

STATE OF MINNESOTA

DISTRICT COURT

COUNTY OF HENNEPIN

FOURTH JUDICIAL DISTRICT

Tyler Timberlake,

Case Type: Employment

Court File No.:

Judge:

Plaintiff,

v.

COMPLAINT

Brian O'Hara and The City of Minneapolis,

Defendants.

Plaintiff Tyler Timberlake, for his Complaint against Minneapolis Chief of Police Brian O'Hara and the City of Minneapolis (collectively, the "Defendants"), states and alleges as follows:

INTRODUCTION

1. In this lawsuit, Timberlake seeks to recover damages for the loss of his reputation and career caused by wrongful conduct of the Defendants. Specifically, Defendants induced Timberlake to resign his civil-service-protected job as a police officer in Virginia, and to accept a comparable position with the severely understaffed Minneapolis Police Department ("MPD"), in part by assuring him that a use-of-force incident in Fairfax, Virginia would not affect his employment with the MPD. In the Virginia incident, Timberlake had been acquitted by a jury of misdemeanor assault charges, and was found not to have violated police use-of-force policies. He was not subjected to formal discipline because of the incident.

2. But shortly after his hiring by the MPD, when the incident in Fairfax came to the attention of the local press, those assurances turned to smoke. Without even an allegation of wrongdoing in the performance of his job with MPD, Timberlake was put on limited duty status and then fired. At the time of his termination meeting, which O'Hara chose to skip, Timberlake

was told there had been no complaints about his job performance but that he was being separated from service for reasons that the MPD declined to reveal.

3. Worse, in O'Hara's panicked efforts to evade responsibility for Timberlake's hiring, he told a series of lies to the public, including that Timberlake had failed to disclose, or had misrepresented, the incident in Virginia during the hiring process, that O'Hara did not know about the incident in Virginia, that something was wrong with the MPD hiring process because it had failed to identify the incident in Virginia, that Timberlake was actually guilty of doing something wrong in Virginia, and that Timberlake did not meet some unspecified qualification for employment with the MPD.

4. Because Timberlake was fired during the probationary period of his employment with MPD, he had no recourse to civil service or union protections. Timberlake now finds himself with no job, no prospect of getting a job in the field of law enforcement, and his reputation in tatters. He seeks to recover money damages from the people who made that happen.

PARTIES

5. Plaintiff Tyler Timberlake ("Timberlake") is a resident of Anoka County, State of Minnesota. Timberlake is not a public figure.

6. Defendant Minncapolis Chief of Police Brian O'Hara ("O'Hara"), is a resident of the State of Minnesota who is employed as the Chief of Police for the City of Minncapolis, State of Minnesota.

7. Defendant City of Minncapolis ("City") is a municipality duly incorporated under the laws of the state of Minnesota. The City maintains and operates the Minneapolis Police Department ("MPD"). The City is legally responsible for O'Hara's conduct, tortious and otherwise, because O'Hara was the City's agent for purposes of the acts and omissions that give

rise to the claims herein, such that the conduct of O'Hara was conduct by the City. The City is also responsible for O'Hara's tortious conduct under the doctrine of *respondeat superior*.

JURISDICTION & VENUE

8. This court has original jurisdiction over this case pursuant to Minn. Stat. § 484.01(1).

9. Venue is proper in this court pursuant to Minn. Stat. § 542.09 because at least one of the Defendants is situated in Hennepin County and the cause of action arose in Hennepin County.

FACTS

I. TIMBERLAKE'S TRAINING AND CAREER IN FAIRFAX, VIRGINIA.

10. Born and raised in Virginia, Timberlake decided that he wanted to serve his community through a career in law enforcement from an early age.

11. Timberlake was employed by the Fairfax County Police Department ("FCPD") in Virginia from September 2009 as a Police Cadet and was promoted to Police Recruit in April 2012. He attended the Fairfax County Criminal Justice Academy and graduated in October 2012.

12. During his tenure with FCPD, Timberlake served a diverse community of over 1.2 million residents and distinguished himself by earning the Silver Medal of Valor Award for saving residents of a burning apartment building in January 2014, and a Departmental Honors Team Excellence Award in June 2015. He was one of two Body Worn Camera ("BWC") instructors for his police district during FCPD's pilot program in the spring of 2018. He received numerous other honors and awards as well.

13. Timberlake continued his education by taking at least 34 advanced training courses and completing over 1800 hours of additional training including such subjects as "Active

Bystandership in Law Enforcement (ABLE),” “Procedural Justice,” “Cultural Diversity,” “TASER/CEW Training,” “Constitutional Law,” “Generational Implicit Bias,” “Crisis Intervention Training,” and “Constitutional and Community Policing.” In the spring of 2022, Timberlake earned a ranking in the top 25% of candidates for the FCPD Sergeant Promotional Process, and by Summer 2022, Timberlake was ranked “Highly Qualified” by the Major Crimes Bureau Detective Process.

14. For most of his employment with FCPD, Timberlake lived in low-income apartment complexes in or near his police district, where he voluntarily served as a courtesy officer during his off-duty hours. His work as a courtesy officer involved connecting with community members about issues of crime in their community and building relationships within the community. He was well-liked within the community for improving the safety of his neighborhoods.

15. Timberlake was employed in good standing as a police officer and full-time academy instructor for FCPD at the time of his offer of employment at MPD on December 7, 2022, which induced him to resign on December 8, 2022. Timberlake’s first day as an MPD employee was on January 9, 2023.

II. FEAR AND UNREST FOLLOWING GEORGE FLOYD’S MURDER.

16. On Monday, May 25, 2020, George Floyd, Jr. (“Floyd”) was murdered by a police officer in Minneapolis, Minnesota. The cell phone video of his death taken by a bystander showed Floyd pinned to the ground under Officer Derek Chauvin’s (“Chauvin”) knee, repeatedly saying “I can’t breathe” for over 8 minutes.

17. The video was shared on social media the next day and viewed by millions of people in the days and weeks that followed. On Tuesday, May 26, 2020, protests began in

Minneapolis, with the police using tear gas to break them up. By Wednesday, May 27, 2020, the Minneapolis Police Chief at the time, Medaria Arradondo, terminated the four officers involved in Floyd's murder, including Chauvin. That night, thousands of protesters flooded the streets in Minneapolis and surrounding cities, some targeting police vehicles and the Third Precinct police building where the four officers had been assigned. The next day, Thursday, May 28, 2020, Minnesota Governor Tim Walz mobilized the National Guard and deployed them to Minneapolis, Saint Paul, and other locations where protests had turned violent.

18. By then, demonstrators in other cities across the nation had started organizing protests too. In the days and weeks following Floyd's death, protests erupted in at least 140 cities across the United States, and the National Guard was activated in at least 21 states.

19. Public outrage was also directed towards uninvolved police officers even though many officers, including Timberlake, disagreed with the knee-on-neck restraint tactic used in Floyd's murder.

20. In the Commonwealth of Virginia, tensions following Floyd's death were particularly high. Protests broke out in Richmond, Virginia on the night of May 28 and spread to over 50 other cities within a matter of days. Fairfax County is near the suburban ring of Washington D.C., where hundreds of thousands of protestors marched. In Fairfax City, over 3,000 protestors gathered in support of Black Lives Matter.

III. THE CRITICAL INCIDENT INVOLVING LAMONTA GLADNEY.

21. On June 5, 2020, just days after George Floyd's death and while protests were beginning to spread across the country and Virginia, FCPD received a request to provide police support for a medical call. Medical first responders will routinely call for police assistance when the situation they are in turns dangerous. Although FCPD typically dispatched at least two officers

to any scene, the large number of police calls during the unrest and protests scheduled that day meant that only a solo officer, Officer Kyle Schaefer (“Schaefer”) was able to initially respond. At the scene, both Fairfax County Fire and Rescue (“FCFR”) personnel and Schaefer observed a man who was obviously under the influence of a mind-altering substance and/or alcohol. The man was pacing in the middle of the road, mumbling, and not responding to requests by medics, fire personnel, or Schaefer to go with them to detox. Schaefer communicated details of the scene via radio. The information he relayed indicated that he was the only officer on-scene and in a potentially dangerous situation.

22. Cognizant of the FCPD protocols and concerned for the well-being of residents in the area, a fellow officer, FCFR personnel already on-scene, and the man himself, Timberlake arrived to assist Schaefer and the FCFR. The area was familiar to Timberlake as a high-crime area, and one frequented by a violent felon, known to Timberlake as Anthony Ingram (“Ingram”). Ingram had active warrants at the time for felony strangulation and domestic assault and battery. Ingram was also a known user of the dissociative and hallucinogenic drug, phenylcyclohexyl piperidine/phencyclidine, commonly known as PCP. PCP can induce “acute schizophrenia, including agitation, psychosis, audiovisual hallucinations, paranoid delusions, and catatonia... the most disturbing behavioral effects of PCP are violent, aggressive and bizarre behavior with self-mutilation tendencies.”¹ Timberlake had previously encountered Ingram while Ingram was under the influence of PCP.

23. Timberlake was familiar with the effects of PCP having frequently encountered people under its influence in his work. He recognized the aggressive, erratic behavior and

¹ Bey, T., M.D. and Patel, A., M.D. (2007, February), National Library of Medicine. *Phencyclidine Intoxication and Adverse Effects: A Clinical and Pharmacological Review of an Illicit Drug*.

hallucinations the drug often imparts on its users, and this man's behavior recalled that of Timberlake's previous experience with a PCP-intoxicated Ingram in 2017. During that encounter, Ingram had actively resisted arrest, and had fought with Timberlake and numerous other officers on the scene, even after being tased multiple times. As a result of the man's erratic behavior, similar appearance, and location in a neighborhood known to Timberlake to be frequented by Ingram, Timberlake initially identified the man as Ingram. It was later determined that the man was Lamonta Gladney ("Gladney").

24. Timberlake called out to the man in an attempt to de-escalate the situation by speaking directly to him. He stated, "Anthony, get on the ground," and, "Get on the ground, Anthony." The man did not cooperate or respond to Timberlake or others on the scene. He made no attempt to correct Timberlake's identification of him.

25. Gladney began moving towards Timberlake and then abruptly changed direction, walking towards an FCFR firefighter/paramedic. Gladney had a dissociative gaze, was profusely sweating, and held a rigid and flexed body posture. Timberlake observed these pre-assault indicators and recalled the difficulty he and other officers had when attempting to restrain Ingram in 2017. Timberlake was concerned for the safety of all parties on the scene, including Gladney, given the increased risks to individuals under the influence of illicit substances should a long, protracted physical altercation take place. Because of these facts, and due to Gladney's active resistance and lack of response or compliance with lawful instruction, Timberlake, still believing Gladney to be Ingram, made the decision to deploy his TASER Brand Conducted Energy Weapon ("CEW") into Gladney's back in accordance with training guidelines.

26. Gladney dropped to the ground, landing on his back. Timberlake instructed Gladney to "roll over" on two occasions. Gladney continued to be uncooperative. Timberlake rolled

Gladney onto his stomach and into a handcuffing position. During this time, Timberlake attempted additional verbal de-escalation and instruction by using the name “Anthony” and requesting he “relax” as well as “Anthony, give me your arm.” Schaefer retrieved his handcuffs and placed them over Gladney’s wrists without handcuffing him.

27. The delay in handcuffing allowed the effects of the CFW to wear off and Gladney began to resist actively and violently. Although this necessitated additional restraint by Timberlake, Timberlake’s knee was never on Gladney’s neck.

28. Gladney was able to place his hand underneath his chest where he began pushing himself up with such force that both Timberlake and Schaefer were forced out of their positions. Gladney managed to roll Timberlake off, and Timberlake fell to the ground on his side/back with Gladney on top of him. The level of resistance exerted by Gladney against Timberlake ripped Timberlake’s BWC from his chest, causing the BWC to fall on the ground.

29. This display of resistance and strength, throwing two fully equipped officers off him from a supine position, supported the idea that Gladney was under the influence of PCP.² Schaefer sent out multiple emergency radio transmissions. He requested any available officers to expedite their response to his and Timberlake’s location. Specifically, he radioed other officers to “step it up” and get to their location as quickly as possible.

30. With the assistance of multiple FCFR personnel, prior to the arrival of additional police resources, Timberlake and Schaefer were eventually able to handcuff Gladney. Gladney was immediately placed on his side in a recovery position and Timberlake disengaged, allowing

² According to the American Addiction Center, PCP can falsely give someone a “strong sense of strength and invulnerability, leading [a person on PCP] to actions that may be unintentionally harmful and dangerous” and a range of psychological effects including “an inability to feel pain.” <https://americanaddictioncenters.org/pcp-abuse/effects-and-dangers>

medical staff to take over. From the initial CEW deployment to Gladney being placed in a recovery position was approximately 81 seconds. Gladney was taken via ambulance to a nearby hospital for detox. Timberlake confirmed Ingram had active warrants and believed he had arrested Ingram and obtained medical attention for him.

31. At the hospital, it was confirmed that the man was under the influence of PCP and cocaine, and it was determined that he was Lamonta Gladney, not Anthony Ingram.

IV. FAIRFAX COUNTY COMMONWEALTH ATTORNEY CHARGES TIMBERLAKE.

32. On the same day as the critical incident on June 5, 2020, FCPD was made aware of a video posted on the social media platform Twitter (now known as X) that was taken from a window overlooking the scene and depicted the encounter.

33. On June 6, 2020, only a day after the incident and without due diligence, Timberlake was placed on paid administrative leave and charged with three counts of misdemeanor assault and battery. The former chief of police, Commonwealth Attorney, and Fairfax County Chairman of the Board of Supervisors held a press conference. The press conference announcing charges against Timberlake was scheduled prior to the charges against Timberlake being issued. Because of fear that the Twitter video would result in civil unrest, Fairfax County charged first and investigated later.

34. The investigation was so cursory and deficient that:

- (a) No witness interviews were conducted;
- (b) No interview of Timberlake was conducted;
- (c) No interview of Gladney was conducted;
- (d) BWC and dash camera footage was not fully reviewed; and

- (c) The critical incident investigative report was not approved until more than six months later in February 2021.

35. Timberlake was ordered to turn himself in to the Fairfax County Adult Detention Center, where he was processed and released. He remained free on bond until his trial.

V. TIMBERLAKE IS ACQUITTED.

36. After a trial, on March 25, 2022, the jury found Timberlake not guilty on all counts. It was a racially and gender diverse jury of seven people. Following the trial, the jury foreperson sought out Timberlake outside the courthouse and expressed his regret that Timberlake had been put through the ordeal of a trial.

37. After the acquittal, Timberlake was fully reinstated to his position as a police officer for FCPD. Timberlake remained an officer with the FCPD throughout all phases of his critical incident. Subsequently, the Fairfax County Police Department Internal Affairs Bureau (“FCPD-IAB”) concluded its investigation of Timberlake’s critical incident. It found that Timberlake had not violated the use-of-force policy and sustained a policy violation related to the de-escalation policy. FCPD-IAB initially issued a formal warning (written reprimand) for improper de-escalation. Timberlake appealed the finding, and the written reprimand was reduced to an informal warning (oral reprimand), neither of which are considered formal disciplinary actions. This information was known to MPD and included as a part of the background investigation.

VI. TIMBERLAKE APPLIES TO WORK FOR THE MPD.

38. Timberlake applied to become an officer with the MPD. Applications for employment to the MPD are processed by the Minneapolis Police Backgrounds Unit, and Timberlake’s application was handled by Officer Craig Johnson (“Johnson”) of that department. Johnson gathered Timberlake’s completed application, letters of recommendation, documentation,

and other required items. Johnson also carefully investigated the critical incident, which included requiring Timberlake to submit a written description of the event. Johnson spoke with FCPD internal affairs, reviewed media reports and wrote a summary of his findings in his background report. Johnson presented this report in its entirety to MPD hiring personnel.

39. Timberlake disclosed the critical incident to MPD on his application and every phase of the overall onboarding process. He also disclosed to the Minnesota Peace Officer Standards and Training (“POST”) Board prior to being approved for the Reciprocity Exam he successfully passed on July 12, 2022. As part of this disclosure, Timberlake offered to provide all video and audio footage related to the critical incident during the hiring process, but this was never requested.

VII. TIMBERLAKE HAS CHIEF’S INTERVIEW FOR MPD WITH CHIEF O’HARA.

40. On November 8, 2022, before being offered employment, Timberlake came to Minneapolis for a final in-person interview with the MPD. He met with the Chief of Police, Brian O’Hara, and other hiring personnel. This final stage of the interview process is colloquially known in law enforcement as the “chief’s interview.” At this interview, Timberlake met with Police Chief O’Hara, Deputy Chief Troy Schoenberger, Chief of Staff Christopher Gaiters, and Human Resources Representative Heather Rende.³ The panel and Timberlake discussed the critical incident and subsequent court proceedings in Fairfax in great detail. The disclosure of the incident and related court case was recorded in the interviewers’ notes.

41. Near the end of the chief’s interview, Timberlake was asked if he had any questions for the interview panel. Timberlake spoke directly to Chief O’Hara and indicated he was concerned about how he would be treated because of the critical incident in Fairfax, Virginia, involving

³ Titles were at the time of this interview and do not reflect current positions with MPD.

Gladney. O'Hara said, in substance, that he did not care about the prior critical incident, and that if Timberlake is doing the right thing and meeting community expectations, he would not have any problems from the Chief. He understood O'Hara's position to mean that he would be judged on his own performance as an MPD officer and not on the critical incident.

42. After the chief's interview, Timberlake was walking to his car when he received a call on his cellphone from Lt. Marjane Khazraeinazmpour ("Khazraeinazmpour"). Khazraeinazmpour congratulated Timberlake and offered him the position as an MPD Officer, less than 15 minutes after the meeting ended.

43. In a letter from O'Hara dated December 7, 2022, the job offer was confirmed. The rate of pay for the position was \$44.32/hour; the start date at the academy was January 9, 2023. Timberlake accepted the job offer. In reliance on O'Hara's assurance that the critical incident would not be a basis for terminating his employment, Timberlake tendered his resignation with FCPD and relocated to Minnesota for his new position. O'Hara approved Timberlake's peace officer application on January 11, 2023, and Timberlake was sworn in as a Minneapolis police officer on March 15, 2023.

44. After he joined MPD, Timberlake was invited to work on the reformation of MPD's Emergency Vehicle Operations Course (EVOC) program and pursuit policy in or around March 2023 based on his past experience instructing EVOC courses at the Fairfax County Criminal Justice Academy. He was invited to unveil his work at a meeting with Chief O'Hara on April 28, 2023.

VIII. THE PRESS ASKS ABOUT TIMBERLAKE'S CRITICAL INCIDENT.

45. On April 12, 2023, Deena Winter ("Winter"), a reporter for the Minnesota Reformer, sent an email to the MPD asking it to confirm that Timberlake had been hired as a police officer. The MPD confirmed that Timberlake had been hired with a start date of January 9, 2023.

46. On April 17, 2023, Winter asked whether MPD or the City had any comment on the fact that in his last job, Timberlake "was charged with (but not convicted of) assaulting an unarmed Black man in crisis by tasing him, punching him in the head and holding him down with his knee on his neck and back?"

47. On April 18, 2023, MPD replied with a statement from Chief O'Hara as follows:

I am extremely concerned about what I have just learned pertaining to the hiring of this individual who is currently in agency training and yet to be deployed into service. Effective immediately, I am directing that a thorough investigation be conducted into this matter. The individual in question will not be deployed or serve in a law enforcement capacity in any way until we conclude a full investigation into this matter. We will get to the bottom of this and take whatever measures are necessary to ensure we are always hiring officers who meet our standards and that we are ultimately placing only the most qualified and competent police into the service and protection in the City of Minneapolis.⁴

48. This statement falsely stated or implied, at a minimum, the following:

- (a) That O'Hara had not previously known about the critical incident; he had.
- (b) That Timberlake had concealed the critical incident; he had not.
- (c) That Winter's portrayal of the critical incident was correct;⁵ it wasn't.
- (d) That Timberlake did not meet MPD hiring standards; he did.

⁴ Chapman, R., (April 19, 2023), retrieved on December 8, 2023, WCCO/CBS News. *Minneapolis Police investigate hiring of officer charged, then cleared, in assault on unarmed Black man.*

⁵ Winter asked if Timberlake "[held Gladney] down with his knee on his neck and back," a misrepresentation of the facts of Timberlake's critical incident wherein he held Gladney down by his back and shoulder, not his neck.

(e) That Timberlake was not fully qualified and competent as a police officer; he was and he is.

(f) That Timberlake had been hired without a “thorough investigation” of his background that would have revealed the Gladney incident; this is untrue.

49. On April 19, 2023, Winter replied to MPD in an email stating: “Multiple sources are telling me Timberlake’s hiring was approved by the chief, and Timberlake was very open and honest about his background...Did O’Hara make the final decision to hire Timberlake and was the chief unaware of Timberlake’s Virginia case?”

50. On April 19, 2023, a reporter from WCCO-TV contacted MPD and requested information about the panel that hired Timberlake, including what information they reviewed when making the decision to hire him.

51. On April 19, 2023, O’Hara began to change his story after media scrutiny. He wrote an internal email regarding Winter’s follow up questions, stating:

I don’t know what we can get into, but the board recommending his hire occurred on Nov 1st. I became chief on Nov 7th. He was hired when I was the chief, but I was completely and totally unaware of his history. That’s why I moved to immediately order a thorough investigation into his hire, suspend his training, and relieve him of his service weapon.

52. On April 20, 2023, KARE-11 Reporter Kent Erdahl quoted O’Hara during a broadcast as saying he “did not know Tyler Timberlake had been hired.”⁶

53. On May 5, 2023, Mary McGuire of Fox 9 News emailed MPD and asked if O’Hara had “any statement he would like to share regarding launching an investigation on a hire that he personally signed off on?” MPD responded with a statement from O’Hara as follows:

⁶ KARE 11 Report (April 20, 2023) Retrieved December 11, 2023, *Minneapolis Police Department hires officer accused of assault*

As Chief of Police, when an officer is presented to me as “highly recommended” for hire, after multiple layers of review, I have to be able to trust that the officer has been screened and meets my standard for this department. As I have stated, due to the instance in question, I have ordered a full and comprehensive investigation into the MPD backgrounds and hiring processes. At the conclusion of this ongoing investigation, I will be making substantial process changes to ensure that, as we move forward, every potential hire who is presented to me for sign-off has been vetted allowing me to trust they meet my standard for officers in this department.⁷

54. This statement falsely indicated:

- (a) That O’Hara did not know about the critical incident before hiring Timberlake; he did.
- (b) That the critical incident made Timberlake unqualified or otherwise unsuitable for employment with the MPD; it did not.
- (c) That Timberlake did not meet O’Hara’s personal standards for MPD officers; it did.
- (d) That it was an error in the MPD’s hiring process that led to Timberlake’s hiring; there was not.
- (e) That Timberlake was not “vetted”; he was.

55. On May 25, 2023, O’Hara gave an interview to PBS News Hour. The reporter posed the question: “Earlier this month, the news website Minnesota Reformer reported that O’Hara personally signed a job offer letter for a former Virginia police officer who repeatedly tasered and struck an unarmed Black man in 2020. You ordered a full investigation into that. First, is there any update and do you worry that something like this undermines credibility of the department’s efforts?”⁸ O’Hara responded:

Of course, that’s a very serious concern of mine. Obviously, I was not happy about it once I learned fully about that person’s history. But yes, the matter remains under investigation. The actual process remains under investigation. Because how could, if you will, the sort of rubric for

⁷ FOX 9 Staff, (2023, July). FOX 9. *Minneapolis PD’s controversial hire is no longer with department.*

⁸ Available at: <https://www.pbs.org/video/police-reckoning-1685047966/>

conducting this hiring and all the different layers of review that there is in the process, how could something like this not be flagged. I can assure the public that we will be making very significant changes to the process, the structure of how these things are conducted, to ensure something like this does not happen again.

56. This statement falsely indicated:

- (a) That O'Hara did not know about Timberlake's "full history"; he did.
- (b) That internal investigation into Timberlake was ongoing; it was not. The investigation had been closed on May 9, 2023.
- (c) That Timberlake did not meet O'Hara's personal standards for MPD officers; he did.
- (d) That it was an error in the MPD's hiring process that led to Timberlake's hiring; there was not.

57. On July 10, O'Hara gave a press conference on the matter and gave the following statements⁹:

I have given several comments in the past to media regarding the hire of Mr. Timberlake and I wanted the opportunity to address you all tonight and give some additional context... On my second day on the job here in Minneapolis, I was an observer in the individual's interview in the final stage of the hiring process, but I was not a participant. I was observing the operations of the department in general. And as you can imagine, the second day here was quite the whirlwind.

It wasn't until after receiving a media inquiry in April that I became aware for the first time of a video of the use of force incident involving this individual. I had a very visceral reaction to the behavior that I saw on that video. I was shocked. And I gave a statement to the media very quickly and the statement could have been clearer. I did observe the individual's interview and as chief of police, I did sign off on this person's hire, but all of that was before I saw the behavior in that video.

My initial statements in April could have been clearer that I was aware of the hire, but not of the video. And I would not have signed off on that hire if I had witnessed the behavior in that video at that time. I accept

⁹ Available at: <https://www.youtube.com/watch?v=yAnh0gvvfuU&t=497s>

responsibility for not being clear enough in my initial comments and for not following up to clarify. But again, I had not seen that video.

Moving forward, I will work hard to communicate clearly to the extent that I am permitted to disclose information under Minnesota law. I also commit to fixing the hiring process, so that we don't simply hire people that meet the minimum qualifications but that we screen in individuals that reflect the values of this community and this department.

At the time of the press conference, O'Hara was asked questions related to what he knew about Timberlake's critical incident. In response to a question from a reporter who asked: "This officer, Tyler Timberlake, was on trial for allegedly using excessive force against a black man. Were you aware of that when you signed off on his hire?" To which O'Hara replied, "No."

58. This statement and O'Hara's answer to reporter questions falsely indicated:

- (a) That O'Hara was not an active participant in Timberlake's hiring process; he was.
- (b) That Timberlake concealed the existence of BWC footage related to the critical incident; he did not.
- (c) That Timberlake had not proactively disclosed the critical incident or the related video footage; he did.
- (d) That he did not know that Timberlake had stood trial and been acquitted; he knew or should have known because the court proceedings are mentioned in interviewers' notes who sat in on the chief's interview.

IX. TIMBERLAKE BLOWS THE WHISTLE ON O'HARA.

59. On May 15, 2023, Timberlake sent written notice via email to Mayor Jacob Frey, O'Hara, and Chief of Human Resources Nikki Odom that O'Hara was defaming him. Several others within MPD and City administration were also recipients of the email, including then Public Safety Commissioner Cedric Alexander and City Attorney Kristyn Anderson. Timberlake sent this

notice pursuant to Minn. Stat. § 181.932 which prohibits disclosing identifying information, retaliating against an employee, and making false disclosures.

60. In his email, Timberlake made clear the public statements by O'Hara were defamatory and untruthful in nature. He requested investigation into the matter and for the defamatory statements to stop.

X. O'HARA FIRES TIMBERLAKE.

61. After the initial press inquiry, MPD opened an internal investigation into Timberlake's hiring. This investigation was closed on May 9, 2023.

62. On July 5, 2023, Timberlake was summoned to the MPD for a meeting with department officials. He met with Deputy Chief Schoenberger, Lt. Anna Hedberg, and Lt. Molly Fischer. Schoenberger informed him that his employment with the MPD would be terminated effective immediately.

63. Timberlake asked the reason for his termination; Schoenberger refused to tell him. Timberlake asked if it was performance-related; Schoenberger said it was not. Timberlake asked if there were any complaints of misconduct; Schoenberger said there were none. Timberlake asked if he had disclosed everything properly during his job application process; Schoenberger said he had. Timberlake asked if his termination was related to political pressures; Schoenberger stated "I'm not going to answer that."

XI. THE CITY OF MINNEAPOLIS INVESTIGATES O'HARA FOR MULTIPLE COMPLAINTS.

64. In August 2023, Minneapolis city officials confirmed an active investigation into multiple complaints against O'Hara, some of which are related to Timberlake. An external law firm was hired by the City to investigate several complaints, including a separate complaint about

O'Hara's statements regarding Timberlake's hiring.¹⁰ Timberlake has not received any information indicating that the City has investigated the claims Timberlake reported to Mayor Frey on May 15, 2023.

XII. THE CITY OF MINNEAPOLIS ISSUES A DEFAMATORY LETTER ACCUSING TIMBERLAKE OF EMPLOYMENT MISCONDUCT.

65. On October 4, 2023, the City issued a letter to Timberlake that was dated September 22, 2023. The letter enclosed a memorandum from O'Hara which was also dated September 22, 2023, and which purported to state O'Hara's "approach and reasoning" for Timberlake's firing. The letter and enclosed memorandum are not protected by Minnesota Statute § 181.933 because the letter was untimely, supplied more than ten working days after Timberlake requested the reason for his termination in compliance with that statute.

66. The memorandum falsely characterized the video of Timberlake from the critical incident, including by stating that Timberlake "arrived on the scene of someone else's call and almost immediately and apparently unnecessarily tasing a member of the public without making any effort to de-escalate." It also falsely stated that Timberlake's actions, had they taken place while he was employed by the Minneapolis Police Department, "would have violated MPD Policy." O'Hara's memo stated: "The video shows conduct that does not exemplify what I expect of Officers of the Minneapolis Police Department." This statement falsely implies that O'Hara did not know of the conduct and allegations against Timberlake prior to viewing the video. O'Hara further stated that "The video was not revealed during the hiring process," which falsely implies

¹⁰ Only 23 days after becoming Chief of Police, an Edina detective reported that O'Hara had called in November 2022 and demanded that he be provided a nonpublic report about an MPD officer cited for assault. When the detective refused, O'Hara "yelled and cursed [at the detective]". Winter, D., (2023, August). Minnesota Reformer. *Minneapolis police chief faces three investigations for alleged misconduct*. O'Hara is also being investigated for failing to make a report of his own use of force. On January 27, 2023, O'Hara "used reportable force, but did not do a force report", a violation of MPD policy. Mohamed, A. (2023, August). Minneapolis Spokesman-Recorder. *Minneapolis police chief under fire*.

that Timberlake concealed it when in fact the matter was fully disclosed, and videos were available to MPD through data requests or public record. Timberlake himself offered to provide all footage to MPD during the hiring process but this was never requested by O'Hara or other MPD hiring personnel.

67. O'Hara's memo continues by stating "I wanted to make a reasoned decision about Officer Timberlake's employment," and for that purpose he reviewed "the hiring process, hearing comments made by the current Fairfax Police Chief, and taking into account concerns raised by community members following the media's publication of the video." In fact, O'Hara obtained no information that he did not already know when he hired Timberlake, and the current Fairfax Police Chief did not make comments that would have supported terminating Timberlake's employment. O'Hara's memo made no mention of Timberlake's acquittal on all charges related to the Gladney incident.

68. Finally, O'Hara falsely claimed in his September 22, 2023 memo that Timberlake "engaged in conduct that would not meet our standards when he stepped into another officer's call, failed to de-escalate, and used unreasonable force during a critical incident."

COUNT ONE – DEFAMATION
(Both Defendants)

69. Timberlake hereby realleges and incorporates by reference the allegations of the preceding paragraphs 1 through 68 as if restated herein.

70. The City and O'Hara defamed Timberlake on multiple occasions, some of which are described above. Generally, the statements made by the City and O'Hara to the public, in correspondence with Timberlake and otherwise, were defamatory because, individually and collectively: (a) they stated or implied that Timberlake had concealed the incident during his background investigation and hiring by the MPD or had otherwise been less-than-forthcoming

about the incident in his dealings with the MPD hiring team, when the opposite was the case; (b) they adopted a superficial and false interpretation of the incident by claiming Timberlake had assaulted Gladney without justification, when the opposite was the case; (c) they characterized the video as showing Timberlake's knee on Gladney's neck, which is untrue; (d) they falsely stated or implied that Timberlake did not meet MPD hiring standards; and (e) they falsely stated or implied that Timberlake was not fully qualified and competent to be a police officer.

71. Specifically, the press release on April 18, 2023, included a statement from Chief O'Hara as follows:

I am extremely concerned about what I have just learned pertaining to the hiring of this individual who is currently in agency training and yet to be deployed into service. Effective immediately, I am directing that a thorough investigation be conducted into this matter. The individual in question will not be deployed or serve in a law enforcement capacity in any way until we conclude a full investigation into this matter. We will get to the bottom of this and take whatever measures are necessary to ensure we are always hiring officers who meet our standards and that we are ultimately placing only the most qualified and competent police into the service and protection in the City of Minneapolis.¹¹

72. This statement was false because it stated or implied:

- (a) That O'Hara did not know about the Gladney incident before hiring Timberlake.
- (b) That the Gladney incident made Timberlake unqualified or otherwise unsuitable for employment with the MPD;
- (c) That Timberlake did not meet O'Hara's *personal* standards for MPD officers;
- (d) That it was an error in the MPD's hiring process that led to Timberlake's hiring; and

¹¹ Chapman, R., (2023, April). WCCO/CBS News. *Minneapolis Police investigate hiring of officer charged, then cleared, in assault on unarmed Black man.*

(c) That Timberlake was not “vetted.”

73. In addition, the MPD press release on May 5, 2023 stated:

As Chief of Police, when an officer is presented to me as “highly recommended” for hire, after multiple layers of review, I have to be able to trust that the officer has been screened and meets my standard for this department. As I have stated, due to the instance in question, I have ordered a full and comprehensive investigation into the MPD backgrounds and hiring processes. At the conclusion of this ongoing investigation, I will be making substantial process changes to ensure that, as we move forward, every potential hire who is presented to me for sign-off has been vetted allowing me to trust they meet my standard for officers in this department.¹²

74. This statement falsely indicated:

- (a) O’Hara did not know about the critical incident;
- (b) The critical incident made Timberlake unqualified or otherwise unsuitable for employment with the MPD;
- (c) Timberlake did not meet O’Hara’s *personal* standards for MPD officers; and
- (d) That it was an error in the MPD’s hiring process that led to Timberlake’s hiring.

75. The foregoing statements were defamatory because they are untruthful and they: (a) harmed Timberlake’s reputation by lowering his esteem in the community; (b) deterred third persons – including prospective employers – from associating or dealing with him; (c) injured his character; (d) subjected him to ridicule, contempt and distrust; and (e) degraded and disgraced him in the eyes of others.

76. The foregoing statements were published because they were made to reporters, who were expected and intended to convey the defamation to the public, and in some cases the

¹² FOX 9 Staff, (2023, July). FOX 9. *Minneapolis PD’s controversial hire is no longer with department.*

statements were made directly to the public. The letter and memo from the City and O'Hara to Timberlake was published per the doctrine of compelled self-publication, i.e., Timberlake has been compelled to discuss the defamatory reasons the defendants gave for his termination in job interviews as he seeks to regain employment.

77. The foregoing defamatory statements were not privileged, either absolutely or qualifiedly, because they were not made for the purpose of terminating Timberlake's employment. His employment had already been terminated. The statements were made for non-privileged reasons, including for the purpose of salvaging Chief O'Hara's reputation.

78. As a result of the foregoing defamatory statements, Timberlake is entitled to an award of special damages exceeding \$50,000, to compensate him for (a) loss of employment; and (b) inability to obtain employment following his termination by the City.

79. Accordingly, on his claim for defamation, Timberlake is entitled to a judgment for damages against both defendants, jointly and severally, in an amount exceeding \$50,000, to compensate him for: (a) harm; (b) mental distress; (c) humiliation; (d) embarrassment; (e) physical disability; and (f) economic loss caused by the defamatory statement or communication.

COUNT TWO – DEFAMATION PER SE
(Both Defendants)

80. Timberlake hereby realleges and incorporates by reference the allegations of the preceding paragraphs 1 through 68 as if restated herein.

81. The City and O'Hara defamed Timberlake on multiple occasions, some of which are described above. Generally, the statements made by the City and O'Hara to the public, in correspondence with Timberlake and otherwise, were defamatory because, individually and collectively: (a) they stated or implied that Timberlake had concealed the incident during his background investigation and hiring by the MPD or had otherwise been less-than-forthcoming

about the incident in his dealings with the MPD hiring team, when the opposite was the case; (b) they adopted the superficial and false interpretation of the incident by claiming Timberlake had assaulted Gladney without justification, when the opposite was the case; (c) they characterized the video as showing Timberlake's knee on Gladney's neck, which is untrue; (d) they falsely stated or implied that Timberlake did not meet MPD hiring standards; and (e) they falsely stated or implied that Timberlake was not fully qualified and competent to be a police officer.

82. The foregoing statements outlined above, including in paragraphs 70 through 74, were defamatory *per se* because they allege a crime, and because they allege or imply improper or incompetent conduct involving Timberlake's business, trade, or profession.

83. Defendants made the written and verbal statements regarding Timberlake: (a) with knowledge that they were false; (b) that with reasonable exercise of care Defendants should have known were false; or (c) while lacking a reasonable belief as to their truth or falsity.

84. Defendant O'Hara's statements were made in press conferences, to media persons and internally within MPD and furthered widespread information about Timberlake's past and employment eligibility.

85. Timberlake was acquitted by a jury of his peers, a matter of public record that Defendants knew at the time of hiring. Timberlake was also proactive in his disclosure of the critical incident during his background investigation process, in multiple interviews with MPD, in his chief's interview with Defendant O'Hara and with the MN POST Board that approved him as a well-qualified candidate for the role of police officer.

86. Defendant's statements have disparaged and continue to disparage Timberlake's personal and professional reputation, and the damage is ongoing. Timberlake has been unable to

obtain employment, even at police departments that previously expressed interest in working with him, because of Defendants' defamation of him.

87. As a result of the foregoing defamatory *per se* statements, Timberlake is entitled to an award of presumed damages exceeding \$50,000, to compensate him for: (a) harm to his reputation and standing in the community; (b) mental distress; (c) humiliation; and (d) embarrassment.

COUNT THREE - WRONGFUL TERMINATION – PROMISSORY ESTOPPEL
(City of Minneapolis Only)

88. Timberlake hereby realleges and incorporates by reference the allegations of the preceding paragraphs 1 through 68 as if restated herein.

89. On November 8, 2022, O'Hara made a clear and definite promise that Timberlake would not be terminated from his employment with MPD because of the critical incident.

90. It was reasonably foreseeable to O'Hara and the City that Timberlake would rely on that promise in resigning from his civil service protected job with the FCPD and accepting employment with the MPD.

91. Timberlake relied on the promise O'Hara made in resigning his employment with the FCPD and accepting employment with the MPD.

92. Because Timberlake relied on O'Hara's promise, he has permanently and irrevocably lost the compensation and benefits that he would have received if he had remained employed by the FCPD through the end of his career.

93. Accordingly, on his claim against the City for Wrongful Termination – Promissory Estoppel, Timberlake is entitled to a judgment against the City in an amount exceeding \$50,000.

COUNT FOUR -- VIOLATION OF MINNESOTA WHISTLEBLOWER ACT
(City of Minneapolis Only)

94. Timberlake hereby realleges and incorporates by reference the allegations of the preceding paragraphs 1 through 68 as if restated herein.

95. On May 15, 2023, Timberlake sent written notice via email to Mayor Jacob Frey, O'Hara, and the Chief of Human Resources, Nikki Odom that O'Hara was defaming him. Several others, within MPD and the City administration, also received copies of the email. Timberlake sent this notice pursuant to Minn. Stat. § 181.932 which prohibits disclosing identifying information, retaliating against an employee and making false disclosures.

96. On July 5, 2023, the City terminated Timberlake's employment.

97. The City's stated reasons for terminating Timberlake was all information known to the City before Timberlake was hired, and therefore was not the cause of his termination.

98. Timberlake's report of O'Hara's violation of common law, i.e., defamatory and otherwise illegal statements O'Hara made to the press and public described above, was a motivating factor in the City's decision to terminate his employment.

99. The City's termination therefore violates the Minnesota Whistleblower Act, Minn. Stat. § 181.932, subd. 1(1) ("MWA").

100. Timberlake has been injured by the City's violation of the MWA. Accordingly, he is entitled to an award of any and all damages recoverable at law, together with costs and disbursements, including reasonable attorney's fees, and may receive injunctive and other equitable relief as determined by the Court. Minn. Stat. § 181.935(a).

101. Timberlake is also entitled to relief including reinstatement, back pay, compensatory damages, and the expungement of adverse employment records. Minn. Stat. § 181.935(c).

102. Accordingly, on his claim against the City for violation of the MWA, Timberlake is entitled to a judgment for damages exceeding \$50,000 and injunctive relief.

COUNT FIVE – VIOLATION OF MINN. GOVERNMENT DATA PRACTICES ACT
(City of Minneapolis Only)

103. Timberlake hereby realleges and incorporates by reference the allegations of the preceding paragraphs 1 through 68 as if restated herein.

104. On several occasions, O’Hara held press conferences and made public statements regarding Timberlake’s employment with MPD in which he disclosed information which is deemed private data under the Minnesota Government Data Practices Act, Minn. Stat. ch. 13 (“MGDPA”).

105. Specifically, O’Hara revealed personnel data deemed private under Minn. Stat. § 13.43 regarding Timberlake, including but not limited to: (a) that the MPD was investigating whether Timberlake was forthcoming regarding the critical incident during his job application and interviews; (b) that the MPD was investigating whether Timberlake had assaulted an “unarmed Black man in crisis by tasing him, punching him in the head and holding him down with his knee on his neck and back”; (c) that the MPD was investigating whether Timberlake met MPD hiring standards; (d) that the MPD was investigating whether Timberlake was trustworthy, qualified and competent; and (e) that the MPD was investigating whether Timberlake was hired because of a deficiency in the MPD’s hiring processes.

106. In short, O’Hara and the MPD told the public exactly what Timberlake was accused of, and then terminated his employment. This left no doubt in the public’s mind that the MPD investigation had concluded that Timberlake had engaged in the misconduct that Chief O’Hara’s public statements had previously implied.

107. As a result of the foregoing MGDPA violations, Timberlake is entitled to damages exceeding \$50,000 to compensate him for (a) past and future wage loss; (b) mental and emotional distress; (c) embarrassment and humiliation; and (d) reasonable attorneys' fees.

108. The foregoing violations of the MGDPA were willful. Accordingly, defendants are liable for exemplary damages of up to \$15,000 for each violation.

WHEREFORE, plaintiff Tyler Timberlake requests judgment of the above Court as follows:

1. For an award of compensatory against Defendants in an amount exceeding \$50,000;
2. For an award of exemplary damages under the MGDPA;
3. For an award of prejudgment interest in the maximum amount permitted by law;
4. For an award of reasonable attorneys' fees;
5. For costs and disbursements as permitted by law;
6. For such other relief as the Court deems just and equitable.

PLAINTIFF DEMANDS A TRIAL BY JURY ON ALL ISSUES TRIABLE BY A JURY.

Dated: December 18, 2023

By: 

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Dated: 18/12/2023

By: 

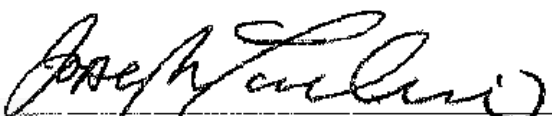
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ACKNOWLEDGMENT

The undersigned hereby acknowledges that costs, disbursements and reasonable attorney and witness fees may be awarded pursuant to Minn. Stat. § 549.211 to the party against whom the allegations in this pleading are asserted.

Dated: December 18, 2023

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