

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MARYLAND
Northern Division**

FRANKLIN SAVAGE,
3211 Sheephouse Road
Pocomoke City, MD 21851
County of Residence: Worcester

KELVIN SEWELL,
815 Amory Court
Severn, MD 21114
County of Residence: Anne Arundel

and LYNELL GREEN,
30011 Greensprings Drive
Princess Anne, MD 21853
County of Residence: Somerset

Plaintiffs,

v.

POCOMOKE CITY,
101 Clarke Avenue
P.O. Box 29
Pocomoke City, MD 21851
County of Residence: Worcester
Serve on: Bruce Morrison
Mayor
City Hall
101 Clarke Avenue
Pocomoke City, MD 21851

POCOMOKE CITY POLICE
DEPARTMENT,
1500 Market Street
Pocomoke City, MD 21851
County of Residence: Worcester
Serve on: William Harden
Chief of Police
1500 Market Street
Pocomoke City, MD 21851

**COMPLAINT FOR DECLARATORY
RELIEF, INJUNCTIVE RELIEF,
DAMAGES, AND ATTORNEYS' FEES**

Civil Action No. _____

Jury Trial Demand

WORCESTER COUNTY SHERIFF'S
OFFICE,

Worcester County Government Center
1 West Market Street, Room 1001
Snow Hill, MD 21863

County of Residence: Worcester
Serve on: Reggie T. Mason, Sr.
Sheriff
1 West Market Street
Snow Hill, MD 21863

DEPARTMENT OF MARYLAND STATE
POLICE,

1201 Reistertown Road
Pikesville, MD 21208

County of Residence: Baltimore
Serve on: Brian E. Frosh
Attorney General
200 St. Paul Place
Baltimore, MD 21202

RUSSELL BLAKE,
in his individual capacity
7 Winter Quarters Drive
Pocomoke City, MD 21851
County of Residence: Worcester

ERNIE CROFOOT,
in his individual capacity
1501 Cedar Run
Pocomoke City, MD 21851
County of Residence: Worcester

BRUCE MORRISON,
in his individual capacity
218 Walnut Street
Pocomoke City, MD 21851
County of Residence: Worcester

BEAU OGLESBY,
in his individual capacity
50 Capetown Road
Ocean Pines, MD 21811
County of Residence: Worcester

NATHANIEL PASSWATERS,
in his individual capacity
12333 Dixie Drive
Bishopville, MD 21813
County of Residence: Worcester

BROOKS PHILLIPS,
in his individual capacity
4108 Red House Road
Snow Hill, MD 21863
County of Residence: Worcester

DALE SMACK,
in his individual capacity
5541 Princess Way
Snow Hill, MD 21863
County of Residence: Worcester

DALE TROTTER,
in his individual capacity
11 Front Street
Pocomoke City, MD 21851
County of Residence: Worcester

RODNEY WELLS,
in his individual capacity
4415 Brick Kiln Road
Snow Hill, MD 21863
County of Residence: Worcester

and PATRICIA DONALDSON,
in her individual capacity
3104 Points Reach
Ocean Pines, MD 21811
County of Residence: Worcester

Defendants.

INTRODUCTION

1. This is one of the saddest and most shocking cases this Court is likely to address. Three African American police officers, working for Pocomoke City, Maryland, experienced racial discrimination in employment and retaliation for the exercise of their federal civil rights in a manner that most Americans would have believed unthinkable in the second decade of the 21st Century. While Pocomoke City bills itself as the “Friendliest Town on the Eastern Shore,” its law enforcement community, including the Pocomoke City Police Department, the Department of Maryland State Police, the Worcester County Sheriff’s Office, and, most disappointingly, the State’s Attorney’s Office, acted more in the vein of “Jim Crow.”

2. Three model police officers, including the first African American chief of police in Pocomoke City and the first and only African American detective assigned to the local narcotics task force, were mocked, threatened, demeaned, demoted, punished, falsely accused of misconduct, ostracized, and humiliated because of their race. Ultimately, two of the Plaintiffs here, Franklin Savage (“Officer Savage”) and Kelvin Sewell (“Chief Sewell”), were fired by Pocomoke City in obvious retaliation for their filing of United States Equal Employment Opportunity Commission (“EEOC”) complaints. The third officer, Lynell Green (“Lieutenant Green”), remains employed by Pocomoke City, but his terms of employment have been detrimentally altered, and he is ostracized by the entire department. The intervention of this Court is vitally necessary to make clear to some members of the law enforcement community on the Eastern Shore that this blatant disregard of federal constitutional and statutory rights will not be tolerated.

3. The use of the word “nigger” long ago ceased to be tolerated in any American workplace. So, too, did other forms of racial mockery, epithets, threats, humiliation, and discrimination based on race in the terms of employment. Yet, the three Plaintiffs in this

action—Officer Savage, Chief Sewell, and Lieutenant Green—experienced unlawful conduct of this character, often on a daily basis.

4. Officer Savage endured a hostile work environment and employment discrimination throughout his four-year tenure with the Pocomoke City Police Department. He spent more than half of that time detailed to the Worcester County Criminal Enforcement Team (“Joint Task Force”), a regional drug-interdiction task force, led by the Worcester County Sheriff’s Office. Officer Savage was the first and only African American police officer ever assigned to the Joint Task Force. Over more than two years, members of the Joint Task Force, and at least one other government official, used the word “nigger”—and its variants—in Officer Savage’s presence numerous times. They also subjected Officer Savage to other forms of racial harassment and discrimination, such as taking an on-duty side trip to a so-called “KKK Lane” and placing a fake food stamp in Officer Savage’s desk drawer on which a picture of President Obama had been superimposed. A bloody deer’s tail was placed on Officer Savage’s car windshield on a side street by the Joint Task Force office while he was on duty. One of Officer Savage’s supervisors, Defendant Passwaters, participated actively in the racial discrimination against him. His other supervisor on the Joint Task Force, Defendant Donaldson, knew of the unlawful racially discriminatory acts but did nothing to stop them or discipline the offenders.

5. When Officer Savage finally complained within the Pocomoke City Police Department about this racially-motivated mistreatment, and left the Joint Task Force, he found himself railroaded out of law enforcement in Worcester County. He was demoted without reason. His duties were restricted. He was blackballed from testifying in criminal cases—an integral part of his job—by the county’s State’s Attorney. In a hallmark of retaliation, the same Officer Savage who had received glowing reviews and laudatory letters of recommendation for

years was suddenly described as an incompetent and untrustworthy officer. Officer Savage was then fired from the Pocomoke City Police Department without just cause and for stated reasons that are obvious pretexts for racial hostility and retaliation.

6. The retaliation against Officer Savage also swept up the other Plaintiffs, Chief Sewell and Lieutenant Green.

7. Chief Sewell served as chief of the Pocomoke City Police Department for almost all of Officer Savage's employment, and, as noted above, was the first African American police chief of Pocomoke City. He was fired from the Pocomoke City Police Department because he refused to fire Officer Savage in the face of pressure from various Pocomoke City and Worcester County employees and elected officials. Chief Sewell refused to fire Officer Savage both because he saw no basis for his discharge and because Chief Sewell viewed firing Officer Savage as improper retaliation for Officer Savage's protected conduct in filing EEOC complaints against the very individuals who wanted him fired.

8. Lieutenant Green, for his part, has been and remains a lieutenant in the Pocomoke City Police Department. He attended a mediation hearing regarding a claim that Officer Savage filed with the EEOC as a show of support for Officer Savage. Lieutenant Green then found himself on the wrong side of the law enforcement officialdom in Worcester County. For supporting Officer Savage, Lieutenant Green has experienced repeated acts of retaliation from his fellow officers and the Pocomoke City Council. Lieutenant Green also has had his pay restricted by Pocomoke City and Pocomoke City Police Department policies that may appear facially neutral and broadly applicable but, upon scrutiny, are clearly targeted at Lieutenant Green alone.

9. Plaintiffs are thus suing the individuals and entities responsible for this unchecked

pattern and practice of virulent racial discrimination and retaliation against Plaintiffs. They are also suing the officers, elected officials, law-enforcement agencies, and governmental entities that condoned or failed to stop this behavior and those that orchestrated retaliation against the Plaintiffs for seeking to remedy a racially hostile work environment and discrimination, and then joined in unlawful retaliation against the three for supporting each other's protected conduct.

10. Plaintiffs present numerous causes of action because race-based discrimination and retaliation are both clearly prohibited by federal laws as well as the United States Constitution. The asserted causes of action include those arising under 42 U.S.C. § 1981; 42 U.S.C. § 1983, for violations of the First and Fourteenth Amendments; 42 U.S.C. § 1985; and the Fair Labor Standards Act. Plaintiffs expect to add further causes of action under Title VII of the Civil Rights Act of 1964, 42 U.S.C. § 2000e-3(a), once those claims are administratively exhausted before the EEOC and become ripe for suit.

11. The damages here are substantial. Officer Savage and Chief Sewell have both been wrongfully fired. Officer Savage has been unable to find new employment as a police officer and has suffered physical and psychological harm directly attributable to his mistreatment. Chief Sewell is currently unemployed and seeks reinstatement to his former position as Pocomoke City's chief of police. Both Officer Savage and Chief Sewell seek front and back pay and damages for both physical and psychological harms as well as injunctive relief. Lieutenant Green seeks back pay for loss of overtime and injunctive relief to restore his full status and duties on the force. All Plaintiffs seek costs and attorneys' fees under 42 U.S.C. § 1988, and such other relief as this Court deems just and proper. All Plaintiffs demand a trial by jury.

NATURE OF THE ACTION

12. Plaintiffs bring this action under 42 U.S.C. §§ 1981, 1983, and 1985, 29 U.S.C. § 201, and the United States Constitution to remedy the unlawful discrimination and retaliation engaged in by Defendants Pocomoke City, Pocomoke City Police Department, Worcester County Sheriff's Office, Department of Maryland State Police, Russell Blake ("Blake"), Ernie Crofoot ("Crofoot"), Bruce Morrison ("Morrison"), Beau Oglesby ("Oglesby"), Nathaniel Passwaters ("Passwaters"), Brooks Phillips ("Phillips"), Dale Smack ("Smack"), Dale Trotter ("Trotter"), Rodney Wells ("Wells"), and Patricia Donaldson ("Donaldson").

JURISDICTION AND VENUE

13. This Court has original jurisdiction over all Counts pursuant to 28 U.S.C. § 1331 because those claims arise under the United States Constitution and laws of the United States.

14. Jurisdiction to grant a declaratory judgment is conferred by 28 U.S.C. §§ 2201-02.

15. Venue is proper in this Court pursuant to 28 U.S.C. § 1391(b)(2) because all of the events, acts, and/or omissions giving rise to Plaintiffs' claims occurred in the State of Maryland. Specifically, most of them occurred in Worcester County, Maryland.

PARTIES

PLAINTIFFS

16. Officer Savage joined the Pocomoke City Police Department in April 2011. He began representing the Pocomoke City Police Department as an officer on the Joint Task Force in or around February 2012. Officer Savage was the first African American detailed to the Joint Task Force. He was known as an excellent narcotics officer—particularly in undercover narcotics buys.

17. In or around May 2012, Officer Savage was promoted to detective. He resigned from the Joint Task Force on June 12, 2014, and returned to the Pocomoke City Police

Department as a detective. After reporting the harassment and retaliatory behavior of which he had been victim while on the Joint Task Force, Officer Savage was demoted from detective to officer on February 9, 2015. He was told he could not make arrests alone or testify in court. Eventually, he was demoted to patrolman, often checking doors on the night shift. Officer Savage was unlawfully terminated from his position as a patrolman in the Pocomoke City Police Department on October 26, 2015.

18. Chief Sewell joined the Pocomoke City Police Department in November 2010, after retiring from the Baltimore City Police Department as a sergeant after twenty-two years of service. He was hired as a lieutenant and served as the Pocomoke City Police Department's operations manager. Chief Sewell was promoted to captain on October 1, 2011, and to chief of police on December 1, 2011. Chief Sewell was the first African American to hold this position in Pocomoke City. During his tenure as chief, there were no homicides in Pocomoke City. Crime, particularly drug and street crime, dropped significantly during Chief Sewell's tenure. Chief Sewell instituted community policing principles in Pocomoke City and the relations between the police department and the citizenry, including the African American community, improved significantly. Chief Sewell was respected by his officers and by the community. He enjoyed a reputation as an excellent police chief. Chief Sewell served as chief until he was unlawfully terminated on July 1, 2015.

19. Lieutenant Green joined the Pocomoke City Police Department on or about November 13, 2011, as an officer. He was promoted to first sergeant on December 6, 2011, and was promoted to his current position, lieutenant and operations manager, on February 29, 2012. He was a ten-year veteran of the Baltimore City Police Department before joining the force in Pocomoke City. Since supporting Officer Savage in the latter's EEOC complaint, Lieutenant

Green has had his pay and terms of employment adversely altered in retaliation for that support.

DEFENDANTS

20. Pocomoke City is a municipality in Worcester County, Maryland, and is incorporated under Maryland law. Pocomoke City has the capacity under Maryland law to sue and be sued. Pocomoke City is subject to liability under 42 U.S.C. § 1981 because of racial discrimination in employment. Pocomoke City is also subject to liability for violation of federal civil rights and race discrimination perpetrated under color of law under 42 U.S.C. § 1983.

21. The Pocomoke City Police Department is an instrumentality of Pocomoke City, as authorized and established under Maryland law and the Pocomoke City Charter. The Pocomoke City Police Department is subject to liability under 42 U.S.C. § 1981 because of racial discrimination in employment. The Pocomoke City Police Department is also subject to liability for violation of federal civil rights and race discrimination perpetrated under color of law under 42 U.S.C. § 1983.

22. The Worcester County Sheriff's Office is an instrumentality of Worcester County, Maryland. The Worcester County Sheriff's Office is subject to liability under 42 U.S.C. § 1981 because of racial discrimination in employment.

23. The Department of Maryland State Police is an instrumentality of the State of Maryland. The Department of Maryland State Police is subject to liability under 42 U.S.C. § 1981 because of racial discrimination in employment.

24. Blake is the former city manager of Pocomoke City. Blake served as city manager of Pocomoke City for forty years—from 1975 to 2015. He resigned as city manager the day before Chief Sewell was terminated. At all times relevant to Blake's acts or commissions as alleged in this Complaint, Blake acted under the color of Maryland law. He is

subject to liability under 42 U.S.C. §§ 1981, 1983, and 1985. Blake is sued in his individual capacity.

25. Crofoot is the current city manager of Pocomoke City. At all times relevant to Crofoot's acts and omissions as alleged in this Complaint, Crofoot acted under the color of Maryland law. He is subject to liability under 42 U.S.C. §§ 1981, 1983, 1985. Crofoot is sued in his individual capacity.

26. Morrison is the mayor of Pocomoke City. During all times mentioned in this Complaint, Morrison acted under the color of Maryland law. He is subject to liability under 42 U.S.C. §§ 1981, 1983, and 1985. Morrison is sued in his individual capacity.

27. Oglesby is the Maryland State's Attorney for Worcester County. During all times mentioned in this Complaint, Oglesby acted under the color of Maryland law. He is subject to liability under 42 U.S.C. §§ 1981, 1983, and 1985. Oglesby is sued in his individual capacity.

28. Passwaters is a sergeant in the Worcester County Sheriff's Office. He was one of two supervisors of the Joint Task Force, which included direct supervision of Officer Savage. During all times mentioned in this Complaint, Passwaters acted under the color of Maryland law. He is subject to liability under 42 U.S.C. §§ 1981, 1983, and 1985. Passwaters is sued in his individual capacity.

29. Phillips is a corporal in the Department of Maryland State Police. He was a member of the Joint Task Force on which Officer Savage served. During all times mentioned in this Complaint, Phillips acted under the color of Maryland law. He is subject to liability under 42 U.S.C. §§ 1981 and 1983. Phillips is sued in his individual capacity.

30. Smack, the only African American named as a Defendant in this Complaint, is the chief deputy sheriff of the Worcester County Sheriff's Office. During all times mentioned in

this Complaint, Smack acted under the color of Maryland law. He is subject to liability under 42 U.S.C. §§ 1981, 1983, 1985. Smack is sued in his individual capacity.

31. Trotter is a corporal in the Worcester County Sheriff's Office. He is also a member of the Pocomoke City Council. During all times mentioned in this Complaint, Trotter acted under the color of Maryland law. He is subject to liability under 42 U.S.C. §§ 1981 and 1983. Trotter is sued in his individual capacity.

32. Wells is a corporal in the Worcester County Sheriff's Office. During all times mentioned in this Complaint, Wells acted under the color of Maryland law. He is subject to liability under 42 U.S.C. §§ 1981 and 1983. Wells is sued in his individual capacity.

33. Donaldson is a sergeant in the Department of the Maryland State Police. Donaldson was the other supervisor of the Joint Task Force, and thus also supervised Officer Savage. During all times mentioned in this Complaint, Donaldson acted under the color of Maryland law. She is subject to liability under 42 U.S.C. § 1981. Donaldson knew of and condoned some of the wrongful acts and omissions complained of in this Complaint. Donaldson took no action as a supervisor on the Joint Task Force to end the discrimination or punish the offenders. Donaldson is sued in her individual capacity.

FACTUAL ALLEGATIONS

About Pocomoke City

34. Once a major shipping town along the Pocomoke River, Pocomoke City sits in the southwest corner of Worcester County, Maryland's easternmost county. The nearest town of any size, Salisbury, is a half-hour to the north; Ocean City is forty-five minutes to the northeast. By car, Pocomoke City is slightly closer to Norfolk than Annapolis. In between these cities and Pocomoke City, and in every other direction, are miles of farm fields and hunting grounds.

35. Pocomoke City and the surrounding area have an unfortunate past with respect to

race relations. The area was slaveholding and lies south of the Mason-Dixon Line. The City remains highly residentially segregated. Almost half of the population is African American. Historically, the government of the City has been entirely White.

36. Pocomoke City is governed by its mayor, city manager, and city council.

37. The office of mayor is an elected position. The mayor must be a resident and registered voter of Pocomoke City. The mayor holds his or her office for a three-year term. In this role, the mayor presides over the city council. The Pocomoke City Charter states: “The [m]ayor may take part in all [City Council] discussions, but shall have no vote.” Pocomoke City Charter § C-8.

38. The city council consists of five elected individuals who each must be a resident of Pocomoke City for at least one year prior to their election. Each council member is elected to represent a single geographic district within the city’s borders for a three-year term.

39. The city manager is appointed for an indefinite term by the city council. While serving in this capacity, the city manager must be a resident of Pocomoke City. The city manager “shall have power and shall be required to appoint and, when necessary for the good of service, suspend or remove all officers and employees of the City.” The city manager may hire and fire Pocomoke City employees, including police officers. Ultimately, the city manager is responsible for “the proper administration” of Pocomoke City. Pocomoke City Charter § C-23.

40. According to 2010 Census data, just over 45% of Pocomoke City’s 4,000 residents identify as Black or African American, and just fewer than 50% of its residents identify as White.

41. Despite these demographics, Pocomoke City is managed almost entirely by its White citizens. The mayor, Morrison, is White. Blake, the city manager for forty years, is

White. Crofoot, Blake's replacement, is White. All members of the city council are White, except for one, Diane Downing.

About the Pocomoke City Police Department

42. The Pocomoke City Police Department consists of up to sixteen law-enforcement officers. The officers are ranked from the entry-level rank of patrolman through chief of police. The chief of police leads the department. Two lieutenants report to the chief; one lieutenant manages the operations of officers while the other manages administrative matters.

43. The chief reports to both the mayor and the city manager. Under this arrangement, Chief Sewell reported to both Morrison and Blake while leading the department.

44. As city manager, however, Blake acted as if it was solely within his power to make personnel decisions for the Pocomoke City Police Department.

45. On several occasions, Chief Sewell would submit his annual budget, which included suggested salaries for the police department employees, to Blake who should have then reviewed the budget and submitted it to the city council. Instead, Blake would completely disregard Chief Sewell's budget and submit a single sheet of paper setting forth Blake's own suggested compensation amounts for the police department employees.

46. In October 2011, Blake informed Chief Sewell that his salary would not be adjusted for his promotion to captain.

47. Despite Pocomoke City's significantly improved crime statistics during his tenure, Chief Sewell did not receive yearly raises, compensatory time, or paid health insurance, as other chiefs have been given in the past.

48. On information and belief, the chief of police prior to Chief Sewell received a raise each year he served as chief. Chief Sewell received his first and only pay raise when he was promoted to chief on December 1, 2011. Pocomoke City also declined to enter into an

employment contract with Chief Sewell when he assumed his role as chief. On information and belief, past Pocomoke City police chiefs, many of whom were White, received employment contracts defining benefits and terms of severance, including severance pay.

49. Chief Sewell observed that African American officers within the Pocomoke City Police Department are generally underpaid. None of the African American officers received the pay raises he requested. From the time of Chief Sewell's promotion to chief through his termination, neither Lieutenant Green nor Officer Savage received pay raises. On information and belief, other White police officers of similar rank and tenure to Lieutenant Green and Officer Savage did receive pay raises during the same period.

About the Joint Task Force

50. In February 2012, Officer Savage was assigned to the Joint Task Force as a narcotics investigator. The Joint Task Force is a multijurisdictional drug enforcement unit led by the Worcester County Sheriff's Office. Most Joint Task Force members are members of Worcester County Sheriff's Office, but other Maryland law enforcement agencies, including the Department of Maryland State Police and the Ocean City Police Department, regularly detail officers for set periods of time. At the time Officer Savage began working with the Joint Task Force, it was housed in the same building as the Worcester County Sheriff's Office.

51. In or about June 2012, the Joint Task Force moved from the Worcester County Sheriff's Office to its own separate off-site location within Worcester County. The vehicles and other equipment for surveillance and arrest were provided to Joint Task Force members by the Maryland State Police and the Worcester County Sheriff's Office.

52. At the time Officer Savage was a member of the Joint Task Force, the other members of the Joint Task Force were all White males, with the exception of Donaldson, a White female. The members of the Joint Task Force included the following defendants:

Passwaters, Donaldson, Phillips, and Wells. The members also included Jeff Johns and Brian Trader. Passwaters and Donaldson were Officer Savage's immediate supervisors.

53. As the Joint Task Force's supervisors, Passwaters and Donaldson were required to report misconduct by any Joint Task Force member to that member's parent agency. The parent agency has the authority to discipline Joint Task Force members. Passwaters and Donaldson also determined Officer Savage's duties during his time on the Joint Task Force and were responsible for preparing his employment evaluation and forwarding that report to Chief Sewell. That evaluation could affect Officer Savage's rank, pay, and future prospects within the Pocomoke City Police Department.

The Joint Task Force's Racially Hostile Work Environment

54. Shortly after his appointment to the Joint Task Force in or around May 2012, the other seven Joint Task Force members began discriminating against Officer Savage.

55. The Joint Task Force members would regularly refer to African Americans as "niggers" in Officer Savage's presence. They repeatedly used the word in a sarcastic or demeaning tone to Officer Savage both orally and in written communications.

56. Beginning in 2012, on their official work computers and in Officer Savage's presence, members of the Joint Task Force watched and laughed about racially-charged videos that used the word "nigger."

57. In or around September 2012, Wells asked Officer Savage why African Americans are offended when a White person uses the word "nigger" and its variants. Wells then asked Officer Savage how he would personally feel if he called him a "nigger." Officer Savage indicated that he would be offended.

58. On September 16, 2012, Wells and Passwaters arrested an African American man

for drug possession. The suspect used the word “nigger” and its variants several times during an arrest. After viewing the dash cam footage of the arrest, Passwaters played and replayed the footage in front of the entire Joint Task Force because he thought the video was funny. During this incident, Passwaters informed members of the Joint Task Force that “he [was] about to drop the n-bomb,” referring to the word “nigger.”

59. In December 2012, Joint Task Force members repeatedly spoke to Officer Savage about lynchings and the Ku Klux Klan.

60. On one occasion, Phillips, Trader, Wells, and Donaldson took Officer Savage to “KKK Lane” in Stockton, Maryland in Officer Savage’s official covert vehicle provided by the Worcester County Sheriff’s Office.

61. At that time, the Joint Task Force had no official duties in Stockton.

62. Wells and Trader told Officer Savage that he might see some Klan members or a noose in Stockton.

63. On or about this same time, Wells told Officer Savage about a chest in his attic in which he kept “white sheets and nooses.”

64. Phillips later informed Passwaters, one of the Joint Task Force’s two sergeants and supervisors, that they had taken Officer Savage to “KKK Lane,” and Passwaters merely responded “OK.”

65. On December 17, 2013, Officer Savage found a bloody deer’s tail on the windshield of his car, which was parked on a side street by the Joint Task Force Office.

66. Officer Savage reported the incident to Passwaters, and Phillips, who overheard Officer Savage, began laughing about the incident.

67. Donaldson later sent Officer Savage a text message acknowledging that Phillips

placed the bloody deer's tail on Officer Savage's car. A true and correct copy of Donaldson's text message is attached as Exhibit A to this Complaint and incorporated by reference as if fully set forth herein.

68. Following the bloody deer's tail incident, Officer Savage felt that he could not report the harassment to Passwaters and Donaldson, his Joint Task Force supervisors, because Passwaters was actively involved in the harassment and Donaldson had indicated by her previous inaction that she would not do anything to halt the discriminatory behavior.

69. Officer Savage was also hesitant to report the harassment outside of the Joint Task Force because he feared retaliation from City Manager Russell Blake, Councilmember Dale Trotter, and Worcester County State's Attorney Beau Oglesby—powerful figures in the Eastern Shore community who had authority over his employment conditions and who later would become aligned against him.

70. In April 2014, Officer Savage found in his desk drawer a fake food stamp on which an image of President Obama had been imposed, which Officer Savage took to be ridiculing African Americans. A true and correct copy of the fake food stamp placed in Officer Savage's desk drawer at the Joint Task Force is attached as Exhibit B to this Complaint and incorporated by reference as if fully set forth herein. On information and belief, only Officer Savage, and none of the other Joint Task Force members, received such a food stamp.

71. Officer Savage verbally reported this incident to Chief Sewell.

72. On May 31, 2014, Phillips sent Officer Savage a text that read: "What's ya body count nigga? I'm in double digits." A true and correct copy of Phillips' text message is attached as Exhibit C to this Complaint and incorporated by reference as if fully set forth herein.

73. Chief Sewell wrote a letter to Colonel Marcus L. Brown, the chief of the

Maryland State Police, regarding this incident.

74. On June 3, 2014, Passwaters accused Officer Savage of repeated tardiness and alleged that Officer Savage's debt collectors and "wife" were repeatedly calling the Worcester County Sheriff's Office. Officer Savage has never been married and these calls did not exist. Passwaters had no documents or other support for these allegations.

75. On or about June 3, 2014, at the Joint Task Force's briefing before an undercover controlled substance purchase, Passwaters asked Officer Savage if he was on drugs.

76. During that purchase, Phillips burned some of the marijuana—one of the substances obtained by the Joint Task Force during the purchase. When an Ocean City Police Department officer with whom the Joint Task Force was working commented on the smell in the police vehicle, Phillips told the officer that Officer Savage had been smoking the marijuana. Photographs of the marijuana and pipe that Phillips used are attached as Exhibit D to this Complaint and incorporated by reference as if fully set forth herein.

77. The next day, on June 4, 2014, Officer Savage informed Chief Sewell that Passwaters asked Officer Savage if he was on drugs. Chief Sewell then instructed Officer Savage to undergo a drug screening.

78. On June 6, 2014, Officer Savage underwent the drug test ordered by Chief Sewell. The test results came back negative.

79. The racially-hostile environment and the use of the word "nigger" orally and in written form aimed at Officer Savage or in Officer Savage's presence continued for the entire two-year plus period he served on the Joint Task Force.

80. Officer Savage was insulted and offended by the racially-hostile environment on the Joint Task Force.

81. Officer Savage was further offended by the participation of one supervisor in the racially discriminatory conduct and the failure of the other supervisor to intervene to stop the conduct or recommend discipline.

82. Officer Savage was physically and psychologically harmed by the racially-hostile work environment created by the Joint Task Force.

83. As a member of the Joint Task Force, Officer Savage had consistently positive performance reviews from his supervisors.

84. On September 20, 2013, in Officer Savage's annual employee performance evaluation, Passwaters wrote that Officer Savage is "reliable" and "is very trustworthy with sensitive information."

85. Officer Savage's evaluations were forwarded by Donaldson and/or Passwaters to Chief Sewell, the chief of police of the Pocomoke City Police Department, who could use them to alter Officer Savage's conditions of employment, such as his continued detail to the Joint Task Force, rank promotions, and raises.

86. Irrespective of their overall treatment of Officer Savage, in or around April 2014, Officer Savage's colleagues and superiors wrote positive letters of recommendation on behalf of Officer Savage for his applications to other police departments. Several true and correct exemplars of these letters of recommendation are attached as Exhibit E to this Complaint and incorporated by reference as if fully set forth herein.

Racially Offensive Conduct by the State's Attorney for Worcester County

87. State's Attorney Beau Oglesby leads the office that is solely responsible for prosecuting the cases investigated by the Pocomoke City Police Department and the cases brought by the Joint Task Force within its jurisdiction. In this capacity, Oglesby frequently

interacted with all three of the Plaintiffs and made decisions on which of their cases he would prosecute.

88. On April 7, 2014, during a meeting with Officer Savage, Passwaters, and Assistant State's Attorneys Kelly Hurley and Ajene Turnbull, Oglesby read a series of letters written by a suspect, placing particular emphasis on and repeatedly saying the word "nigga."

89. Oglesby read the word "nigga" in the letters to the assembled prosecutors and police officers more than ten times.

90. Mid-way through reading the letters, Oglesby paused and asked whether anyone in the room was offended. At that moment, Assistant State's Attorney Turnbull, the only African American present other than Officer Savage, left the room.

91. Oglesby then continued reading the letters aloud, and continued saying "nigga." True and correct copies of the letters Oglesby read from during this incident on April 7, 2014 are attached to this Complaint as Exhibit F and incorporated by reference as if fully set forth herein.

92. Oglesby's reading of the word "nigga" in the letters and his use of the word were unnecessary and irrelevant to the prosecution of the case in connection with which the letters were obtained.

93. Following this incident, Oglesby began treating Officer Savage differently. Upon information and belief, the State's Attorney's Office no longer zealously prosecuted cases on which Officer Savage was the lead officer because of his race.

Savage Resigns from the Joint Task Force and Complains about His Treatment; Retaliation Begins

94. On June 12, 2014, Officer Savage resigned from the Joint Task Force, citing the repeated use of the word "nigger" and variations thereof by his superiors and colleagues and a

hostile work environment.

95. Upon Officer Savage's resignation from the Joint Task Force, Worcester County Sheriff's Office members began spreading rumors about Officer Savage's honor and integrity.

96. On June 23, 2014, Bernard B. Foster, the Chief of Staff for the Office of the Superintendent in the Maryland State Police, responded to Chief Sewell's May 31, 2014 letter, stating that the letter was received and that Detective Sergeant Kelly Austin was assigned to this administrative investigation.

97. Later, in a letter addressed to Officer Savage, Lieutenant M. B. Daugherty of the Criminal Enforcement Division of the Maryland State Police wrote that Detective Sergeant Kelly concluded that Phillips "violated the rules and regulations of the Maryland State Police with Unbecoming Conduct." A true and correct copy of Lieutenant Daugherty's letter is attached as Exhibit G to this Complaint and incorporated by reference as if fully set forth herein.

98. On information and belief, despite acknowledging that Officer Savage's allegations against Phillips were well-founded, the Department of Maryland State Police has taken no disciplinary action of any kind against Phillips to date.

99. On July 15, 2014, Passwaters spread a false rumor to Morrison and Blake that Officer Savage used the false identification he had been issued for undercover work to secure multiple fraudulent loans. Blake demanded that Chief Sewell investigate this allegation.

100. Officer Savage returned the false identification to Chief Sewell. The allegation that Officer Savage had misused the undercover identification document(s) was false and was designed to injure Officer Savage's credibility.

101. Around this same time, in mid-July 2014, Officer Savage noticed that he was no

longer listed as a “detective” in the Pocomoke City employee database, which he took as a form of public humiliation, falsely suggesting that he had been demoted.

102. On July 21, 2014, Officer Savage filed a complaint against the Worcester County Sheriff’s Office with the EEOC.

103. On July 22, 2014, Officer Savage filed a complaint against Oglesby with the Maryland Attorney Grievance Commission regarding the April 7, 2014 incidents described in paragraphs 87 through 93. Officer Savage’s complaint explained that he was “very offended” by Oglesby’s repeated and gratuitous use of “the word Nigga so freely and without care in front of ASA Turnbull and [himself].” The letter also noted a subsequent “difference in [Oglesby’s] approach and actions towards” [sic] Officer Savage following the incident. The complaint concluded by stating that Officer Savage “had problems sleeping as a result of constantly thinking of [Oglesby] reading the ‘N’ word over and over again in those letters and not taken [sic] actions in stopping this matter.” A true and correct copy of Officer Savage’s complaint to the Maryland Attorney Grievance Commission is attached as Exhibit H to this Complaint and incorporated by reference as if fully set forth herein.

104. Upon information and belief, Oglesby learned of the complaint a week after it was filed.

105. In late-July 2014, Passwaters spread a false rumor that Officer Savage sold his off-duty weapon. To disprove this claim, Officer Savage brought the weapon to Chief Sewell, who took photographs of it.

106. The allegation that Officer Savage sold his off-duty weapon was false and designed and intended to injure Officer Savage’s reputation and credibility in his charges of racial discrimination against Oglesby and the Joint Task Force.

107. On July 29, 2014, Smack drafted a memorandum to Chief Sewell accusing Officer Savage of falsely representing himself to suspects as a member of the Joint Task Force. In the memorandum, Smack wrote to Chief Sewell that the Joint Task Force would “not assist or participate in any investigative efforts set forth by Officer Savage.”

108. The allegation that Officer Savage identified himself as a member of the Joint Task Force after his resignation from the Joint Task Force was false and designed and intended to injure Officer Savage’s reputation and credibility in his charges of racial discrimination against Oglesby and the Joint Task Force.

109. Also on July 29, 2014, Blake told Chief Sewell that Officer Savage would no longer be called on to testify in court against suspects in Officer Savage’s cases—including narcotics cases.

110. In a dangerous violation of his sworn duty, on August 14, 2014, Smack told Chief Sewell that the Worcester County Sheriff’s Office would not respond to any future emergency call or request for backup made by Officer Savage or Lieutenant Green.

111. On at least two occasions, Officer Savage could not secure the assistance of a K9 unit from the Worcester County Sheriff’s Office, a regular procedure for the Pocomoke City Police Department.

112. Also on August 14, 2014, Officer Savage went on two weeks sick leave to deal with the stress caused by the aforementioned actions of his colleagues and former colleagues on the Joint Task Force and the Worcester County Sheriff’s Office and Pocomoke City Police Department officers.

113. On or about August 17, 2014, Blake instructed Chief Sewell to take Officer Savage out of narcotics work altogether and pressured Chief Sewell to assign Officer Savage to

the undesirable midnight shift. Blake also demanded that Officer Savage be made a patrol officer, allowed only to confirm that downtown doors were locked but forbidden from making any arrest.

114. Throughout this period, Blake instigated heated arguments through email correspondence and verbal conversations with Chief Sewell over the treatment of Officer Savage. On one occasion, Blake referred to Chief Sewell as an “ungrateful ass nigger.”

115. On September 4, 2014, Oglesby refused to acknowledge Officer Savage’s presence in court and talked past him to Lieutenant Green to say that Officer Savage’s presence would not be required, which appeared to denigrate Officer Savage’s service.

116. Less than a week later, Oglesby sent the Pocomoke City mayor and city council a letter confirming that he would not allow Officer Savage to testify in court because he “question[ed] his veracity.”

117. On September 9, 2014, Chief Sewell was instructed by Blake to order Officer Savage to surrender the password to a work cell phone he used while with the Joint Task Force. Officer Savage was told that he would be disciplined by Pocomoke City Police Department if he did not reveal the password.

118. On or about September 11, 2014, Blake again instructed Chief Sewell to take Officer Savage out of narcotics work altogether and pressured Chief Sewell to assign Officer Savage to the midnight shift.

119. On September 11, 2014, Officer Savage requested sick leave “until further notice” due to the “extreme stress and turmoil involving [his] current federal EEOC case and the recent letter from Oglesby, dated September 10, 2014.” As a result of Officer Savage’s request, Blake required Chief Sewell to order Officer Savage to see a psychiatrist. The psychiatrist cleared

Officer Savage to return to active duty.

120. On October 1, 2014, Officer Savage attended an EEOC mediation with Lieutenant Green, Smack, and Lieutenant Michael McDermott (“McDermott”). Smack and McDermott attended the mediation on behalf of the Worcester County Sheriff’s Office. At the mediation, Smack and McDermott expressed hostility toward Officer Savage and Lieutenant Green.

121. At the mediation, Smack told Lieutenant Green that he and Officer Savage were the causes of Pocomoke City’s problems. Smack and McDermott also denied any responsibility or liability, arguing that the Pocomoke City Police Department was responsible for any discrimination, as Officer Savage’s principal employer, rather than the Worcester County Sheriff’s Office.

122. On October 13, 2014, Chief Sewell again ordered Officer Savage to see a psychiatrist “to be sure [that] the stress of [Officer Savage’s] current situation does not diminish [his] fitness and effectiveness as an officer.”

123. On October 15, 2014, Officer Savage underwent a psychiatric evaluation. The psychiatrist cleared Officer Savage to return to active duty.

124. In mid-January 2015, Trotter directed Chief Sewell to cap the allowable overtime for Officer Savage and Lieutenant Green. Officer Savage and Lieutenant Green regularly worked more than forty hours per week. Neither Officer Savage nor Lieutenant Green had the largest amount overtime for any officer. No White officer had his or her overtime similarly capped.

125. On February 9, 2015, Officer Savage was officially demoted from his position as detective to patrol officer allegedly “due to a shortage of patrol officers.” Blake and Morrison ordered Chief Sewell to take this action. A true and correct copy of the letter demoting Officer

Savage is attached as Exhibit I to this Complaint and incorporated as if fully set forth herein.

126. But Rudell Brown, an officer trained by Officer Savage, was promoted to detective immediately following Officer Savage's demotion.

127. On March 9, 2015, Chief Sewell filed a Charge of Discrimination with the EEOC against the Pocomoke City Police Department and the Worcester County Sheriff's Office.

128. On March 12, 2015, an anonymous letter was left on the windshield of Chief Sewell's car saying that the "niggers" Officer Savage, Lieutenant Green, and Chief Sewell will be gotten rid of. The letter also referred to Chief Sewell as a "smart nigger chief."

129. On April 10, 2015, in a meeting with George Tasker ("Tasker"), a member of the city council, Chief Sewell explained that "Savage is the victim in his EEOC case and if [he] fire[s] him, [Savage] can sue [him], [Tasker], the Mayor and all the Council."

130. Tasker replied that "Green is becoming a problem in [Sewell's] department to [sic] and once he and Savage is [sic] gone, that department well [sic] be okay." Tasker also asked Chief Sewell whether he had heard what happened to Scott Keller, who was Chief of Police in Princess Anne County's Police Department before the Princess Anne Council voted him out of office on April 9, 2015.

131. On or about May 4, 2015, Officer Savage was informed by a citizen of Pocomoke City that Blake and Morrison were circulating a petition to remove Officer Savage and Lieutenant Green from the Pocomoke City Police Department.

132. On June 15, 2015, Chief Sewell filed his First Amended Charge of Discrimination with the EEOC against the Pocomoke City Police Department and the Worcester County Sheriff's Office.

133. On June 30, 2015, Blake resigned as City Manager of Pocomoke City.

134. Before Blake's resignation, Chief Sewell was asked to resign as chief of police, despite significant reductions in crime during his tenure and no previous complaints about his performance from Pocomoke City officials or citizens. On July 1, 2015, Morrison issued a letter terminating Chief Sewell as chief of police.

135. The city council vote to terminate Chief Sewell was 4-1, with the only African American member of the city council, Diane Downing, dissenting from the decision to terminate Chief Sewell.

136. Councilwoman Downing has repeatedly and publicly stated that the reasons given for the termination of Chief Sewell were entirely pretextual.

137. Different city officials have given several different alleged reasons for the termination of Chief Sewell at different times.

138. The firing of Chief Sewell was protested throughout Pocomoke City by both African American and White citizens because Chief Sewell had an excellent law enforcement record in Pocomoke City.

139. On July 7, 2015, Lieutenant Earl Starner, a member of the Maryland State Police, was appointed interim Chief of the Pocomoke City Police Department.

140. In August 2015, Crofoot became the City Manager and City Attorney of Pocomoke City.

141. On August 17, 2015, Starner gave Officer Savage a letter stating that Officer Savage was being investigated by the Harford County Sheriff's Office for violating the Pocomoke City Police Department Code of Ethics because "[i]t is alleged that on July 22, 2015 [sic] you used the same language in a letter addressed to the Attorney Grievance Commission of Maryland. This letter also contained the same misstated facts as mentioned above." Officer

Savage was required to sign this letter.

142. This letter is in retaliation for Officer Savage's July 22, 2014 complaint to the Maryland Attorney Grievance Commission for Oglesby's use of the word on April 7, 2014.

143. On September 8, 2015, William Harden, Sr. was announced as the new chief of police of the Pocomoke City Police Department.

144. On October 6, 2015, as required, Officer Savage attended the interrogation regarding the Harford County investigation.

145. On October 23, 2015, Paul Haskel, a Deputy State's Attorney in the Worcester County State's Attorney's Office, called the Pocomoke City Police Department advising that Officer Savage was not needed to testify in a trial in the Worcester County District Court.

146. On or about October 16, 2015, Oglesby had a telephone conversation with Crofoot in which Oglesby was adamant that Officer Savage would never be able to testify again and was thus useless to the Pocomoke City Police Department. On information and belief, Oglesby reiterated that Officer Savage should be terminated.

147. On October 26, 2015, Officer Savage was terminated from his position as an officer with the Pocomoke City Police Department. Officer Savage was not afforded a right to a hearing or given any opportunity to appeal the decision. Prior to his termination, Officer Savage's duties were limited to administrative tasks, such as reviewing and filing police reports. Immediately after Officer Savage was terminated, members of the Joint Task Force began spreading rumors that Officer Savage was fired for using illegal narcotics.

148. In firing both Chief Sewell and Officer Savage, Pocomoke City, the Pocomoke City Police Department, the City Council, and Defendants Blake and Morrison did not follow required procedures, including those of the City Charter and the Maryland Law Enforcement

Officers' Bill of Rights.

149. Both Chief Sewell and Officer Savage were fired in retaliation for the exercise of their federal civil rights to be free from racial discrimination under the Constitution and laws of the United States.

150. As a result of Defendants' discriminatory conduct, Plaintiffs have suffered, and in the future will continue to suffer, among other things, economic injury, humiliation, embarrassment, and mental and emotional distress.

Violations of Fair Labor Standards Act

151. Officer Savage regularly worked more than forty hours per week during his tenure with the Pocomoke City Police Department.

152. Lieutenant Green regularly worked more than forty hours per week during his tenure with Pocomoke City Police Department.

153. Until approximately June 2014, Pocomoke City had a policy of not paying overtime unless the hours exceeded forty-three in one week.

154. Upon learning of this policy, Chief Sewell expressed concern about its legality.

155. In or around June 2014, Pocomoke City completed an audit of missed overtime wages between June 2011 and June 2014. The audit revealed that both Officer Savage and Lieutenant Green were owed overtime wages.

156. Blake told the city council that Pocomoke City had fully compensated its employees for the three years' worth of missed overtime wages.

157. In fact, neither Officer Savage nor Lieutenant Green received any compensation for their unpaid overtime wages.

158. Defendants' failure to pay Officer Savage's and Lieutenant Green's overtime

wages, even after the audit had confirmed both the fact that Defendants' owed Officer Savage and Lieutenant Green overtime wages and the amount of such wages owed, constitutes willful, knowing, and intentional violations of Fair Labor Standards Act.

CLAIMS FOR RELIEF¹

COUNT I

**RACE DISCRIMINATION AND RETALIATION IN VIOLATION OF § 1981
(Hostile Work Environment)**

(Savage v. Pocomoke City, Pocomoke City Police Department, Worcester County Sheriff's Office, Department of Maryland State Police, Passwaters, Wells, and Phillips)

159. Plaintiffs allege and incorporate each of the factual allegations stated in paragraphs 1 through 158 above.

160. 42 U.S.C. § 1981 guarantees that all persons shall have the right to make and enforce contracts, including employment contracts free from all forms of discrimination on the basis of race and national origin.

161. Section 1981 also prohibits retaliation against individuals who make complaints about racial discrimination in the creation and/or enforcement of contracts, including contracts for terms and condition of employment.

162. The right to be free from racial discrimination in employment and retaliation for assertion of one's civil rights were both clear and well-established rights, known to each of the Defendants in this action throughout the time period of the allegations of this Complaint.

163. Officer Savage was employed by the Pocomoke City Police Department for a period of approximately four and one half years, from April 2011 to October 2015.

164. Officer Savage was also a joint employee of the Pocomoke City Police Department, the Worcester County Sheriff's Office, the Maryland State Police, and the Joint

¹As noted above, Plaintiffs expect to amend this Complaint to include Title VII allegations when all of their EEOC charges have matured for suit.

Task Force for more than two years, from April 2012 to June of 2014.

165. Officer Savage regularly faced offensive comments and adverse treatment on the basis of his race, from all Defendants. The conduct was so severe and pervasive that it created a working environment so hostile that it negatively changed the terms and conditions of his employment with all of his employers as alleged above.

166. Supervisory personnel, including, but not limited to, Defendants Passwaters and Donaldson, were aware of the racial harassment against Officer Savage and either failed to remedy the harassment or actively participated in creating a hostile work environment.

167. The acts in retaliation for Officer Savage's complaints against the racially-hostile environment are further detailed above in paragraphs 5, 17, 105-118, 121, 124-125, 131, and 145-149.

168. The behavior by the above listed Defendants occurred when the Defendants were acting within the scope of their employment.

169. Defendants' discriminatory practices have caused Officer Savage harm, including severe emotional distress, medical bills, and lost wages.

170. Accordingly, Defendants have violated Officer Savage's rights as protected by 42 U.S.C. § 1981.

COUNT II
RACE DISCRIMINATION AND RETALIATION IN VIOLATION OF § 1981
(Termination)
(Savage and Sewell v. Pocomoke City and Pocomoke City Police Department)

171. Plaintiffs allege and incorporate each of the factual allegations stated in paragraphs 1 through 158 above.

172. 42 U.S.C. § 1981 guarantees that all persons shall have the right to make and enforce contracts, including employment contracts free from all forms of discrimination on the

basis of race and national origin.

173. Section 1981 also prohibits retaliation against individuals who make complaints about racial discrimination in the creation and/or enforcement of contracts, including contracts for terms and conditions of employment.

174. The right to be free from racial discrimination in employment and retaliation for assertion of one's civil rights were both clear and well-established rights, known to each of the Defendants in this action throughout the time period of the allegations of this Complaint.

175. Officer Savage had a reasonable basis in law and fact and a federally-protected right to file his complaints against Defendants before the EEOC.

176. Although he had a history of positive performance evaluations, Officer Savage was terminated from his position on October 26, 2015. This termination was motivated in whole or in part by Officer Savage's race and/or in retaliation for Officer Savage's protected activity.

177. Despite Pocomoke City's improved crime statistics during Chief Sewell's tenure as the first African American Chief of Police for the Pocomoke City Police Department, Chief Sewell was terminated from his employment by Defendants and the Pocomoke City Council on July 1, 2015. This termination was motivated in whole or in part by Chief Sewell's race and/or in retaliation and/or was an act of retaliation for Officer Savage's protected activity.

178. Retaliation resulting in Officer Savage's termination is further detailed above in paragraphs 5, 95, 99-101, 105-111, 113-118, 121, 124-125, 131, and 145-149.

179. Retaliation resulting in Chief Sewell's termination is further detailed above in paragraphs 7, 128, 130, and 134-135.

180. The behavior by the above listed Defendants occurred when the Defendants were

acting within the scope of their employment.

181. Defendants' discriminatory practices have caused Officer Savage and Chief Sewell harm, including severe emotional distress, medical bills, and lost wages.

182. Accordingly, Defendants have violated Officer Savage's and Chief Sewell's rights as protected by 42 U.S.C. § 1981.

COUNT III
RACE DISCRIMINATION AND RETALIATION IN VIOLATION OF § 1981
(Interference with Duties)
(Savage v. Oglesby)

183. Officer Savage alleges and incorporates each of the factual allegations stated in paragraphs 1 through 158 above.

184. 42 U.S.C. § 1981 guarantees that all shall have the right to make and enforce contracts, including employment contracts free from all forms of discrimination on the basis of race and national origin.

185. Section 1981 also prohibits retaliation against individuals who make complaints about racial discrimination in the creation and/or enforcement of contracts, including contracts for terms and conditions of employment.

186. The right to be free from racial discrimination in employment and retaliation for assertion of one's civil rights were both clear and well-established rights, known to each of the Defendants in this action throughout the time period of the allegations of this Complaint.

187. Officer Savage had a reasonable basis in law and fact and a federally-protected right to file his complaints against Defendants before the EEOC.

188. Testifying at trial in criminal prosecutions was a vital part of Officer Savage's duties as a police officer and, in particular, as a member of the Joint Task Force.

189. After learning that Officer Savage had filed a grievance against Defendant

Oglesby with the Attorney Grievance Commission, Defendant Oglesby prohibited Officer Savage from testifying on any case Officer Savage investigated.

190. Oglesby took the extraordinary step of writing a letter to the mayor, Defendant Morrison, and the members of the city council, accusing Officer Savage of lying in his complaints of racial discrimination to the EEOC and the Maryland Attorney Grievance Commission against Defendant Oglesby.

191. This action directly interfered with Plaintiff's ability to execute his job duties. Oglesby made this decision very soon after or the exact day he was made aware of Officer Savage's complaint of racial harassment against him.

192. Oglesby's interference was motivated in whole or in part by Officer Savage's race and/or was an act of retaliation for Officer Savage's protected activity.

193. Retaliation for Officer Savage's complaints resulting in Defendant's interference with Plaintiff's duties is further detailed above in paragraphs 109-111, 113, 116-118, 124, and 145.

194. Defendant's discriminatory practices have caused Officer Savage harm, including severe emotional distress, medical bills, and lost wages.

195. Accordingly, Defendants have violated Officer Savage's rights as protected by 42 U.S.C. § 1981.

COUNT IV
RACE DISCRIMINATION AND RETALIATION IN VIOLATION OF § 1983
FOURTEENTH AMENDMENT EQUAL PROTECTION
(Hostile Work Environment)
(Savage v. Passwaters, Phillips, Wells, and Donaldson)

196. Officer Savage alleges and incorporates each of the factual allegations stated in paragraphs 1 through 158 above.

197. 42 U.S.C. § 1983 protects against the "deprivation of any rights, privileges, or

immunities secured by the Constitution and laws” by persons acting under the color of law.

198. All Defendants are “persons” within the meaning of 42 U.S.C. § 1983.

199. Defendants created a hostile work environment because of Officer Savage’s race as detailed above in paragraphs 2, 4, 5, 17, 54-86.

200. Defendant Donaldson failed to intervene to stop the racially hostile work environment.

201. Officer Savage had a good faith and reasonable basis to complain about race discrimination, constituting protected activity under 42 U.S.C. § 1983.

202. Moreover, the hostile work environment was caused by or custom of the Joint Task Force, and/or by final policy making officials of the Joint Task Force.

203. At all times relevant to this Complaint, Defendants and their agents were acting under color of the laws, customs and usages of the State of Maryland within the meaning of 42 U.S.C. § 1983.

204. The behavior by the above listed Defendants occurred when the Defendants were acting within the scope of their employment and used incidents and tools of their employment.

205. Defendants’ discriminatory practices have caused Officer Savage severe emotional distress and ultimately led to his termination.

206. Accordingly, Defendants have violated Plaintiffs’ right to equal protection under the Fourteenth Amendment to the United States Constitution.

COUNT V
RACE DISCRIMINATION AND RETALIATION IN VIOLATION OF § 1983
FOURTEENTH AMENDMENT EQUAL PROTECTION
(Disparate Treatment: Benefits and Pay)
(All Plaintiffs v. Pocomoke City, Pocomoke City Police Department, Blake)

207. Plaintiffs allege and incorporate each of the factual allegations stated in paragraphs 1 through 158 above.

208. 42 U.S.C. § 1983 protects against the “deprivation of any rights, privileges, or immunities secured by the Constitution and laws” by persons acting under the color of law.

209. All Defendants are “persons” within the meaning of 42 U.S.C. § 1983.

210. Pocomoke City is a municipal corporation. Pocomoke City is liable under 42 U.S.C. § 1983 because a custom, practice, or policy of the municipality caused the violations of Plaintiffs’ constitutional rights, and/or because city officials with final policymaking authority violated Plaintiffs’ constitutional rights. *See Monell v. Dep’t of Social Servs.*, 436 U.S. 658 (1978).

211. Pocomoke City Police Department is an instrumentality of Pocomoke City. Pocomoke City Police Department is liable under 42 U.S.C. § 1983 because a custom, practice, or policy of the department caused the violations of Plaintiffs’ constitutional rights, and/or because city officials with final policymaking authority violated Plaintiffs’ constitutional rights.

212. Each Plaintiff had a good faith and reasonable basis to complain about race discrimination or to assist the other Plaintiffs in complaints of race discrimination, constituting protected activity under 42 U.S.C. § 1983.

213. Chief Sewell, Officer Savage, and Lieutenant Green are African American and part of a protected class under the Equal Protection Clause.

214. At all times relevant to this Complaint, Defendants and their agents were acting under color of the laws, customs and usages of the State of Maryland within the meaning of 42 U.S.C. § 1983.

215. Defendants’ behavior occurred when acting within the scope of their employment and used incidents and tools of their employment.

216. As Pocomoke City Manager for nearly forty years, Defendant Blake was the city

official responsible for determining the benefits and salaries of the Pocomoke City Police Department, including each of the Plaintiffs' benefits and salaries.

217. Despite satisfactory job performance, Chief Sewell received lower pay and fewer benefits than similarly situated White police chiefs who had previously held the same position. Unlike his predecessor White police chiefs, Chief Sewell did not receive regular salary increases, compensatory time, paid health insurance, or an employment contract.

218. As for Officer Savage and Lieutenant Green, they received lower pay than similarly situated White officers, and Chief Sewell's requests to raise their salaries were denied, despite similarly situated White officers receiving raises. Subsequently, as a result of engaging in statutorily protected activity, they also experienced retaliation with regards to pay and benefits, resulting in demotion and still more disparate benefits and pay, as detailed above in paragraphs 2, 5, 8, 11, 17, 19, 48-49, and 124-125.

219. Defendants' disparate treatment and discriminatory practices have caused Officer Savage, Chief Sewell, and Lieutenant Green severe emotional distress and ultimately led to Officer Savage's and Chief Sewell's termination.

220. Accordingly, Defendants have violated Plaintiffs' right to equal protection under the Fourteenth Amendment to the United States Constitution.

COUNT VI
RACE DISCRIMINATION AND RETALIATION IN VIOLATION OF § 1983
FOURTEENTH AMENDMENT EQUAL PROTECTION
(Termination)

(Savage v. Pocomoke City, Pocomoke City Police Department, and Crofoot)
(Sewell v. Morrison, Trotter, Pocomoke City, and Pocomoke City Police Department)

221. Officer Savage and Chief Sewell allege and incorporate each of the factual allegations stated in paragraphs 1 through 158 above.

222. 42 U.S.C. § 1983 protects against the "deprivation of any rights, privileges, or

immunities secured by the Constitution and laws” by persons acting under the color of law.

223. Officer Savage and Chief Sewell are African Americans and part of a protected class under the Equal Protection Clause.

224. Defendants are “persons” within the meaning of 42 U.S.C. § 1983.

225. Pocomoke City is a municipal corporation. Pocomoke City is liable under 42 U.S.C. § 1983 because a custom, practice, or policy of the municipality caused the violations of Plaintiffs’ constitutional rights, and/or because city officials with final policymaking authority violated Plaintiffs’ constitutional rights. *See Monell v. Dep’t of Social Servs.*, 436 U.S. 658 (1978).

226. Pocomoke City Police Department is an instrumentality of Pocomoke City. Pocomoke City Police Department is liable under 42 U.S.C. § 1983 because a custom, practice, or policy of the department caused the violations of Plaintiffs’ constitutional rights, and/or because city officials with final policymaking authority violated Plaintiffs’ constitutional rights.

227. Although he had a history of positive performance evaluations, Officer Savage was terminated from his position on October 26, 2015. This termination was motivated in whole or in part by Officer Savage’s race and/or in retaliation for Officer Savage’s protected activity.

228. Despite Pocomoke City’s improved crime statistics during Chief Sewell’s tenure as the first African American Chief of Police for the Pocomoke City Police Department, Chief Sewell was terminated from his employment by Defendants and the Pocomoke City Council on July 1, 2015. This termination was motivated in whole or in part by Chief Sewell’s race and/or in retaliation and/or was an act of retaliation for Officer Savage’s protected activity.

229. Retaliation resulting in Officer Savage’s termination is further detailed above in

paragraphs 5, 95, 99-101, 105-111, 113-118, 121, 124-125, 131, and 145-147.

230. Retaliation resulting in Chief Sewell's termination is further detailed above in paragraphs 7, 128, 130, 134-135, and 148.

231. Defendants' discriminatory practices have caused Officer Savage and Chief Sewell harm, including severe emotional distress, medical bills, and lost wages.

232. Accordingly, Defendants have violated Officer Savage's and Chief Sewell's rights as protected by 42 U.S.C. § 1983.

COUNT VII
DISCRIMINATION AND RETALIATION IN VIOLATION OF § 1983 FIRST
AMENDMENT FREE SPEECH AND RIGHT TO PETITION
(Savage v. Pocomoke City, Pocomoke City Police Department, Blake, Oglesby, Passwaters,
and Smack)

233. Officer Savage alleges and incorporates each of the factual allegations stated in paragraphs 1 through 158 above.

234. 42 U.S.C. § 1983 protects against the "deprivation of any rights, privileges, or immunities secured by the Constitution and laws" by persons acting under the color of law.

235. Defendants are "persons" within the meaning of 42 U.S.C. § 1983.

236. Pocomoke City is a municipal corporation. Pocomoke City is liable under 42 U.S.C. § 1983 because a custom, practice, or policy of the municipality caused the violations of Plaintiffs' constitutional rights, and/or because city officials with final policymaking authority violated Plaintiffs' constitutional rights. *See Monell v. Dep't of Social Servs.*, 436 U.S. 658 (1978).

237. Pocomoke City Police Department is an instrumentality of Pocomoke City. Pocomoke City Police Department is liable under 42 U.S.C. § 1983 because a custom, practice, or policy of the department caused the violations of Plaintiff's constitutional rights, and/or because city officials with final policymaking authority violated Plaintiffs' constitutional rights.

238. Officer Savage engaged in protected activity when he exercised his First Amendment rights to free speech on matters of public concern to the community and to petition the government for grievances as detailed in paragraphs 102 and 103.

239. The above action was not part of Officer Savage's official duties or within the scope of his employment as a law enforcement officer in the Pocomoke City Police Department.

240. In taking the above action, Officer Savage spoke out as a citizen of the community.

241. The behavior by the above listed Defendants occurred when the Defendants were acting within the scope of their employment.

242. Defendants' discriminatory practices have caused Officer Savage harm, including severe emotional distress, and lost wages.

243. In their creation of a hostile work environment, denial of equal pay and benefits, and in the termination of Officer Savage, Defendants denied Officer Savage his constitutional right to free speech, and retaliated against him for the exercise of his right, as guaranteed by the First Amendment to the United States Constitution, in violation of 42 U.S.C. § 1983.

COUNT VIII
CIVIL CONSPIRACY IN VIOLATION OF § 1985
(Savage v. Oglesby, Blake, Crofoot, Passwaters, and Smack)

244. Officer Savage alleges and incorporates each of the factual allegations stated in paragraphs 1 through 158 above.

245. Defendants Oglesby, Blake, Crofoot, Passwaters, and/or Smack engaged in a conspiracy and unlawful agreement to deprive Officer Savage of his constitutional and statutorily protected right to work in an environment free of racial harassment and his right not to suffer adverse employment actions on the basis of his race.

246. This conspiracy was motivated by animus with respect to Officer Savage's race.

247. The purpose of the conspiracy was to discredit Officer Savage's valid complaints of racial discrimination and retaliation in violation of his federal civil rights.

248. The purpose of the conspiracy was also to obtain Officer Savage's termination from the Pocomoke City Police Department on a pretextual basis, knowing that the true motivation was racial discrimination in violation of federal law.

249. The overt acts of racial discrimination and intimidation in furtherance of the conspiracy undertaken by all three members of the conspiracy are further detailed in paragraphs 4 and 54-87 above.

250. The purpose and effect of the conspiracy was part of the same effort by all Defendants effort to deprive Officer Savage of the substantive rights provided by the Fourteenth Amendment to the U.S. Constitution and by 42 U.S.C. § 1981 and § 1983 as alleged above.

251. Accordingly, Defendants have violated Officer Savage's rights as protected by 42 U.S.C. § 1985.

COUNT IX
VIOLATION OF FAIR LABOR STANDARDS ACT
(29 U.S.C. § 201, et seq.)
(Savage and Green v. Blake, Morrison, Pocomoke City, Pocomoke City Police Department)

252. Officer Savage and Lieutenant Green allege and incorporate each of the factual allegations stated in paragraphs 1 through 158 above.

253. Section 7(a)(1) of the Fair Labor Standards Act ("FLSA"), 29 U.S.C. § 207(a)(1), provides that "no employer shall employ any of his employees . . . for a workweek longer than forty hours unless such employee receives compensation for his employment in excess of the hours above specified at a rate not less than one and one-half times the regular rate at which he is employed."

254. Officer Savage and Lieutenant Green were "employees," and Defendants were

their “employers” under FLSA § 3, 29 U.S.C. § 203.

255. Officer Savage and Lieutenant Green were not paid overtime as detailed in paragraphs 12, 124, and 151-158 above.

256. Officer Savage is not an exempt employee under Section 13(a)(1) of FLSA, 29 U.S.C. § 213(b)(14). As a “police officer,” the exemption also does not apply to him per 29 C.F.R. § 541.3(b). Therefore, he was owed overtime pay of one and one-half times his regular pay for all hours worked above forty in one week. FLSA § 7, 29 U.S.C. § 207.

257. Lieutenant Green is not an exempt employee under Section 13(a)(1) of FLSA, 29 U.S.C. § 213(b)(14). As a “police officer,” the exemption also does not apply to him per 29 C.F.R. § 541.3(b). Therefore, he was owed overtime pay of one and one-half times his regular pay for all hours worked above forty in one week. FLSA § 7, 29 U.S.C. § 207.

258. Since at least June 2014, Pocomoke City has known that it owed this money to Plaintiffs.

259. Defendants violated the FLSA by knowingly, willfully, and intentionally failing to compensate Plaintiffs, and all other similarly situated individuals, the rate of time-and-one-half their regular hourly rate for every hour worked in excess of forty hours in any one workweek.

260. Therefore, Pocomoke City owes Officer Savage and Lieutenant Green back overtime wages, the same amount in addition as liquidated damages, and interest (both pre- and post-judgment) on the combined wages and liquidated damages. FLSA § 16, 29 U.S.C. § 216 and 28 U.S.C. § 1961.

PRAYER FOR RELIEF

Wherefore Officer Savage, Chief Sewell, and Lieutenant Green respectfully request that the Court:

1. Enter judgment on their behalf against Defendants on all counts;
2. Declare pursuant to pursuant to 28 U.S.C. § 2201-2202 that the practices described in this Complaint exist and that they are unlawful;
3. Issue a permanent injunction that (i) prohibits Defendants, their officers, agents, employees, and successors from engaging in the discriminatory employment practices complained of herein; (ii) returns Plaintiffs to the employment position they would have held but for Defendants' wrongful conduct; and (iii) imposes a prohibition of similar conduct in the future;
4. Require three-year monitoring of all law enforcement activity by all Defendants to prevent any further racial discrimination in employment, including the hiring and training of new and current officers;
5. Award Plaintiffs front pay and back pay with interest and other job benefits, including the value of health benefits, sufficient to redress all of the economic harms that they have suffered;
6. Award Plaintiffs compensatory damages in an amount to be proven at trial sufficient to redress the harms that they have suffered, including physical and emotional distress, humiliation, embarrassment, loss of income, loss of overtime pay, and mental anguish;
7. Award Plaintiffs appropriate punitive damages in an amount to be proven at trial that would punish Defendants for their knowing, intentional, willful, and reckless disregard of clearly established federal constitutional and statutory rights as alleged herein and enter any and all injunctive decrees and relief necessary to effectively prevent all Defendants from engaging in similar unlawful racial discrimination in the future;

8. Award Plaintiffs reasonable attorneys' fees under 42 U.S.C § 1988 and all taxable costs of this action;

9. Award such other and further relief in any form that this Court deems just and proper under the facts and circumstances as proved at trial.

DEMAND FOR JURY TRIAL

Pursuant to Rule 38 of the Federal Rules of Civil Procedure, Plaintiffs hereby demand a jury trial on all issues triable by a jury.

Dated: January 20, 2016

Respectfully Submitted,

/s/ Christen B'anca Glenn

Andrew McBride (D. Md. Bar No. 27858)
Christen B'anca Glenn (D. Md. Bar No. 14945)
Dwayne Sam (D. Md. Bar No. 29947)
Craig Smith (D. Md. Bar No. 17938)

WILEY REIN LLP

1776 K Street, N.W.
Washington, DC 20006
TEL: 202.719.7000
FAX: 202.719.7049
EMAIL: cglenn@wileyrein.com

Dennis A. Corkery (D. Md. Bar No. 19076)
Matthew Handley (D. Md. Bar No. 18636)
**WASHINGTON LAWYERS' COMMITTEE FOR CIVIL
RIGHTS AND URBAN AFFAIRS**

11 Dupont Circle, N.W.
Suite 400
Washington, DC 20036
TEL: 202.319.1000
FAX: 202.319.1010
EMAIL: Dennis_Corkery@washlaw.org

Deborah A. Jeon (D. Md. Bar No. 06905)

ACLU of Maryland

3600 Clipper Mill Road, Suite 350
Baltimore, MD 21211
TEL: 410.889.8555
FAX: 410.366.7838
EMAIL: jeon@aclu-md.org

Counsel for Plaintiffs