

FILED
LEAVENWORTH COUNTY
2012 JUL -5 AM 9:27
Clerk
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IN THE DISTRICT COURT OF LEAVENWORTH COUNTY, KANSAS
Civil Division

JASON C. CORY,)
)
 Plaintiff,)
)
 vs.)
)
 THE CITY OF BASEHOR, MARK LOUGHRY,)
 BASEHOR CITY ADMINISTRATOR, BASEHOR)
 POLICE DEPARTMENT, LLOYD MARTLEY,)
 BASEHOR CITY POLICE CHIEF, AND LT.)
 ROBERT PIERCE, BASEHOR CITY POLICE)
 DEPT.)
)
 Defendants.)

Case No.: 2012CV379

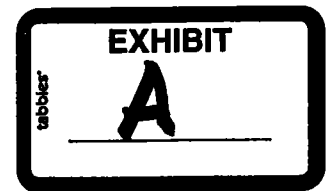
**PETITION AND CLAIM FOR DAMAGES FOR WRONGFUL TERMINATION OF
EMPLOYMENT, BREACH OF CONTRACT, VIOLATION OF CIVIL RIGHTS, AND
INTENTIONAL INFLICTION OF EMOTIONAL DISTRESS AND SUFFERING,
PURSUANT TO K.S.A. CHAPTERS 12, 20, 60 AND 75,
AND 42 U.S.C. § 1983**

COMES NOW Plaintiff, JASON C. CORY, by and through his attorney, Curtis N. Holmes of *Holmes Law Office, LLC*, and hereby submits his Petition and Claim for Damages for Assault and Battery, Defamation, Wrongful Discharge, and Intentional Infliction of Emotional Distress and Suffering, and alleges as follows:

IDENTIFICATION OF PARTIES

I.

At all material times herein, your Plaintiff, JASON C. CORY, is and has been a resident of the City of Basehor, County of Leavenworth, State of Kansas.



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II.

At all material times herein, Defendant, CITY OF BASEHOR, is an incorporated municipality located in the State of Kansas whose principal mailing address is in the City of Basehor, County of Leavenworth, State of Kansas. Defendant may be served with process at the following address:

The City of Basehor
2620 North 155th Street
P.O. Box 406
Basehor, Kansas 66007

III.

At all material times herein, Defendant, MARK LOUGHRY (hereinafter Loughry), was the Administrator of the City of Basehor. Mr. Loughry is located and may be served with process at the following address:

Mark Loughry
5001 North 142nd Terrace
Basehor, Kansas 66007

IV.

At all material times herein, Defendant, BASEHOR POLICE DEPARTMENT, is and was a municipal subdivision of the City of Basehor whose principal mailing address is in the City of Basehor, County of Leavenworth, State of Kansas. Defendant may be served with process at the following address:

Basehor Police Department
2620 North 155th Street
P.O. Box 420
Basehor, Kansas 66007

V.

At all material times herein, Defendant, LLOYD MARTLEY, BASEHOR CITY POLICE CHIEF (hereinafter Martley), is and was the Chief of Police and currently is the acting City Administrator of the City of Basehor whose principal mailing address is in the City of Basehor,

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County of Leavenworth, State of Kansas. Defendant may be served with process at the following address:

Police Chief Lloyd Martley
c/o Basehor Police Department
2620 North 155th Street
P.O. Box 420
Basehor, Kansas 66007

VI.

At all material times herein, Defendant, LT. ROBERT PIERCE, BASEHOR CITY POLICE DEPT. (hereinafter Pierce), is and was a Police Lieutenant with the City of Basehor whose principal mailing address is in the City of Basehor, County of Leavenworth, State of Kansas. Defendant may be served with process at the following address:

Lt. Robert Pierce
c/o Basehor Police Department
2620 North 155th Street
P.O. Box 420
Basehor, Kansas 66007

JURISDICTION AND VENUE

VII.

Plaintiff realleges and incorporates herein by reference paragraphs numbered I through VI above.

VIII.

The District Court of the State of Kansas, in and for the County of Leavenworth, has jurisdiction over the causes of action herein alleged, pursuant to Section 6 of Article 3 of the Kansas State Constitution and K.S.A. 12-101 *et seq.* and K.S.A. 20-301 *et seq.* and also federal laws relating to whistleblower statutes, 423 U.S.C. § 1983, as well as 1st amendment violations, hostile work environment, and due process violations, and venue is proper therein.

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STATEMENT OF FACTS

IX.

Plaintiff realleges and incorporates herein by reference paragraphs numbered I through VIII above.

X.

The instant causes of action arises from the conduct of Defendants within the course and scope of their official duties as employees of Defendants City of Basehor and/or the Basehor Police Department.

XI.

Plaintiff was formerly employed as a police officer with the Basehor Police Department on September 9, 2007. On July 15, 2010, he was wrongfully discharged for speaking out about ongoing policies and conditions at the Basehor Police Department which he considered dangerous and/or unethical, and after he complained to human resources about what he perceived as a hostile work environment, and for filing a report with the Leavenworth County Sheriff's Office against Defendant Pierce for a violent physical and verbal assault.

A. Safety and Integrity Concerns

XII.

Shortly after his employment began in 2007, Plaintiff began to notice certain policy violations which he considered safety and integrity issues. He reported these to his fellow officers and to his chain of command. Plaintiff's concerns included but were not limited to the following:

- 1). The accepted practice of certain police officers to disappear for extended periods or to sleep on the job (resulting in other officers having no backup coverage);
- 2). Police cars being put into service with unsafe tires and/or in bad repair;
- 3). Police officers removing shells from shotguns potentially leaving other police officers unarmed;

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4). The lack of functioning surveillance cameras and other essential equipment in patrol cars.

XIII..

Plaintiff's superiors not only failed to respond to his expressed concerns, they ridiculed and belittled him, warning him to mind his own business, to stop talking and to stop asking questions. Despite the warnings, Plaintiff continued to discuss safety and integrity issues with the chain of command. As a result, he was ostracized by his superiors and by certain other officers.

B. Plaintiff Instructed Not to Report Nor to Investigate Certain Crimes

XIV.

Plaintiff's situation deteriorated further in January, 2010, when contrary to departmental mandate and established policy, Plaintiff was ordered not to investigate a citizen complaint of identity theft/forgery, or even to report it as a crime. Furthermore, Plaintiff was made to understand that he was putting his job at risk by following proper procedure.

XV.

On January 8, 2010, Plaintiff attempted to assist a citizen who had reported being a victim of identity theft/forgery, in which thieves had used the citizen's Social Security number to open and use a credit account at his bank. As a result of the theft, the citizen was unable to pay for essential expenses and was placed into collections. Plaintiff took the citizen's complaint and began to prepare a Kansas Standard Offense Report (KSOR). This was an important step because earlier, Defendant, Pierce, Plaintiff's direct supervisor, had voiced serious concerns and frustrations over officers incorrectly filing police reports.

XVI.

In reporting the crime on his KSOR form, Plaintiff was attempting to comply with Lt. Pierce's order; however, when Chief Martley discovered Plaintiff's report, he became enraged and instructed Plaintiff not to report it as a crime. Nevertheless, in an effort to provide some response

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to the victim's complaint, Plaintiff prepared a Case Report Form (CRF), which is used to report a citizen contact that does not involve a crime.

XVII.

Upon discovering the CRF, Defendant Pierce became enraged and demanded that Plaintiff prepare a KSOR despite his previous contrary instructions from Chief Martley. He then informed Plaintiff that he does "s**t" behind the Chief's back "all the time", and instructed him to do the same. Plaintiff thereafter responded that he was trying to follow proper procedure but that he understood that the Chief's orders were controlling. Lt. Pierce responded that he would just have to take care of it like he always did.

XVIII.

This incident formed the culmination of several months of incidents in which Plaintiff had fallen victim to numerous occasions of contradictory orders of Defendant's Martley and Pierce. In addition, because of his prior reports of unsafe and/or unethical working conditions, Plaintiff had by this time become the subject of retaliation and/or ostracism from some of his fellow officers. As a result, Plaintiff was forced to conclude that he had become the victim of a hostile work environment.

C. Plaintiff Reports to Human Resources

XIX.

As a result of the fact that Plaintiff's perceived hostile work environment involved his direct chain of command, he arranged to meet with Human Resources Director, Mary Anne Mogle on or about the evening of January 8th, 2010. Plaintiff explained his situation and apprehension about his increasingly abusive work environment and informed her of his unsuccessful attempts to go through his chain of command. Plaintiff confided that he perceived his workplace to hostile and asked her advice on how to resolve the situation. Ms. Mogle provided some initial advice, but indicated that due to the report, she was required to investigate the matter.

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D. January 25, 2010, Meeting

XX.

On January 25, 2010, Chief Martley asked Plaintiff to meet with him. At the meeting, Chief Martley accused Plaintiff of violating the chain of command, and that he had gone too far since his report to Ms. Mogle had since gone to the City Administrator. Chief Martley then told Plaintiff that Mary Mogle could not help him, and remarked that “what happens in the department stays in the department.” He then accused Plaintiff of trying to set up a lawsuit against the department, and informed Plaintiff that not only could Ms. Mogle not help him, but that if he wanted to let Plaintiff go he could do so at any time for any reason. Plaintiff took this as a threat against his job if he were ever to make a complaint about anyone in the department.

XXI.

Notwithstanding Chief Martley’s threats, at the same meeting, Plaintiff raised additional safety concerns, including the fact that it had come to his attention that other officers would not respond quickly to medical situations because of Chief Martley’s verbal policies about wanting to avoid the cost of dealing with medical emergencies. Some months earlier, a child with asthma had died after the Basehor Police Department had responded to the emergency call regarding the child. Following the incident, Chief Martley had queried “what kind of morons run with lights and sirens to a dead kid”, and further intimated that a dead child was not worth the cost associated with the response.

XXII.

In addition, Plaintiff reported other incidents in which he had been threatened by some of his fellow officers, noting that nothing had ever been done to any of the officers in response, aside from making one of them “Officer of the Year.” Plaintiff also raised concerns about the total lack of response to incidents of verbal abuse against him by other officers, including some of his own supervisors. In response, the Chief admitted that he had never truly given Plaintiff a “fair shake,”

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and that he had always resented how former Chief Horner had initially hired Plaintiff, intimating that his negative feelings toward former Chief Horner may have been projected onto Plaintiff. Nevertheless, the Chief admitted that Plaintiff was a very good officer, but he then countered this admission with the threat that if he does not like one of his officers, he has no difficulty letting them go, going so far as to mention the case of former Basehor Police Officer, Chris King, and concluding that as Chief of Police he was the second most powerful individual in the city.

E. Plaintiff Reports About Officers Armed with Unloaded Shotguns

XXIII.

In May of 2010, Plaintiff first reported to Lt. Pierce that officers were using patrol cars with unloaded shotguns. This was not only in violation of the policies and procedures manual, the situation presented a potential life-threatening situation to officers as well as the public. Nevertheless, Lt. Pierce responded by calling Plaintiff a “goober”, and ignoring the expressed concerns.

XXIV.

After a week of noting that the issue had remained uncorrected, Plaintiff reported the empty shotgun problem to Sergeant Greg Hallgrimson. After the problem remained uncorrected for another few days, Plaintiff reported the situation to Chief Martley. The Chief responded that it was not his responsibility and that Plaintiff should mind his own business, saying, “If they need to - you know - shoot in a stressful situation and they don’t have one in the chamber and they get shot it’s on them... You do your job right then you don’t have nothing to worry about, and what all these other knuckleheads are doing, don’t worry about it.”

F. The Dirt Investigation

XXV.

In the early Spring of 2010, a city sewer had backed up onto Plaintiff’s property causing damage to his basement and surrounding land. In response, Plaintiff contacted City

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Superintendent, Gene Myracle, and inquired as to whether the city could provide him with some assistance to fix the problem, specifically asking if he could get some advice on where to get some dirt at low cost. Mr. Myracle responded that the city could provide it at their expense, saying that it was the city's fault and the least the city could do would be to provide some filling material. Plaintiff then asked if this offer would apply to any citizen of the city under similar circumstances and was assured that it would. Accordingly, Plaintiff accepted Mr. Myracle's offer and a truckload of dirt was delivered by the city to Plaintiff's residence.

XXVI.

Plaintiff also notified Mr. Myracle about a standing water problem indicating that a culvert needed to be installed to avoid the flooding from happening again, and asking where he might be able to purchase one. Mr. Myracle responded that the issue was once again the responsibility of the city and that the city could either install the culvert or deliver a culvert to Plaintiff and allow him to install it. In response, Plaintiff indicated that he would be willing to have the city merely deliver a culvert and he would install it himself. The culvert was ultimately installed by one of Plaintiff's adjoining neighbors on his own property; however, this did not resolve the standing water issue on Plaintiff's property which remains unresolved as of this date.

XXVII.

On June 30, 2010, Plaintiff was called into a meeting with Chief Martley and Lt. Pierce in Chief Martley's office. As the meeting began, the office door had been left open. At this meeting, Plaintiff was accused of using his position as a police officer with the city of Basehor to secure personal favors from the city, specifically the delivery of dirt and the culvert previously described herein. After Plaintiff explained about the flooding issue and the delivery of the dirt and the culvert, Lt. Pierce repeatedly called him a liar in a voice loud enough to be heard by other city employees outside the office.

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XXVIII.

When Lt. Pierce raised his voice, Plaintiff attempted to close the door to Chief Martley's office and attempted to offer further explanation. Lt. Pierce immediately stood up, striking Plaintiff's forearm, and forcing Plaintiff into a back wall. He then put his face inches away from Plaintiff's, and began haranguing Plaintiff, balling his left fist, and thrusting his right index finger and fist into close proximity with Plaintiff's face in a threatening manner and striking Plaintiff in the chest. Plaintiff responded saying, "Sir, you are taking an aggressive stance against me." At that moment, Chief Martley intervened, instructing Lt. Pierce and Plaintiff to "take it down a notch." The meeting ended at that point.

G. July 9th, 2010, Meeting

XXIX.

On July 9th, 2010, Chief Martley asked Plaintiff to meet with him in Chief Martley's vehicle. Plaintiff had anticipated that the purpose was to discuss Lt. Pierce's threatening behavior at the June 30th meeting; however, Chief Martley informed Plaintiff that not only would Lt. Pierce not be investigated, nor that he would even offer an apology for his outrageous behavior, but that Lt. Pierce would be writing Plaintiff up for dishonesty, despite the fact that the accusation was false and Plaintiff had not been dishonest, and also that Plaintiff could corroborate his statements with evidence from other sources. After Plaintiff informed Chief Martley about the evidence that would exonerate the accusation of dishonesty, Chief Martley responded saying that it did not matter. The Chief went on to explain that he had already spoken with City Administrator Mark Loughry about the situation in response to Plaintiff's charges of a hostile work environment and that together they had concluded that the Chief could let Plaintiff go at any time despite Plaintiff's claim of hostile work environment provided that he could create a pretext to give the department and the city a claim of "just cause." After all, if anyone questions the basis for your termination,

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they will always “go with the investigators,” intimating that since the only possible investigators would be Lt. Pierce and himself, he would be able to do anything he wanted. The Chief then went to threaten that if Plaintiff refused to accept any forthcoming write up, he would be accused of and terminated for insubordination, notwithstanding any lack of factual support therefor.

XXX.

At the same meeting, Plaintiff formally reported the incident with Lt. Pierce as a criminal act and demanded that Chief Martley follow appropriate police procedures regarding the previous altercation with Lt. Pierce. The Chief responded by trying to excuse Lt. Pierce’s behavior as a product of being “high strung” or “under a lot of stress,” to which Plaintiff replied, “We all are.” Nevertheless, despite Plaintiff’s repeated demands that Lt. Pierce be held accountable for threatening, assaulting and battering him in the presence of Chief Martley, the Chief failed to take any action against Lt. Pierce.

XXXI.

Approximately one (1) hour later, Plaintiff received a telephone call from Chief Martley informing him that he was being suspended indefinitely and without pay, effective immediately.

H. Plaintiff Attempts to Submit a Police Report Against Pierce

XXXII.

After his meeting with Chief Martley, it was clear to Plaintiff that the Chief would not act on Lt. Pierce’s criminal conduct against Plaintiff. Accordingly, Plaintiff undertook to attempt to file a criminal complaint against Lt. Pierce with the Basehor Police Department. When Plaintiff announced his intentions to Ms. JoAnn Brown who works in the office, she contacted Chief Martley and informed him about Plaintiff’s attempt to make his report.

XXXIII.

Chief Martley immediately responded to Plaintiff’s presence by ordering that he be removed from the building immediately. In so doing, Chief Martley gave Plaintiff a trespass

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warning, informing him that if he ever came back to the police station, he would be arrested. In response to this order, Lt. Pierce forcibly escorted Plaintiff from the building.

XXXIV

Since he had been precluded from making a report against Lt. Pierce with the Basehor City Police Department, after he was forcibly escorted from the building, Plaintiff immediately submitted a formal report of assault and battery perpetrated by Defendant Pierce with the Leavenworth County Sheriff's Office.

I. Plaintiff's July 12th, 2010, Request for Grievance Hearing

XXXV.

On July 12th, 2010, three (3) days after being suspended without pay, Plaintiff prepared a written Grievance Notification with a request for a grievance hearing before the City Council for the City of Basehor, pursuant to K.S.A. 75-2949. The notification detailed Plaintiff's grievances with the Basehor City Police Department and alleged that he had been wrongfully suspended.

XXXVI.

On July 13th, 2010, Plaintiff personally delivered the Grievance Notification to Basehor City Administrator, Mark Loughry.

XXXVII.

Mr. Loughry thereafter represented to Plaintiff that he would personally take care of the matter, but requested to discuss the matter further with Plaintiff before he would act.

J. July 13th, 2010, Meeting With City Administrator Mark Loughry

XXXVIII.

City Administrator Mark Loughry thereafter invited Plaintiff to his office ostensibly to discuss Plaintiff's concerns. At the July 13th meeting, Mr. Loughry first told Plaintiff that he should never have gone to Ms. Mogle to complain against members of the Basehor City Police

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Department regardless of his treatment. He then stated that by doing so, Plaintiff was just asking for trouble and that there was nothing Ms. Mogle could do to protect him.

XXXIX.

Mr. Loughry then stated that Chief Martley and Lt. Pierce had both reported that Plaintiff could not get along with any of the other officers. In response, Plaintiff presented his written evaluations which clearly stated the contrary, and he reminded Mr. Loughry of the fact that Chief Martley and Lt. Pierce's negative statements about him had only arisen after Plaintiff had submitted his complaints to them.

XL.

Mr. Loughry made no reply to Plaintiff's explanations but went on to accuse Plaintiff of insubordination, indicating that the basis for the alleged insubordination had come from the fact that Plaintiff had admittedly recorded some of the conversations between himself and Chief Martley and that Chief Martley had reported that Plaintiff was trying to trick him into saying something that would get him fired. Plaintiff responded that he was only trying to protect himself from false accusations, and then cited the fact that Chief Martley had himself admitted to recording conversations in the past and had also personally instructed his officers that they could record their own conversations if they ever felt threatened, and that they should always conduct themselves as if they were being recorded.

XLI

Mr. Loughry again made no reply to Plaintiff's response to the accusation of insubordination but simply informed him that regardless of Plaintiff's problems with the department, he never should have submitted any complaint against the department, nor should he have ever made a complaint about Lt. Pierce outside the department. Nevertheless, he promised Plaintiff that he would conduct a personal investigation regarding Plaintiff's complaints, that he would have his answer to Plaintiff's complaints after a couple of days, and he also promised that

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he would personally handle Plaintiff's request for a grievance hearing. He also informed Plaintiff that whatever decision he made would be final and that Plaintiff would not be able to pursue an appeal.

K. Plaintiff Receives Verbal Notification of His Termination

XLII.

On July 15th, 2010, Plaintiff received a telephone call from Chief Martley. He informed Plaintiff that the telephone call was being recorded, and thereafter informed Plaintiff that his grievance request was being denied and that effective immediately, he would no longer be employed as a police officer with the City of Basehor. Chief Martley also indicated that the decision was final and that Plaintiff had no recourse with the City of Basehor.

XLIII.

Thereafter, Plaintiff received no response either from Loughry nor from any other representative of the City of Basehor in regards to his grievance notification.

L. Plaintiff Submits a Written Notice of Tort Claim

XLIV.

After Plaintiff received no response to his grievance request, he retained the office of Leeds Law, LLC, in Topeka, Kansas to secure legal representation.

XLV.

On or about the 15th day of November, 2011, Plaintiff timely submitted a Written Notice of Claim Pursuant to K.S.A. 12-105b. The said claim detailed the foregoing incidents and alleged claims of assault and battery, intentional infliction of emotional distress, defamation, and wrongful discharge. The notice also asserted claims relating to state and federal whistleblower statutes including 42 U.S.C. § 1983, and civil rights violations, hostile working environment, and retaliation. In so doing, Plaintiff fully complied with the statutory provisions of the Kansas Tort

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Claims Act, pursuant to K.S.A. 75-6101 *et seq.*, as applied to cities and municipalities under K.S.A. 12-101 *et seq.*

XLVI.

As of the current date, Plaintiff has received no written response to the assertions set forth in the said Notice of Claim aside from a nominal offer of settlement.

M. Plaintiff is Subjected to Police Harassment

XLVII.

After Plaintiff was terminated from his employment with the Basehor City Police Department, he began to be subjected to harassment from Police Chief Martley and Lt. Pierce. The harassment took the forms of defaming Plaintiff to his former fellow officers, following Plaintiff in his vehicle, and driving around and parking near Plaintiff's residence without any justifiable reason.

XLVIII.

After Plaintiff submitted his Notice of Claim, the harassing conduct of Chief Martley and Lt. Pierce increased significantly to the extent that Plaintiff became fearful for the safety and well-being of himself and his family.

COUNT I
WRONGFUL TERMINATION OF EMPLOYMENT

XLIX.

Plaintiff realleges and incorporates herein by reference paragraphs numbered I through XLVIII above.

L.

Plaintiff alleges that as a result of the conduct previously alleged herein that the Basehor City Police Department and/or its employees and officers engaged in conduct which threatened the public safety and/or which caused the Department to fail to perform its police duties, and/or

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which resulted in criminal conduct and/or the concealment of criminal conduct perpetrated by employees and/or officers of the Department in violation of rules, regulations, or law pertaining to the public safety.

LI.

Plaintiff alleges that Defendants knew of Plaintiff's reports of the aforesaid violations.

LII.

Plaintiff alleges that Defendants wrongfully caused that his employment as a police officer with the City of Basehor be terminated in retaliation for Plaintiff's reports of any and/or all of the following: 1) Plaintiff's reports of violations of health and safety rules, regulations, or policies as practiced by the Basehor City Police Department, 2) Plaintiff's reports of the failure of Plaintiff's co-workers, supervisors, or employer to perform his/their/or its duty as required by law, 3) Plaintiff's reports of criminal conduct perpetrated by Plaintiff's co-workers and/or supervisors.

LIII.

As a result of Plaintiff's wrongful termination of employment, he has sustained damages for which Defendants are liable.

COUNT II
BREACH OF EMPLOYMENT CONTRACT

LIV.

Plaintiff realleges and incorporates herein by reference paragraphs numbered I through LIII above.

LV.

Plaintiff alleges that as a classified municipal employee with the City of Basehor he was entitled to certain contractual protections with the City of Basehor in respect to the termination of his employment

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LVI.

Pursuant to Plaintiff's contract of employment with the City of Basehor, his employment could only be terminated for cause defined as "serious misconduct."

LVII.

Plaintiff's termination of employment as a police officer with the City of Basehor was undertaken without any reasonable justification and without any cause amounting to serious misconduct.

LVIII.

For the foregoing reason, Plaintiff alleges that Defendants breached their contract of employment with Plaintiff when he was suspended and ultimately terminated without cause.

LIX.

Plaintiff's contract of employment with the City of Basehor further provided that Defendants were precluded from retaliating against any employee for having reported or threatened to report harassment, harassment being defined as, "[p]hysical conduct such as assault, unwanted touching, blocking normal movements or interfering with work because of ... any protected basis."

LX.

Plaintiff alleges that he was subjected to harassment by Defendants Martley and Pierce, and that he was subjected specifically to assault and battery by Defendant Pierce, that Plaintiff thereafter reasonably attempted to report the same, and that he was subjected to retaliation by Defendant Martley for having reported or threatened to report such harassment, that Defendant Martley further forcibly prevented Plaintiff from making a report and then had him forcibly removed from the Basehor City Police Station. Defendant Martley further retaliated against Plaintiff by ordering him not to return to the Basehor City Police Station at risk of being cited with trespassing. Defendant Martley ultimately escalated his retaliatory conduct when in response

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to Plaintiff's attempts to report the aforesaid harassment he suspended and ultimately terminated Plaintiff from his employment as a police officer with the City of Basehor.

LXI.

For the foregoing reason, Plaintiff alleges that Defendants breached their contract of employment with Plaintiff when he was subjected to unlawful retaliation for having reported or threatened to report harassment.

LXII

Pursuant to Plaintiff's contract of employment with the City of Basehor, prior to any disciplinary action, the Plaintiff is entitled to: 1) written notice of any alleged misconduct, 2) a meeting between the Plaintiff and the appropriate authority, 3) an opportunity for the employee to refute the facts alleged in support of the disciplinary action, 4) a final written decision undertaken following the opportunity for the employee to refute the facts alleged, 5) written notification of the right to file a grievance.

LXIII.

In suspending and ultimately terminating Plaintiff's employment with the City of Basehor, Defendants failed to provide Plaintiff with a written notice of any alleged misconduct, Defendants failed to provide a meeting with the appropriate authority allowing Plaintiff to refute the charges of misconduct, Defendants failed to provide Plaintiff with a final written decision, and Defendants failed to provide Plaintiff with a written notification of the right to file a grievance.

LXIV.

For the foregoing reasons, Plaintiff alleges that Defendants breached their contract of employment with Plaintiff when he was suspended and ultimately terminated without being afforded the procedural protections afforded to him under the terms of his employment contract.

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LXV.

Pursuant to Plaintiff's contract of employment with the City of Basehor, any suspension or termination of full-time employment requires a City Council vote.

LXVI.

Plaintiff alleges that Defendants breached their contract of employment with Plaintiff when his employment was suspended and ultimately terminated by Defendant Martley without the vote of the Basehor City Council.

LXVII.

Plaintiff's contract of employment with the City of Basehor further provides for a grievance procedure allowing an aggrieved employee to request and be granted a grievance hearing before the Basehor City Council. Although Plaintiff timely requested a grievance hearing, no such hearing was ever scheduled or took place.

LXVIII.

Plaintiff alleges that Defendants breached their contract of employment with Plaintiff when his employment was suspended and ultimately terminated and when his grievance of the suspension and termination of his employment was denied without any opportunity for a hearing.

COUNT III
VIOLATION OF CIVIL RIGHTS

LXIX.

Plaintiff realleges and incorporates herein by reference paragraphs numbered I through LXVIII above.

LXX.

As a result of the conduct of Defendants, as previously described herein, Plaintiff alleges that his civil rights have been violated. Plaintiff further asserts that the civil rights violated include, but may not necessarily be limited to the following: 1) Plaintiff's right of free speech as

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protected under the First Amendment to the United States Constitution, 2) Plaintiff's rights of due process as protected under the Fifth Amendment to the United States Constitution and as applied to the States under the Fourteenth Amendment, 3) Plaintiff's rights to equal protection as protected under the Fifth Amendment to the United States Constitution and as applied to the States under the Fourteenth Amendment, and 4) Plaintiff's rights of criminal redress, including all rights allowed him under the Kansas Crime Victim's Compensation Act, K.S.A. 74-7301 *et seq.*

LXXI.

Plaintiff is entitled to all remedies permitted at law, including those provided under 42 U.S.C. 1983 for Defendants' violations of his civil rights.

LXXII.

As a result of the foregoing conduct, Defendants are liable to Plaintiff in damages for violating his civil rights.

COUNT IV
INTENTIONAL INFLICTION OF EMOTIONAL DISTRESS AND SUFFERING

LXXIII.

Plaintiff realleges and incorporates herein by reference paragraphs numbered I through LXXII above.

LXXIV.

Plaintiff alleges that the conduct of Defendants, as previously described herein, was intentionally and maliciously calculated to cause Plaintiff great personal emotional distress and suffering.

LXXV.

Plaintiff further alleges that the conduct of Defendants, as previously described herein, did, in fact, cause Plaintiff to suffer great emotional distress and suffering.

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LXXVI.

Plaintiff further alleges that Defendants are liable to him in damages for the emotional distress and suffering which they caused.

CLAIM FOR DAMAGES

LXXVII.

Plaintiff realleges and incorporates herein by reference paragraphs numbered I through LXXVI above.


LXXVIII.

Plaintiff alleges that as a result of the conduct of Defendants, as detailed hereinabove, that he has sustained damages in excess of SEVENTY- FIVE THOUSAND DOLLARS (\$75,000.00) and of no more than FIVE HUNDRED THOUSAND DOLLARS (\$500,000.00) for each claim, and in such specific amount as the Court may find following trial, for which Defendants should be found jointly and severally liable.

LXXIX.

Plaintiff further alleges that he has been forced to hire counsel to represent him in this matter and that Defendants are liable to Plaintiff for his attorney's fees and costs of suit incurred herein.

WHEREFORE, Plaintiff prays that upon examination into this matter as required by law that the Court find that Defendants, or any or all of them, have engaged in conduct constituting wrongful termination of employment, breach of contract, violation of civil rights, and intentional infliction of emotional distress and suffering against Plaintiff, for which he is entitled to an award of damages, and for his attorney's fees and costs of suit, and for such other and further relief as to the Court would seem just and equitable in the premises.


Jason C. Cory - Plaintiff

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REQUEST FOR TRIAL BY JURY

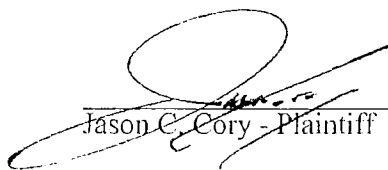
Pursuant to K.S.A. 60-238(b), Plaintiff hereby demands a trial by jury of the foregoing Petition and Claim for Damages for Wrongful Termination of Employment, Breach of Contract, Violation of Civil Rights, and Intentional Infliction of Emotional Distress and Suffering, Pursuant to K.S.A. Chapters 12, 20, 60, and 75, and 42 U.S.C. § 1983


Jason C. Cory - Plaintiff

VERIFICATION OF JASON C. CORY

STATE OF KANSAS)
 : §
County of Johnson)

JASON C. CORY, of lawful age, after first being duly sworn on oath states: That he is the Plaintiff in the above and foregoing *Petition and Claim for Damages for Wrongful Termination of Employment, Breach of Contract, Violation of Civil Rights, and Intentional Infliction of Emotional Distress and Suffering, Pursuant to K.S.A. Chapters 12, 20, 60, and 75, and 42 U.S.C. § 1983*, that he has read the same, knows the statements and allegations therein contained, and that the same are true.


Jason C. Cory - Plaintiff

SUBSCRIBED AND SWORN to before me the 29th day of June, 2012.


Notary Public

My commission expires:
TAMMY L. JARAMILLO
Notary Public
State of Kansas
My Appointment Expires:
November 19, 2015

Cory v. City of Basehor, et al.
Petition and Claim for Damages

Respectfully submitted by:

Holmes Law Office, LLC



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