

CASE NO. _____

JEFFERSON CIRCUIT COURT

DIVISION _____

JUDGE _____

ELECTRONICALLY FILED

PAUL BRANDON PARIS

PLAINTIFF

v.

COMPLAINT

LOUISVILLE METRO GOVERNMENT
D/B/A LOUISVILLE METRO POLICE DEPARTMENT

DEFENDANT

SERVE: Mayor Greg Fischer
527 W. Jefferson St.
Louisville, KY 40202

Comes the Plaintiff, Paul Paris, and hereby submits the following in support of his Complaint against the Defendant, Louisville Metro Government (LMPD):

PARTIES, JURISDICTION, AND VENUE

1. The Plaintiff is a resident of Louisville, Kentucky.
2. The Defendant Louisville Metro Government is a political subdivision within the meaning of KRS 61.102 and is the former employer of the Plaintiff.
3. The violations alleged herein occurred in Louisville, Jefferson County, Kentucky.

FACTUAL ALLEGATIONS

Plaintiff's Law Enforcement Background

4. Paul Paris spent his whole life preparing to be a police officer.
5. His father was an Officer for 30 years. His mother was a schoolteacher.
6. In 2004, Paul joined the LMPD Explorer program.
7. Paul learned from his father, as well as through the Explorer program, the ins and outs of policing.

8. Paul continued his path to law enforcement in college, where he served as a police cadet.

9. Paul grew up in the West End of Louisville. He experienced firsthand the effects of over-policing in a predominately minority neighborhood.

10. Paul wanted to be a person who joined a police department and worked to fix problems existing with trust and discrimination between the police and citizens of Louisville.

11. Paul's devotion to law enforcement continued in 2010 when he, upon graduation from college, joined the Louisville Metro Police Department.

12. Within two years of being in the Department, Paul received the Medal of Honor.

13. Paul's service with LMPD continued until the late Summer of 2020 when, after seven years of struggles within the department, he finally decided to move on.

14. Paul's commitment to bridging the gap with police and the community was on display daily, but stood out in particular on two occasions which garnered substantial publicity.

15. The latter occasion was in June of 2020, when Paul was captured, while in uniform, embracing a frustrated member of the community with hugs and compassion following the killings of Breonna Taylor and George Floyd.

16. The former occasion was in 2013, when Paul, for the safety of the community, immediately investigated a report from a teenager that she was receiving inappropriate contacts from a married, adult officer within LMPD.

17. As confirmed within a city-commissioned investigation into sexual abuse of teens by multiple members of the LMPD Explorer program, it was the initial actions of Paul in investigating and confirming an allegation of sexual harassment against Kenneth Betts, along with Paul's reporting of the information he uncovered to multiple commanding Officers, which set into

motion the events which led to several validated incidents of sex abuse against minors by members of LMPD. Three former LMPD members were indicted for heinous crimes associated with these actions.

18. Paul's decision to report the misconduct was a no-brainer: he had been a member of the Explorer program for years and served as an Officer within the program following his entry into LMPD. He cared deeply for the children who were members of the program, cared for what the program was supposed to accomplish, and he certainly was not the type of person or Officer who would blow over credible allegations of officer misconduct.

19. Over the years that followed Paul's report of officer misconduct against a minor within the Explorer program, he would pay tremendous consequences.

20. Paul, despite being the one who made the first report of misconduct by officers in the Explorer program, became guilty by association within the Department.

21. He was repeatedly passed over for specialty assignments, despite being the most qualified for the available positions.

22. In 2014, when former member Kenneth Betts was allowed to resign by the LMPD Chief with closure of the internal investigation into his conduct serving as a collateral result, Paul was frustrated and upset that there was not more accountability. Paul was upset by the feeling that no one no one took the victim's account seriously, thus allowing Betts to resign and be hired by another police department.

23. In 2016, when allegations emerged implicating former member Brandon Wood within the Explorer sex abuse scandal, Paul was in disbelief that the Department continued to remain silent with the public, thus resulting in many within the community believing that all Officers within the program, including Paul, were complicit.

24. To be clear, Paul never had any suspicion that Wood had been sexually abusing minors. Had he known, he would have reported the same.

25. Metro, however, felt tremendous heat from the Explorer scandal.

26. Evidence emerged confirming that the police chief was complicit in keeping the sex abuse allegations silent.

27. Evidence emerged confirming that the police chief allowed the officer who was initially implicated by Paul to resign and have the investigation into him closed.

28. The LMPD Explorer program was kept open for nearly four years after Paul's discovery of Betts' misconduct with a minor were made.

29. Evidence emerged that dozens of former Explorer members had been propositioned, molested, intimidated or assaulted by officers.

30. Evidence emerged that the Louisville Mayor's Office, despite denying notice of any Explorer related allegations until 2017, was actually briefed on the matter three years prior and did nothing in response.

Metro creates and condones a hostile work environment against Paul

31. Upon information and belief, the administration and upper command, in response to the ongoing Explorer scrutiny, condoned efforts which were made to frustrate Paul and prompt his departure from LMPD.

32. After all, if it had not been for Paul's efforts in identifying and reporting the initial Explorer incident, the matter could have, as stated by the Louisville Deputy Mayor, "blown over."

33. In 2017, Paul and other Officers were subjects on a large whiteboard posted within an LMPD Patrol Division which was titled R***GATE (rape gate) 2017 XPLORAPETION, in

which members listed Over-Unders for the amount of total indictments and the amount of acts of sodomy and rape for each listed individual.

34. This whiteboard was readily identifiable to everyone with the applicable division, including but not limited to the Major, Lieutenants, Sergeants and patrol officers.

35. The whiteboard placed an Over of .5 for sodomy for Paul (reflecting a claim, with no basis and which was completely false, that Paul had sodomized an Explorer member), an over of 2.5 for rape for Paul (reflecting a claim, with no basis and which was completely false, that Paul had raped at least three Explorer members) and an over of 5.5 for total victims for Paul (reflecting a claim, with no basis and which was completely false, that Paul had committed sexual assault upon at least six different Explorer members).

36. To be clear, Paul has never engaged in any way, shape or form of sexual misconduct, let alone with a child or member of the Explorer program.

37. Despite this horrific depiction, Paul continued to do his job to the best of his ability.

38. Also in 2017, articles emerged in local media outlets which identified Paul as a member of the Explorer program's Advisors, and which led others within the Department and the community to form the belief that Paul was a part of the scandal.

39. Rather than correcting the record and advising the Department members and the community that Paul was never implicated in the scandal and that, in fact, he had blown the whistle of events which set the uncovering of the scandal into motion, Metro government remained tight lipped.

40. Meanwhile, Paul complied with all the demands placed upon him by Metro.

41. He gave an interview to LMPD investigators.

42. He was then ordered later in 2017 to give an interview to a civilian investigator interview and that, if he refused to do so, he would be fired.

43. This was a violation of his rights under the CBA.

44. Pursuant to the CBA:

No police officer as a condition of continued employment by the local unit of government shall be compelled to speak or testify or be questioned by any person or body of a nongovernmental nature.

45. The compelled statement was part of a contracted investigation in which the questioners were not government employees.

46. When Paul asked for a copy of his prior interview transcript on August 16, 2017 the request was denied.

47. The request was denied again on August 18, 2017.

48. These were violations of Paul's rights under the CBA.

49. Pursuant to the CBA:

Metro Government shall provide the Member any written or recorded statements in the possession of the department in connection with any disciplinary action taken against the Member except for attorney work product.

50. Paul, concerned that his job was on the line, still proceeded to give the interview.

51. Months after the interviews, Paul was still treated by many within the Department, without substantiation, as a child predator due to being falsely implicated in the scandal.

52. When a Department employee directly told Paul, while at role call in front of many others within the division, that he was a "pedophile" who should "never be watching kids," the employee was neither reprimanded nor moved to a different division than Paul.

53. Paul, while continuing to do his job to the best of his ability, also continued to endure the frustrations created by off-color comments made by LMPD members.

54. These comments were discriminatory.

55. For example, Paul had heard members for years refer to all Black female citizens as “Quita” and all Black male citizens as “Jay.”

56. The remarks were insensitive, biased and made Paul uncomfortable.

57. However, given the unwarranted scrutiny already being placed upon Paul, the last thing he wanted was to file a grievance and be subjected to further negative attention from many within the Department.

58. Paul, seeking a change, began applying for other positions within LMPD.

59. Paul frequently was scored outside of the top four applicants, routinely ranking near the bottom.

60. This occurred in Narcotics, where he was ranked 15th out of 16 who interviewed.

61. This occurred in DAP (Downtown Area Patrol), where, despite it being his third effort to obtain a position, Paul finished second to last in the rankings.

62. This occurred in the Traffic Unit, where Paul finished third to last in the rankings.

63. This occurred in the air unit, where Paul applied for one of 10 openings. He was not selected and was not provided with a ranked list of candidates.

64. This occurred in K9. In preparation for openings in K9, Paul attended K9 training to put himself in the best position for the job.

65. Paul finished dead last in the rankings for the K9 position.

66. The other Black candidate finished second to last in the K9 rankings.

67. Notably, during one of his interactions with a member of the K9 unit, Paul was thanked. The reason given was that Paul had a favorable interaction with the member’s dog, and

that the member was relieved to see this happen because, until that point, the member had thought his dog was “scared of Black people.”

68. Paul doesn't suggest that he should have been selected for all of these units. He respects many members of the units and understands that Officers do not get selected for all the positions they seek. But Paul also fails to understand why he repeatedly ranked so low in the process, given his credentials and the process which is published for selection within the CBA.

69. Rather than succumb to the cultural pressures placed upon those with the Department, Paul doubled down on his efforts to make positive change.

70. Paul's performance reviews reflect that he consistently exceeded the expectations placed upon him by his commanding Officers. From the beginning of his career until the end, Paul's performance reviews from supervisors reflect that he consistently exceeded the expectations placed upon him.

71. As a Field Training Officer, Paul was able to mentor new Officers. He prioritized the humanitarian aspect of policing: Be a human first. Even if the suspect is accused of doing some really bad things, do not resort to the level where you treat them badly. His philosophy was to treat people the way he'd want his mother to be treated by police in a similar situation.

72. Realizing that other police departments offered better opportunities and a more supportive work environment, Paul started seeking employment with other agencies.

73. In his interviews with outside agencies, Paul noticed a pattern develop. Many would begin positive. Several agencies would identify Paul as well-qualified and representative of what the interviewing Department was looking for. Then, Paul would not be selected, with some agencies conceding that the ongoing Explorer investigation was the basis for the decision.

74. Paul ultimately went to seek therapy over this series of events.

75. Paul was justifiably confused and frustrated: he'd investigated the initial allegations of sexual misconduct, gotten evidence to support that an officer was engaged in the misconduct, and reported it to two different commanding officers. But LMPD continued to treat him like a suspect and refused to dispel the suggestions that Paul was somehow involved in the scandal.

In 2019 and 2020, Metro investigates Paul

76. Metro, at all times relevant herein, knew or in the exercise of reasonable care should have known that Paul did not engage in any misconduct while in the Explorer program and that there was no evidence suggesting otherwise.

77. Despite this, Metro's agenda to rid Paul of LMPD and of law enforcement continued.

78. In 2019, the LMPD Chief self-initiated a PSU investigation into a Use of Force incident in which Paul was involved four months prior.

79. The department waited several months to investigate the claim.

80. The Department failed to close it within a reasonable amount of time.

81. In fact, the Department appears to have mishandled it internally from the start.

82. PSU was directed on March 7, 2019 to initiate an investigation into Paul.

83. The Complaint Initiation Letter was not sent to Paul until September 24, 2019.

84. This letter explained the Complaint and assigned investigator Andrew Meyer to handle it.

85. Then, after Paul had already submitted his resignation in September of 2020, a new letter was sent to Paul by Andrew Meyer in which Sgt. Meyer indicated that more time was needed, because a prior investigator handling the investigation had retired and that it had recently been reassigned to Meyer.

86. To be clear, Paul was advised in September of 2019 that Sgt. Meyer was assigned and was never advised at any time that any other investigator was assigned.

87. Paul was never disciplined or advised that the allegations were sustained in relation to this incident.

88. In February of 2020, Paul was dispatched to a report of a stolen vehicle. The vehicle was identified at Wal-Mart in Fern Creek. Two suspects were identified. Before the Officers could apprehend the suspects, the two rushed into the stolen vehicle and nearly ran over Officers who were on foot. Paul tried to block the vehicle in and was unsuccessful.

89. A pursuit ensued.

90. Paul was well-aware of agency pursuit policies. The stolen vehicle, along with the wanton endangerment, justified initiation.

91. Paul knew that, after initiating the pursuit, he was required to assess the pursuit as it continued; if the risks of the pursuit outweighed the benefits of apprehension, the pursuit should continue. If they did not, the pursuit should be terminated.

92. The pursuit did not cover much ground; upon leaving the shopping center, the fleeing vehicle crossed into an apartment complex across the street.

93. Paul was very familiar with the area.

94. The fleeing vehicle then went southbound on Bardstow Rd. The vehicle went into the northbound lane of traffic, where it was faced with several oncoming vehicles from the opposite direction.

95. The fleeing vehicle, at this point, was presenting a serious risk of injury or death to many others on the roadway.

96. Paul, faced with a split-second decision, attempted to disable the fleeing vehicle off the roadway so that oncoming motorists would not be struck head on.

97. The fleeing vehicle left the roadway, but then returned to the oncoming lane of traffic, where it again presented an imminent risk of hitting oncoming motorists head on and either killing them or seriously injuring them.

98. Meanwhile, the secondary unit to the pursuit had also crossed into the northbound lane of travel and was also following the fleeing vehicle.

99. Paul announced to others on the radio that he was going to make efforts to “end this now before somebody gets killed.”

100. Paul tried again to disable the fleeing vehicle off the roadway. He was successful in doing so. The suspect was apprehended without injury and no uninvolved third parties were struck.

101. While Paul’s actions would be deemed heroic by many, LMPD’s upper command instead used these actions to bring discipline upon Paul.

102. Consistent with protocol, Paul returned to the Division following the pursuit and a Blue Team report was completed.

103. Paul finished his shift, was assigned a pool car and then went to work the following day.

104. Paul then had a day off and was experiencing the stress of the job. He was overwhelmed. He sought FMLA for stress, obtained approval from a Sergeant and planned to see the department counselor.

105. The following day, a Lieutenant went to visit Paul at his home. This was not common.

106. The Lieutenant advised Paul that the pursuit was reviewed by the Chief's office, that the Chief had already watched the body camera, that the Chief's office had indicated that Paul had "anger issues" and that Paul was being suspended.

107. Pursuant to KRS 67C.321, an officer may be removed, suspended for a period not to exceed thirty (30) days, laid-off, or reduced in grade by the Chief for any cause which promotes the efficiency of the services, but before any such action is taken by the chief against any officer, the Chief shall furnish the officer concerned with a written statement of the reasons why the described action is being taken.

108. No such written statement was provided to Paul.

109. Rather, Paul was given a generic suspension of police powers form which was not dated.

110. Paul was not given an opportunity to answer the charges or reasons for the suspension, as no specific reasons or charges were given.

111. Pursuant to the CBA:

Prior to or within twenty-four (24) hours after suspending the officer pending investigation or disposition of a complaint, the officer shall be advised in writing of the reasons for the suspension.

112. No such reasoning was provided to Paul in writing in February 2020.

113. Pursuant to KRS 15.520, a charge of a policy violation against an Officer shall be made in writing with sufficient specificity so as to fully inform the Officer of the nature and circumstances of the alleged violation in order that he or she may be able to properly defend himself or herself.

114. No such specificity was provided to Paul in writing in February 2020.

115. Pursuant to KRS 15.520, the charge shall be signed by a representative of the employing agency, shall set out the disciplinary action recommended or imposed, and shall be served on the officer in writing by certified mail, return receipt requested, or by personal delivery.

116. The document given to Paul in February 2020 was not signed.

117. To be clear, this was not some situation where Paul was advised he was being suspended pending the results of an investigation into allegations against him.

118. Rather, Paul was advised that the Chief's office investigated the incident already; they watched the pursuit and surrounding incidents and determined that Paul should be disciplined by way of suspension.

119. Regardless of LMPD's failures to comply with law and policy, Paul understood that the matter was handled; he served the suspension, was advised to return to work after a few days and was not advised at that time that any further investigation was ongoing.

120. The suspension, in and of itself, was relatively harsh for a pursuit involving LMPD members.

121. In 2008, four Black children were departing a Christmas pageant. They were advised by the youth organization that the van was full and instructed to ride home with a teenager who was driving a sedan. The children did not know the driver and did not know the vehicle was stolen. A group of White Officers attempted to stop the vehicle. The driver fled at over 80 miles per hour through Old Louisville. It was dark. Roads were narrow. It was cold and wet outside. Red lights were disregarded and there was a lack of due regard for the safety of others. Furthermore, the pursuing Officers were well-aware that the vehicle was occupied by several Black children. The fleeing vehicle lost control and wrecked into a tree. The four Black children died. No Officer was disciplined.

122. Another pursuit occurred a few years later when a Black suspect fled from a stop which had been made for rolling through a stop sign. Three White officers gave chase. It was dark out. Cars were parked on both sides of the roads. The neighborhood was congested and heavily trafficked by children and pedestrians. The speed limit was 25 mph; vehicles reached speeds over 70 mph. Officers attempted to box in the fleeing vehicle at the end of an alleyway. One arrived too late and struck the fleeing vehicle. In his sworn statement, the Officer said he was going 5-12 miles per hour. The download of his cruiser confirmed he was going over 60 mph. As a result of the crash, a one-year child and her 19-year-old mother each had fractured skulls. The Officers then moved their vehicles and prevented a crash reconstruction from occurring. They gave dishonest statements about the incident, the existence of camera footage and whether a pit maneuver had been attempted. LMPD did not open an investigation and no officers were disciplined.

123. A high-speed chase of two Black teens by two White Officers in 2017 took place in Louisville. The suspected offense was running a red light. Speeds reached well over 100 mph on a residential street with a 35-mph speed limit. The fleeing vehicle lost control, hit a tree and the two teens burned to death. In the report of the incident to local media, the LMPD commanding Officer stated that there had never been a pursuit; this was blatantly contradicted upon release of footage. Neither Officer involved in the pursuit was disciplined.

124. In 2018, seven LMPD cruisers occupied by White Officers attempted to stop a vehicle occupied five Black teens on I-65 going southbound. Two cruisers wrecked during the attempt, the vehicle was let go and all seemed over. Then another White Officer who was located further down I-65 spotted a vehicle matching the description and pursued it off the Interstate and westbound down Fern Valley Rd. The roadway was congested, it was dark outside, the fleeing vehicle was weaving in and out of traffic and through red lights, and the pursuing Officer's cruiser

reached speeds of over 115 mph. The fleeing vehicle lost control, wrecked into a pole, and caused a power line to go down. The youngest occupant of the fleeing vehicle, a 13-year-old boy, was killed in the crash. An investigation into the pursuit determined that the pursuing Officer had not violated policy and would not be disciplined.

125. In a lengthy 2018 pursuit which crossed into Indiana and which was documented on footage by helicopters, LMPD members disabled the vehicle through a pit maneuver, ripped the driver out of the vehicle and then proceeded to beat him on the ground. The involved members were not disciplined.

126. These are merely a handful of the hundreds of pursuits involving LMPD members over the past decade, several of which resulted in serious injuries and deaths to citizens who were not even a part of the pursuit.

127. Upon information and belief, no LMPD member has ever been terminated due to actions associated with a pursuit.

128. Following his suspension for the February 2020 pursuit, Paul believed the matter was handled and that the full discipline had been imposed.

129. The suspension appeared to be consistent with LMPD policies which permit discipline to be imposed outside of PSU handling, where the division and the Chief's office reach an agreement.

130. Pursuant to the SOP's governing the PSU in February 2020, the type of disciplinary action taken against Paul is referred to as NHBPSU (not handled by PSU).

131. Specifically, the SOP stated:

Periodically the PSU will receive cases that have been investigated at the division or unit level and decided on by the Chief of Police. These cases are referred to as "Not Handled by Professional Standards Unit or NHBPSU."

132. In Paul's situation, the Chief's office, along with a Division Lieutenant, watched Paul's body camera, decided to place Paul on Administrative suspension and then have him return.

133. When Paul returned to work, he remained concerned about the odd nature of the actions taken against him. He took vacation, cleared his head and indicated that he was ready to put it past him and get back to serving the community.

134. The Chief's office, however, ordered Paul to attend a mental health screening with the department psychologist.

135. Paul, after meeting with the department psychologist, was told to meet with a second mental health professional to obtain a "fit for duty" form.

136. Around this time, Paul also gave his deposition in the civil litigation associated with the Explorer cases.

137. Rather than being permitted to return to work, Paul was then told he had to undergo a meeting with a third mental health professional.

138. Due to the rapidly spreading coronavirus, Paul met with the third mental health specialist by video conference.

139. Upon information and belief, upper command's actions in sending Paul to three different assessments were an effort to obtain a basis for keeping Paul from serving as an Officer.

140. These efforts failed: all three professionals concluded that Paul was fit for duty more than capable of serving the community as an Officer.

141. When it finally became apparent to upper command that no professionals were going to declare Paul unfit for duty, Paul was permitted to return to work.

142. Despite already having the pursuit reviewed and discipline already having been handed down, LMPD Chief Conrad, on March 30, 2020 opened a PSU investigation against Paul

in relation to the same exact pursuit that his office had already watched, investigated and tendered discipline.

143. Nothing within LMPD's SOP's, the CBA, KRS 15.520 or KRS 67C permits the Chief to open an investigation into an incident involving allegations of policy violations against an Officer (which were captured on camera), discipline the Officer for conduct associated with the investigation and then open an investigation into the Officer for the same exact incident and alleged policy violations.

144. Paul was advised that a PSU investigator was assigned to his case on April 7, 2020.

145. Paul was not asked to provide an interview to PSU in April, May, June, July or August of 2020.

146. Paul, was a member of LMPD's Special Response Team (SRT) throughout a period of time in 2020.

147. Throughout the final days of May 2020 and all of June, July, August and September of 2020, the SRT worked long details during Louisville's widespread protests, demonstrations and gatherings demanding racial justice and equality.

148. Paul was on the front lines of these events.

149. Paul remained proud to be a police officer, but also empathized with the concerns and frustrations of the citizens demanding change.

150. Paul, in a moment captured both locally and nationally on May 31, 2020, engaged in a lengthy hug and moment of compassion with a protestor while other members lowered their heads, looked in different directions or otherwise demonstrated a lack of appreciation for the need for Officers and citizens to come together.

151. At no time in June, July and August of 2020 was Paul advised of the status of the PSU investigation.

152. LMPD directed Paul to worked incredibly long hours on the front lines in the most contentious areas of Louisville during one of the most volatile periods of the city's history.

153. However, in August of 2020, Paul was sent a letter from PSU which added new allegations against him.

154. Paul was confused. The video of the incident was watched by the Chief's office within a day of the pursuit. Paul was visited by a Lieutenant, at the directions of the Chief's office, and was advised that the incident had already been reviewed and investigated and that a suspension was being imposed. Paul had not heard from PSU in months and had not given them an interview at this point over the incident. The Chief who disciplined him was no longer in office. And nobody explained to Paul what had changed between the time the incident was watched on video in February 2020 and the time the letter was sent to him in August 2020.

155. In September of 2020, Paul was exhausted and frustrated. He had endured a tumultuous eight years since being the first LMPD member to report an Explorer incident. It was clear that Paul would not be allowed to grow his skills as an Officer in the Department. He was being repeatedly passed over for positions where he was more than qualified. He was a Black Officer in a Department with a culture where Black Officers simply didn't receive equal opportunities. He was guilty by association ever since the Explorer scandal broke, despite being the first Officer to actually step up, cross the blue wall and report the misconduct of an LMPD member in the Explorer program. Paul was the subject of an ongoing investigation, which Metro still intended to pursue...but only after the need for his SRT presence slowed down. He and so

many of his colleagues had worked a summer of hell and there was no end in sight. Paul was tired of the environment LMPD had created for him and was compelled to leave.

156. Paul spoke with his family and obtained their blessing to tender a resignation to the Department.

157. He submitted a letter of resignation on September 8, 2020. His last day would be September 24, 2020.

158. Hoping to clear his name and any misconceptions about the pursuit, Paul agreed to provide his interview to PSU.

159. The last thing Paul wanted when seeking employment with a new agency was a lack of clarity about new allegations against him, especially in light of the ongoing Explorer scandal and LMPD's refusal to dispel rumors of Paul's association with that investigation.

160. Paul gave his interview on September 11, 2020.

161. Over the next two weeks leading up to his final day, Paul was called and texted by the Deputy Chief, the Division Major and two sergeants in efforts to convince him to stay on the Department.

162. While Paul was humbled and flattered at the time, these communications would eventually create more questions than answers.

LMPD attempts to blacklist Paul and his future career options

163. Paul proceeded with leaving LMPD on September 24, 2020.

164. Paul was eager to become a member of another agency; his life was devoted to law enforcement and he knew how much he had to offer a police department.

165. Paul was unable to be hired by another agency.

166. In 2021, Paul received notice that the pursuit-related PSU investigation into him was closed by exception by former interim LMPD Chief Gentry.

167. Paul was not sent a copy of the letter by LMPD; this information was relayed to him second-hand.

168. Paul then learned (also second-hand) that that there was a potential issue with the KLEC over his law enforcement certification.

169. Paul, only after learning this, was provided with a copy of the PSU disposition letter.

170. When Paul was finally given a copy of the letter, he could not believe the contents.

171. The disposition of LMPD's investigation into Paul was "closed by exception" due to his resignation, but the Chief also indicated that Paul would have been terminated had he still been employed with LMPD.

172. The letter provided no basis for this conclusion.

173. The letter cited no evidence, no findings from the investigation and no disciplinary standards to support the conclusion that Paul's conduct had warranted termination.

174. Pursuant to LMPD SOP's, the CBA, KRS 15.520 and KRS 67C, LMPD was obligated to advise Paul with specificity regarding his actions giving rise to the violations, the actual violations and the basis for the recommended discipline.

175. Pursuant to the CBA, if after reviewing the complaint investigation, the Chief concludes the Member is guilty of misconduct or violations of the rules, regulations or procedures, the Chief may impose disciplinary action from a verbal or written reprimand to suspension to demotion to dismissal **by providing in writing to the Member with particularity, the reasons therefore.** The disciplinary action taken should be determined by the seriousness of the

misconduct and by the extent of the wrongdoing or injury to the victim. It shall also be commensurate with the circumstances surrounding the total incident and with the Member's service record and prior sustained complaints.

176. Paul was not provided any particularity as to the reasons for the Chief's conclusion that Paul would have been fired.

177. There were no injuries secondary to the pursuit.

178. Paul did not have prior sustained complaints against him.

179. Paul's service record was excellent.

180. Paul's split-second decisions may have saved lives.

181. There was no discipline imposed upon the operator of the secondary unit to the pursuit, who also was driving in the opposite lane of travel.

182. Given that Paul would have been, upon information and belief, the first Officer in LMPD's history to be terminated due to conduct associated with a pursuit, despite the fact that his pursuit resulted in no injuries and potentially saved lives while dozens of other LMPD pursuits have resulted in deaths and severe injuries, Paul was entitled to an explanation.

183. The Chief's letter, along with LMPD's failure to ever dispel misinformation that Paul was a participant in the Explorer Scandal, essentially blacklisted Paul from gaining other law enforcement employment.

184. The Chief's letter also placed Paul's law enforcement certification in jeopardy.

185. Pursuant to newly enacted Senate Bill 80, which is now adopted as KRS 15.391, the KLEC may revoke the certification of an Officer if he or she resigns while under administrative investigation for professional malfeasance or professional nonfeasance that, in the judgment of the

agency that employed the peace officer, would have likely resulted in the termination of that peace officer had the facts leading to the investigation been substantiated prior to resignation.

186. Paul then learned that the KLEC would be reviewing his situation to determine whether revocation proceedings would be initiated.

187. LMPD would not provide Paul with the PSU file, statements and materials relied upon by the Chief in making her determination.

188. As stated previously, pursuant to the CBA:

Metro Government shall provide the Member any written or recorded statements in the possession of the department in connection with any disciplinary action taken against the Member except for attorney work product.

189. Paul requested his PSU statement audio and transcripts several times.

190. These requests were repeatedly denied.

191. Paul requested all other statements and audio associated with the investigation.

192. These requests were denied.

193. Paul requested the PSU investigative file.

194. These requests were denied.

195. Paul, without being privy to his PSU investigative file, had to endure a hearing and quasi-adjudication into the potential revocation his law enforcement certification.

196. Present at the hearing was a representative from LMPD who presented to the council.

197. The LMPD representative advocated for Paul's certification to be reviewed for revocation.

198. When it became clear that the Council was not going to take action, the LMPD representative abstained from the vote, but not without also commenting that he disagreed with the majority.

199. The KLEC rejected the LMPD member's recommendation and voted not to pursue revocation of Paul's certification.

200. Fortunately, Paul was offered a position with another police department in May of 2021.

201. Paul earns far less with his new position than what he earned at LMPD.

202. Paul, as a result of the circumstances described herein, was subjected to a hostile work environment, disparate treatment and impact, discrimination, harassment, retaliation for disclosing department misconduct, a deprivation of due process rights and was ultimately placed into a situation where was constructively discharged.

203. Paul had to leave the Department in order to maintain emotional stability.

204. Paul, as a result of the circumstances described herein, has incurred emotional duress, embarrassment, humiliation, loss of income, loss of benefits and suffered a loss of opportunities to earn replacement income.

COUNT I:

VIOLATION OF KRS 344.040

205. The Plaintiff incorporates by reference, as if set forth fully herein, each and every averment, allegation and statement contained in the previous paragraphs of this Complaint.

206. The Plaintiff was a member of a protected class.

207. The Defendant, as described herein, violated the guarantees afforded to the Plaintiff under KRS 344.040.

208. The Plaintiff was subjected to discrimination regarding employment terms, conditions and privileges because of his protected class.

209. Based upon the facts and circumstances set forth above, Plaintiff has been harassed, discriminated against and subjected to a hostile work environment.

210. As a direct and proximate result of the aforementioned conduct, the Plaintiff suffered great distress, embarrassment, anxiety, fear, humiliation and mental anguish.

211. As a direct and proximate result of the aforementioned conduct, the Plaintiff has suffered and/or is reasonably expected to suffer within the future, wage loss, counseling and medical expenses, employment benefits and/or professional opportunities in an amount which exceeds the minimal jurisdictional limits of this Court.

COUNT II:

VIOLATION OF KRS 61.101 et. seq.

212. The Plaintiff incorporates by reference, as if set forth fully herein, each and every averment, allegation, or statement contained in the previous paragraphs of this Complaint.

213. Plaintiff, at times relevant herein, was employed by Louisville Metro.

214. Louisville Metro is a political subdivision within the meaning of the Whistleblower Act.

215. The purpose of the Kentucky Whistleblower Act "is to protect employees who possess knowledge of wrongdoing that is concealed or not publicly known, and who step forward to help uncover and disclose that information."

216. The Plaintiff, as described herein, made or attempted to make good faith reports and disclosures of suspected violations of the law, policy and otherwise.

217. LMPD took action and threatened to take action to discourage the Plaintiff from making such disclosures and to punish the Plaintiff for making disclosures.

218. The disclosures were a contributing factor to the actions taken by LMPD against the Plaintiff, which include but are not limited to the failure to promote him into specialty assignments, the investigations against him, the disparate treatment against him, the disparate disposition of the investigations against him, harassment and the intimidation.

219. LMPD subjected the Plaintiff to reprisal.

220. LMPD directly and indirectly used, and threatened to use, official authority and influence to discourage, restrain, depress, dissuade, deter, prevent, interfere with, coerce, and discriminate against the Plaintiff, who had in good faith reported, disclosed, divulged, and brought to the attention of LMPD facts and information relative to actual and suspected violations of laws, mandates, and rules.

221. The Plaintiff's complaints constituted Whistleblower protected speech in that he reported violations of the law.

222. As a direct and proximate result of the aforementioned conduct, the Plaintiff suffered great distress, embarrassment, anxiety, fear, humiliation and mental anguish.

223. As a direct and proximate result of the aforementioned conduct, the Plaintiff has suffered and/or is reasonably expected to suffer within the future, wage loss, counseling and medical expenses, employment benefits and/or professional opportunities in an amount which exceeds the minimal jurisdictional limits of this Court.

COUNT III:**FAILURE TO PROMOTE**

224. The Plaintiff incorporates by reference, as if set forth fully herein, each and every averment, allegation, or statement contained in the previous paragraphs of this Complaint.

225. The Plaintiff, as a Black Office, is a member of a protected class.

226. He applied for and was qualified for promotions.

227. He was considered for and denied the promotions.

228. Other employees of similar qualifications who were not members of the protected class received promotions.

229. There were no legitimate, non-discriminatory reasons for the decisions to not promote the Plaintiff.

230. The Defendant's proffered reasons for non-promotion, which consisted of an interview and selection process created by selection committees, were pretextual.

231. The selected candidates were not more qualified than the Plaintiff.

232. The selected candidates were White.

233. The applicable units were and remain comprised of a disproportionate number of White members.

234. As a direct and proximate result of the aforementioned conduct, the Plaintiff suffered great distress, embarrassment, anxiety, humiliation and mental anguish.

235. As a direct and proximate result of the aforementioned conduct, the Plaintiff has suffered and/or is reasonably expected to suffer loss of career advancement opportunities, lost potential for career opportunities at several other agencies, wage loss, counseling and medical expenses, employment benefits and/or professional opportunities in an amount which exceeds the

minimal jurisdictional limits of this Court.

COUNT IV:

CONSTRUCTIVE DISCHARGE

236. The Plaintiff incorporates by reference, as if set forth fully herein, each and every averment, allegation, or statement contained in the previous paragraphs of this Complaint.

237. Paul was treated with oppression.

238. LMPD intended and could reasonably have foreseen the impact of its conduct on Paul.

239. LMPD ratified, authorized and/or should have anticipated the conduct which took place against Paul.

240. Paul was the subject of internal hostility caused by the failure of LMPD to negate the false representations that Paul was one of the members of LMPD who engaged in sexual abuse of children.

241. Commanding officers within LMPD were aware of and participated in, either actively or by ratification, communications which implicated Paul as a child molester and child rapist.

242. LMPD command, upon receiving notice that Paul was being specifically accused of child molestation, failed to intervene or make an effort to eliminate this false narrative and unfounded personal attack on Paul.

243. Rather than making efforts to repair this hostility and intolerable work environment, the LMPD Chief's Office made deliberate efforts to make Paul's work environment exceedingly difficult, to hold him to standards which were far different than those to which others were held and to attempt to coerce Paul into leaving the agency.

244. LMPD's actions in singling out Paul for enhanced violations associated with a disciplinary action that was in violation of LMPD policies and procedures, without explanation or cause, were unreasonable and unfair

245. Paul, knowing that he was being subjected to never-ending scrutiny and retaliation by way of repeated mental health exams, re-opened investigations into matters which had already been decided, poor results on promotional selection rankings and insinuations of guilt in a sex abuse scandal with which he had no involvement or association, was subjected to unlawful deteriorated working conditions.

246. It was clear from the actions taken against Paul that the Department sought to remove association with him and force him into leaving the Department.

247. The conditions created by LMPD's actions were so intolerable that Paul, who was and is reasonable person, felt compelled to resign.

248. Paul was constructively discharged; his work environment would have resulted in any reasonably and similarly situated Officer to leave.

249. Paul's constructive discharge was in violation of public policy.

250. As a direct and proximate result of the aforementioned conduct, the Plaintiff suffered great distress, embarrassment, anxiety, humiliation and mental anguish.

251. As a direct and proximate result of the aforementioned conduct, the Plaintiff has suffered and/or is reasonably expected to suffer loss of career advancement opportunities, lost potential for career opportunities at several other agencies, wage loss, counseling and medical expenses, employment benefits and/or professional opportunities in an amount which exceeds the minimal jurisdictional limits of this Court.

COUNT V:**DECLARATION OF RIGHTS**

252. The Plaintiff incorporates by reference, as if set forth fully herein, each and every averment, allegation, or statement contained in the previous paragraphs of this Complaint.

253. The Defendant LMPD was the employer of the Plaintiff.

254. The Defendant LMPD failed to comply with the provisions of KRS 15.220, KRS 67C and the CBA in handling the Professional Standards Unit investigation into Paul, as described previously herein.

255. The disposition letter indicating that Paul would have been terminated was a violation of the aforementioned statutes and bargaining agreement to which all parties were subjected.

256. Paul seeks a declaration from this Court that the PSU disposition letter was made in violation of the aforementioned statutes and contracts and that, as an equitable remedy, the letter be stricken from the Plaintiff's employment records and that LMPD be compelled to rescind its submission of the letter to the KLEC.

COUNT VI:**BREACH OF CONTRACT**

257. The Plaintiff incorporates by reference, as if set forth fully herein, each and every averment, allegation, or statement contained in the previous paragraphs of this Complaint.

258. At all times relevant herein, LMPD was bound by Kentucky law to bargain collectively for police officer rights.

259. LMPD breached specific, unambiguous terms of the contractual guarantees to which Paul was afforded under the CBA.

260. LMPD breached the contract when it failed to follow its procedures delineated by the contract.

261. LMPD, within the contract, was responsible and had the exclusive rights at all times relevant herein for determining the procedures and standards of selection for employment, assignment, transfer, and promotions; setting standards of service and complying with disciplinary action requirements under KRS 67C.301 to KRS 67C.327.

262. At all times relevant herein, Paul was entitled to the rights of nondiscrimination, fair selections for assignments, due process for disciplinary actions, objective discipline and compliance with the Article 17 processes for receiving complaints, investigating complaints and disposition of complaints.

263. Paul was deprived of these contractual rights.

264. LMPD failed to provide Paul with his sworn statements, which was a violation of the CBA.

265. LMPD threatened to fire the Plaintiff if he did not provide a sworn statement to a civilian investigator, which was a violation of the CBA.

266. Paul was not provided with his PSU investigative file, which was a violation of the CBA.

267. Paul was not provided with a written explanation, with particularity, as to why he would have been terminated for his conduct. This was a violation of the CBA.

268. Paul was not afforded any means to dispute this finding, which was a violation of the CBA.

269. Freedom from a discriminatory environment are subjects of collective bargaining.

270. The contract specifically identifies Paul's right to nondiscrimination under Article 5.

271. LMPD violated this provision of the CBA.

272. Fair, unbiased and equal opportunities to specialty assignments are afforded under the CBA.

273. LMPD violated these guarantees afforded to Paul under the CBA.

274. As a result of the Defendant's breach of contract, the Plaintiff incurred and will continue to incur damages, including but not limited to loss of income and benefits, future loss of income and benefits associated with the inability to procure similarly paid employment, attorney fees and other expenses, and humiliation, embarrassment and emotional distress associated with having to proceed with a hearing with KLEC and with his record being tarnished and with damage to his reputation, for all of which he should be compensated.

COUNT VII:

DISPARATE IMPACT

275. The Plaintiff incorporates by reference, as if set forth fully herein, each and every averment, allegation, or statement contained in the previous paragraphs of this Complaint.

276. The Plaintiff, as a Black Officer, is a member of a protected class.

277. The Plaintiff was subjected to unlawful employment discrimination through disparate impact.

278. White officers have repeatedly engaged in police pursuits which have resulted in loss of life, damage to property, severe injuries and which were in violation of policies and law.

279. These Officers were not terminated for the pursuits and in most cases were not disciplined at all.

280. Meanwhile, the disposition of the investigation into Paul for a pursuit which did not result in any loss of life or injury, and which did not involve any innocent third parties, concluded that Paul's actions would have resulted in his termination had he been on the Department.

281. This type of treatment does not occur to White members of LMPD.

282. There was no legitimate basis for LMPD to impose consequences upon Paul which were so heavily disparate in comparison with similar, and much more egregious, violations of White LMPD members.

283. There were no legitimate, non-discriminatory reasons for the decision to declare that Paul deserved to be terminated for his actions.

284. LMPD proffered no reasons for the investigative conclusion.

285. Paul's actions were nowhere close to as egregious as those of White officers who received either no discipline or far less discipline.

286. As a direct and proximate cause of the Defendant's actions described herein, the Plaintiff has suffered from and will continue to suffer a loss of income and benefits, emotional stress and mental anxiety, the inability to obtain employment in law enforcement and damage to his reputation, for all of which he WHEREFORE, Plaintiff prays this Court:

- a. Declare the Defendant's conduct to be in violation of Plaintiff's rights;
- b. Award Plaintiff damages he sustained by reason of Defendants' wrongful acts, in an amount to be proven at trial, including but not limited to any and all compensatory, actual, and consequential damages suffered;
- c. Order the compensation to the Plaintiff for lost income and benefits from the position from which he was constructively discharged and from the reduced

pension the Plaintiff will receive due to his pay cut in his new position and/or any other amounts which the Court and/or jury determine are suitable financial remedies;

- d. Award Plaintiff damages for humiliation, embarrassment, personal indignity, apprehension about past, current, and future well-being, emotional distress, and mental anguish, all of which has been caused him by Defendant LPD's unlawful conduct;
- e. Award damages to the Plaintiff for lost income and benefits from the position from which he was constructively discharged and from the reduced pension the Plaintiff will receive due to his pay cut in his new position
- f. Award Plaintiff punitive damages to the Plaintiff for common law wrongful discharge and any other grounds supporting these damages;
- g. Award any other and/or any other amounts which the Court and/or jury determine are suitable financial remedies;
- h. Declare the Defendant's PSU disposition as unlawful, in violation of the Plaintiff's contractual, statutory and equitable rights and to have to the same ordered to be removed from the Plaintiff's employment file, purged from LMPD records and rescinded from the KLEC;
- i. Award Plaintiff interest on the amounts previously due to the Plaintiff, costs, and attorney's fees associated with this action;
- j. Grant Plaintiff such other legal and equitable relief as this Court may deem just and proper.
- k. Award pre-judgment and post-judgment interest.

1. Award all additional just and proper relief to which Plaintiff may appear entitled, including the right to amend this Complaint.

JURY DEMAND

Plaintiff demands a jury triable for all issues triable by jury.

Respectfully Submitted,

SAM AGUIAR INJURY LAWYERS, PLLC

/s/ Sam Aguiar _____

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