

IN THE CIRCUIT COURT OF BOONE COUNTY STATE OF MISSOURI

LYN WOOLFORD, Chief of Police )  
for the City of Ashland, Missouri, )  
 )  
Plaintiff, )

v. )

Case No. \_\_\_\_\_

CITY OF ASHLAND, MISSOURI, )  
a Municipal Corporation of the Fourth )  
Class; )  
**Serve: Mayor or City Clerk** )  
Ashland City Hall )  
109 E. Broadway, Ashland, MO 65010 )

GENE RHORER, an Individual )  
**Serve: Gene Rhorer** )  
403 N Henry Clay Blvd )  
Ashland, MO 65010 )  
 )  
Defendants. )

**PETITION FOR INJUNCTIVE RELIEF FOR VIOLATION OF STATE  
LAW IN THE ILLEGAL REMOVAL OF A POLICE CHIEF,  
DECLARATORY JUDGMENT AND ACTION FOR WRONGFUL  
DISCHARGE IN VIOLATION OF PUBLIC POLICY**

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**Summary of this Action**

Plaintiff is the appointed Chief of Police for the City of Ashland, Missouri.

On at least two occasions, during the months preceding this action, the Defendant

Gene Rhorer, who is the mayor of Ashland, demanded that the Plaintiff send Ashland police officers to his residence at 403 N Henry Clay Blvd, Ashland, MO for the purpose of removing the Defendant Rhorer's girlfriend from said residence. Defendant Rhorer's girlfriend lived at the residence. Plaintiff recognized that it is not the function of police officers to intervene in Defendant Rhorer's dispute with his girlfriend, as there was no apparent threat of violence. Plaintiff refused to order Ashland police officers to remove Defendant Rhorer's girlfriend from the jointly shared residence and only dispatched officers to keep the peace. Defendant Rhorer has since taken retaliatory action, in violation of City Ordinances and state law, by first terminating the Plaintiff from his position of City Administrator and then by placing the Plaintiff on administrative leave from his role as Chief of Police.

### **Nature of The Claims**

1. This action involves the City of Ashland, Missouri, which is located in Boone County.
2. The City of Ashland is a Fourth Class City. *See* Ashland City Ordinances, Article I. General 2.005. Incorporation and Classification.
3. Defendants are residents of Ashland, Boone County, Missouri.
4. Plaintiff is a resident of Boone County.
5. Venue is proper in the Circuit Court of Boone County.
6. Ashland City Ordinances state that the Chief of Police is appointed by the

Mayor and the Board. Specifically,

The Mayor, with the consent and approval of a majority of the members of the Board of Aldermen, may appoint a Chief of Police upon such terms and 14 conditions as the Board shall deem appropriate, who shall perform all duties previously or currently required to be performed by the City Marshall, and such additional duties as the Mayor or Board may prescribe. The Chief of Police shall be twenty-one years of age or older. (State law reference-79.050 RSMo.)

7. The Plaintiff was appointed in August of 2013 and periodically reappointed thereafter.
8. As the Chief of Police of a Fourth Class City, removal of the Plaintiff is governed by Mo. Rev. Stat. § 106.273 ( *See Mo. Rev. Stat. § 79.240*), which requires the following:
  - (1) The governing body of the political subdivision employing the chief issues a written notice to the chief whose removal is being sought no fewer than ten business days prior to the meeting at which his or her removal will be considered;
  - (2) The chief has been given written notice as to the governing body's intent to remove him or her. Such notice shall include:
    - (a) Charges specifying just cause for which removal is sought;
    - (b) A statement of facts that are alleged to constitute just cause for the chief's removal; and
    - (c) The date, time, and location of the meeting at which the chief's removal will be considered;
  - (3) The chief is given an opportunity to be heard before the governing body, together with any witnesses, evidence and counsel of his or her choosing; and
  - (4) The governing body, by two-thirds majority vote, finds just cause for removing the chief.
9. On February 11, the Defendant Rhorer made the decision to place the Plaintiff on administrative leave.

10. In violation of Mo. Rev. Stat. § 106.273, Plaintiff was not provided a written notice that includes:
  - (a) Charges specifying just cause for which removal is sought;
  - (b) A statement of facts that are alleged to constitute just cause for the chief's removal; and
  - (c) The date, time, and location of the meeting at which the chief's removal will be considered;
11. Further, placement on administrative leave is not a permitted action by a Fourth Class City under Mo. Rev. Stat. § 106.273 and is functionally a removal under the statute.
12. The Defendants have since named an interim police chief.
13. Defendant Rhorer has not stated to Plaintiff the reason for Defendant's retaliatory action.
14. According to City Administrator, Tony St. Romaine, there had been no complaints against Plaintiff and no previous disciplinary actions.
15. Defendant Rhorer's action follows at least two incidents that occurred in prior months, when Defendant Rhorer demanded that the Plaintiff send Ashland police officers to his residence at 403 N Henry Clay Blvd, Ashland, MO for the purpose of removing Defendant Rhorer's girlfriend from said residence.
16. Defendant Rhorer did not call 911 or the general police phone number, but instead called the Plaintiff directly.
17. At the time, Plaintiff served the City of Ashland in the dual role of City

Administrator and Police Chief.

18. Plaintiff reported to Defendant Rhorer.
19. Plaintiff recognized that it is not the function of police officers to intervene in Defendant Rhorer's dispute with his girlfriend, as there was no apparent threat of violence.
20. Plaintiff refused to order Ashland police officers to remove Defendant Rhorer's girlfriend from the jointly shared residence and only dispatched officers to keep the peace.
21. Plaintiff reported this to Defendant Rhorer.
22. After these incidents, Defendant Rhorer's attitude toward the Plaintiff began to sour.
23. On March 29, 2019, with no explanation, Defendants removed Plaintiff from his role as City Administrator.
24. No investigation or hearing was held by Defendants.
25. Plaintiff was not provided an ability to appeal.
26. Cities in Missouri cannot enter into contracts, which contravene their ordinances or state law.
27. Cities in Missouri cannot enact ordinances which are in conflict with State laws.
28. Defendant Rhorer and Defendant City of Ashland assert that Plaintiff, in his

role as Chief of Police, is subject to the terms and conditions of an employment contract.

29. This contract, however, violates Ashland City Ordinance 2.310, which states the conditions of the Plaintiff's appointment are made by the Board of Aldermen, "as the Board shall deem appropriate."
30. Defendant Rhorer has no authority to direct the actions of the Plaintiff in his role as Chief of Police, without Board approval.
31. Defendant Rhorer has no authority to take disciplinary action against the Plaintiff in his role as Chief of Police, without Board approval.
32. To the extent Ashland City Ordinances depart from Mo. Rev. Stat. § 106.273, with regard to the Plaintiff, Defendants have no authority to act on said ordinances.
33. Currently Defendant Rhorer, alone and in his role as Mayor, is investigating allegations against the Plaintiff. This obviously poses grave concern to the Plaintiff, in terms of the quality of the investigation, preservation of evidence and witness' fears of retaliation (as nearly all the relevant witnesses are City of Ashland employees who are subject to firing or disciplinary action by the Defendants).

#### **COUNT I - Declaratory Judgment (§ 527.020)**

34. Plaintiff restates and realleges previously stated paragraphs as if fully stated

herein.

35. Plaintiff is a person whose rights, status or other legal relations are affected by a statute, municipal ordinance and contract.

Wherefore, Plaintiff requests a judgment and declaration of rights, status or other legal relations from the Court for the following:

- a. Whether Mo. Rev. Stat. § 106.273 governs this case;
- b. Whether Plaintiff has been removed from his office;
- c. Whether the employment contract mentioned herein is valid, enforceable or null and void and unenforceable;
- d. Plaintiff requests an award for attorneys fees and costs; and,
- e. Such additional relief the Court may deem appropriate.

### **COUNT II - Injunctive Relief**

36. Plaintiff restates and realleges previously stated paragraphs as if fully stated herein.
37. Plaintiff requests a temporary, preliminary and permanent injunction.
38. Plaintiff will suffer irreparable economic harm, including harm to his reputation as a law enforcement officer.
39. Based on the facts adduced, alleged and will be adduced and alleged it is reasonably likely that the Plaintiff will prevail on his request for permanent injunction.

40. Plaintiff seeks an order from this Court, ordering Defendants that Plaintiff be returned to his position as appointed Chief of Police, as placement on administrative leave is not an action permitted pursuant to Mo. Rev. Stat. § 106.273 and is a removal.
41. Because Defendant Rhorer is investigating the Plaintiff and because Defendant Rhorer had provided computer consulting services to Defendant City of Ashland in the past, Plaintiff seeks an order from this court, ordering Defendants to preserve any and all evidence in Defendant Rhorer's possession currently or that may come into his possession during the pendency of this lawsuit and to make a complete log of all digital evidence in Defendants' possession and to provide said evidence to the Plaintiff. This evidence includes, but is not limited to, police reports relating to 403 N Henry Clay Blvd, Ashland, Missouri, and phone records showing calls from Defendant Rhorer's cell phone to the Plaintiff.

Wherefore, Plaintiff requests an injunction, ordering the Defendants to return Plaintiff as Chief of Police and to preserve, log and make available to Plaintiff evidence as detailed above, an award of attorneys fees and costs, and for such other relief the Court deems just and appropriate under the circumstances.

### **COUNT III - Violation of Due Process**

42. Plaintiff restates and realleges previously stated paragraphs as if fully stated



herein.

43. The Missouri Constitution guarantees, “That no person shall be deprived of life, liberty or property without due process of law.” Mo. Const. Art. I. § 10.
44. Pursuant to § 106.273 RSMo, Plaintiff possessed a property interest in continued employment as Chief of Police, which he could not be lawfully deprived of without due process.
45. Pursuant to § 106.273 RSMo, and the Missouri Administrative Procedures Act, Plaintiff was entitled to a hearing that would include oral evidence taken upon oath or affirmation and a right to the cross-examination of witnesses (section 536.070); the making of a record (section 536.070); adherence to evidentiary rules (section 536.070); and a written decision including findings of fact and conclusions of law (section 536.090).
46. Acting under color of law, Defendants willfully deprived Plaintiff of his right to due process.
47. As a direct and proximate cause of Defendants’ violation of the Due Process Clause of the Missouri Constitution, Plaintiff suffered and continues to suffer damages, including lost wages, emotional distress, and injury to his reputation.

Wherefore, Plaintiff requests an award for monetary damages, in his favor and against the Defendants; injunctive relief; for costs and attorneys fees; and for such additional relief that the Court may deem just and appropriate under the

circumstances.

**COUNT IV - Violation of Mo. Rev. Stat. § 105.055**

48. Plaintiff restates and realleges previously stated paragraphs as if fully stated herein.
49. Terminating the Plaintiff from his role as city administrator is a retaliatory act by Defendants and a violation of Mo. Rev. Stat. § 105.055.
50. Suspending the Plaintiff from his role as the appointed chief of police is a retaliatory act by Defendants and a violation of Mo. Rev. Stat. § 105.055.
51. As a direct and proximate cause of Defendants' violation of Mo. Rev. Stat. § 105.055, Plaintiff suffered and continues to suffer damages, including lost wages, emotional distress, and injury to his reputation.

Wherefore, Plaintiff requests an award for monetary damages, in his favor and against the Defendants; injunctive relief; for costs and attorneys fees; and for such additional relief that the Court may deem just and appropriate under the circumstances.

Respectfully submitted,

/s/ Matt Uhrig

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