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COMMONWEALTH OF KENTUCKY
 KENTON CIRCUIT COURT
 DIVISION _____
 CIVIL ACTION NO. _____
Electronically Filed

MEDIA5040

JOSEPH MAIER

PLAINTIFF

v.

CITY OF ELSMERE, KENTUCKY

DEFENDANTS

*Serve: City of Elsmere, KY
 c/o Mayor Martin "Marty" Lenhof
 3921 Dixie Highway
 Elsmere, KY 41018*

MARTIN "MARTY" LENHOF, INDIVIDUALLY,
 AND IN HIS OFFICIAL CAPACITY

*Serve: Martin "Marty" Lenhof
 3921 Dixie Highway
 Elsmere, KY 41018*

VERIFIED COMPLAINT AND PETITION FOR DECLARATORY JUDGMENT

Comes now the Plaintiff, Joseph Maier, by and through undersigned counsel, and for his Verified Complaint and Petition for Declaratory Judgment against Defendants, City of Elsmere, Kentucky and Marty Lenhof, and hereby states as follows:

PARTIES, JURISDICTION, AND VENUE

1. Plaintiff, Joseph Maier ("**Maier**"), is a natural person residing in Kenton County, Kentucky.
2. Defendant, City of Elsmere, Kentucky ("**Elsmere**"), is a "home rule" city located in Kenton County, Kentucky, and a political subdivision of the Commonwealth of Kentucky.
3. Elsmere operates the Elsmere Police Department ("**EPD**").
4. Defendant, Marty Lenhof ("**Lenhof**"), is a natural person residing in Kenton County, Kentucky.

- 5. Lenhof is the elected Mayor of Elsmere.
- 6. This Court may exercise personal jurisdiction over Defendants because each of them resides or operates in Kenton County, Kentucky.
- 7. This Court has subject matter jurisdiction over this civil action based upon KRS 23A.010, KRS 61.103, and KRS 418.040.
- 8. This Court is the proper venue for this civil action based upon KRS 61.103, KRS 418.040, KRS 452.405, and KRS 452.460.

GENERAL AVERMENTS

- 9. Maier was the Chief of Police of EPD.
- 10. On May 31, 2023, Maier was made aware by EPD Detective Eric Higgins (“**Higgins**”) and local Probation and Parole (“**P & P**”) of concerning allegations that EPD Sergeant Alexis Day (“**Day**”) was having inappropriate communications with an individual named Ryan Hill (“**Hill**”) while Day was on-duty.
- 11. On April 5, 2023, Hill was convicted of initiating sexually explicit conversations online with someone he believed to be a 15-year-old girl,¹ and was under the supervision of P & P.
- 12. Pursuant to Maier’s employment contract (the “**Contract**”) with Elsmere, Maier was required to “maintain[s] Departmental discipline and oversee[s] the conduct and general behavior of personnel and initiate[s] internal investigations when appropriate and direct[s] corrective action as needed.” The Contract is marked as **Exhibit 1** to this Complaint and is incorporated herein by reference.

¹ *Commonwealth v. Ryan Hill*, (Boone County Circuit Court Case No. 22-CR-160).

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13. In light of the serious nature of the allegations made against Day, and in fulfillment of his duties under his Contract with Elsmere, Maier began an internal investigation into the allegations against Day.
14. Upon review of Hill's cell phone records, it was confirmed that Day had not only been communicating with Hill while on duty, but she had also been sending Hill explicit photos of herself while working for EPD.
15. Pursuant to this investigation, Maier retrieved the Automated Vehicle Locator ("AVL") information for Sgt. Day's city-issued police cruiser. Maier confirmed that Day's police cruiser was located visiting Hill while she was on-duty.
16. While verifying the location of Day's cruiser, Maier discovered that Day was also spending significant portions of time while on-duty at Lenhof's personal residence and office.
17. Over the course of the next several weeks, Maier attempted on multiple occasions via email and phone calls to contact Lenhof to discuss Day's internal investigation and possible disciplinary action.
18. Upon information and belief, Lenhof never responded to Maier's multiple email requests and suspiciously made himself unavailable.
19. After months of being ignored, Maier was forced to take disciplinary action against Day in accordance with his Contract. On July 31, 2023, at approximately 11:00am, Maier, pursuant to KRS 15.520, gave Day a "48-hour Notice" that she was under investigation and that disciplinary actions would be forthcoming.
20. Day, as witnessed by former City Administrator Matthew Dowling ("**Dowling**"), retreated directly to City Attorney Voss's office, and at 3:00pm that same day, Maier was ordered to Lenhof's office.

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- 21. Upon information and belief, Maier was offered by Lenhof one (1) month's "severance pay" by Lenhof and Voss to resign, or face termination.
- 22. On August 2, 2023, Lenhof sent a termination letter to Maier ("**Termination Letter**"). The termination letter is marked as **Exhibit 2** to this Complaint and is incorporated herein by reference.
- 23. The Termination Letter from Lenhof states that "I[Lenhof] am notifying you of my decision to terminate your employment immediately. Pursuant to KRS 83A.080 since you are a non-elected city official, I am writing to provide you *with the reason behind my decision.*" (Emphasis added.).
- 24. Maier's Contract provides the terms for his potential termination. The Contract states: "If Maier is terminated "for cause" he shall be immediately dismissed **after following the procedures required by KRS 15.520 . . .**" (**Exhibit 1**, emphasis added).
- 25. Maier was never offered any protection or due process as required under KRS 15.520; he was simply terminated.

COUNT I
BREACH OF CONTRACT

- 26. Maier restates each and every averment set forth above;
- 27. Defendants were required by the Contract to comply with the procedures under KRS 15.520 (4), which states:

When an officer is accused of an act or omission that would constitute a violation of law enforcement procedures by an individual within the law enforcement agency employing the officer, including supervisors and elected or appointed officials of the officer's employing agency, the employing agency *shall conform the conduct of any investigation to the provisions of subsection (5) of this section, shall formally charge the officer in accordance with subsection (6) of this section, and shall conduct a hearing in accordance with subsection (7) of this section before any disciplinary action shall be taken against the officer.*

(emphasis added).

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- 28. Defendants have breached their express and/or implied agreement to afford Maier the procedures required by KRS 15.520 upon termination for cause, as required by his Contract with Elsmere;
- 29. As a result of said breach, Maier has incurred, and will continue to occur, past and future lost wages, past and future lost benefits, and severe emotional distress.

COUNT II
WRONGFUL TERMINATION

- 30. Maier restates and reiterates each of the forgoing averments.
- 31. On August 2, 2023, Lenhof and Elsmere terminated Maier.
- 32. The termination was contrary to well-defined public policy.
- 33. As a result of the wrongful termination, Maier has incurred, and will continue to occur, past and future lost wages, past and future lost benefits, and severe emotional distress.

COUNT III
TORTIOUS INTERFERENCE WITH THE ABILITY TO EARN MONEY

- 34. Plaintiff restates and reiterates each of the foregoing averments.
- 35. The conduct, actions, and words of Lenhof and Elsmere as complained of herein were designed to interfere with the ability of Maier to be gainfully employed as a Chief of Police.
- 36. Maier is entitled to damages based on the interference with his ability to secure gainful employment as a Chief of Police.

COUNT IV
OUTRAGE / INTENTIONAL INFLICTION OF EMOTIONAL DISTRESS

- 37. Plaintiff restates and reiterates each of the foregoing averments.
- 38. The conduct, actions, and words of Lenhof and Elsmere as complained of herein were intentional, malicious, inexcusable, and intended to cause harm to Maier.

- 39. The conduct, actions, and words of Lenhof and Elsmere were without legitimate purpose, and entirely outrageous and unacceptable to a decent, moral, and civilized society.
- 40. As a direct and proximate result of the conduct, actions, and words of Lenhof and Elsmere, Maier suffered actual and severe mental and emotional distress.

COUNT V
SECTION 2 OF THE KENTUCKY CONSTITUTION

- 41. Plaintiff restates and reiterates each of the foregoing averments.
- 42. Maier held a property interest in continued employment protected under Section 2 of the Kentucky Constitution.
- 43. The removal of Maier was an absolute and arbitrary exercise of power and therefore violated Section 2 of the Kentucky Constitution.
- 44. Lenhof and Elsmere denied Maier procedural and substantive due process rights to continued employment as the Chief of Police of EPD.
- 45. Lenhof and Elsmere acted under color of state law.

COUNT VI
PUNITIVE DAMAGES

- 46. Plaintiff restates and reiterates each of the foregoing averments.
- 47. The wrongful actions of Lenhof and Elsmere were sufficiently willful, intentional, malicious, oppressive, and contrary to common decency to authorize an award of punitive damages.

WHEREFORE, Plaintiff Joseph Maier respectfully requests the following:

- 1. A judgment against Defendants, and for Lenhof, in both his official and individual capacities, for the fullest extent of all monetary damages established by the evidence at trial, including, without limitation, compensatory damages resulting from their breach of

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contract, KRS 15.520, KRS 95.450, and KRS 61.102, plus pre- and post-judgment interest at the statutory rate of six percent (6.00%) *per annum* from the date of injury until the date of judgment, and from the date of judgment until paid in full;

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2. The Court order Lenhof and Elsmere to immediately reinstate Maier to rank of Chief of EPD, and restore all rights, privileges, benefits, and compensation, from August 2, 2023, until the date of reinstatement, pursuant to KRS 418.055;
3. An award of exemplary and punitive damages against the Defendant, and against Lenhof in his individual and official capacity;
4. Permanent injunctive relief;
5. That the Court award Maier all court costs and attorney fees expended herein, pursuant to KRS 418.070;
6. A trial by jury on all issues so triable; and
7. All further relief to which Plaintiff may appear entitled by law or equity, including without limitation, the right to amend this Complaint.

Respectfully submitted,

MATTMILLER CROSBIE, PLLC

/s/ Kate A. Bennett

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 JOSEPH MAIER

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VERIFICATION

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COMMONWEALTH OF KENTUCKY)
)
COUNTY OF KENTON)

I, Joseph Maier, after being first duly sworn, depose and state that I have read this Verified Complaint and that each of the averments is true and correct to the best of my knowledge and belief.

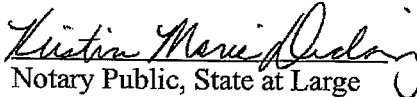


Joseph Maier

This verification was subscribed, sworn to, and acknowledged before me, this 16th day of September 2024, by Joseph Maier.

This notarial act was performed by means of video communication technology.

My commission expires: July 9, 2028.



Notary Public, State at Large

Notary ID: KYNP90152

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