon relevant to this complaint for Possession with Intent to Distribute a Class B Substance in a School Zone as a Subsequent Offense, and Distribution of a Class B Substance in a School Zone as a Subsequent Offense, such indictments carrying two mandatory minimum state prison sentences of seven years.

32. On October 7, 2011, ADA Platt received a letter from Dookhan responding to ADA Platt's request for discovery. In fact, the Suffolk County District Attorney's Office had a practice of correspondence with Hinton Lab chemists, both before and after the testing in Suffolk County prosecution involving allegations of illegal drugs.

33. On November 17, 2011, ADA Platt provided Solomon with notice that she intended to call Dookhan and Corbett as expert witnesses should he intend to go to trial.

34. Along with the falsified analysis reports and certificates, Solomon was provided with a copy of Dookhan's Curriculum Vitae ["CV"] in which she falsely claimed to have received her Master of Science Degree in Chemistry from the University Of Massachusetts.

35. At no time did the Suffolk County District Attorney's Office provide Solomon with either the initial Control Sheet or the back side of the Control Card, of which the prosecutor either knew or should have known, which indicated that the initial confirmatory testing indicated the substance tested too weak to confirm the presence of cocaine. Rather, the prosecutor provided only the second Control Sheet and the face of the Control Card, which indicated the two samples tested

positive for cocaine. In fact, the Suffolk County District Attorney's Office had a practice of failing to provide this type of exculpatory evidence in cases where a substance was tested more than once, as was true in other Suffolk County cases underlying the indictments against Dookhan.

36. On September 27, 2012, the Crime Laboratory of the State Police Department retested the substances that were field tested by Keenan and analyzed by Dookhan and Corbett. No controlled substances were detected.

37. On September 28, 2012, Det. Lt. Robert Irwin of the Mass. State Police filed a "Statement of Probable Cause" which he described Dookhan's false report of cocaine in Solomon's case and sought a complaint charging Dookhan with obstructing justice, among other charges.

38. On October 5, 2012, the Commonwealth filed a nolle prosequi in its case against the Plaintiff, citing the State Police investigation that divulged Dookhan's misconduct in the Plaintiff's case. The Plaintiff was previously held on bail in connection with the prosecution of this case such that his liberty was restrained. He suffered significant physical and emotional distress during the pendency of the prosecution as the result of the false accusations in this case.

39. On December 17, 2012, Dookhan was indicted in the Suffolk Superior Court on a fifteen count indictment for charges including intentionally misleading a person who is furthering a criminal investigation pursuant to M.G.L. c. 268 § 13B.

40. At all times relevant to this complaint, Secretary Bigby was directly responsible for the policies, practices, and customs of the Hinton Laboratory employees, and for their supervision and training. She was aware in June 2011 that Dookhan was testing and certifying substances at a rate that was fifty percent higher than any other chemist. She described Dookhan's extremely high productivity as, "a red flag that wasn't appropriately investigated."

41. Secretary Bigby and Commissioner Auerbach maintained outdated operating procedures



for the Hinton Lab, and undertook no action toward independent accreditation.

42. As early as 2008, Auerbach met with one of Dookhan's supervisors to discuss the lab's problems.

43. Auerbach initiated an investigation of Dookhan's conduct in December 2011 which failed to produce evidence of gross misconduct discovered by the State Police during their investigation months later.

44. At the time of Auerbach's investigation, the Hinton Lab was working off a grant with the State Police that required quarterly reports, including reports of gross misconduct. So Auerbach failed to notify the State Police until several months later, while working out the wording of the gross negligence report.

45. Auerbach intentionally withheld the specific findings of the investigation from certain supervisors of the Hinton Laboratory, including Han and Nassif, so that they would not be subject to examination in court. He did this with Han and Nassif's knowledge and permission.

46. In December, 2012, Commissioner Auerbach resigned from his post as Commissioner of the Department of Public Health. Upon his resignation, Auerbach issued this statement: "It is clear that there was insufficient quality monitoring, reporting, and investigating on the part of supervisors and managers surrounding the former Department of Public Health drug lab in Jamaica Plain."

47. Hinton lab supervisors Han and Nassif failed to monitor Dookhan adequately, failed to alert their superiors to problems, and allowed her to continue to have access to substances, to test substances, to withhold exculpatory evidence, and to testify in court even after the breach in June 2011.

48. In September of 2012, the Attorney General's Office launched an investigation into the

misconduct at Hinton. Based on interviews of Hinton employees, the State Police reported the following:

- A. Dookhan forged other chemists' and evidence officers' initials in an unknown number of instances, including on Quality Assurance and Quality Control documents. She ignored lab procedures by loading and running her own samples on the GC/MS.
- B. Dookhan failed to properly run QC/QA test samples, instead purposefully making up test result numbers on the "Quality Control Daily Injector Test" on the GC/MS.
- C. Dookhan maintained a level of production of test results that concerned supervisors and co-workers, often analyzing more samples in a week than they did in a month. She was submitting racks upon racks of sample vials to the confirmatory chemists, and leaving many samples out on her bench top.
- D. Dookhan exhibited a pattern of failing basic laboratory procedures, including documentation issues, failing to calibrate balances, and having a work space filled with numerous vials open to cross contamination.
- E. O'Brien allowed Dookhan access to the evidence office computers in order to enter and look up data even after she was suspended from lab duties.
- F. Dookhan engaged in the practice of "dry labbing," looking at the samples instead of testing them with the presumptive testing. Dookhan was not using the proper method of inspecting slides prepared for a microscope. This resulted in an unknown number of samples coming back as heroin when Dookhan had supposedly tested it and found it to be cocaine and vice versa. Dookhan would then alter these samples so that they would come out the way she wanted.

- G. Dookhan was contacted directly by ADAs and police officers about specific samples, which she would then “pull” for analysis, even out of order, despite lab policies forbidding both this contact and action.
- H. Dookhan accessed the lab numerous times while suspended and also many times without any supervision of the evidence room.
- I. Dookhan had a key and unfettered access to the evidence room and safe.
- J. The Laboratory had a culture of lax oversight, as many issues with Dookhan were allowed to continue for years, even having her responsible for training and for some QA/QC procedures.
- K. Numerous lab personnel expressed concerns with Dookhan’s workload, documentation errors, blatant forgeries, and questionable test results, but no action was taken.
- L. In 2010, Dookhan’s work was audited due to concerns about her workload. However, samples were not retested. Rather, it appears paperwork was simply reviewed.
- M. The Department of Public Health did not retain records when a sample was resubmitted and retested; the number of any retests was not tracked or audited in any manner.
- N. The laboratory evidence room and evidence safe were accessible to an unknown amount of chemists and employees of the laboratory.
- O. The procedures to restrict access to the evidence room were ignored and circumvented. The safe was found open and unattended, was left propped open when it was “busy,” and was accessible by codes and keys that had not been

changed in over a decade.

- P. An unknown number of chemists had keys to the safe.
- Q. The palm reader access point to the evidence room was not recording those who entered, or that information was not preserved properly, or was destroyed, and as of the date of this complaint the State Police Investigation has not uncovered any records of access to the evidence room via the palm reader.
- R. In June 2011, Han and Nassif discovered Annie Dookhan had breached protocol and removed 90 samples from the evidence room without authorization.
- S. Han and Nassif did not properly investigate the specific breach of protocol, her workload, her results, and/or her general lack of adherence to protocol. They also failed to make written findings of her resubmittals or other QC/QA issues that were recorded.
- T. The method of samples being checked in and out suffered from lack of oversight, as whole sets of numbers could be pulled by Dookhan without anyone noticing.
- U. The evidence officer or officers had a pattern of laxity when it came to tracking samples and access to the evidence room and safe, computer terminals, and written logbooks.
- V. On or around December 2011, when it was clear that an unknown number of keys opened the safe, Auerbach began an investigation into Dookhan.
- W. Shirley Sprague, who worked in the evidence office, claims Salemi started checking keys, and perhaps switching them out.
- X. Salemi claims that Nassiff said she was checking keys for Dookhan and a few others, but no plan to check every key was made and take an inventory of who had

keys to the evidence room.

Y. The Hinton lab did not appear to adhere to any safeguards or policies to prevent assistant district attorneys and police officers from contacting a specific chemist about a specific case or cases.

Z. Annie Dookhan lied about receiving a Master's Degree in Chemistry from University of Massachusetts as listed in her resume or curriculum vitae, which she gave to the Assistant District Attorney handling Solomon's case. This false information was used by the District Attorney's Office through the course of discovery in preparation for trial.

49. At all times relevant to the allegations contained in this complaint, Han, Nassif, Salemi and O'Brien failed in their respective positions to conduct oversight, investigate complaints, report violations, enforce safeguards or policies, produce exculpatory evidence, and ensure the integrity of the samples while stored at the Hinton Laboratory Evidence Room.

50. District Attorney Conley ["Conley"] was at all times material to the allegations in the complaint the duly elected District Attorney of Suffolk County.

51. Secretary Bigby, Commissioner Auerbach, Han, Nassif and Conley all failed to prohibit direct contact between DPH chemists and prosecuting Assistant District Attorneys prior to testing the substances in the cases being prosecuted. They also failed to train their employees concerning any existing policies of communicating between Hinton lab and the District Attorneys' Offices.

52. The Suffolk County District Attorney's Office failed to enact any internal policy concerning communications between chemists and assistant district attorneys. Rather, the policy, custom and practice provided for direct communication between the chemists and prosecuting assistant district attorneys prior to testing the alleged substances.

53. Secretary Bigby, Commissioner Auerbach, Han, Nassif and the Suffolk County District Attorney's Office all failed to train their employees concerning any existing policies for preserving and producing exculpatory evidence, including exculpatory evidence contained on GC/MS printouts, control sheets and control cards.

54. The Suffolk County District Attorney's Office failed to inquire and/or produce exculpatory evidence in the custody of Hinton Lab, including exculpatory evidence contained on GC/MS printouts, control sheets and control cards. Rather, the policy, custom and practice provided that defense counsel was not made aware of the existence of such exculpatory evidence.

55. The Defendants' acts and omissions described throughout paragraphs 1-47 of this complaint directly and proximately caused or contributed to the deprivations of the Plaintiff's rights, thereby causing the plaintiff to suffer severe permanent personal and emotional injuries, including but not limited to loss of liberty, loss of income, humiliation, physical and emotional distress and the loss of companionship.

## **V. CLAIMS**

### **COUNT I:**

#### **VIOLATIONS OF RIGHTS SECURED BY THE FOURTH AMENDMENT (42 U.S.C. § 1983 - DEFENDANT KEENAN)**

56. The Plaintiff restates the allegations in paragraphs 1 through 55 and incorporates said paragraphs herein as paragraph 56.

57. Defendant Keenan, while acting under color of state law, engaged in malicious prosecution when he willfully and purposefully sought the Suffolk Superior Court indictment without probable cause for the charges, knowing his actions to be wrong and unlawful, and where the prosecution ultimately terminated in the Plaintiff's favor.

58. As a direct and proximate result of this conduct, plaintiff suffered the damages previously described.

**COUNT II:**  
**VIOLATIONS OF RIGHTS SECURED BY THE DUE PROCESS CLAUSE**  
**FOURTEENTH AMENDMENT**  
(42 U.S.C. § 1983 - DEFENDANTS DOOKHAN AND CORBETT)

59. The Plaintiff restates the allegations in paragraphs 1 through 58 and incorporates said paragraphs herein as paragraph 59.

60. The Defendants Dookhan and Corbett, while acting under color of state law with deliberate indifference to Solomon's rights, and/or in such a manner as shocks the conscience, tampered with the alleged substance and falsified the certification introduced to the grand jury in support of probable cause, which certificate was to be introduced at further official proceedings including trial, with the purpose of impairing the verity of the substance and/or preparing the certification knowing it to be false and misleading the grand jury and other public officials engaged in the proceedings.

61. As a direct and proximate result of this conduct, plaintiff suffered the damages previously described.

**COUNT III:**  
**VIOLATIONS OF RIGHTS SECURED BY THE DUE PROCESS CLAUSE**  
**OF THE FOURTEENTH AMENDMENT**  
(42 U.S.C. § 1983 - DEFENDANT DOOKHAN)

62. The Plaintiff restates the allegations in paragraphs 1 through 61 and incorporates said paragraphs herein as paragraph 62.

63. The Defendant Dookhan, while acting under color of state law with deliberate indifference to Solomon's rights, and/or in such a manner that shocks the conscience, intentionally falsified the

educational experience on her curriculum vitae, a document which was to be introduced at official proceedings including trial, knowing the information to be false and with the intent of misleading the Court and other public officials engaged in the proceedings.

64. As a direct and proximate result of this conduct, plaintiff suffered the damages previously described.

**COUNT IV:**

**VIOLATIONS OF RIGHTS SECURED BY THE DUE PROCESS CLAUSE  
OF THE FOURTEENTH AMENDMENT  
(42 U.S.C. § 1983 – DEFENDANT KEENAN)**

65. The Plaintiff repeats and restates the allegations in paragraphs 1 through 64 and incorporates said paragraphs herein as paragraph 65.

66. The Defendant Keenan, while acting under color of state law, and with deliberate indifference to Solomon's rights, and/or in such a manner that shocks the conscience, intentionally failed to provide exculpatory evidence to the prosecutor during the pendency of the criminal prosecution, such evidence including the field test materials that were used during Keenan's investigation, and further Keenan intentionally fabricated evidence, knowing the evidence to be false and with the intent of misleading the jurors and public officials engaged in the proceedings.

67. As a direct and proximate result of this conduct, plaintiff suffered the damages previously described.

**COUNT V:**

**VIOLATIONS OF RIGHTS SECURED BY THE DUE PROCESS CLAUSE  
OF THE FOURTEENTH AMENDMENT  
(42 U.S.C. § 1983 - DEFENDANTS DOOKHAN AND CORBETT)**

68. The Plaintiff repeats and restates the allegations in paragraphs 1 through 67 and



incorporates said paragraphs herein as paragraph 68.

69. The Defendants Dookhan and Corbett, while acting under color of state law, and with deliberate indifference to Solomon's rights, and/or in such a manner that shocks the conscience, intentionally failed to provide exculpatory evidence to the prosecutor during the pendency of the criminal prosecution, such evidence including the initial Control Sheet, back side of the Control Card, and the printout of the initial GC/MS test results.

70. As a direct and proximate result of this conduct, plaintiff suffered the damages previously described.

**COUNT VI:**

**VIOLATIONS OF RIGHTS SECURED BY THE DUE PROCESS CLAUSE  
OF THE FOURTEENTH AMENDMENT**

(42 U.S.C. § 1983 - DEFENDANTS BIGBY, AUERBACH, NASSIF, HAN,  
SALEMI AND O'BRIEN)

71. The Plaintiff repeats and restates the allegations in paragraphs 1 through 70 and incorporates said paragraphs herein as paragraph 71.

72. Defendants Bigby, Auerbach, Nassif, Han, Salemi and O'Brien, acting under the color of state law, and directly responsible for the policies, practices, and customs of the Hinton Laboratory employees, and for the supervision and training of their employee chemists, were so culpable through their acts and omissions as to constitute authorization of, and acquiescence in, the unlawful conduct of Defendant Dookhan.

73. Defendants Bigby, Auerbach, Nassif, Han, Salemi and O'Brien's acts and omissions constituted a custom, practice, and policy of deliberate indifference to Plaintiff's constitutional rights as previously described in Counts II, III, and V.

74. As a direct and proximate result of this conduct, plaintiff suffered the damages previously described.

**COUNT VII:**

**VIOLATIONS OF RIGHTS SECURED BY THE DUE PROCESS CLAUSE  
OF THE FOURTEENTH AMENDMENT  
(42 U.S.C. § 1983 – DEFENDANTS CONLEY AND  
SUFFOLK COUNTY DISTRICT ATTORNEY’S OFFICE)**

75. The Plaintiff repeats and restates the allegations in paragraphs 1 through 74 and incorporates said paragraphs herein as paragraph 75.

76. Defendants Conley and Suffolk County District Attorney’s Office’s acts and omissions, including their direct communication with Dookhan and other chemists during the investigation and prosecution of the Superior Court charges, their failure to provide exculpatory documentation of prior “weak” test results to defense counsel, and their failure to train on these issues, all constituted a custom, practice, and policy of deliberate indifference to Plaintiff’s constitutional rights as previously described in Counts II, III, and IV.

77. As a direct and proximate result of this conduct, plaintiff suffered the damages previously described.

**COUNT VIII:**

**VIOLATION OF M.G.L. c. 12 §111 BY DEFENDANT KEENAN**

78. The Plaintiff restates the allegations in paragraph 1 through 77 and incorporates said paragraphs herein as paragraph 78.

79. By the actions described in paragraphs 1 through 78, Defendant Donald Keenan deprived the Plaintiff of his civil rights, secured by the Constitutions of the United States and the

Commonwealth of Massachusetts, through the use of threats, intimidation, and coercion, in violation of M. G. L. c. 12, §111.

WHEREFORE, the Plaintiff requests that this Honorable Court:

1. Award compensatory damages against all the Defendants jointly and severally;
2. Award punitive damages against all the Defendants;
3. Award the costs of this action, including reasonable attorney's fees.

**JURY DEMAND**

Pursuant to Rule 38 (b) of the Federal Rules of Civil Procedure, the Plaintiff hereby demands a jury trial for all issues so triable.

Jeffrey Solomon,  
By his Attorneys,

/s/ Victoria Kelleher

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Dated: March 28, 2013

Certificate of Service

I do hereby certify that a true copy of this Amended Complaint has been served upon all parties of record by mail and ECF filing this day, March 28, 2013.

/s/ Victoria Kelleher

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Victoria Kelleher