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8
9 UNITED STATES DISTRICT COURT
10 FOR THE DISTRICT OF OREGON
11 Eugene Division

12 LARISSA WHITE, an individual,
13 Plaintiff,

14 vs.

15 CITY OF TURNER POLICE CHIEF DON
16 TAYLOR; by and through the CITY OF
17 TURNER POLICE DEPARTMENT, a
18 political subdivision of TURNER, OREGON
19 Defendants.

Case No.

COMPLAINT

(Civil Rights 1st Amendment/14th Amendment
violations; Whistleblower retaliation)

42 U.S.C. §1983
ORS 659A.203(1)(b)(A) and (B)

Damages at least \$1,387,631.00 or an amount to
be proven at trial

JURY TRIAL DEMANDED

22
23 **COMPLAINT AND DEMAND FOR JURY TRIAL**

24 Plaintiff, by and through her attorneys, Thenell Law Group, P.C., bring this Complaint herein
25 and states and alleges as follows:

1 **INTRODUCTORY STATEMENT**

2 1.

3 This action is filed by Plaintiff under 42 U.S.C § 1983 and ORS 659A.2000 for events from
4 October 1, 2015 – present, alleging denial of; freedom of speech in violation of the First and
5 Fourteenth Amendments of the United States Constitution, and violations of the state whistleblower
6 protections under ORS 659A.200(1)(b)(A) and (B).

7 2.

8 This Court has jurisdiction over Plaintiff’s claims of violations of Federal Constitutional
9 Rights under 28 U.S.C. §§ 1331 and 1343.

10 3.

11 Venue is proper under 28 U.S.C. § 1391(b), in that one or more of the defendants reside in
12 the District of Oregon and Plaintiff’s claims for relief arose in this district.

13 **PARTIES**

14 4.

15 At all material times, Plaintiff is a resident of Salem, Oregon and was employed by the City
16 of Turner, Oregon.

17 5.

18 At all material times, DON TAYLOR (“Defendant Taylor” or “Chief Taylor”) was employed
19 as the Chief of Police for the City of Turner Police Department (“Turner PD”). Defendant Taylor
20 was working under the color of law on behalf of Turner PD, an agency of the City of Turner, Oregon
21 (“City”). Defendant Taylor is a final policy maker for Turner PD. Defendant Taylor is sued in his
22 individual capacity.

23 6.

24 At all material times, Turner PD was a political subdivision of the City of Turner, Oregon.
25 Defendant City of Turner is a suable person under 42 U.S.C. § 1983. At all times relevant to this

1 Complaint, Turner PD and City, employed Defendant Taylor. At all times relevant to this Complaint,
2 Defendant Taylor was acting pursuant to Turner PD's and City's laws, customs, and/or policies. As
3 the employer of Defendant Taylor, the City of Turner is vicariously liable for all the tortious and
4 unconstitutional acts and omissions of Defendant Taylor committed within the course and scope of
5 his employment, pursuant to ORS 30.265. The City of Turner was and is a "Public Employer" under
6 659A.200(6).

7 7.

8 At all times relevant to this Complaint, Plaintiff was a "Public Employee" pursuant to ORS
9 659A.200(2).

10 8.

11 ORS 659A.203(1)(b)(A) and (B) states, in relevant part, it is an unlawful employment
12 practice for any public employer to:

13 *Prohibit any employee from disclosing, or take or threaten to take*
14 *disciplinary action against an employee for the disclosure of any*
15 *information that the employee reasonably believes is evidence of:*

16 (A) *A violation of any federal or state law, rule or*
17 *regulation by the state, agency or political subdivision;*

18 (B) *Mismanagement, gross waste of funds or abuse of*
19 *authority or substantial and specific danger to public*
20 *health and safety resulting from action of the state,*
21 *agency or political subdivision;*

22 9.

23 All Defendants acted under the color of law at all times relevant to this Complaint.

24 10.

25 Plaintiff is entitled to an award of attorneys' fees and costs, pursuant to 42 U.S.C. § 1988.

26 **FACTUAL ALLEGATIONS**

11.

Plaintiff began her career in law enforcement in 2012 as a reserve officer and graduated from

1 the Mid-Valley Reserve Training Academy in 2013. She went on to graduate from the Oregon
2 Department of Public Safety Standards and Training Academy (“DPSST”) in 2015 as a full-time
3 police officer. Plaintiff has an associates degree in criminal justice.

4 12.

5 Defendant Taylor, at all relevant times, was the Chief of the Turner PD. The Chief of Turner
6 PD is an employee of the City of Turner.

7 13.

8 Plaintiff began her career with Turner PD in 2012 when she began serving as a reserve
9 officer. In October of 2015, Plaintiff was hired as a full-time police officer with Turner PD.

10 14.

11 During her time with the Turner PD, Plaintiff received numerous commendations, including
12 commendations from Chief Taylor. In all of her performance evaluations, Chief Taylor determined
13 Plaintiff met or exceeded expectations.

14 15.

15 The Turner PD includes two employees: one full-time officer and the Chief of Police.

16 16.

17 While serving as a full-time police officer, Plaintiff reported directly to Chief Taylor.

18 17.

19 Almost immediately after her hiring, Plaintiff began to address policy violations within the
20 department.

21 18.

22 In February of 2016, Plaintiff expressed concerns to City Manager, David Sawyer, that the
23 entrance doors to the Turner PD were left unlocked during the day. Plaintiff felt this presented a
24 safety and security issue to the Turner PD staff. Both Chief Taylor and the Mr. Sawyer, validated
25 Plaintiff’s concerns, stating that security measures would be evaluated and adopted.

1 19.

2 In July of 2016, Plaintiff again expressed concerns regarding the security of the police
3 department during regular business hours. The doors continued to remain open during business
4 hours, providing unfettered access to confidential files, reports, ammunition, evidence and police
5 department equipment. Plaintiff sent an email following up on the concerns she had previously
6 expressed. The following day, Chief Taylor reprimanded Plaintiff for addressing her email to
7 multiple recipients. Chief Taylor further stated the City Manager was “not happy, at all, with the
8 email.”

9 20.

10 On or about January 16, 2017, Plaintiff emailed Chief Taylor regarding the maintenance of
11 his police vehicle. She was concerned the cleanliness of his vehicle was negatively impacting the
12 equipment stored therein. Plaintiff also expressed concern that the trunk gun rack was not properly
13 functioning.

14 21.

15 In early 2017, Plaintiff began documenting various policy violations within the department.
16 Plaintiff maintained a written log of the policy violations in her office.

17 22.

18 The written log documented policy violations including, but were not limited to, Chief
19 Taylor and the Turner PD:

- 20 a) Failing to investigate Department of Human Services reports in a timely manner;
21 b) Failing to properly investigate reports of sexual assault;
22 c) Failing to accept and investigate citizen complaints and reports;
23 d) Failing to properly conduct employee evaluations;
24 e) Failing to provide officers with a locked evidence locker;
25 f) Failing to provide a secure storage for weapons and ammunition;

- 1 g) Falsifying training records submitted to DPSST;
- 2 h) Failing to comply with FBI Criminal Justice Information Systems Security Standards;
- 3 and
- 4 i) Failing to conduct and implement proper training techniques.

5 23.

6 In March of 2017, Plaintiff returned to her office to find the log had been removed. Upon
7 further inspection, Officer White found the log, torn-up in Chief Taylor's trash can.

8 24.

9 On about March 30, 2017, the City of Turner Police Department opened an investigation
10 targeting Plaintiff. The City accused Officer White of falsely reporting hours on her time sheets. The
11 City identified instances of alleged false reporting from January 2016 through March 2017
12 (excluding March – May 2016).

13 25.

14 On March 30, 2017, Plaintiff was placed on administrative leave.

15 26.

16 In March of 2017, Chief Taylor contacted the Marion County District Attorney's Office to
17 initiate a *Brady v. Maryland* investigation into Officer White. At the time Chief Taylor contacted the
18 Marion County DA, Officer White was still under investigation, she had not provided a statement,
19 and no conclusions had been made.

20 27.

21 Throughout the investigation, Plaintiff maintained her innocence. Plaintiff had prepared her
22 time cards in accordance with the 'policy' and practice of the Turner PD. Under this 'policy' and
23 practice she and Chief Taylor would work 'flex' schedules, as needed.

24 28.

25 During all relevant times, Chief Taylor reviewed and signed each of Plaintiff's timesheets.

1 29.

2 For more than a year, Plaintiff received no feedback, no warnings, and most importantly no
3 discipline regarding her time keeping.

4 30.

5 On July 31, 2017, Plaintiff was terminated. It is important to note that much of the
6 information underlying the investigation and subsequent termination was provided by Chief Taylor
7 and Mr. Sawyer, the individuals responsible for the violations Plaintiff was documenting. The City
8 also failed to provide investigators with documents relevant to the investigation.

9 31.

10 Documents obtained from the City of Turner reveal Plaintiff's timesheets were in accordance
11 with the practice within the Turner PD. Whereas, Chief Taylor's timesheets and METCOM MDT
12 logs revealed hundreds of hours of unaccounted time.

13 32.

14 Over fifteen months, from January 2016 through March 2017, Chief Taylor only recorded
15 one entry that was not a round number. In 2016, Chief Taylor's timesheets show approximately 213
16 hours of compensated time that exceeds the amount of time shown on either his MDT logs or
17 DPSST records.

18 33.

19 In the first three months of 2017, Chief Taylor recorded 45 hours over the time evidenced in
20 either his MDT logs or DPSST records. In total, over fifteen months, Chief Taylor was compensated
21 for 258 hours of undocumented time.

22 34.

23 Chief Taylor's time sheet had 79 incidents where the discrepancy was greater than one hour,
24 and there were numerous entries with entire days unaccounted for.

25 ///

1 35.

2 Moreover, Chief Taylor routinely entered comp time, which he had failed to earn.

3 36.

4 On or about June 5, 2017, Plaintiff mailed the appropriate Tort Claims Notice in compliance
5 with ORS 30.275.

6 37.

7 On or about December 4, 2017, Plaintiff filed a complaint with the Oregon Bureau of Labor
8 and Industries (“BOLI”), alleging violations of Oregon’s Whistleblower statute, ORS
9 659A.200(1)(b)(A) and (B). At this time, the BOLI investigation is ongoing.

10 38.

11 On information and belief, Plaintiff asserts Chief Taylor contacted many local law
12 enforcement agencies in an effort to undermine Plaintiff’s job seeking. These contacts were made
13 during and after the investigation. On information and belief, these contacts were unsolicited and
14 intended only to harm.

15 39.

16 On or about November 16, 2017, Plaintiff received a conditional offer of employment from
17 The City of Dallas, Oregon. However, due to Defendants’ actions intended to harm Plaintiff’s career,
18 the offer was later withdrawn.

19 40.

20 On information and belief, Defendants’ actions prevented her from securing other
21 employment within law enforcement. The *Brady* investigation initiated by Chief Taylor has
22 prevented Plaintiff from securing permanent employment in her chosen field.

23 41.

24 The Defendants’ actions further damaged Plaintiff by deferring the public interest loan
25 forgiveness she had been earning in relation to her student debt.

1 **FIRST CLAIM FOR RELIEF:**

2 **Violation of Federal Constitutional Rights 42 U.S.C. § 1983**

3 Count One: Violation of Right to Free Speech – Public Employee

4 42.

5 Plaintiff re-alleges all paragraphs previously alleged.

6 43.

7 Plaintiff's emails concerning the various policy violations were protected acts under the First
8 and Fourteenth Amendments.

9 44.

10 Plaintiff's authoring of her policy violation log was a protected act under the First and
11 Fourteenth Amendments.

12 45.

13 The conduct of a city police department is a matter of public concern.

14 46.

15 Plaintiff's reporting and documenting of Turner PD's and Defendant City's policy violations
16 was a motivating factor in Chief Taylor's decision to investigate and terminate the Plaintiff.

17 47.

18 As a result of the above-described actions, Plaintiff has suffered damages totaling at least
19 \$1,387,631.00 including lost wages and benefits, lost economic potential, harm to reputation,
20 emotional distress, and incurrence of attorney fees and other costs.

21 48.

22 Plaintiff has incurred attorney's fees and costs in pursuing this claim.

23 ///

24 ///

25 ///

1 Count Two: Denial of Rights Freedom of Speech
2 Local Governing Body Based Upon Official Policy, Practice, or Custom
3 (City of Turner Police Department and City of Turner)

4 49.

5 Plaintiff re-alleges all paragraphs previously alleged.

6 50.

7 Defendant Taylor, as the Chief of Police for the City of Turner, acted under color of law and
8 his official capacity at all times relevant to this complaint.

9 51.

10 At all relevant times, Chief Taylor was a final policy maker for the City of Turner and its
11 Police Department. There is sufficient information and belief to allege it was Defendant Taylor's
12 policy to harass, ostracize, demote and belittle individuals in the Turner Police Department if they
13 reported unlawful or unconstitutional activities.

14 52.

15 As a result of the above-described actions, Plaintiff has suffered damages totaling at least
16 \$1,387,631.00 including lost wages and benefits, lost economic potential, harm to reputation,
17 emotional distress, and incurrence of attorney's fees and other costs.

18 53.

19 Plaintiff has incurred attorney's fees and costs in pursuing this claim.

20 **SECOND CLAIM FOR RELIEF**

21 **Unlawful Employment Practice/Public Employee Whistleblower**

22 **ORS 659A.203(1)(b)(A) and (B)**

23 54.

24 Plaintiff re-alleges all previously alleged paragraphs.

25 ///

1 55.

2 Plaintiff has incurred attorneys' fees and costs in pursuing this claim.

3 56.

4 Plaintiff has satisfied the notice requirements of the Oregon Tort Claims Act.

5 57.

6 In violation of the Oregon Unlawful Employment Practices and Whistleblowing Statute,
7 ORS 659A.203, Defendant Taylor, Turner PD, the City of Turner, and the City's agents retaliated
8 against Plaintiff because Plaintiff researched, detailed, authored, and presented her concerns
9 regarding policy violations committed by Chief Taylor and the Turner PD.

10 58.

11 Plaintiff's research and authoring of a log detailing these policy violations was a motivating
12 factor for one or more of the following retaliatory actions in violation of ORS 659A.203(a)(b)(A)
13 and (B): Defendant Taylor's initiating the internal affairs investigation, Defendant Taylor contacting
14 the Marion County District Attorney's Office, Defendant City placing Plaintiff on administrative
15 leave, Defendant City ultimately terminating Plaintiff, and Defendant Taylor communicating such
16 information to various law enforcement departments.

17 59.

18 As a result of the Constitutional violations and Tortious acts listed in the above claims for
19 relief, Plaintiff suffered mental and emotional distress, economic damages and loss of future income.
20 The extent of Plaintiff's damages will be more fully proven at trial.

21
22 WHEREFORE Plaintiff pray as follows:

- 23 1. Finding that Defendants violated Plaintiff's constitutional right to Free Speech;
24 2. Judgment against Defendants for economic losses for at least \$3,300 a month from July 2017
25 to the present or an amount to be proven at trial;

- 1 3. Judgment against Defendants for economic losses for at least \$35,000 for damages sustained
- 2 in relation to harms sustained from Plaintiff's student loan forgiveness;
- 3 4. Judgment against Defendants for non-economic losses to Plaintiff for the constitutional
- 4 violations herein in the amount of at least \$1,352,631.00, or an amount to be proven at trial;
- 5 5. Judgment against Defendants for deterrence damages in a fair and reasonable amount to be
- 6 proven at trial; and
- 7 6. Judgment for costs, interests, attorney fees and such other and further relief as the Court
- 8 deems just and equitable.

9
10 DATED this 30th day of March, 2018.

11
12 THENELL LAW GROUP, P.C.

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