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**IN THE DISTRICT COURT OF THE FOURTH JUDICIAL DISTRICT OF
THE STATE OF IDAHO, IN AND FOR THE COUNTY OF ADA**

RYAN P. LEE,

Plaintiff,

vs.

KIRK RUSH; DOES A, B, C AND D,

Defendants

Case No. CV01-23-16449

**CIVIL COMPLAINT AND
DEMAND FOR JURY TRIAL**

COMES NOW the Plaintiff Ryan P. Lee (hereinafter “Chief Lee” or “Ryan Lee”), by and through his attorney William L. Mauk of the firm of Mauk Miller & Hawkins PLLC, and for causes of action and claims for damages against Defendants Kirk Rush (hereinafter “Rush” or “Sgt. Rush”) and DOES A, B, C and D, states, alleges and avers as follows:

NATURE OF CASE

1. This is an action for various personal injury legal claims and relief pursuant to the laws of the State of Idaho.

PARTIES

2. Plaintiff Ryan Lee is the former Chief of Police of the City of Boise Police Department (herein “BPD”), having held that position from July 1, 2020 until October 28, 2022.

3. At all times pertinent hereto and continuing until the end of June, 2023, Plaintiff was a resident of the City of Boise, County of Ada, State of Idaho. Plaintiff currently resides in Columbus, Mississippi.

4. Defendant Kirk Rush is now, and at all times pertinent hereto was, an employee of the BPD holding the rank of Sergeant.

5. At all times pertinent hereto and continuing to the present, Defendant Rush is and has been a resident of the City of Boise, County of Ada, State of Idaho.

6. DOES A, B, C and D are fictitiously named persons the true identities of which are presently unknown to the Plaintiff. Each of these Defendants is responsible in whole or part, for the wrongful conduct alleged herein, by active commission of such conduct and/or by instigating, encouraging, advising and abetting the wrongful conduct of Rush or other Defendants. Plaintiff reserves the right to amend this Complaint to more fully and properly identify these Defendants, their legal relationships and the facts of their conduct as such information becomes available.

JURISDICTION AND VENUE

7. This Court has subject matter and personal jurisdiction over Defendants and the causes of action alleged herein.

8. Venue is proper in the Fourth Judicial District, County of Ada, State of Idaho, pursuant to Idaho Code, Sections 5-402(2) and 5-404 where the actions and violations of law attributable to the Defendants occurred and the Defendants each reside.

GENERAL ALLEGATIONS

9. On October 12, 2021, Sgt. Rush was the Acting Watch Commander of the Patrol Division of the BPD and, as such, was responsible for conducting the morning watch patrol briefing on that date.

10. Chief Lee was also in attendance at the briefing where he was confronted with a number of inquiries and concerns from officers regarding the use of Lateral Vascular Neck Restraints (LVNR), commonly referred to as a “chokehold.”

11. Prior to Ryan Lee’s employment as Chief of the BPD, the Department had initiated a new policy restricting the use of LVNR in conformance with National Best Practices for law enforcement agencies throughout the United States. Under the new policy, use of the “chokehold” neck restraint is only allowed in situations where deadly force would be authorized.

12. A few days prior to the October 12 briefing, there had been an incident where a BPD police officer had used LVNR during his response, which incident, following standard Department policy and protocol, was subject to internal investigation.

13. This incident, the identity of the police officer involved, and the City’s standard policy and protocol, were well known throughout members of the BPD, including those attending the briefing.

14. As a consequence, the President of the BPD police union had expressed concerns to Chief Lee that members of the Department – having heard about the LVNR event – were confused about the authorized use of LVNR and its investigation, if used.

15. It was the union’s request that Chief Lee attend multiple roll calls/briefings to discuss the issue and provide clarity.

16. Accordingly, based on comments and questions from police officers during the October 12 briefing, Chief Lee determined it would be instructive and helpful to discuss and briefly illustrate a couple of alternative head and neck restraints that could be used by officers without applying deadly force.

17. With Sgt. Rush’s assistance and cooperation, Chief Lee performed a visual, hands-on illustration of these two alternatives to the officers at the briefing without conducting a full

demonstration and only applying minimal restraint.

18. Rush participated in the head and neck restraint illustration with Chief Lee willingly and at no time expressed any refusal, reluctance or objection to participating.

19. Nor did Rush advise Chief Lee of any prior injuries or information that might limit or preclude his participation.

20. During the course of illustrating the alternative head and neck restraints, Sgt. Rush did not demonstrate or express that he was injured by the activity or wished to terminate his voluntary participation.

21. Following the briefing and illustration, Sgt. Rush completed his shift duties on October 12, 2021 without notable restriction or complaint that he was injured, and in subsequent days he never reported to his superiors that he was not physically fit for duty.

22. Ultimately, on information and belief, Sgt. Rush – with the collaboration, encouragement, advice and assistance of other Defendants – engaged in a course of conduct intentionally calculated to impair and/or terminate Ryan Lee’s employment as Chief of Police and effectively ruin his career in law enforcement.

23. This conduct, among other things, included the following:

- a) Filing or facilitating the filing of internal BPD complaints falsely accusing Chief Lee of intentionally injuring him and violating multiple BPD and City personnel policies;
- b) Accusing Chief Lee of criminal misconduct and endeavoring to have him prosecuted for such conduct;
- c) Seeking to have the Peace Officer Standards and Training (POST) Division of the Idaho State Police decertify and disqualify Chief Lee from holding any position of law enforcement in Idaho which, in turn, would bar Plaintiff from

pursuing his career throughout most, if not all, of the United States.

24. Rush is believed to have repeatedly stated and implied publicly that Ryan Lee
- a) Willfully, intentionally and maliciously accosted and injured him, committing battery;
 - b) Caused him to sustain serious and significant injuries, including a “broken neck,” multiple bulging discs in his neck, and severe emotional distress; and
 - c) Caused him to have surgery, including without limitation a cervical discectomy and fusion, to repair Rush’s claimed neck injuries.

25. These statements and others which Rush is believed to have made and implied were knowingly false, purposefully omitted appreciated information, which qualifies and contradicts his accusations and statements, and were made with reckless disregard for the truth or falsity of Rush’s representation.

26. Rush’s false, incomplete and deceptive representations to others caused them to erroneously believe and publicly repeat Rush’s false and selective representations.

27. In a calculated effort to disrupt Chief Lee’s employment, damage his reputation and impair his law enforcement certifications and career, Rush maliciously accused Chief Lee of violating confidentiality policies of the BPD and City by his conduct and comments at the October 12 briefing.

28. Rush made and vigorously pursued these breach of confidentiality allegations knowing from his own repeated involvement with use of deadly force investigations by the BPD that his allegations were spurious, false and only intended to damage Ryan Lee.

INCORPORATION

29. Plaintiff hereby alleges and incorporates all of the foregoing allegations and averments in each and every cause of action stated herein.

COUNTS I AND II

Intentional Interference with Contract and Economic Expectancy

30. The employment relationship between Ryan Lee and the City of Boise was contractual with an expectancy of continued employment and prospective economic advantage.

31. Defendant Rush and all of Defendants DOES A, B, C and D knew of Chief Lee's contractual relationship and its economic expectancy.

32. Defendant Rush and all or some of the Defendants DOES A, B, C and D intentionally and unjustifiably interfered with Plaintiff's contract of employment and economic expectancy with the City of Boise, thereby inducing disruption, impairment and eventual termination of Ryan Lee's employment and its economic expectancy.

33. Defendants' interference was malicious and had an improper objective and purpose to harm Ryan Lee, and/or used wrongful means to cause injury to Plaintiff's existing and prospective contractual relationship as Boise Chief of Police and his future career in law enforcement.

COUNTS III & IV

Slander and Libel

34. Defendant Rush has made repeated derogatory statements, complaints and accusations about Chief Lee, the head and neck restraint illustration and the injuries he claims to have sustained caused by Plaintiff, which were knowingly and implicitly false, exaggerated, deceptive and misleading.

35. These statements, complaints and accusations were communicated orally and in writing to others within the BPD, and it is believed beyond, in a purposeful effort to ridicule Plaintiff, place him in a false light and adversely affect his stature, reputation, position, authority and continued employment.

36. Defendant Rush's statements, complaints and accusations that Plaintiff's conduct was criminal and warranted depriving him of continuation as a law enforcement officer were per se defamatory.

37. Plaintiff was damaged severely because of Defendant's defamatory communications, as more particularly described herein below.

COUNT V
Negligence

38. Defendant owed a duty to Ryan Lee to use reasonable care to avoid foreseeable injury to Plaintiff caused by his acts and omissions affecting Plaintiff.

39. In the course of filing and pursuing his complaints and accusations against Chief Lee, Sgt. Rush had a duty and obligation to fully, accurately and carefully disclose all information material to the understanding, investigation and resolution of his claims, including but not limited to his contention that he was injured; indeed, severely injured.

40. On information and belief, in breach of that duty, Rush negligently, if not intentionally, withheld and concealed an abundance of facts and information that impeached and contradicted his contentions, particularly relevant to his claimed injuries.

41. On information and belief, Rush withheld and concealed that he has previously suffered injuries to his neck and cervical spine and that these injuries and his pre-existing condition were the dominant, if not sole, cause of the alleged injuries, surgeries and deteriorating health conditions that he endeavors to attribute exclusively to Ryan Lee.

42. It was foreseeable to Rush that his withholding and concealment of information material to the investigation and disposition of Rush's complaints would likely cause injury to Ryan Lee.

43. The breach of Rush's duty and negligence proximately caused damage to Plaintiff, as more particularly described herein below.

COUNT VI
Intentional Infliction of Emotional Distress

44. Plaintiff hereby incorporates all previous allegations , as if stated below.

45. Defendant's conduct, as described herein was intentional, committed with reckless disregard, calculated and carried out with the purpose of causing Ryan Lee injury, including disruption and loss of his position as Chief of Police, impairing his law enforcement career and other injuries and losses.

46. The conduct of Rush and other Defendants who cooperated with and advanced Rush's venal purposes was extreme and outrageous.

47. This wrongful conduct was intended to, and did, cause Ryan Lee severe emotional distress.

48. As the direct and proximate cause of Defendant's conduct, Ryan Lee has suffered and continues to suffer emotional distress.

COUNT VII
Negligent Infliction of Emotional Distress

49. Plaintiff hereby incorporates all previous allegations, as if stated below.

50. In pursuing the conduct described in Paragraph 23, above, and other related conduct, Rush owed a duty recognized by law to exercise ordinary care to prevent unreasonable, foreseeable risks of injury to Chief Lee.

51. Rush's duty of care included without limitation

- a) Not making and pursuing complaints that were untrue, fabricated, embellished or exaggerated, in whole or part;
- b) Disclosing complete information material and relevant to those investigating and considering his complaints; and

- c) Using and attempting to use the complaint process for an improper purpose.

52. Rush's manipulation, abuse and negligent misuse of the complaint process presented and caused a foreseeable risk of harm to Chief Lee.

53. Rush breached these duties and standards of conduct, causing emotional distress and other injuries and damage to Chief Lee.

54. The emotional distress inflicted on Chief Lee by Rush's conduct was physically manifest.

DAMAGES

55. The following allegations are incorporated by this reference as part of each count, claim and cause of action stated in this Complaint and every amendment hereto.

56. As the direct and proximate cause of Defendants' wrongful conduct, Plaintiff has suffered, and will continue to suffer, substantial injuries, damages and losses, tangible and intangible, economic, compensatory and general, including but not limited to the following:

- a) Loss of his employment as Boise Chief of Police;
- b) Loss of at least three subsequent high ranking positions of employment in other police departments throughout the United States;
- c) Attendant loss of income, health insurance, retirement and other benefits;
- d) Damage to his professional reputation;
- e) Indelible disruption and permanent damage to his professional career;
- f) Humiliation, mental anguish and emotional distress;
- g) Employment pursuit, lost equity and relocation expenses; and
- h) Incidental and consequential damages.

57. Plaintiff seeks all remedies, recoveries and relief, including his consequential costs and attorney fees, as allowed by law.

58. The conduct of the Defendants as described herein was willful, intentional, knowing, malicious, reckless, and in extreme deviation from appropriate and acceptable standards, thereby entitling Plaintiff to awards of exemplary, punitive and/or liquidated damages as allowed by law.

59. To the extent required by Idaho Code, Section 6-1604 or other applicable law, Plaintiff reserves the right to amend this Complaint to add a prayer for punitive damages.

ATTORNEY FEES AND COSTS

60. As a consequence of the complaints, causes and claims stated herein, Plaintiff has been required to retain the law firm of Mauk Miller & Hawkins and has incurred and will incur costs and reasonable attorney fees related thereto, for which he is entitled to a separate award of reimbursement pursuant to Idaho Code, Sections 12-121 and 12-123, Rule 54 of the Idaho Rules of Civil Procedure, and all other comparable provisions of the laws of the State of Idaho affording such awards.

PRAYER FOR RELIEF

WHEREFORE, Plaintiff prays for judgment against Defendant Kirk Rush and all other liable Defendants awarding the following relief:

A. For all his actual economic losses and damages, past and future, direct, incidental and consequential, including but not limited to income loss, benefit loss, re-employment and relocation expenses, disruption and damage to his career and other monetary losses, in the minimal amount of \$1,000,000.00, or such greater amount as shall be proven at trial;

B. For general and compensatory losses and damage in the minimal amount of \$200,000.00, or such greater amount as shall be proven at trial;

- C. For pre-judgment and post-judgment interest at the highest lawful rate.
- D. For an award of all costs and reasonable attorney fees incurred in the prosecution of this action and in all administrative proceedings related thereto; and
- E. For such and other further relief as this Court deems just and equitable in the premises.

DEMAND FOR JURY TRIAL

Plaintiff requests a jury trial by a jury of twelve persons on all counts, claims and causes of action triable by jury, pursuant to the Idaho statutes and Rules of Civil Procedure.

DATED this 10th day of October, 2023.

MAUK MILLER & HAWKINS, PLLC



William L. Mauk, of the Firm
Attorneys for Plaintiff

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 10th day of October, 2023, I served a true and correct copy of the foregoing document by delivering the same to the following persons, by the method indicated below:

- U.S. Mail, postage prepaid
- Hand-Delivered
- Facsimile
- E-mail
- iCourt E-File System



Julia Quintana