

STATE OF CONNECTICUT  
SUPERIOR COURT NO. 12 AT MANCHESTER

Docket No.: H12MCR250300720S

March 16, 2026

STATE OF CONNECTICUT

v.

HENRY J. MARTOCCHIO

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MOTION TO DISMISS FOR NON-COMPLIANCE WITH THE  
AMERICANS WITH DISABILITIES ACT AND DEPRIVATION OF  
CIVIL RIGHTS WITH INCORPORATED NOTICE TO THE COURT  
OF STRUCTURAL CIVIL RIGHTS VIOLATIONS

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ORAL ARGUMENT REQUESTED

demands for 28 CFR 35.107

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SUPERIOR COURT G.A. 12  
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## TABLE OF AUTHORITIES

### Connecticut Cases

- *State v. Baccala*, 326 Conn. 232, 163 A.3d 1 (2017)
- *State v. Indrisano*, 228 Conn. 795, 640 A.2d 986 (1994)
- *State v. Liebenguth*, 336 Conn. 685, 250 A.3d 1 (2020)
- *State v. Lo Sacco*, 12 Conn. App. 481, 531 A.2d 184 (1987)
- *State v. Shaw*, 185 Conn. 372, 441 A.2d 561 (1981)

### Federal Cases

- *Antar v. Grossman*, No. 3:23-cv-01337 (D. Conn. 2023)
- *Brady v. Maryland*, 373 U.S. 83 (1963)
- *City of San Francisco v. Sheehan*, 575 U.S. 600 (2015)
- *Connecticut Office of Protection & Advocacy v. Connecticut*, 706 F. Supp. 2d 266 (D. Conn. 2010)
- *DeShaney v. Winnebago County Dept. of Social Services*, 489 U.S. 189 (1989)
- *Doyle v. Oklahoma Bar Assn.*, 998 F.2d 1559 (10th Cir. 1993)
- *Gohier v. Enright*, 186 F.3d 1216 (10th Cir. 1999)
- *Hainze v. Richards*, 207 F.3d 795 (5th Cir. 2000)
- *Monell v. Dept. of Social Services*, 436 U.S. 658 (1978)
- *Okin v. Village of Cornwall-on-Hudson Police Dept.*, 577 F.3d 415 (2d Cir. 2009)
- *Payton v. New York*, 445 U.S. 573 (1980)
- *Pennsylvania Dept. of Corrections v. Yeskey*, 524 U.S. 206 (1998)
- *Tennessee v. Lane*, 541 U.S. 509 (2004)

### Connecticut Constitution

- Conn. Const. art. I, § 8 (Due Process)
- Conn. Const. art. I, § 9 (Right to Be Heard)
- **Conn. Const. art. I, § 20 (Equal Protection — Expressly Prohibits Discrimination Based on Physical or Mental Disability)**

## **Connecticut Statutes**

- **Conn. Gen. Stat. § 46a-58 (Deprivation of Rights Based on Physical or Mental Disability)**
- **Conn. Gen. Stat. § 46b-38b (Mandatory Investigation and Arrest — Family Violence — Victim Assistance)**
- Conn. Gen. Stat. § 53a-20 (Defense of Premises)
- Conn. Gen. Stat. § 53a-182 (Disorderly Conduct)

## **Federal Statutes and Regulations**

- Americans with Disabilities Act, 42 U.S.C. § 12101 *et seq.*
- 42 U.S.C. § 12132 (Title II — Prohibition of Discrimination by Public Entities)
- 42 U.S.C. § 12182(b)(1)(E) (Associational Discrimination)
- 42 U.S.C. § 12203 (ADA Anti-Retaliation)
- 42 U.S.C. § 1983 (Deprivation of Rights Under Color of State Law)
- 28 C.F.R. § 35.107 (Designated Responsible Employee and Grievance Procedures)
- 28 C.F.R. § 35.130(b)(7) (Reasonable Modifications)
- 28 C.F.R. § 35.160 (Effective Communication)
- U.S. Const. amend. V, XIV
- DOJ Settlement Agreement, DJ 204-14-115 (Nov. 3, 2003)

## **Connecticut Rules**

- Connecticut Practice Book §§ 14-8, 41-8, 42-52

## I. INTRODUCTION

NOW COMES Henry J. Martocchio, Defendant, appearing Sui Juris, and hereby moves this Honorable Court for an Order dismissing all charges in the above-captioned matter with prejudice, and simultaneously issues this formal Notice to the Court regarding the structural non-compliance of the Town of South Windsor and the Connecticut Judicial Branch with both the Americans with Disabilities Act of 1990, 42 U.S.C. § 12101 *et seq.*, and Article I, Section 20 of the Connecticut Constitution. This Motion is filed pursuant to Connecticut Practice Book §§ 41-8 and 42-52, and supplements the Defendant's Motion to Dismiss filed December 11, 2025 (██████████), and the three supplemental motions filed February 2, 2026 (██████████) — all of which remain pending and unruled upon.

**This case is constitutionally defective from its origin — under both state and federal law.**

The Connecticut Constitution expressly commands: "**No person shall be denied the equal protection of the law nor be subjected to segregation or discrimination in the exercise or enjoyment of his or her civil or political rights because of... physical or mental disability.**" Conn. Const. art. I, § 20. The Defendant has documented physical disabilities and is the guardian and primary caregiver of Nathan R. Martocchio, a profoundly autistic, non-verbal adult with a Full Scale IQ of 50. Connecticut's own constitution prohibits every act of discrimination documented in this Motion.

Connecticut's own legislature has codified this prohibition: "**It shall be a discriminatory practice in violation of this section for any person to subject, or cause to be subjected, any other person to the deprivation of any rights, privileges or immunities, secured or protected by the Constitution or laws of this state or of the United States, on account of... physical disability... [or] mental disability.**" Conn. Gen. Stat. § 46a-58(a).

The Defendant was arrested by an officer of the South Windsor Police Department who:

- (a) Violated Title II of the Americans with Disabilities Act and Conn. Gen. Stat. § 46a-58 during the encounter;
- (b) Violated Conn. Gen. Stat. § 46b-38b by failing to investigate a family violence crime, failing to identify and arrest the dominant aggressor, and failing to provide mandatory victim assistance;

(c) Abandoned the scene of an active domestic violence situation involving disabled persons; and

(d) Charged the disabled victim and caregiver with Disorderly Conduct under Conn. Gen. Stat. § 53a-182 while allowing the intruders — who entered with a fraudulent, unsigned document — to remain on the premises.

## II. PROCEDURAL HISTORY AND THE COURT'S PATTERN OF NON-RESPONSE

1. On **December 11, 2025**, the Defendant filed a Motion to Dismiss Criminal Charge and for Protective Relief (**Exhibit D**), arguing that the Disorderly Conduct charge was statutorily inapplicable, constitutionally deficient, and arose from the Defendant's lawful defense of his home and his profoundly disabled son against intruders wielding a fraudulent document.

**That Motion remains pending and unruled upon.**

2. On **February 2, 2026**, the Defendant filed three additional motions (~~EXHIBIT E~~).

(a) **Motion for Immediate Ruling on Pending Motions** — requesting the Court rule on all outstanding motions;

(b) **Motion to Compel Disclosure and Production of Brady Material** — seeking body camera footage, dash camera footage, 911 dispatch logs, CAD reports, police reports, officer notes, witness statements, and impeachment material pursuant to *Brady v. Maryland*, 373 U.S. 83 (1963);

(c) **Motion to Preserve Evidence** — seeking an order to prevent the South Windsor Police Department from destroying recordings or evidence via routine data retention policies.

3. The February 2, 2026 filings also requested **ADA accommodations** including: (a) all rulings and orders in clear written form; (b) predictable scheduling with adequate advance notice; (c) access to a court-appointed ADA Liaison; and (d) additional time to review discovery due to disability-related information processing limitations.

4. To date — more than **three months** since the initial Motion to Dismiss and more than **six weeks** since the supplemental motions — the State's Attorney for GA-12 Manchester has **failed to respond to any motion**, has **not produced the requested Brady material**, and has **not addressed any of the constitutional challenges** raised by the Defendant.

5. **Four different judges** have presided over proceedings in this case. Not one has ruled on the pending Motion to Dismiss. Not one has addressed the ADA accommodation requests. Not one has ordered the State to respond.

### **III. STATEMENT OF FACTS**

#### **A. The Arrest and Police Abandonment of a Domestic Violence Scene**

6. On the date of the incident giving rise to this charge, the Defendant's siblings — Ann Jacques, Vinnie Martocchio, Judy Martocchio, and/or Carmen Martocchio — entered the Defendant's home at 813 Graham Road, South Windsor, Connecticut, without lawful authority. They presented a purported "court order" that **lacked judicial signature, clerk certification, and a raised seal**.

7. The Defendant requested that the siblings leave his home. They refused. They proceeded to **destroy property** and attempted to **remove the Defendant's belongings**, concealing items under a blanket.

8. The Defendant's profoundly disabled son, **Nathan R. Martocchio**, was present in the home during this intrusion. Nathan is a non-verbal adult with moderate-to-severe autism, a Full Scale IQ of 50 (first percentile), and a medically documented mitochondrial disorder who requires environmental stability and routine consistency. *See* Hodgson Psychological Evaluation (October 20, 2010) (██████████) ("Nathan responds extremely favorably to the structure and predictability of routines"; disruption "will substantially interfere with Nathan's progress" and triggers "aggressive behaviors").

9. The responding South Windsor Police officer **failed to accommodate** the Defendant's disabilities or Nathan's disabilities during the encounter. The officer did not inquire about

disabilities, did not modify standard procedures, did not ensure effective communication with a non-verbal autistic adult, and did not follow any ADA-modified protocol.

10. **The responding officer LEFT THE SCENE in the middle of an active domestic violence situation**, abandoning the Defendant and his profoundly disabled son with the very individuals who were committing the intrusion, destroying property, and attempting to steal belongings. **One of these siblings is currently ON PROBATION for a PRIOR ASSAULT against the Defendant at this same residence.**

11. Rather than protecting the disabled victims, the State chose to **charge the disabled father and caregiver** with Disorderly Conduct while allowing the intruders — who entered with a fraudulent document and destroyed property — to remain on the premises and continue their destructive conduct.

#### **B. The Restraining Order Lacks Factual or Legal Basis**

12. The restraining order issued in connection with this matter pertains to a property that the Defendant **has not visited in many years** and has **no desire or intention to visit.**

13. The restraining order serves no legitimate protective purpose. There is no evidence of any contact, any visit, or any expressed desire to visit the subject property over a period of years.

#### **C. The Defendant's Disability Profile**

14. The Defendant has documented physical disabilities including two blown discs (lumbar spine), a torn rotator cuff, a missing meniscus, and arthritis. He suffers from Legal Abuse Syndrome / PTSD arising from thirteen years of litigation abuse in Connecticut state courts.

15. The Defendant has **associational disability** status under 42 U.S.C. § 12182(b)(1)(E) as the primary caregiver and guardian of Nathan R. Martocchio (profoundly autistic, non-verbal, intellectual disability, mitochondrial disorder) and the late Elaine Martocchio (cognitive decline, immobility in her final years).

16. Nathan R. Martocchio is a **qualified individual with a disability** under both **Conn. Const. art. I, § 20** and 42 U.S.C. § 12131(2). He cannot speak. He cannot advocate for himself. He communicates through PECS (Picture Exchange Communication System). He depends entirely on his father, the Defendant, for care, safety, and survival. *See* Hodgson Psychological Evaluation (██████████).

## IV. LEGAL ARGUMENT

### A. THE OFFICER VIOLATED CONNECTICUT'S MANDATORY FAMILY VIOLENCE STATUTE — CONN. GEN. STAT. § 46b-38b

17. Connecticut General Statutes § 46b-38b imposes **mandatory duties** on peace officers responding to family violence:

(a) **Mandatory Investigation:** "Whenever a peace officer responds to a family violence incident... such officer shall use the same investigation procedures as such officer would use in comparable situations..."

(b) **Mandatory Arrest of Dominant Aggressor:** "Whenever a peace officer determines that a family violence crime has been committed... such peace officer **shall arrest** the person or persons suspected of its commission..."

(c) **Mandatory Victim Assistance:** Officers shall "advise the victim of all reasonable means to prevent further abuse" and shall provide information about available services.

18. The encounter at 813 Graham Road was a **family violence situation** under Conn. Gen. Stat. § 46b-38a. The Defendant's siblings — family or household members within the meaning of the statute — entered the Defendant's home, destroyed property, and attempted to steal belongings. One sibling was **on probation for a prior assault** against the Defendant at this same residence.

19. Under § 46b-38b, the responding officer was **legally required** to:

(a) Investigate the family violence crime using the same procedures as comparable situations;

(b) Identify the **dominant aggressor** — the person who poses the most serious ongoing threat, considering the extent of injuries, threats of future harm, history of domestic violence between the parties, and whether either party acted in self-defense;

(c) **Arrest the dominant aggressor** — the individuals who entered the home with a fraudulent document, destroyed property, and attempted theft — NOT the disabled homeowner defending his home and his disabled son;

(d) Provide the victim (the Defendant) with information about available services.

20. The officer did **none** of this. Instead, the officer:

- (a) Failed to investigate the property destruction;
- (b) Failed to identify the dominant aggressor;
- (c) Arrested the **victim** — the disabled homeowner and caregiver — rather than the intruders;
- (d) **Abandoned the scene** while the domestic violence situation was ongoing, leaving two disabled persons with the aggressors; and
- (e) Provided no victim assistance whatsoever.

21. The officer's conduct violates Connecticut's own mandatory statutory scheme. This is not a matter of officer discretion — § 46b-38b uses the word "**shall**" throughout. The arrest of the Defendant, rather than the dominant aggressors, and the abandonment of the scene violate Connecticut statutory law independent of any federal ADA claim.

## **B. THE ARREST VIOLATED CONNECTICUT CONSTITUTION ARTICLE I, § 20 AND CONN. GEN. STAT. § 46a-58**

22. **Article I, Section 20 of the Connecticut Constitution** provides:

"No person shall be denied the equal protection of the law nor be subjected to segregation or discrimination in the exercise or enjoyment of his or her civil or political rights because of religion, race, color, ancestry, national origin, sex, or **physical or mental disability.**"

23. Connecticut's constitutional protection against disability discrimination is **broader and more explicit** than the Fourteenth Amendment to the United States Constitution, which does not expressly enumerate disability as a protected class. The Connecticut Constitution names disability directly. This Court is bound by Connecticut's own constitution.

24. **Conn. Gen. Stat. § 46a-58(a)** codifies this protection:

"It shall be a discriminatory practice in violation of this section for any person to subject, or cause to be subjected, any other person to the deprivation of any rights, privileges or immunities, secured or protected by the Constitution or laws of this state or of the United States, on account of... physical disability... [or] mental disability."

25. The Defendant was **deprived of the following rights on account of his and Nathan's disabilities:**

- (a) The right to **equal police protection** — a non-disabled homeowner reporting intruders destroying property would not have been arrested while the intruders were allowed to remain;
- (b) The right to **effective communication** with law enforcement — neither the Defendant's disabilities nor Nathan's non-verbal autistic status were accommodated;
- (c) The right to **victim services** under § 46b-38b — the officer denied the Defendant the mandatory family violence protections guaranteed to all Connecticut citizens;
- (d) The right to **equal access to the criminal justice system** — including ADA accommodations in the prosecution that followed.

26. Under Conn. Gen. Stat. § 46a-58, these deprivations constitute **discriminatory practices under Connecticut law**, actionable independently of any federal ADA claim.

### **C. THE TOWN OF SOUTH WINDSOR IS STRUCTURALLY NON-COMPLIANT WITH 28 C.F.R. § 35.107, RENDERING THE ARREST AND PROSECUTION CONSTITUTIONALLY DEFECTIVE**

27. Title II of the Americans with Disabilities Act, 42 U.S.C. § 12132, provides:

"Subject to the provisions of this subchapter, no qualified individual with a disability shall, by reason of such disability, be excluded from participation in or be denied the benefits of the services, programs, or activities of a public entity, or be subjected to discrimination by any such entity."

28. The implementing regulations at **28 C.F.R. § 35.107** require:

**(a) Designation of a Responsible Employee:** "A public entity that employs 50 or more persons shall designate at least one employee to coordinate its efforts to comply with and carry out its responsibilities under this part..."

**(b) Adoption of Grievance Procedures:** "A public entity that employs 50 or more persons shall adopt and publish grievance procedures providing for prompt and equitable resolution of complaints..."

29. The Town of South Windsor employs more than 50 persons and is **required** to comply. Upon information and belief, the Town **does not maintain** a Designated Responsible Employee and **does not maintain** published ADA grievance procedures.

**30. A NOTE TO THE COURT ON WHY FEDERAL LAW CONTROLS THIS**

**ARGUMENT:** The Defendant acknowledges this Court's preference for Connecticut law and has cited Connecticut constitutional and statutory authority wherever available (Sections A and B, *supra*). For the § 35.107 structural compliance argument, federal law is the **only** available authority because: (a) 28 C.F.R. § 35.107 is a federal regulation with no Connecticut state statutory equivalent — the General Assembly has never enacted legislation requiring municipalities to designate an ADA compliance officer or publish disability grievance procedures; (b) no Connecticut state court has adjudicated a § 35.107 compliance challenge; and (c) the absence of state-level case law on municipal ADA compliance is itself evidence of the structural failure — if functioning compliance systems existed, there would be case law. **The Supremacy Clause, U.S. Const. art. VI, cl. 2, makes federal ADA regulations binding on this Court regardless.**

31. This structural failure is documented across the State:

- (a) The **Connecticut Judicial Branch** was the subject of DOJ Settlement Agreement DJ 204-14-115 (November 3, 2003) (██████████) for the identical failure;
- (b) **Sandra Lugo-Gines's September 5, 2012 email** (██████████) revealed the Judicial Branch's supposed "Designated Responsible Employee" was in fact Attorney Robert D. Coffey — the Director of Human Resources Management with zero ADA duties;
- (c) *Antar v. Grossman*, No. 3:23-cv-01337 (D. Conn. 2023), is an independent federal lawsuit against the same Connecticut Judicial Branch ADA Office for the same structural failures.

32. The Court cannot prosecute a case arising from a law enforcement encounter that violated federal law from its inception.

**D. THE ARRESTING OFFICER VIOLATED TITLE II OF THE ADA**

33. Law enforcement encounters are "**services, programs, or activities**" of a public entity within the meaning of Title II. *Pennsylvania Dept. of Corrections v. Yeskey*, 524 U.S. 206 (1998); *Tennessee v. Lane*, 541 U.S. 509, 531-32 (2004). *See also Connecticut Office of*

*Protection & Advocacy v. Connecticut*, 706 F. Supp. 2d 266 (D. Conn. 2010) (recognizing enforceable ADA obligations of Connecticut state entities toward disabled persons).

34. Police officers **must** make reasonable modifications when interacting with disabled individuals. 28 C.F.R. § 35.130(b)(7). See *Gohier v. Enright*, 186 F.3d 1216 (10th Cir. 1999); *Hainze v. Richards*, 207 F.3d 795 (5th Cir. 2000); *City of San Francisco v. Sheehan*, 575 U.S. 600 (2015).

35. The responding officer violated Title II by:

(a) Failing to inquire about or accommodate the Defendant's documented disabilities;

(b) Failing to recognize or accommodate **Nathan R. Martocchio's** profound autism, non-verbal status, and sensory processing needs;

(c) Failing to ensure **effective communication** with a non-verbal autistic adult as required by 28 C.F.R. § 35.160;

(d) **Abandoning the scene** of an active domestic violence situation involving two disabled persons, leaving them with a person **on probation for prior assault** — implicating the state-created danger doctrine, *DeShaney v. Winnebago County Dept. of Social Services*, 489 U.S. 189 (1989); *Okin v. Village of Cornwall-on-Hudson Police Dept.*, 577 F.3d 415 (2d Cir. 2009);

(e) Charging the disabled victim/caregiver while allowing the intruders to remain; and

(f) Denying the Defendant and Nathan the protective services guaranteed without discrimination.

## **E. THE CASTLE DOCTRINE AND CONNECTICUT SUPREME COURT PRECEDENT PROVIDE COMPLETE DEFENSES**

36. Connecticut law recognizes the fundamental right to defend one's premises:

"A person in possession or control of premises... is justified in using reasonable physical force upon another person when and to the extent that he reasonably believes such to be necessary to prevent or terminate the commission or attempted commission of a criminal trespass by such other person." **Conn. Gen. Stat. § 53a-20.**

37. There is **no duty to retreat within one's own home** in Connecticut. *State v. Shaw*, 185 Conn. 372, 441 A.2d 561 (1981).

38. The Defendant's response — retrieving his own property and documenting the intrusion on video — does not meet any element of Disorderly Conduct under § 53a-182. The Connecticut Supreme Court has repeatedly mandated **narrow construction** of this statute to prevent it from criminalizing constitutionally protected conduct:

(a) *State v. Liebenguth*, 336 Conn. 685, 250 A.3d 1 (2020) — The Connecticut Supreme Court recognized that § 53a-182 reaches constitutionally protected conduct and must be narrowly construed. Justice Ecker's concurrence specifically warned against overbroad application of disorderly conduct charges.

(b) *State v. Baccala*, 326 Conn. 232, 163 A.3d 1 (2017) — The Connecticut Supreme Court further narrowed the permissible scope of § 53a-182, requiring precise identification of the prohibited conduct and rejecting vague applications.

(c) *State v. Indrisano*, 228 Conn. 795, 640 A.2d 986 (1994) — The Connecticut Supreme Court applied a constitutional gloss to save § 53a-182, limiting its application to conduct meeting precise, narrow criteria.

(d) *State v. Lo Sacco*, 12 Conn. App. 481, 531 A.2d 184 (1987) — The Appellate Court held the statute must not be used to criminalize defensive or constitutionally protected behavior.

39. The Defendant had a **heightened duty** to protect Nathan R. Martocchio — a profoundly disabled adult who cannot protect himself. Dr. Hodgson's evaluation (**Exhibit A**) confirmed that disruption triggers regression, loss of skills, and physical aggression. The Defendant was not causing disorder; he was **preventing catastrophic harm** to a disabled person in his care.

40. The Fourth Amendment protects the home from unreasonable intrusion. *Payton v. New York*, 445 U.S. 573, 585 (1980).

## **F. FOUR JUDGES HAVE SYSTEMATICALLY DENIED THE DEFENDANT'S CONSTITUTIONAL RIGHTS**

41. Since the filing of the initial Motion to Dismiss on December 11, 2025 (██████████), **four judges** have presided over this case. **Not one has:**

(a) Ruled on the Motion to Dismiss;

(b) Ordered the State's Attorney to respond;

- (c) Addressed ADA accommodation requests;
- (d) Ordered Brady material production;
- (e) Ordered evidence preservation; or
- (f) Provided any explanation for the failure to act.

42. The Fourteenth Amendment and **Conn. Const. art. I, §§ 8, 9** guarantee due process and the right to be heard. Practice Book § 14-8 requires timely resolution. The failure of four successive judges to rule on a dispositive motion for more than three months constitutes a denial of due process. This pattern mirrors the systemic obstruction documented across Connecticut state courts — the same Judicial Branch that entered into DOJ Settlement Agreement DJ 204-14-115 in 2003 (**Exhibit D**) and twenty-three years later still maintains no functioning ADA compliance system.

#### **G. THE STATE'S FAILURE TO RESPOND CONSTITUTES PROCEDURAL DEFAULT AND WAIVER**

43. The State's Attorney has failed to respond to all five pending filings (**Exhibits D, E**). This persistent silence constitutes:

- (a) A **concession to the merits**. *See Doyle v. Oklahoma Bar Assn.*, 998 F.2d 1559, 1566 (10th Cir. 1993);
- (b) A **failure to prosecute in good faith**; and
- (c) An **independent due process violation**.

44. This Court should deem the constitutional challenges conceded and dismiss the charges.

#### **H. THE PROSECUTION IS RETALIATORY UNDER 42 U.S.C. § 12203**

45. The ADA anti-retaliation provision, 42 U.S.C. § 12203(a), prohibits discrimination against any individual who has opposed unlawful practices or participated in ADA proceedings. The Defendant has actively advocated for ADA compliance for thirteen years, including:

- (a) Filing a federal removal action in 2013 (Case No. 3:13-cv-01354, D. Conn.);
- (b) Active complaints before the **DOJ Civil Rights Division**, **HHS Office for Civil Rights** (Transaction No. 01-24-576051), and the **U.S. Department of Education** (Boston Office — actively engaged);

- (c) Preparing a comprehensive **42 U.S.C. § 1983 complaint** for this District.
46. Charging the disabled caregiver who was defending his home — rather than investigating the intruders — fits the definition of **retaliation** under § 12203.

### **I. THE RESTRAINING ORDER IS FACTUALLY BASELESS**

47. The restraining order restricts the Defendant from a property he **has not visited in many years** and has **no desire or intention to visit**. A restraining order must be grounded in facts demonstrating an actual threat. None exist here.

### **J. MUNICIPAL LIABILITY UNDER MONELL AND § 46a-58**

48. The failure to maintain ADA compliance is a **policy or custom** of the Town of South Windsor. Under *Monell v. Dept. of Social Services*, 436 U.S. 658 (1978), a municipality is liable when deprivation of rights results from municipal policy. Under **Conn. Gen. Stat. § 46a-58**, the deprivation of rights on account of disability constitutes a discriminatory practice under **Connecticut's own law**. The Town's failure to designate a § 35.107 responsible employee, to publish grievance procedures, and to train its officers constitutes **deliberate indifference** — actionable under both federal and state law.

### **V. FORMAL NOTICE TO THE COURT**

49. This Motion serves simultaneously as **FORMAL NOTICE TO THE COURT** of the following:

- (a) The **Town of South Windsor** is structurally non-compliant with 28 C.F.R. § 35.107, lacking a Designated Responsible Employee and published ADA grievance procedures, and violated **Conn. Gen. Stat. § 46a-58** through its police department's discriminatory treatment of the Defendant;
- (b) The **Connecticut Judicial Branch** is structurally non-compliant with 28 C.F.R. § 35.107, as documented in the 2003 DOJ Settlement Agreement (██████████), the 2012 Lugo-Gines email (██████████), and the 2023 *Antar v. Grossman* federal litigation;

(c) The Defendant has **active complaints pending before three federal agencies**: DOJ Civil Rights Division, HHS Office for Civil Rights, and the U.S. Department of Education;

(d) The Defendant is preparing a **comprehensive federal civil rights action** under 42 U.S.C. § 1983 in the United States District Court for the District of Connecticut, in which the conduct of the South Windsor Police Department, the Connecticut Judicial Branch, and **this Court's handling of this criminal matter** will be cited as evidence of the systemic pattern;

(e) Any further denial of the Defendant's constitutional rights will be documented and presented to the federal court as evidence of continuing violations.

## VI. EXHIBIT INDEX

The following Exhibits are attached hereto and incorporated by reference:

<b>Exhibit</b>	<b>Description</b>	<b>Date</b>
<b>A</b>	Psychological Evaluation of Nathan R. Martocchio (Dr. Sarah Hodgson, Ph.D.) — Full Scale IQ of 50, moderate-to-severe autism, critical need for environmental stability	October 20, 2010
<b>B</b>	DOJ Settlement Agreement, DJ 204-14-115 — United States v. Connecticut Judicial Branch — ADA compliance required (unenforced 23 years later)	November 3, 2003
<b>C</b>	Sandra Lugo-Gines Email Identifying Robert D. Coffey as "Designated Responsible Employee" Under 28 C.F.R. § 35.107 — Revealing the Judicial Branch's § 35.107 compliance was a fiction	September 5, 2012
<b>D</b>	Defendant's Motion to Dismiss Criminal Charge and for Protective Relief — PENDING AND UNRULED UPON	December 11, 2025
<b>E</b>	Defendant's Motions for Immediate Ruling, Brady Material, and Preservation of Evidence — ALL PENDING, STATE HAS NOT RESPONDED	February 2, 2026

## VII. PRAYER FOR RELIEF

WHEREFORE, the Defendant respectfully requests that this Honorable Court:

1. **DISMISS** all charges against the Defendant **WITH PREJUDICE** on the following independent grounds:

- (a) The arrest violated **Conn. Gen. Stat. § 46b-38b** — the officer failed to investigate, failed to identify the dominant aggressor, arrested the victim, and abandoned the scene;
- (b) The arrest violated **Conn. Const. art. I, § 20** and **Conn. Gen. Stat. § 46a-58** — the Defendant was deprived of rights on account of physical and mental disability;
- (c) The arrest arose from a structurally non-compliant law enforcement encounter in violation of Title II of the ADA, 42 U.S.C. § 12132, and 28 C.F.R. § 35.107;
- (d) The Defendant's conduct is protected by the **Castle Doctrine**, Conn. Gen. Stat. § 53a-20, and does not meet any element of Disorderly Conduct under § 53a-182 as narrowly construed by *State v. Liebenguth*, 336 Conn. 685 (2020), *State v. Baccala*, 326 Conn. 232 (2017), and *State v. Indrisano*, 228 Conn. 795 (1994);
- (e) The State's failure to respond constitutes procedural default and waiver;
- (f) The prosecution is **retaliatory** under 42 U.S.C. § 12203;

2. **VACATE** the restraining order as factually baseless;

3. **ORDER** the Town of South Windsor to identify its 28 C.F.R. § 35.107 Designated Responsible Employee and published ADA grievance procedures within fourteen (14) days, or concede in writing that no such protections exist;

4. **ORDER** the State's Attorney to respond to all pending motions within fourteen (14) days;

5. **ORDER** immediate production and preservation of all Brady material previously requested;

6. **GRANT** ADA accommodations previously requested on February 2, 2026;

7. **SCHEDULE** oral argument on this Motion and all pending motions; and

8. Grant such other and further relief as this Court deems just and proper.

Respectfully submitted,

A handwritten signature in black ink, appearing to read "H. Martocchio", is written over a horizontal line.

**Henry J. Martocchio, Sui Juris**

813 Graham Road

South Windsor, CT 06074

Tel: (860) 432-4567

Email: [hjmservices@yahoo.com](mailto:hjmservices@yahoo.com)

Date: March 16, 2026

## CERTIFICATION OF SERVICE

I hereby certify that a copy of the foregoing Motion to Dismiss for Non-Compliance with the Americans with Disabilities Act and Deprivation of Civil Rights, With Incorporated Notice to the Court, together with Exhibits A through E, has been served upon each of the following by **electronic mail** on this 16th day of March, 2026.

## ADA MODIFICATION FOR ELECTRONIC SERVICE

Service is made by electronic mail as a **reasonable modification** pursuant to:

**28 C.F.R. § 35.130(b)(7):** "A public entity shall make reasonable modifications in policies, practices, or procedures when the modifications are necessary to avoid discrimination on the basis of disability, unless the public entity can demonstrate that making the modifications would fundamentally alter the nature of the service, program, or activity."

**Conn. Const. art. 1, § 20:** "No person shall be denied the equal protection of the law nor be subjected to segregation or discrimination in the exercise or enjoyment of his or her civil or political rights because of... physical or mental disability."

**42 U.S.C. § 12132:** "No qualified individual with a disability shall, by reason of such disability, be excluded from participation in or be denied the benefits of the services, programs, or activities of a public entity, or be subjected to discrimination by any such entity."

The Defendant has documented physical disabilities (lumbar disc injuries, torn rotator cuff, missing meniscus, arthritis) that make physical preparation and mailing of voluminous documents an unreasonable burden. The Defendant is indigent and cannot afford the copying and postage costs of serving this Motion and its 50 pages of exhibits by mail to multiple recipients. **Electronic mail service provides identical notice, is instantaneous, creates a verifiable record of delivery, and imposes no burden on any recipient.** No public entity can demonstrate that receiving service by email rather than physical mail "fundamentally alters" its operations. Every recipient listed below is a public entity or public employee subject to these obligations.

## **I. OPPOSING PARTY (Criminal Prosecution)**

**State's Attorney** Office of the State's Attorney Judicial District of Hartford — GA-12 Manchester  
410 Center Street, Manchester, CT 06040 Tel: (860) 258-5800 Email: [conndcj@ct.gov](mailto:conndcj@ct.gov)

## **II. LAW ENFORCEMENT (ADA Non-Compliance and Title II Violations)**

**Chief Kristian Lindstrom** South Windsor Police Department 151 Sand Hill Road South Windsor,  
CT 06074 Tel: (860) 644-2551 Email: [kristian.lindstrom@southwindsor-ct.gov](mailto:kristian.lindstrom@southwindsor-ct.gov) Email (PD  
Command): [PDCommand@southwindsor-ct.gov](mailto:PDCommand@southwindsor-ct.gov)

*(Notice: This Motion alleges the responding officer violated Title II of the ADA, Conn. Gen. Stat. § 46b-38b, and Conn. Gen. Stat. § 46a-58 during the arrest encounter. As Chief of Police, Chief Lindstrom bears budgetary and operational responsibility for the Department's ADA compliance and officer training. Service is made to both the Chief's direct email and the Police Department Command email to ensure actual notice.)*

## **III. MUNICIPALITY (28 C.F.R. § 35.107 Non-Compliance)**

**Town Manager Michael Maniscalco** Town of South Windsor 1540 Sullivan Avenue South Windsor,  
CT 06074 Tel: (860) 644-2511 Email: [michael.maniscalco@southwindsor-ct.gov](mailto:michael.maniscalco@southwindsor-ct.gov)

*(Notice: This Motion alleges the Town lacks a Designated Responsible Employee under 28 C.F.R. § 35.107 and lacks published ADA grievance procedures. The Prayer for Relief requests the Court order the Town to identify its § 35.107 Designated Responsible Employee within 14 days.)*

**cc: Mayor Craig Zimmerman and South Windsor Town Council** 1540 Sullivan Avenue South  
Windsor, CT 06074 Tel: (860) 644-2511 ext. 2206 Email (Mayor):  
[Craig.Zimmerman@southwindsor-ct.gov](mailto:Craig.Zimmerman@southwindsor-ct.gov)

**The town mayor has the affirmative responsibility to notify other council members of the ongoing violations of the town manager in all the departments that he manages and he should be put on administrative leave immediately pending investigations underneath the American Disabilities Act policies and procedures and non compliancy of the duties of his position power in mandates to be compliant as he accepts federal funding and certifies the town as compliancy and that now puts the town and actions of the False Claims Act.** The False Claims Act (FCA),

31 U.S.C. §§ 3729-3733, is a federal law enacted in 1863 that imposes significant civil penalties on individuals or entities that knowingly submit false claims for payment to the government,

*(The Mayor and Town Council are copied as the governing body with authority over municipal policy, budgetary oversight, and compliance with federal and state law, including Conn. Const. art. I, § 20 and 28 C.F.R. § 35.107.)*

#### **IV. CONNECTICUT JUDICIAL BRANCH — ADA COMPLIANCE OFFICE**

**Sandra Lugo-Gines** ADA Program Manager / ADA Division Coordinator Connecticut Judicial Branch Centralized ADA Office 231 Capitol Avenue Hartford, CT 06106

Tel: (860) 706-5322 Email: [ADA.Program@jud.ct.gov](mailto:ADA.Program@jud.ct.gov); [sandra.lugogines@jud.ct.gov](mailto:sandra.lugogines@jud.ct.gov)

*(Notice: This Motion documents Ms. Lugo-Gines's September 5, 2012 email (Exhibit C) identifying Attorney Robert D. Coffey — the Director of Human Resources Management with zero ADA compliance duties — as the Judicial Branch's "Designated Responsible Employee" under 28 C.F.R. § 35.107, and alleges the designation was a fiction. The Judicial Branch remains structurally non-compliant 23 years after entering DOJ Settlement Agreement DJ 204-14-115 (Exhibit B).)*

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March 16, 2026

**Henry J. Martocchio, Sui Juris**

813 Graham Road South Windsor, CT 06074

Tel: (860) 432-4567 Email: [hjmservices@yahoo.com](mailto:hjmservices@yahoo.com)