

EXHIBIT A

Pleadings Filed and/or Served in
Superior Court

RUS



ORIGINAL

General Civil Case Filing Information Form (Non-Domestic)

Court
 Superior
 State

County Fulton

Date Filed
MM-DD-YYYY

FILED IN OFFICE
MAR 02 2015
DEPUTY CLERK SUPERIOR COURT
FULTON COUNTY, GA

Docket # 2015CV257702

Plaintiff(s)

Mikko, Donald
Last First Middle I. Suffix Prefix Maiden

Last First Middle I. Suffix Prefix Maiden

Last First Middle I. Suffix Prefix Maiden

Last First Middle I. Suffix Prefix Maiden

No. Of Plaintiffs 1

Defendant(s)

The City of Atlanta, Georgia
Last First Middle I. Suffix Prefix Maiden

Turner, George
Last First Middle I. Suffix Prefix Maiden

Howard, Paul
Last First Middle I. Suffix Prefix Maiden

Ross, Sheila
Last First Middle I. Suffix Prefix Maiden

No. Of Defendants 4

Plaintiff/Defendant's Attorney **Pro Se**

Billips, Matthew C.
Last First Middle I. Prefix

057110
Bar #

Check Primary Type (Check only ONE)

- Contract/Account
- Wills/Estate
- Real Property
- Dispossessory/Distress
- Personal Property
- Equity
- Habeas Corpus
- Appeals, Reviews
- Post Judgement Garnishment, Attachment, or Other Relief
- Non-Demestic Contempt
- Tort (If tort, fill in right column)
- Other General Civil
Specify RICO

If Tort is Case Type (Check no more than Two)

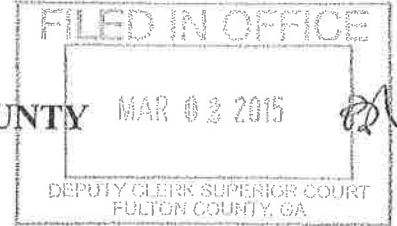
- Auto Accident
- Premises Liability
- Medical Malpractice
- Other Professional Negligence
- Product Liability
- Other
Specify RICO; Section 1983

Are Puntive Damages Pleaded?

- Yes
- No

 **COPY**

**IN THE SUPERIOR COURT OF FULTON COUNTY
STATE OF GEORGIA**



DONALD MIKKO,)
)
 Plaintiff,)
)
 v.)
)
 THE CITY OF ATLANTA,)
 GEORGIA; GEORGE TURNER,)
 CHIEF OF POLICE, IN HIS)
 INDIVIDUAL CAPACITY;)
 PAUL HOWARD, FULTON)
 COUNTY DISTRICT ATTORNEY,)
 IN HIS INDIVIDUAL CAPACITY;)
 And SHEILA ROSS, ASSISTANT)
 FULTON COUNTY DISTRICT)
 ATTORNEY, IN HER)
 INDIVIDUAL CAPACITY;)
)
 Defendants)

CIVIL ACTION NO.: *2015CV257702*

JURY TRIAL DEMANDED

COMPLAINT

COMES Donald Mikko, Plaintiff herein, and hereby states his complaint against the above-named Defendants on the following grounds:

NATURE AND PURPOSE

1.

This is a lawsuit is brought under the Georgia Racketeering Influenced and Corrupt Organizations Act (RICO); for retaliation in violation of the First and Fourteenth Amendments, pursuant to 42 U.S.C. Section 1983; conspiracy to engage

in retaliation in violation of the First and Fourteenth Amendments, pursuant to 42 U.S.C. Section 1983; for retaliation in violation of Article I, Section I, Paragraph V of the Georgia Constitution; and for tortious interference with employment under Georgia law.

JURISDICTION AND VENUE

2.

This Court has personal jurisdiction over Defendants, as they do business within Fulton County, Georgia, and has subject matter jurisdiction over the claims set forth herein pursuant to Ga. Const. Art. VI, § IV, Para. I.

3.

Defendants' place of business is within Fulton County, Georgia. The actions alleged herein which were committed by these Defendants occurred within Fulton County. Venue in this district is proper for the Defendants pursuant to Ga. Const. Art. VI, § II, Para. IV, in that the Defendants are each liable for the acts of the conspiracy and the other conspirators in furtherance of the aims of the conspiracy, such that they are joint tortfeasors.

PARTIES

4.

Plaintiff Donald Mikko is a white male citizen and resident of the State of Georgia and is entitled to bring actions of this kind and nature.

5.

Defendant City of Atlanta is a municipality organized under the laws of the State of Georgia and was the employer of Mr. Mikko. Defendant City of Atlanta may be served with process in accordance with O.C.G.A. § 9-11-4, through service on the Mayor, Kasim Reed, at 55 Trinity Avenue, Atlanta, Georgia 30303.

6.

Defendant Georgia N. Turner is the Chief of Police of the City of Atlanta. Defendant Turner is sued in his individual capacity for his unlawful actions as alleged herein.

7.

Defendant Turner is a final policy-making official for the City of Atlanta in the area of employment of employees such as Plaintiff in the Atlanta Police Department, in that he has the final authority to approve policies for the Police Department and to interpret such policy in taking final employment action with respect to employees such as Plaintiff.

8.

Defendant Turner may be served with process in accordance with Rule 4 of the Federal Rules of Civil Procedure through personal service at his place of business at 226 Peachtree Street SW, Atlanta, Ga. 30303.

9.

Amber Robinson is an attorney within the City of Atlanta Law Department. Ms. Robinson has twice agreed, aided, assisted and conspired, with two different Chiefs of Police, to punish employees of the Atlanta Police Department on account of their testimony on behalf of a criminal Defendant. Ms. Robinson's conduct demonstrates that the City of Atlanta has a policy, practice, and/or custom of retaliation against Police Department employees who testify on behalf of criminal defendants. At present, Ms. Robinson is not a named Defendant.

10.

Defendant Paul Howard is the District Attorney for Fulton County, Georgia.

11.

Mr. Howard is sued exclusively in his individual capacity, as the actions alleged herein were not undertaken in the performance of his duties as District Attorney for Fulton County, as they were in no way part of the job function of the District Attorney and were outside his discretionary authority in that regard.

12.

Mr. Howard may be served with process pursuant to Rule 4 of the Federal Rules of Civil Procedure at 136 Pryor Street, SW, Third Floor, Atlanta, GA 30303.

13.

Defendant Sheila Ross is the Chief Executive Senior Assistant District

Attorney for the Violent Offenders Division of the Fulton County District Attorney's Office.

14.

Ms. Ross is sued exclusively in her individual capacity, as the actions alleged herein were not undertaken in the performance of her duties as Chief Executive Senior Assistant District Attorney for the Fulton County District Attorney's Office, as they were in no way part of the job function of the Chief Executive Senior Assistant District Attorney and were outside her discretionary authority in that regard.

15.

Ms. Ross may be served with process pursuant to Rule 4 of the Federal Rules of Civil Procedure at 136 Pryor Street, SW, Third Floor, Atlanta, GA 30303.

FACTUAL ALLEGATIONS

16.

On July 27, 2006, Senior Police Officer Brian Reid, a black male, appeared and gave testimony as a witness in a bond hearing in USA v. Grisson, USDC, NDGA, 1:06-cr-00347-CC-GGB-1, on behalf of his brother-in-law, Michael Grissom.

17.

On August 27, 2006, the City of Atlanta Police Department's Office of

Professional Standards found that Mr. Reid had violated the SOP's of the Police Department by testifying on behalf of a criminal Defendant in a United States District Court.

18.

Mr. Reid's chain of command, from his supervising Lieutenant all the way up to the then Chief of Police Richard Pennington, conspired to punish Mr. Reid for his testimony, in violation of the First Amendment and 42 U.S.C. Section 1985(2). *See Reid v. City of Atlanta*, No. 1:08-CV-1846-JOF, 2010 U.S. Dist. LEXIS 26766 (N.D. Ga. 2010).

19.

A member of the Defendant's Law Department, Amber Robinson, aided, assisted, advised and conspired with those co-conspirators in undertaking their unlawful scheme against Mr. Reid. The resulting punishment in the case of Mr. Reid, a black male, was a thirty day suspension and a reduction in one grade, which was expressly justified in writing on the basis that he had given testimony on behalf of a criminal defendant in a United States District Court.

20.

Plaintiff Donald Mikko was employed by the City of Atlanta Police Department, as the Crime Lab Director, from on or about April 26, 2012 to June 12, 2013.

21.

Plaintiff Mikko holds an Associate Degree in Police Science, a Baccalaureate degree in Criminal Justice and a Master's Degree in Business Administration, Mr. Mikko, has been employed as a USA CIDC Special Agent, assigned to the USA CIL. In August 1990, he became a fully qualified Firearms and Toolmark Examiner. In 1995 Mr. Mikko graduated from the Federal Bureau of Investigation National Academy. Mr. Mikko was appointed Chief of the Firearms and Toolmarks Branch (GS-14) in February 2002.

22.

Mr. Mikko is a Distinguished Life Member of the Association of Firearm and Toolmark Examiners (AFTE) and is one of only four percent holding AFTE Certification. Mr. Mikko has taught Criminal Justice and Forensic Science at several colleges and is a frequent guest speaker at educational institutions, police departments, police academies, professional associations and federal law enforcement agencies.

23.

In accordance with APD SOP's relating to secondary employment, at the time of his hire, Mr. Mikko had negotiated a written agreement with the Atlanta Police Department that he could perform consulting work as a private citizen so long as it did not relate to criminal prosecutions within the City of Atlanta or any

investigations in which the City of Atlanta Police Department was a participant.

24.

Mr. Mikko was terminated from his employment on June 12, 2013, because he had agreed to testify on behalf of a criminal defendant in Florida and thereby offended the Defendants herein, who believed that an employee of the City of Atlanta Police Department should never testify on behalf of a criminal defendant.

25.

Mr. Mikko was testifying on behalf of the criminal defendant in Florida as a private citizen, pursuing secondary employment, and pursuant to the grant of permission to do so, as evidenced in the written agreement with the Atlanta Police Department. His testimony was in no part related to his job duties nor was the information to which he was testifying gathered as a result of his employment with the City of Atlanta. In short, there was no nexus between his employment and his testimony.

26.

Shortly before his termination, Mr. Mikko had received an excellent evaluation from his supervisor, Major Joseph Spillane.

27.

Prior to his termination, Mr. Mikko was telephoned by Major Joseph Spillane.

28.

Major Spillane said that he had been notified by the chain of command that a letter had been sent to Paul Howard, the District Attorney, from Christopher Klink, a prosecutor in Florida.

29.

According to Major Spillane, Mr. Klink was seeking to prevent Mr. Mikko from testifying in his private capacity as an expert witness for the defense.

30.

Mr. Mikko reminded Mr. Spillane that he had a written authorization to perform such private work so long as it was outside the City of Atlanta.

31.

Major Spillane stated that there would probably be a meeting in the near future with him, Deputy Chief Shields, Chief of Police George Turner, and Mr. Mikko regarding Mr. Mikko's testimony in that case.

32.

Mr. Mikko then telephoned Florida defense counsel, Beatriz Taquechel and informed her that there had been a contact from the prosecutor, who was apparently trying to prevent Mr. Mikko from testifying by interfering in his employment.

33.

Mr. Mikko told her that he did not think he would be able to testify, because

of the call from Major Spillane.

34.

Ms. Taquechel immediately contacted the Florida trial judge.

35.

On June 3, 2013, while on the way to speak to Major Spillane, Mr. Mikko received a telephone call from the Florida Court.

36.

He was asked to testify during that telephone call regarding the reason he could no longer come down to give the scheduled deposition and what the prosecuting attorney had done.

37.

He was on the telephone for about 35 minutes.

38.

During this telephone call, he discussed what he had been told by Major Spillane.

39.

Afterwards, he was called by Ms. Taquechel, who told him that Mr. Klink had admitted after the telephone call that he had contacted Defendant Ross and had provided Ms. Ross with a copy of Mr. Mikko's expert report.

40.

When Mr. Mikko arrived at Major Spillane's office, after speaking to Ms. Taquechel, Major Spillane telephoned Sheila Ross and, without her knowledge, put her on speaker phone so that Mr. Mikko could hear.

41.

Major Spillane spoke to her about other matters and then raised the issue of Mr. Mikko's testimony in Florida.

42.

Major Spillane told Ms. Ross he understood she had received a letter about Mr. Mikko testifying as a witness for the defense in a private case.

43.

Ms. Ross said it was not a letter she had received.

44.

Ms. Ross said a district attorney in Florida had sent her a copy of a forensic lab report Mr. Mikko had prepared for the defense in a criminal case in Florida.

45.

Ms. Ross said she couldn't believe that Mr. Mikko was going to testify on behalf of the defense.

46.

Ms. Ross said that she had given the lab report to District Attorney Paul

Howard.

47.

Ms. Ross said that she had read Mr. Mikko's lab report from the Florida case and said that it bad-mouthed Florida law enforcement.

48.

Ms. Ross said that Mr. Howard had spoken to APD's Police Chief, Defendant Turner, about it.

49.

Ms. Ross said that Mr. Howard told her it does not look good for Atlanta police people, especially the crime lab director, to testify against the prosecution.

50.

Ms. Ross specifically said that Mr. Howard was upset or concerned that Mr. Mikko had testified against the prosecution in the Florida case.

51.

Mr. Howard specifically said that he did not want anyone from APD testifying against the prosecution or against law enforcement.

52.

Major Spillane told Ms. Ross that Mr. Mikko had permission to work private cases.

53.

Ms. Ross said that she did not know that.

54.

Ms. Ross said again that Mr. Howard was not happy and that he had already talked to APD's Police Chief. She said she did not know what the outcome of all this would be, but that they were already talking about what to do.

55.

However, Mr. Howard has no official responsibility or role to determine or decide what secondary employment was appropriate for employees of the APD.

56.

Mr. Howard has no official responsibility or role to determine, decide, or influence whether an APD employee would or would not testify as a private citizen on behalf of a criminal defendant in a case pending in a Florida Court.

57.

After Major Spillane hung up with Ms. Ross, he told Mr. Mikko that Paul Howard views the APD as being a pro-prosecution organization, working for the prosecutors.

58.

Major Spillane asked Mr. Mikko to prepare a memo for him providing a justification for doing private case work for both prosecution and defense, on his

own time as a private citizen.

59.

Mr. Mikko did so and sent it to Major Spillane by email and hard copy on or about June 6, 2013.

60.

On or about June 7, 2013, Mr. Mikko received an email from Deputy Chief Erika Shields, asking if he could meet with Deputy Chief Shields at 10:00 a.m. on June 12, 2013.

61.

On the way to that meeting, Mr. Mikko spoke with Deputy Chief Shawn Jones and discussed the situation with him.

62.

Deputy Chief Jones told Mr. Mikko that he thought that it was a good idea for Mr. Mikko to testify as a private contractor, for both prosecutors and defense, as it showed he was neutral and unbiased.

63.

When Mr. Mikko arrived at the meeting with Deputy Chief Shields, who was accompanied by Amber Robinson, he was told that, per the decision of the Chief of Police, his services were no longer needed.

64.

He was given no other reason for his termination.

65.

The public policy of the State of Georgia is that the responsibility of both a police force and public prosecutor differ from that of the usual advocate; their duty is to seek justice, not merely to convict.

66.

The actions of Defendants have violated that policy, in seeking to prevent Mr. Mikko from providing his expertise to a criminal defendant, so that the jury may exercise its fact finding role based on all of the admissible evidence.

67.

Article I, Section I, Paragraphs I, V, XI, and XIV of the Constitution of the State of Georgia and the First, Fifth, Sixth, Seventh, and Fourteenth Amendments to the United States Constitution protect the right of a witness to testify in Court in a jury trial of a felony criminal case and the right of the accused to have such witnesses testify on his behalf.

68.

Mr. Mikko was discharged from his employment because he had agreed to testify on behalf of a criminal defendant in a jury trial of a felony criminal matter.

69.

Mr. Mikko's termination was the consummation of a series of violations of Fla. Stat. 914.22 and O.C.G.A. Section 16-10-93 by Mr. Klink, Ms. Ross, Mr. Howard and Chief Turner.

70.

These individuals, acting in concert and pursuant to an agreement that their goal was preventing Mr. Mikko (and other APD employees) from testifying in criminal proceedings on behalf of the defendant, constituted an "enterprise" as defined in O.C.G.A. Section 16-14-3(6). These individuals carried out the activities of the enterprise by engaging in a series of predicate acts under the Georgia Racketeering Influenced and Corrupt Organizations Act.

71.

As a result of and in furtherance of the agreement, by virtue of the individual and concerted actions in furtherance of such agreement by the Defendants named herein, as well as persons not named as Defendants, the Defendants harmed and threatened to harm Mr. Mikko in his person or property on account of his stated intention to testify on behalf of a criminal defendant in his private, secondary employment.

72.

The first predicate act known to Plaintiff was Mr. Klink's contact with Ms.

Ross to attempt to interfere with Mr. Mikko testifying in the Florida proceeding. This act constituted an effort to harass or threaten Mr. Mikko or to attempt to do so, or to engage in misleading conduct regarding Mr. Mikko's actions, with intent to cause or induce Mr. Mikko to withhold testimony, or withhold a record, document, or other object, from an official investigation or official proceeding, to wit, his expert testimony and expert report on behalf of the defendant in a felony criminal proceeding then pending in a Florida court, which constituted a felony act of obstruction of justice under Fla. Stat. 914.22 and O.C.G.A. Section 16-10-93. *Wellstar Health Systems, Inc. v. Kemp et al. Green et al. v. Kemp*, 324 Ga. App. 629; 751 S.E.2d 445 (Ga.App. 2013). This act was a Georgia RICO predicate act under O.C.G.A. Section 16-4-3(9)(A)(xiv) and 16-4-3(9)(B).

73.

The second predicate act known to Plaintiff was the agreement between Ms. Ross and Mr. Klink that Ms. Ross would convey such information to Mr. Howard, so that Mr. Howard could take action to contact Mr. Mikko's employer in an effort to harass or threaten Mr. Mikko, or to attempt to do so, or to engage in misleading conduct regarding Mr. Mikko's actions, with intent to cause or induce Mr. Mikko to withhold testimony, or withhold a record, document, or other object, from an official investigation or official proceeding, to wit, his expert testimony and expert report on behalf of the defendant in a felony criminal proceeding then pending in a Florida

court, which constituted a felony act of obstruction of justice under Fla. Stat. 914.22 and O.C.G.A. Section 16-10-93. *Wellstar Health Systems, Inc. v. Kemp et al. Green et al. v. Kemp*, 324 Ga. App. 629; 751 S.E.2d 445 (Ga.App. 2013). This act was a Georgia RICO predicate act under O.C.G.A. Section 16-4-3(9)(A)(xiv) and 16-4-3(9)(B).

74.

The third predicate act known to Plaintiff was Mr. Howard's contact with Defendant Turner regarding Mr. Mikko's testimony in the Florida proceeding, which constituted an effort to harass or threaten Mr. Mikko, or to attempt to do so, or to engage in misleading conduct regarding Mr. Mikko's actions, with intent to cause or induce Mr. Mikko to withhold testimony, or withhold a record, document, or other object, from an official investigation or official proceeding, to wit, his expert testimony and expert report on behalf of the defendant in a felony criminal proceeding then pending in a Florida court, which constituted a felony act of obstruction of justice under Fla. Stat. 914.22 and O.C.G.A. Section 16-10-93. *Wellstar Health Systems, Inc. v. Kemp et al. Green et al. v. Kemp*, 324 Ga. App. 629; 751 S.E.2d 445 (Ga.App. 2013). This act was a Georgia RICO predicate act under O.C.G.A. Section 16-4-3(9)(A)(xiv) and 16-4-3(9)(B).

75.

The fourth predicate act known to Plaintiff was the agreement between Erika

Shields, Defendant Turner, and Amber Robinson to go forward with the termination of Mr. Mikko's employment, which decision was based on Mr. Mikko's agreement to testify in the Florida proceeding, and which constituted an effort to harass or threaten Mr. Mikko, or to attempt to do so, or to engage in misleading conduct regarding Mr. Mikko's actions, with intent to cause or induce Mr. Mikko to withhold testimony, or withhold a record, document, or other object, from an official investigation or official proceeding, to wit, his expert testimony and expert report on behalf of the defendant in a felony criminal proceeding then pending in a Florida court, which constituted a felony act of obstruction of justice under Fla. Stat. 914.22 and O.C.G.A. Section 16-10-93. *Wellstar Health Systems, Inc. v. Kemp et al. Green et al. v. Kemp*, 324 Ga. App. 629; 751 S.E.2d 445 (Ga.App. 2013). This act was a Georgia RICO predicate act under O.C.G.A. Section 16-4-3(9)(A)(xiv) and 16-4-3(9)(B).

76.

The fifth predicate act known to Plaintiff was Defendant Turner's act in directing the termination of Plaintiff's employment on account of Mr. Mikko's agreement to testify in the Florida proceeding, which constituted an effort to harass or threaten Mr. Mikko, or to attempt to do so, or to engage in misleading conduct regarding Mr. Mikko's actions, with intent to cause or induce Mr. Mikko to withhold testimony, or withhold a record, document, or other object, from an official

investigation or official proceeding, to wit, his expert testimony and expert report on behalf of the defendant in a felony criminal proceeding then pending in a Florida court, which constituted a felony act of obstruction of justice under Fla. Stat. 914.22 and O.C.G.A. Section 16-10-93. *Wellstar Health Systems, Inc. v. Kemp et al. Green et al. v. Kemp*, 324 Ga. App. 629; 751 S.E.2d 445 (Ga.App. 2013). This act was a Georgia RICO predicate act under O.C.G.A. Section 16-4-3(9)(A)(xiv) and 16-4-3(9)(B).

77. -

As a result of Defendants' misconduct, Plaintiff has suffered mental and emotional distress in an amount to be determined in the enlightened conscience of the jury.

78.

As a result of Defendants' misconduct, Plaintiff has suffered lost wages from his employment with the City of Atlanta and lost income from his private consulting business, which amount is susceptible of calculation at the time of trial.

79.

Defendants' conduct was willful and deliberate and taken in reckless disregard of Plaintiff's federally protected rights, and rights protected under the laws of the State of Georgia, justifying an award of punitive and treble damages in an amount to be determined in the enlightened conscience of the jury.

SUBSTANTIVE ALLEGATIONS

COUNT ONE:

VIOLATION OF THE GEORGIA RICO STATUTE

80.

Paragraphs 1 through 69 are incorporated herein by this specific reference.

81.

The above named Defendants are, for the purposes of O.C.G.A. § 16-14-1, et. seq., and specifically O.C.G.A. §16-14-4(b), persons who have knowingly engaged in multiple predicate acts of racketeering, as defined by O.C.G.A. § 16-14-3(A)(xiv) and 16-14-3(9)(B), and are group of individuals and an entity associated in fact by the common purpose of the conspiracy in question and thereby constitute a racketeering enterprise.

82.

Defendants conspired to intentionally harass Mr. Mikko and thereby hinder, delay, prevent, or dissuade him from attending or testifying in an official proceeding or cooperating in an official investigation in a felony criminal trial, then pending in the Florida Courts, thereby obstructing the due administration of justice, in violation of Fla. Stat. 914.22 and O.C.G.A. Section 16-10-93, as set forth in Plaintiff's factual allegations, supra.

83.

Defendants carried on, by engaging in at least two acts of racketeering activity, an enterprise which had the purpose to obstruct justice by harassing Mr. Mikko hinder, delay, prevent, or dissuade him from attending or testifying in an official proceeding or cooperating in an official investigation in a felony criminal trial, then pending in the Florida Courts, thereby obstructing the due administration of justice, in violation of Fla. Stat. 914.22 and O.C.G.A. Section 16-10-93, all of which transactions had the same or similar intents, results, accomplices, victims, or methods of commission or were otherwise interrelated by distinguishing characteristics and were not isolated incidents, but were in furtherance of the aforementioned conspiracy as set forth in Plaintiff's factual allegations, supra.

84.

As a result of Defendants Georgia RICO conspiracy and actions in furtherance thereof, Plaintiff lost his employment as Crime Lab Director with the City of Atlanta, suffered damage to his reputation, and suffered mental and emotional distress.

85.

Plaintiff is entitled to compensatory damages, including back wages, for the wrong inflicted upon him, to treble damages, to punitive damages, and to attorneys' fees and costs in accordance with O.C.G.A. § 16-14-6.

COUNT TWO:

**VIOLATION OF AND CONSPIRACY TO VIOLATE
THE FIRST AMENDMENT TO THE
UNITED STATES CONSTITUTION**

86.

Plaintiff fully incorporates all of the factual allegations contained in paragraphs 1 through 74 as if set forth herein.

87.

Plaintiff's right to testify as a witness for the defense in a jury trial of a felony criminal prosecution in the Florida Courts was protected by the First Amendment to the United States Constitution.

88.

Plaintiff's right to testify as a witness for the defense in a jury trial of a felony criminal prosecution in the Florida Courts was, inherently, on a matter of public concern and was entirely unconnected to his duties as an employee. Johnston v. Harris County Flood Control Dist., 869 F.2d 1565, 1578 (5th Cir. 1989); see also Reeves v. Claiborne County Bd. of Educ., 828 F.2d 1096, 1100 (5th Cir. 1987) (testimony in civil proceedings); Smith v. Hightower, 693 F.2d 359, 368 (5th Cir. 1982) (testimony in criminal proceedings); Rainey v. Jackson State Coll., 481 F.2d 347, 349-50 (5th Cir. 1973) (testimony of expert witness).

89.

In his expert report as an expert witness for the defense, Mr. Mikko exposed actions by the Florida police and/or prosecutors which constituted or caused the mishandling of evidence, thereby exposing governmental misfeasance or malfeasance. It was this to which the Defendants objected, as they had no objection to Mr. Mikko testifying in his private capacity on behalf of a prosecutor in support of the prosecution's case.

90.

Mr. Mikko did not learn the information to which he was testifying during the course of his duties with the Atlanta Police Department and the testimony he was expected to give had no relationship whatsoever to his duties as Crime Lab Director or otherwise related to any aspect of his employment with the Atlanta Police Department.

91.

Defendant City of Atlanta, along with Defendants Turner, Howard, Ross, [hereinafter "the conspirators"] each, individually and in concert with each other, took action to unlawfully retaliate against Plaintiff on account of his testimony as a private citizen in a jury trial of a felony criminal proceeding, to prevent him from testifying in the future in that same proceeding, and to deter him and others from testifying in future proceedings, in violation of his rights under the First Amendment

to the United States Constitution. Conspirators City of Atlanta, Turner, Howard, and Ross are sued for their voluntary, malicious, and deliberate actions to harm Plaintiff on account of his exercise of Constitutional Rights under the United States Constitution, which action is brought pursuant to 42 U.S.C. § 1983.

92.

Plaintiff's right to testify as a private citizen in a Florida jury trial of a felony criminal proceeding clearly outweighs any interest that the Defendants may legitimately have in punishing or deterring such testimony.

93.

Defendants had no legitimate interest in punishing or deterring Mr. Mikko's testimony, as Mr. Mikko was acting purely as a private citizen, pursuant to written permission to engage in secondary employment from Defendants City of Atlanta and Turner, or their authorized agents, and his testimony related to a proceeding which, being outside the State of Georgia and completely unrelated to his employment, had no possible bearing on his employment.

94.

As a direct result of Defendants Howard's and Ross' retaliatory interference with Plaintiff's employment and Defendant Turner and City of Atlanta's agreement with the unconstitutional aims of Defendants Howard and Ross, Plaintiff has suffered lost wages, has lost his position as Crime Lab Director, has suffered mental

and emotional distress, humiliation, outrage, damage to his reputation, the deprivation of his rights under state and federal law, and other harms entitling him to injunctive relief and compensatory damages.

95.

The Defendants' actions were willful, intentional, malicious, and conducted in bad faith, thereby entitling Plaintiff to an award of punitive damages.

96.

Because of the individual Defendants' positions in law enforcement, they are unlikely to be prosecuted for these crimes and the only punishment they are likely to receive is for an award of civil money damages to be levied against them.

COUNT THREE:

**VIOLATION OF AND CONSPIRACY TO VIOLATE
ARTICLE I, SECTION I, PARAGRAPH V OF
THE GEORGIA CONSTITUTION**

97.

Plaintiff fully incorporates all of the factual allegations contained in paragraphs 1 through 74 as if set forth herein.

98.

Plaintiff's right to testify as a witness for the defense in a jury trial of a felony criminal prosecution in the Florida Courts was protected by the Article I, Section I, Paragraph V of the Georgia Constitution.

99.

Plaintiff's right to testify as a witness for the defense in a jury trial of a felony criminal prosecution in the Florida Courts was, inherently, on a matter of public concern and was entirely unconnected to his duties as an employee. *Lane v. Franks*, ___ U.S. ___, 134 S. Ct. 2369 (2014); *Fikes v. City of Daphne*, 79 F.3d 1079 (11th Cir.1996); *Johnston v. Harris County Flood Control Dist.*, 869 F.2d 1565, 1578 (5th Cir. 1989); see also *Reeves v. Claiborne County Bd. of Educ.*, 828 F.2d 1096, 1100 (5th Cir. 1987) (testimony in civil proceedings); *Smith v. Hightower*, 693 F.2d 359, 368 (5th Cir. 1982) (testimony in criminal proceedings); *Rainey v. Jackson State Coll.*, 481 F.2d 347, 349-50 (5th Cir. 1973) (testimony of expert witness).

100.

In his expert report as an expert witness for the defense, Mr. Mikko exposed actions by the Florida police and/or prosecutors which constituted or caused the failure to properly investigate a crime or properly evaluate evidence, thereby exposing governmental misfeasance. It was this to which the Defendants objected, as they had no objection to Mr. Mikko testifying on behalf of a prosecutor in support of the prosecution's case.

101.

Mr. Mikko did not learn the information to which he was testifying during the course of his duties with the Atlanta Police Department and the testimony he was

expected to give had no relationship whatsoever to his duties as Crime Lab Director or otherwise related to any aspect of his employment with the Atlanta Police Department.

102.

Defendant City of Atlanta, along with Defendants Turner, Howard, Ross, [hereinafter “the conspirators”] each, individually and in concert with each other, took action to unlawfully retaliate against Plaintiff on account of his testimony as a private citizen in a jury trial of a felony criminal proceeding, to prevent him from testifying in the future in that same proceeding, and to deter him and others from testifying in future proceedings, in violation of his rights under the Georgia Constitution, Article I, Section I, Paragraph V. Conspirators Turner, Howard, and Ross are sued for their voluntary, malicious, and deliberate actions to harm Plaintiff, which action is brought pursuant to the Georgia Constitution, Article I, Section I, Paragraph V and O.C.G.A. Section 51-1-6 and 51-1-8.

103.

Plaintiff's right to testify in a Florida jury trial of a felony criminal proceeding clearly outweighs any interest that the Defendants may legitimately have in punishing or deterring such testimony.

104.

Defendants had no legitimate interest in punishing or deterring Mr. Mikko's

testimony, as Mr. Mikko was acting purely as a private citizen, pursuant to written permission from Defendants City of Atlanta and Turner, or their authorized agents, and his testimony related to a proceeding which, being outside the State of Georgia, had no possible bearing on his employment.

105.

As a direct result of Defendants' unlawful actions as alleged in this Count, Plaintiff has suffered lost wages, has lost his position as Crime Lab Director, has suffered mental and emotional distress, humiliation, outrage, damage to his reputation, the deprivation of his rights under state and federal law, and other harms entitling him to injunctive relief and compensatory damages.

106.

The Defendants' actions were willful, intentional, malicious, conducted in bad faith, and undertaken with the specific intent to cause Plaintiff harm, thereby entitling Plaintiff to an award of punitive damages.

107.

Because of the individual Defendants' positions in law enforcement, they are unlikely to be prosecuted for these crimes and the only punishment they are likely to receive is for an award of civil money damages to be levied against them.

COUNT FOUR:

TORTIOUS INTERFERENCE IN EMPLOYMENT

108.

Plaintiff fully incorporates all of the factual allegations contained in paragraphs 1 through 74 as if set forth herein.

109.

Defendants Howard and Ross were strangers to Mr. Mikko's employment relationship with the City of Atlanta, are not employed by the City of Atlanta, had no authority to discipline, give orders to, or otherwise supervise Mr. Mikko in any aspect of his employment relationship, and had no authority to approve or disapprove Mr. Mikko's secondary employment.

110.

Defendants Howard and Ross were motivated by an unlawful scheme or purpose to deliberately and maliciously injure and damage Plaintiff because he engaged in conduct protected by the United States and Georgia Constitution and, pursuant to that unlawful scheme or purpose, maliciously and unlawfully persuaded the remaining Defendants to take disciplinary action against Plaintiff on account of his agreement to provide expert testimony on behalf of the defendant in a jury trial of a felony criminal proceeding in a Florida Court, in a deliberate effort to injure Plaintiff and prevent such testimony.

111.

As a direct result of Defendants Howard's and Ross' tortious interference with Plaintiff's employment, Plaintiff has lost his position as Crime Lab Director, has suffered lost wages, has suffered mental and emotional distress, humiliation, outrage, damage to his reputation, the deprivation of his rights under state and federal law, and other harms entitling him to injunctive relief and compensatory damages.

112.

Defendants Howard's and Ross' actions were willful, intentional, malicious, conducted in bad faith, and undertaken with the specific intent to harm Plaintiff, thereby entitling Plaintiff to an award of punitive damages.

113.

Defendants Howard and Ross were acting outside the course and scope of their position and in no way in connection with any of their prosecutorial responsibilities or activities.

PRAYER FOR RELIEF

WHEREFORE, Plaintiff demands judgment against the Defendants as follows:

- a) that this Court declare that, on their face and as applied, Defendant City of Atlanta's actions, policies and practices complained of herein – including any Standard Operating Procedures relied upon by Defendant

Turner -- violate the rights of Plaintiff as secured by state and federal law;

- b) The this Court declare that the actions of the Defendants herein were unlawful and violated the rights of Plaintiff as secured by Georgia and federal law, as set forth above;
- c) that Plaintiff be awarded against Defendants the lost salary he would have received absent defendant's unlawful acts;
- d) that Plaintiff be awarded appropriate compensatory damages, including damages for pain and suffering, emotional distress and damage to his good name and professional reputation, in an amount to be determined by the enlightened conscience of the jury;
- e) that Plaintiff be awarded punitive damages against each Defendant other than the City of Atlanta;
- f) that Plaintiff be awarded treble damages under Georgia RICO;
- g) that Plaintiff be awarded pre-judgment interest
- h) that Plaintiff be awarded his costs, out of pocket expenses, and reasonable attorneys' fees in this action;
- i) that Plaintiff be awarded injunctive relief of reinstatement; reformation of pension and restoration of other benefits of employment; and other injunctive relief necessary to return him to the status quo ante;

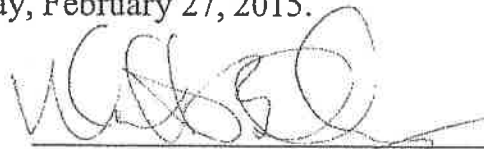
j) that Plaintiff be awarded such other relief as the Court deems just and proper;

k) and that the within action be tried by a jury.

PLAINTIFF HEREBY DEMANDS A TRIAL BY JURY.

Respectfully submitted this day, February 27, 2015.

By:



Matthew C. Billips
BILLIPS & BENJAMIN, LLP
Georgia Bar No. 057110

3101 Towercreek Parkway
Suite 190
Atlanta, Georgia 30339
(770) 859-0751 (telephone)
(770) 859-0752 (facsimile)
Billips@bandblawyers.com

THE BUCKLEY LAW FIRM, LLC

s/ Steven E. Wolfe
Georgia Bar No. 142441
swolfe@buckleylawatl.com

Promenade II, Suite 900
1230 Peachtree Street NE
Atlanta, GA 30309
Telephone: (404) 781-1100
Facsimile: (404) 781-1101

Counsel for Plaintiff

DISCLOSURE STATEMENT
CLERK OF SUPERIOR COURT

CASE NUMBER _____
Assigned by Clerk

Donald Mikko

PLAINTIFF

VS.

The City of Atlanta, Georgia, et al.

DEFENDANT

TYPE OF ACTION

- 1. Divorce without Agreement Attached
- 2. Divorce with Agreement Attached
- 3. Domestic Relations
- 4. Damages arising out of Contract
- 5. Damages arising out of Tort
- 6. Condemnation
- 7. Equity
- 8. Zoning - County Ordinance violations (i.e. Injunctive relief-zoning)
- 9. Zoning Appeals (denovo)
- 10. Appeal, including denovo appeal - excluding Zoning

- 11. URESA
- 12. Name Change
- 13. Other
- 14. Recusal

Adoption

**Other

RICO & Section 1983

PREVIOUS RELATED CASES

Does this case involve substantially the same parties, or substantially the same subject matter, or substantially the same factual issues, as any other case filed in this court? (Whether pending simultaneously or not.)

NO

YES - If yes please fill out the following:

- 1. Case # _____
- 2. Parties _____ vs. _____
- 3. Assigned Judge _____
- 4. Is this case still pending? Yes No
- 5. Brief description of similarities:

 Attorney Matthew C. Billips
 State Bar No. 057110

IN THE SUPERIOR COURT OF FULTON COUNTY
STATE OF GEORGIA

DONALD MIKKO

Plaintiff

CIVIL ACTION FILE

vs.

NO. 2015CV257702

THE CITY OF ATLANTA, GEORGIA;
GEORGE TURNER, CHIEF OF POLICE, IN HIS
INDIVIDUAL CAPACITY; PAUL HOWARD, FULTON
COUNTY DISTRICT ATTORNEY, IN HIS INDIVIDUAL
CAPACITY; and SHEILA ROSS, ASSISTANT FULTON
COUNTY DISTRICT ATTORNEY, IN HER INDIVIDUAL
CAPACITY;

Defendants.

SUMMONS

TO THE ABOVE NAMED DEFENDANT: *Sheila Ross, Assistant Fulton County District Attorney, In Her Individual Capacity*

You are hereby summoned and required to file with the Clerk of said court and serve upon the Plaintiff's attorney, whose name and address is:

Matthew C. Billips, Esq.
Billips & Benjamin LLP
One Tower Creek
3101 Towercreek Parkway, Suite 190
Atlanta, Georgia 30339

Steven E. Wolfe, Esq.
The Buckley Law Firm, LLC
Promenade II, Suite 900
1230 Peachtree Street, NE
Atlanta, Georgia 30309

an Answer to the Complaint which is herewith served upon you, within 30 days after the service of this Summons upon you, exclusive of the day of service. If you fail to do so, judgment by default will be taken against you for the relief demanded in the complaint. If discovery request are served with the Complaint, the Discovery Responses are due 45 days following the service of the Complaint.

This 2 day of March, 2015.

Catheleen "Tina" Robinson
Clerk of Superior Court

By [Signature]
Deputy Clerk

To Defendant upon whom this petition is served:

This copy of Complaint and Summons was served upon you _____, 2015.

Deputy Sheriff

IN THE SUPERIOR COURT OF FULTON COUNTY
STATE OF GEORGIA

DONALD MIKKO
Plaintiff

CIVIL ACTION FILE

vs.

NO. 2015CV257702

THE CITY OF ATLANTA, GEORGIA;
GEORGE TURNER, CHIEF OF POLICE, IN HIS
INDIVIDUAL CAPACITY; PAUL HOWARD, FULTON
COUNTY DISTRICT ATTORNEY, IN HIS INDIVIDUAL
CAPACITY; and SHEILA ROSS, ASSISTANT FULTON
COUNTY DISTRICT ATTORNEY, IN HER INDIVIDUAL
CAPACITY;

Defendants.

SUMMONS

TO THE ABOVE NAMED DEFENDANT: *The City of Atlanta, Georgia*

You are hereby summoned and required to file with the Clerk of said court and serve upon the Plaintiff's attorney, whose name and address is:

Matthew C. Billips, Esq.
Billips & Benjamin LLP
One Tower Creek
3101 Towercreek Parkway, Suite 190
Atlanta, Georgia 30339

Steven E. Wolfe, Esq.
The Buckley Law Firm, LLC
Promenade II, Suite 900
1230 Peachtree Street, NE
Atlanta, Georgia 30309

an Answer to the Complaint which is herewith served upon you, within 30 days after the service of this Summons upon you, exclusive of the day of service. If you fail to do so, judgment by default will be taken against you for the relief demanded in the complaint. If discovery request are served with the Complaint, the Discovery Responses are due 45 days following the service of the Complaint.

This 2 day of March, 2015.

Catheleen "Tina" Robinson
Clerk of Superior Court

By [Signature]
Deputy Clerk

To Defendant upon whom this petition is served:

This copy of Complaint and Summons was served upon you _____, 2015.

Deputy Sheriff

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 ORIGINAL

IN THE Superior COURT OF Fulton COUNTY
STATE OF GEORGIA

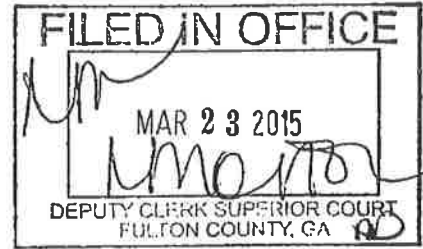
Ronald Mikto

Plaintiff,

vs.

The City of Atlanta, Georgia

Defendant,



CIVIL ACTION NO: 2015-CV-257702

AFFIDAVIT OF SERVICE

Personally appeared before me, an officer duly qualified to administer oaths, WILEY D. HANDLEY, who, after being duly sworn, states the following:

1.

Affiant states that WILEY D. HANDLEY, is over 18 years of age, a Citizen of the United States, and not related to the parties herein. The statements made in the affidavit are true and correct and are based upon my personal knowledge.

2.

I personally served Paul Howard, by placing a Complaint, Summons, Disclosure Statement, General Civil Case filing Information Form into the hands of Naomi Fudge. Personal description is below. The service was made at said persons place of Employment, located at, 136 Pryor St, Atlanta (city), Georgia (state), 30303 (zip), on the 9th day of March, 2014 at 1209 AM/PM

____ Sex, ____ Race, ____ YOA, ____ Height, ____ Hair, ____ Weight
Distinct traits: _____

SIGNATURES ON FOLLOWING PAGE

This being the 17th day of March, 2015.



Affiant

Sworn to and subscribed to before me
this 17th day of March 2015.

Mary M. Sprayberry

Notary Public



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 ORIGINAL

IN THE Superior COURT OF Fulton COUNTY
STATE OF GEORGIA

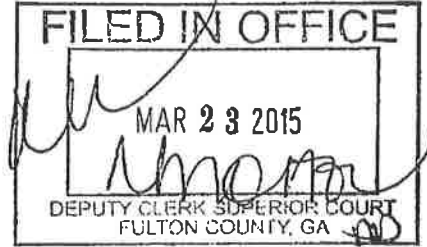
Ronald Mikto

Plaintiff,

vs.

The City of Atlanta, Georgia

Defendant,



CIVIL ACTION NO: 2015-CV-257702

AFFIDAVIT OF SERVICE

Personally appeared before me, an officer duly qualified to administer oaths, WILEY D. HANDLEY, who, after being duly sworn, states the following:

1.

Affiant states that WILEY D. HANDLEY, is over 18 years of age, a Citizen of the United States, and not related to the parties herein. The statements made in the affidavit are true and correct and are based upon my personal knowledge.

2.

I personally served Sheila Ross, by placing a Complaint, Summons, Disclosure Statement, General Civil Case Filing Information Form into the hands of Naoni Fudge. Personal description is below. The service was made at said persons place of Employment, located at 136 Pryor St, Atlanta (city), Georgia (state), 30303 (zip), on the 9th day of March, 2014 at 12:09 AM (PM)


___ Sex, ___ Race, ___ YOA, ___ Height, ___ Hair, ___ Weight
Distinct traits: _____

SIGNATURES ON FOLLOWING PAGE

This being the 17th day of March, 2015.


Affiant

Sworn to and subscribed to before me
this 17th day of March 2015.

~~Notary Public~~
~~Max M. Sprayberry~~


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 ORIGINAL

IN THE Superior COURT OF Fulton COUNTY
STATE OF GEORGIA

FILED IN OFFICE
Am
MAR 23 2015
Am
DEPUTY CLERK SUPERIOR COURT
FULTON COUNTY, GA

Ronald Mikko

Plaintiff,

vs.

The City of Atlanta, Georgia

Defendant,

CIVIL ACTION NO: 2015-CV-257702

AFFIDAVIT OF SERVICE

Personally appeared before me, an officer duly qualified to administer oaths, WILEY D. HANDLEY, who, after being duly sworn, states the following:

1.

Affiant states that WILEY D. HANDLEY, is over 18 years of age, a Citizen of the United States, and not related to the parties herein. The statements made in the affidavit are true and correct and are based upon my personal knowledge.

2.

I personally served Kasia Reed, Mayor, by placing a Complaint, Summons, Disclosure Statement, General Civil Case Filing Information Form into the hands of Denise Maddox. Personal description is below. The service was made at said persons place of Employment, located at, 55 Trinity Ave, Atlanta (city), Georgia (state), 30303 (zip), on the 9th day of March, 2014 at 12:35 AM (PM)

Sex, Race, YOA, Height, Hair, Weight
Distinct traits:

SIGNATURES ON FOLLOWING PAGE

This being the 17th day of March, 2015.

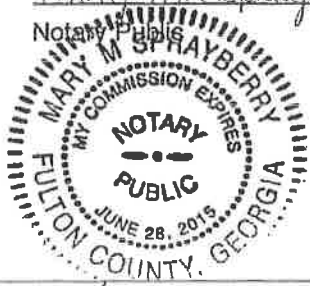


Affiant

Sworn to and subscribed to before me
this 17th day of March, 2015.

Mary M. Sprayberry

Notary Public



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ORIGINAL

IN THE Superior COURT OF Fulton COUNTY
STATE OF GEORGIA

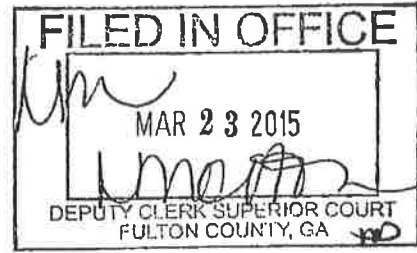
Ronald Mikto

Plaintiff,

vs.

The City of Atlanta, Georgia

Defendant,



CIVIL ACTION NO: 2015-CV-257702

AFFIDAVIT OF SERVICE

Personally appeared before me, an officer duly qualified to administer oaths, WILEY D. HANDLEY, who, after being duly sworn, states the following:

1.

Affiant states that WILEY D. HANDLEY, is over 18 years of age, a Citizen of the United States, and not related to the parties herein. The statements made in the affidavit are true and correct and are based upon my personal knowledge.

2.

I personally served George Turner, Chief of Police, by placing a Complaint, Summons, Disclosure Statement, General Civil Case Filing Information Form into the hands of Denise Maddox. Personal description is below. The service was made at said persons place of Employment, located at, 55 Trinity Ave, Atlanta (city), Georgia (state), 30303 (zip), on the 9th day of March, 2014 at 12:35 AM (PM).

___ Sex, ___ Race, ___ YOA, ___ Height, ___ Hair, ___ Weight

Distinct traits: _____

SIGNATURES ON FOLLOWING PAGE

This being the 17th day of March, 2015.



Affiant

Sworn to and subscribed to before me
this 17th day of March 2015.

Mary M. Sprayberry

Notary Public

