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## **Fired Mountlake Terrace police sergeant who criticized drug war reaches \$812,500 settlement with municipalities**

Seattle—Jonathan Wender, a Mountlake Terrace police sergeant who is an outspoken critic of U.S. drug policy, has reached an \$812,500 settlement with the Snohomish County Prosecutor's Office, the Mountlake Terrace Police Department, the City of Mountlake Terrace, the City of Lynnwood, and a handful of individual defendants. The federal civil-rights lawsuit claimed that police command staff and prosecutors retaliated against Sgt. Wender for his free speech activities and failed to give him due process before terminating him in 2005. As part of the settlement, Sgt. Wender has been reinstated to his position retroactive to 2005, all of the findings underlying his termination and the termination itself have been reversed, and the Mountlake Terrace Police Department has acknowledged that "Sergeant Wender's reputation for honesty is properly considered restored."

"In an open society, people on the front lines of the criminal justice system have an ethical duty to speak out on controversial social and legal issues that affect the public we serve. The public has a fundamental right to know which laws and policies are effective, and which ones aren't; and they should expect that their police officers will speak the truth even when it isn't popular or comfortable to do so. I hope that the outcome of this case will help reassure police and other public officials that they can speak freely on controversial topics such as the urgent need to seek better ways to deal with the crisis of drugs that plagues American society," said Sgt. Wender.

"Our constitution can never tolerate retaliation for open expression of controversial ideas—at any level," said Sgt. Wender's lead attorney, Andrea Brenneke of MacDonald Hoague and Bayless. "In this case, a veteran sergeant with a strong record of public service was removed from the streets where we need him. Through Sgt. Wender's perseverance and the legal process, the justice system worked to restore his reputation and protect free speech."

### **Lawsuit filed**

Sgt. Wender challenged his termination and the issuance of a "Brady" letter through the courts to restore his reputation and career. The stakes were high. Beside the humiliation of being wrongly labeled a "Brady" officer, Sgt. Wender had spent 15 years on the force at the time he was terminated. With only five more years of service, he would be eligible to receive a full pension beginning at age 53. However,

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as matters stood, the termination and “Brady” letter abruptly and prematurely ended his law enforcement career.

“Jonathan Wender never had the process that was due to him or to any officer facing such career consequences. Our lawsuit also alleged and sought to prove that had Sgt. Wender not been vocal about drug policy reform, he would not have been targeted with this scrutiny or removed from the force,” said Brenneke.

### **Settlement restores reputation, job, and pension and Brady is reversed**

Sgt. Wender’s “Brady” letter has been rescinded. With the settlement, he is back on the payroll at the Mountlake Terrace Police Department, where he will serve on paid administrative leave for the next two years until he retires from the force and can qualify for his full pension. The monetary value of the settlement is \$812,500.

During and since the litigation, the Snohomish County Prosecutor’s Office changed and improved its Brady policy.

Today, Sgt. Wender, who holds a doctorate in criminology, is a full-time lecturer at the University of Washington. Among the courses that he teaches is one called “Drugs and Society.” Sgt. Wender also recently authored a book. In addition, he does consulting work for the federal government, and plans to develop training for law-enforcement agencies and police unions that increases awareness of ethical and legal issues surrounding discipline, termination, and the process for designating “Brady” officers.

“There is an acute need across the nation to find a fair and effective way to ensure that defendants are given the information to which they are entitled under Brady, while also protecting the due process rights of law enforcement officers,” said Sgt. Wender.

### **About MacDonald Hoague & Bayless**

Andrea Brenneke’s practice brings together years of employment and civil-rights litigation on behalf of her clients and in the public interest. MacDonald Hoague & Bayless ([www.mhb.com](http://www.mhb.com)) is a Seattle law firm that advances equality, justice and freedom. Its practice areas include civil rights/discrimination, employment law, immigration, personal injury litigation and criminal defense. Attorneys for the *Wender* litigation were Andrea Brenneke, Joseph Shaeffer, and Tim Ford.

### **About *Brady v. Maryland***

Prosecutors have a requirement to disclose information to criminal defendants and their attorneys about any evidence tending to show the innocence of the defendant, including evidence that might call into question the credibility of potential witnesses. The disclosure requirement is grounded in a series of U.S. Supreme Court rulings, the most famous of which is the 1963 decision in *Brady v. Maryland*. Some prosecutors designate law enforcement officers who have been untruthful as “Brady” officers, or maintain a “Brady” list. Evidence in Sgt. Wender’s lawsuit showed that a “Brady” designation can harm an officer’s professional reputation.

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*Editors: Jonathan Wender, plaintiff, and Andrea Brenneke, civil rights and employment attorney for MacDonald Hoague & Bayless, are available for interview about the case and settlement.*