

No. 14-323

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**In the Supreme Court of the United States**

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PAUL CAMPBELL FIELDS,  
*Petitioner,*

v.

CITY OF TULSA; CHARLES W. JORDAN, individually  
and in his official capacity as Chief of Police, Tulsa Police  
Department; ALVIN DARYL WEBSTER, individually and  
in his official capacity as Deputy Chief of Police, Tulsa  
Police Department,  
*Respondents.*

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*On Petition for Writ of Certiorari to the  
United States Court of Appeals for the Tenth Circuit*

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**REPLY BRIEF FOR PETITIONER**

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**ARGUMENT IN REPLY**

Despite Respondents' efforts to complicate, confuse, and obfuscate this case with glaring inaccuracies or entirely irrelevant assertions regarding the posture of the case and the nature of this petition, the question presented here is straightforward: Does the First Amendment permit a government employer to retaliate against and punish an employee for statements made by the employee's attorney in a civil rights complaint and during the course of litigating the employee's civil rights claims against his employer? This question is before the Court on the denial of Petitioner's motion to amend his pleading pursuant to Rule 15 of the Federal Rules of Civil Procedure.<sup>1</sup>

As set forth in Petitioner's proposed Second Amended Complaint, which was filed as an exhibit to Petitioner's motion to amend and which provides *the allegations relevant here*:

67. On June 9, 2011, Defendants punished Plaintiff for exercising his constitutional and statutory rights as set forth in this Second

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<sup>1</sup> Rule 15(a)(2) provides that "[t]he court should freely give leave [to amend] when justice so requires." Fed. R. Civ. P. 15(a)(2). Absent bad faith or a dilatory motive on the part of the movant, leave to amend should be granted unless the amended claim would be futile. See *Foman v. Davis*, 371 U.S. 178, 182 (1962). And to defeat a claim of futility, a plaintiff need only allege "sufficient factual matter, accepted as true, to 'state a claim to relief that is plausible on its face.'" *Ashcroft v. Iqbal*, 556 U.S. 662, 678 (2009) (quoting *Bell Atlantic Corp. v. Twombly*, 550 U.S. 544, 570 (2007)); see also *Erickson v. Pardus*, 551 U.S. 89, 94 (2007) (reversing a dismissal granted under Rule 12(b)(6) and reemphasizing the liberal Rule 8 pleading standard).

Amended Complaint by, *inter alia*, suspending him without pay for 80 hours/10 days, subjecting him to further scrutiny and the possibility of “more severe disciplinary action, including dismissal,” prohibiting him from being “considered for future promotions for a period of . . . at least one (1) year,” and making his temporary transfer to the Mingo Valley Division permanent. As further punishment, Defendants assigned Plaintiff to the “graveyard” shift. . . .

68. According to Personnel Order #11-80, Defendants punished Plaintiff in part due to his “actions and writings that were made public” because they allegedly “brought discredit upon the department.” However, any “writings” that were internal communications or made pursuant to any of Plaintiff’s official duties became public as a result of an Oklahoma Open Records Act request *submitted by a third party*. Moreover, it was Defendants’ unconstitutional actions against Plaintiff that brought “discredit upon the department,” and *those actions were properly brought to public attention and covered by the media as a result of this civil rights action, which the public has a right to access*.

69. The United States Supreme Court has recognized that civil rights litigation is a form of political expression and association protected by the First Amendment and is often the desirable and orderly way of resolving disputes of broad public interest and obtaining vindication of fundamental rights. Consequently, *Defendants are punishing and retaliating against Plaintiff*

*for exercising his right to political expression and association. That is, Defendants are punishing Plaintiff and retaliating against him because he filed this civil rights lawsuit and is thereby making the public aware of Defendants' unlawful actions, in violation of Plaintiff's right to freedom of speech protected by the First Amendment.*

\* \* \*

*82. Defendants punished Plaintiff and retaliated against him because he filed this civil rights lawsuit and is thereby making the public aware of Defendants' unlawful actions, in violation of Plaintiff's right to freedom of speech protected by the First Amendment.*

Reply App. 18-19, 21 (emphasis added).

The underlying civil rights claims advanced in this case involve fundamental constitutional freedoms.<sup>2</sup> In

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<sup>2</sup> Petitioner, a Tulsa police captain, was punished for objecting on religious grounds to an order mandating officer attendance at an "Appreciation Day" held at a local mosque. The event was advertised as including, and in fact did include, religious proselytizing. See Pet. 2. Petitioner, a Christian, is strictly forbidden from discussing, and thus defending, his faith while in uniform. See Pet. at 2-3. Consequently, Petitioner alleged that his punishment violated, *inter alia*, his fundamental rights protected by the First and Fourteenth Amendments. See App. 14-22. When Petitioner subsequently learned that he was also punished for his "actions and writings that were made public," he immediately sought leave to amend his pleading to include a First Amendment retaliation claim. The district court's order denying his motion was filed on November 29, 2011, App. 51-59, and this order was affirmed on appeal. See App. 22-28.

other words, this is not a case in which the retaliation was related to “[a] petition filed with an employer using an internal grievance procedure” nor is it a case seeking “to transform [an] everyday employment dispute[] into [a] matter[] for constitutional litigation in the federal courts.” *Borough of Duryea v. Guarnieri*, 131 S. Ct. 2488, 2501 (2011). Instead, this case involves the assertion of constitutional rights of the highest order. *See id.* at 2500 (“Petitions to the courts and similar bodies can likewise address matters of great public import.”).

Therefore, contrary to Respondents’ suggestion, this Court will not have to overrule *Borough of Duryea v. Guarnieri*, 131 S. Ct. 2488, 2498 (2011). Resp. Br. at i, 20-21. In fact, this case is consistent with *Guarnieri*, *see, e.g.*, App. 23 n.1, but yet takes it to its next logical step in that the underlying claims here, unlike the claims at issue in *Guarnieri*, are not based on an internal grievance regarding job performance, but instead upon claims that Respondents violated Petitioner’s religious liberty. The First Amendment retaliation claim is based upon Petitioner’s allegation that Respondents retaliated against him for filing this lawsuit and making public the constitutional claims advanced in the litigation. *See Reply App.* 18-19, 21.

And contrary to Respondents’ suggestion, Resp. Br. at 31, the fact that the ACLU, including its New York and Washington, D.C. offices, had decided to weigh in on this case highlights the public importance of the constitutional issues presented.

Because this petition is before the Court on the district court’s order denying Petitioner’s motion for leave to amend, App. 51-56, an order which was



affirmed on appeal, App. 22-28, there is no meaningful appellate record to speak of because this claim was never permitted beyond the pleading stage.<sup>3</sup> Respondents' opposition, therefore, contains largely irrelevant, and mostly impertinent, factual and legal assertions.

Consistent with their effort to cloud the legal issue presented, Respondents make the following assertion: "In his Petition for Certiorari, Petitioner primarily argues, *for the first time*, that he was unlawfully punished in retaliation for filing a lawsuit against the City of Tulsa, rather than for disobeying an order and publicizing that disobedience to his subordinates and news media." Resp. Br. at 15-16 (emphasis added). This assertion is patently incorrect as evidenced by the proposed Second Amended Complaint, Reply App. 18-19, 21, and the panel's decision, which described its task on appeal as deciding whether "the district court should have allowed [Petitioner] to amend his complaint to include a claim that [Respondents] *retaliated against him for filing this lawsuit*, in violation of the First Amendment right to freedom of speech." App. 23 (emphasis added).

Consequently, Respondents cannot dispute here the allegation that they punished Petitioner for filing this lawsuit. In other words, Respondents cannot dispute Petitioner's allegation that his speech (the filing of the lawsuit) was a substantial or motivating factor in the retaliatory action. *Mt. Healthy City Sch. Dist. Bd. of*

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<sup>3</sup> Petitioner's motion to amend was denied well before discovery commenced in this action.

*Educ. v. Doyle*, 429 U.S. 274 (1977); *but see* Resp. Br. at 25.

Moreover, contrary to Respondents' argument, Resp. Br. at 21-25, there was no dispute below that Petitioner's speech at issue was *not* made pursuant to any of his ordinary job responsibilities as a police officer. As stated by the district court, "The [Respondents] do not argue that filing this lawsuit was within the scope of [Petitioner's] official duties. Therefore, the speech [Petitioner] claims is protected—the filing of this lawsuit—was outside [Petitioner's] official duties." App. 54.

Thus, the principal question presented here is whether Petitioner's speech is entitled to constitutional protection. *See, e.g., Lane v. Franks*, 134 S. Ct. 2369, 2374-75 (2014) ("Today, we consider whether the First Amendment . . . protects a public employee who provided truthful sworn testimony, compelled by subpoena, outside the course of his ordinary job responsibilities."). That is, today, Petitioner is asking this Court to consider whether the First Amendment protects a public employee who filed a civil rights lawsuit that made known to the public allegations that his public employer *violated his constitutional rights*.

The district court rejected Petitioner's retaliation claim by wrongly concluding that "the subject matter of his lawsuit was not a matter of public concern." App. 25. This conclusion is contrary to well-established law. *See, e.g., Lane*, 134 S. Ct. at 2380 ("Speech involves matters of public concern when it can be fairly considered as relating to any matter of political, social, or other concern to the community, or when it is a subject of legitimate news interest; that is, a subject of

general interest and of value and concern to the public.”) (internal quotations and citations omitted); *Guarnieri*, 131 S. Ct. at 2498 (“Petitions to the government assume an added dimension when they seek to advance political, social, or other ideas of interest to the community as a whole.”).

The panel, however, stated that it “need not address the public-concern issue. Regardless of whether the lawsuit was on a matter of public concern, [Petitioner’s] claim cannot survive the balancing of interests at the third step of the *Garcetti / Pickering* analysis.” App. 25.

While Respondents now assert “a host of compelling interests” allegedly advanced by punishing Petitioner for his speech, Resp. Br. at 29-32, as the panel implicitly acknowledged, Respondents “never explain[ed] how any of their interests are legitimately advanced by punishing [Petitioner] for filing this civil rights lawsuit.” App. 28 (quoting Petitioner’s reply brief). Indeed, there is no evidence that Petitioner’s speech caused any “real,” as opposed to “imagined,” disruption in the workplace.<sup>4</sup>

In short, because Petitioner was never allowed to amend his complaint to include his retaliation claim, the record has not been sufficiently developed to test the basis for the panel’s ultimate conclusion. This is reason alone to summarily reverse and remand this case.

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<sup>4</sup> As the panel noted, despite Petitioner’s objection to the order mandating officer attendance at the “Appreciation Day,” Respondents had plenty of volunteers for the event. *See* App. 9. Consequently, there was no disruption caused by Petitioner’s religious objection to the order.

Indeed, based on Respondents' arguments and the panel's conclusory assertions, a police officer would always be subject to retaliation for filing a civil rights lawsuit challenging an order that the officer believes violates his constitutional rights regardless of whether his government employer can demonstrate any disruption whatsoever simply by the nature of his job. But that is not the law. See *Lane*, 134 S. Ct. at 2374 ("Almost 50 years ago, this Court declared that citizens do not surrender their First Amendment rights by accepting public employment."); *Garcetti v. Ceballos*, 547 U.S. 410, 413 (2006) (same); *Connick v. Myers*, 461 U.S. 138, 142 (1983) (same); *Rankin v. McPherson*, 483 U.S. 378, 383 (1987) (same). And there is no police officer exception to the rule,<sup>5</sup> nor should there be since the public must be confident that the very officials charged with enforcing the Constitution *are in fact doing so*.

And while Petitioner was not permitted to advance his retaliatory claim and thus properly develop the record regarding that claim, the record does reflect the fact that Petitioner was disciplined (suspended 40 hours without pay) for "fail[ing] to follow the directives of [his] chain of command regarding furnishing officers to attend the 'Law Enforcement Appreciation Day', [sic]

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<sup>5</sup> In *Fraternal Order of Police Newark Lodge No. 12 v. City of Newark*, 170 F.3d 359, 367 (3d Cir. 1999), then Circuit Judge Alito, writing for the court, held that the Newark Police Department's policy regarding the prohibition on the wearing of beards was unconstitutional. In so ruling, the court rejected the department's claim "that permitting officers to wear beards for religious reasons would undermine the force's morale and esprit de corps." See *id.* at 366-67.

held March 4, 2011.” App. 11-12. And as Respondents admitted below, this punishment was for Petitioner’s “*refusal to attend and refusal to assign officers from [his] shift, who shared [his] religious beliefs, to attend*” the “Appreciation Day” hosted by the Islamic Society of Tulsa. App. 9-10 (emphasis added). In fact, Petitioner’s “Sworn-Employee Performance Evaluation”—an evaluation that was approved and signed by Respondents Jordan and Webster—confirms that “Captain Fields was disciplined during this rating period *for refusing to attend and refusing to direct that officers attend a law enforcement appreciation day at a local mosque.*” App. 37 n.1 (emphasis added). This confirms Petitioner’s view of the directive at issue (*i.e.*, that it mandated attendance at the mosque event), despite efforts to claim otherwise. Resp. Br. at 28-29.

Nevertheless, for purposes of this petition, it is undisputed that Petitioner was *also* disciplined (suspended 40 hours without pay) because of his “*actions and writings that were made public.*” App. 12 (emphasis added). It is this punishment that serves as the basis for Petitioner’s retaliation claim. *See* Reply. App. 18-19, 21.

And despite the fact that the record was not developed in any meaningful way on this claim precisely because it was denied at the pleading stage, Respondent Jordan confirmed during his sworn testimony that the “actions and writings” at issue were not made public by Petitioner, but by his attorneys during the course of representation related to this civil rights action. *See* App. 12-13.

Thus, while Respondent Jordan’s testimony is rather biased and unbalanced, what it principally

refers to is the allegations in the pleadings, *which were filed more than two months prior* to the June 9, 2011, order.<sup>6</sup>

In sum, almost immediately upon receiving the discipline order, which was the first indication that he was punished for this litigation, Petitioner sought leave to file a Second Amended Complaint. That motion should have been granted. *See supra* n.1.

In the final analysis, the panel concluded that Respondents' interests as a government employer

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<sup>6</sup> Petitioner's original Complaint was filed on February 23, 2011, and his First Amended Complaint was filed on March 23, 2011. On June 16, 2011, Petitioner sought leave to amend to add the retaliation claim at issue here. Consequently, Respondents' assertion that "Petitioner's discipline was not and could not have been motivated by statements made in and during litigation by Petitioner's attorney," Resp. Br. at 7-11, is simply not true. Indeed, Respondents' claim that "the 2011 discipline at issue in this case cannot be responsive retaliation to statements made in 2012 and 2013 on the websites of Petitioner's counselors" is meaningless. Resp. Br. at 10. The proposed Second Amended Complaint (filed one week after the June 9 discipline order issued) sets forth the relevant allegations, *see* Reply. App. 18-19, 21, and Respondent Jordan's testimony makes clear that the statements he was referring to (*i.e.*, the statements referred to in the discipline order he was testifying about) occurred prior to June 9, 2011. That is obvious. Yet, despite the fact that Respondents' post-2011 references have no bearing on or relevance to the issue at hand, Respondents proceed to argue that "[t]hese statements, together with legion (*sic*) other statements made directly by Petitioner, provide insight into whether Petitioner's actions were motivated by sincerely held religious beliefs, as required under Free Exercise Clause jurisprudence, or by animosity toward Islam." Resp. Br. at 11. Unfortunately, this appears to be nothing more than an effort to poison the well with irrelevant assertions.

outweighed Petitioner's interests as a private citizen to speak on a matter of public concern and thus Petitioner's amendment to add a retaliation claim would have been futile. App. 23-28. As set forth in the petition, that conclusion is wrong for at least four reasons. *First*, the panel failed to properly consider the "special value" of Petitioner's speech when conducting this "balancing of interests." *Lane*, 134 S. Ct. at 2379 (stating "that speech by public employees on subject matter related to their employment holds special value precisely because those employees gain knowledge of matters of public concern through their employment"); *McKinley v. Eloy*, 705 F.2d 1110, 1114 (9th Cir. 1983) (stating that "speech that concerns issues about which information is needed or appropriate to enable the members of society to make informed decisions about the operation of their government merits the highest degree of first amendment protection") (internal quotations and citation omitted). *Second*, "real, not imagined, disruption is required." *Id.* at 1115; *see also Connick*, 461 U.S. at 152 ("We caution that a stronger showing [of disruption] may be necessary if the employee's speech more substantially involved matters of public concern."). *Third*, the panel failed to consider the fact that Petitioner was punished (and thus retaliated against) not for *his speech*, but for the speech of his attorneys made during the course of litigating this lawsuit, thereby also failing to account for the adverse impact its decision will have on the attorney-client relationship in cases in which an employee is suing his government employer. And *fourth*, the panel's decision was based on the ultimate outcome of the lawsuit, *see* App. 26-27, and will thus have an untold chilling effect on employees who are considering whether to challenge the actions of their government

employer in a court of law. *See, e.g., Czurlanis v. Albanese*, 721 F.2d 98, 106 (3d Cir. 1983) (“A policy which would compel public employees to route complaints about poor departmental practices to the very officials responsible for those practices would impermissibly chill [speech on public issues].”).

### CONCLUSION

The petition for a writ of certiorari should be granted.

Respectfully submitted,

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## **APPENDIX**

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**APPENDIX 1**

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**EXHIBIT A**

**IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF  
OKLAHOMA**

**Case No. 11CV-115-GKF-TLW**

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PAUL CAMPBELL FIELDS,	)
	)
Plaintiff,	)
	)
v.	)
	)
CITY OF TULSA; CHARLES W.	)
JORDAN, individually and in his	)
official capacity as Chief of Police,	)
Tulsa Police Department; and ALVIN	)
DARYL WEBSTER, individually and	)
in his official capacity as Deputy Chief	)
of Police, Tulsa Police Department,	)
	)
Defendants.	)
	)

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**SECOND AMENDED COMPLAINT**

[Civil Rights Action under 42 U.S.C. § 1983  
& Oklahoma Religious Freedom Act,  
51 Okla. Stat. § 251, *et seq.*]

Demand for Jury Trial

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Plaintiff Paul Campbell Fields, by and through his undersigned counsel, brings this Second Amended Complaint against the above-named Defendants, their employees, agents, and successors in office, and in support thereof alleges the following upon information and belief:

### INTRODUCTION

1. This case seeks to protect and vindicate fundamental constitutional and statutory rights. It is a civil rights action brought under the First and Fourteenth Amendments to the United States Constitution, 42 U.S.C. § 1983, and the Oklahoma Religious Freedom Act (51 Okla. Stat. § 251, *et seq.*), challenging Defendants' acts, policies, practices, customs, and/or procedures that violated Plaintiff's rights protected by federal and state law.

2. On or about February 17, 2011, Defendants, acting under color of state law, ordered Plaintiff to engage in conduct that violated his rights protected by the United States and Oklahoma Constitutions and the Oklahoma Religious Freedom Act. When Plaintiff refused, Defendants subjected him to punishment and adverse employment consequences, causing Plaintiff irreparable harm.

3. Plaintiff seeks a declaration that Defendants violated his clearly established constitutional and statutory rights as set forth in this Second Amended Complaint; an injunction enjoining the enforcement of Defendants' unconstitutional acts, policies, practices, procedures, and/or customs that were the moving force behind the violation of Plaintiff's constitutional and statutory rights; an injunction expunging all

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paperwork or references from Plaintiff's personnel file related to the incident giving rise to Defendants' violation of his constitutional and statutory rights as set forth in this Second Amended Complaint and prohibiting the use of any such paperwork or references in any future employment matter; and an award of compensatory and nominal damages. Plaintiff also seeks an award of his reasonable costs of litigation, including attorney's fees and expenses, pursuant to 42 U.S.C. § 1988, 51 Okla. Stat. § 256, and other applicable law.

#### **JURISDICTION AND VENUE**

4. This action arises under the Constitution and laws of the United States. Jurisdiction is conferred on this court pursuant to 28 U.S.C. §§ 1331 and 1343. This court has supplemental jurisdiction over the state law claims pursuant to 28 U.S.C. § 1367(a).

5. Plaintiff's claims for declaratory and injunctive relief are authorized by 28 U.S.C. §§ 2201 and 2202, by Rules 57 and 65 of the Federal Rules of Civil Procedure, 51 Okla. Stat. § 256, and by the general legal and equitable powers of this court. Plaintiff's claims for compensatory and nominal damages are authorized under 42 U.S.C. § 1983, 51 Okla. Stat. § 256, and by the general legal and equitable powers of this court.

6. Venue is proper under 28 U.S.C. § 1391(b) because a substantial part of the events or omissions giving rise to Plaintiff's claims occurred in this district.

**PLAINTIFF**

7. Plaintiff Fields is a Captain on the Tulsa Police Department and is a resident of Tulsa County, Oklahoma. He has served honorably as a police officer for 16 years. Throughout his entire career, Plaintiff Fields has been a model for other police officers and an exemplary employee of the police department.

8. Plaintiff Fields is a Christian. He is not a Muslim, nor does he adhere to the Islamic faith. He objects to the City of Tulsa, its police department, and its officials, including Defendants Jordan and Webster, promoting, endorsing, or otherwise providing favored treatment to Islam and compelling officers of the police department to attend Islamic events, including the “Law Enforcement Appreciation Day,” which was sponsored by the Islamic Society of Tulsa (hereinafter “Islamic Society”).

9. As a uniformed officer of the Tulsa Police Department, Plaintiff Fields has sworn a solemn oath to defend, enforce, and obey the Constitutions and laws of the United States and Oklahoma. He has sworn to obey the “lawful orders” of his superiors. And he has pledged to stand up for what he knows is right and to stand against wrongs in any form. Plaintiff Fields is compelled to follow these oaths as a matter of conscience.

10. Prior to Defendants’ actions giving rise to the constitutional and statutory violations set forth in this Second Amended Complaint, Plaintiff Fields had a stellar reputation as a police officer and as a leader.

11. Prior to being unlawfully transferred by Defendants on or about February 21, 2011, Plaintiff

Fields was the evening shift commander at the Riverside Division.

### **DEFENDANTS**

12. Defendant City of Tulsa (hereinafter “City”) is a municipal entity organized and existing under the laws of the State of Oklahoma. It is a municipal corporation with the right to sue and be sued.

13. The City, through its officials, including Defendants Jordan and Webster, are responsible for creating, adopting, approving, ratifying, and enforcing the rules, regulations, policies, practices, procedures, and/or customs of the City and its police department, including the policies, practices, procedures, and/or customs that violated Plaintiff’s constitutional and statutory rights as set forth in this Second Amended Complaint.

14. The City approved of and ratified the acts, policies, practices, customs, and/or procedures of its police department and its police officers, including the actions of Defendants Jordan and Webster, that deprived Plaintiff of his fundamental constitutional and statutory rights as set forth in this Second Amended Complaint.

15. Defendant Charles W. “Chuck” Jordan is the Chief of Police for the City Police Department. At all relevant times, he was an agent, servant, and/or employee of the City, acting under color of state law. As the Chief of Police, he is responsible for creating, adopting, approving, ratifying, and enforcing the rules, regulations, policies, practices, procedures, and/or customs of the City Police Department, including the policies, practices, procedures, and/or customs that

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violated Plaintiff's constitutional and statutory rights as set forth in this Second Amended Complaint. Defendant Jordan is sued individually and in his official capacity as the Chief of Police.

16. Defendant Alvin Daryl Webster is a Deputy Chief of Police for the City Police Department. At all relevant times, he was an agent, servant, and/or employee of the City, acting under color of state law. As a Deputy Chief of Police, Defendant Webster is responsible for creating, adopting, approving, ratifying, and enforcing the rules, regulations, policies, practices, procedures, and/or customs of the City Police Department, including the policies, practices, procedures, and/or customs that violated Plaintiff's constitutional and statutory rights as set forth in this Second Amended Complaint. Defendant Webster is sued individually and in his official capacity as a Deputy Chief of Police.

### **STATEMENT OF FACTS**

17. On or about January 25, 2011, Defendant Webster announced in a staff meeting that the Islamic Society was hosting a "Law Enforcement Appreciation Day" that was scheduled for Friday, March 4, 2011. Friday is the "holy day" or "Sabbath" for Islam.

18. On Wednesday, February 16, 2011, an email approved by Defendants was sent to "All TPD users," stating, "Please see attached flier and rsvp if attending to ensure there is plenty of great food and tour guides." Attached to the email was a flyer from the Islamic Society. A true and accurate copy of the Islamic flyer is attached to this Second Amended Complaint as Exhibit 1.



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19. Plaintiff was an intended recipient of the email and the Islamic flyer, and so too were the police officers under his command.

20. The event at the Islamic Society was not a collaborative event between the City Police Department and the Islamic Society, but simply an open invitation to “All Tulsa Law Enforcement” that was planned solely by the Islamic Society.

21. There was no agenda on the invitation flyer—nor was one created by Defendants—for the invited officers to discuss crime or crime related issues of any kind. Consequently, the Islamic event was not a function of Community Policing.

22. The event held by the Islamic Society did not involve a call for service.

23. There were no officers under Plaintiff’s command who returned an RSVP. Consequently, there were no officers under Plaintiff’s command willing to volunteer to attend the Islamic event.

24. The event held by the Islamic Society involved “Mosque tours,” meeting “Local Muslims & Leadership,” watching the “weekly congregational prayer service,” and receiving presentations on Islamic “beliefs, human rights, women . . . . All questions welcome!”

25. The event held by the Islamic Society involved Islamic proselytizing.

26. The Islamic Society event was advertised as including Islamic proselytizing, and it in fact resulted

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in the proselytizing of City police officers who attended the event.

27. On or about February 17, 2011, Plaintiff received an email from his immediate supervisor at the Riverside Division, Major Julie Harris. This email had the subject line, “Tour of Mosque – March 4,” and stated, in relevant part, “We are ***directed*** by DCOP [Deputy Chief of Police] Webster to have representatives from each shift—2nd, 3rd, and 4th to attend [the Islamic event].” (emphasis added). This email also contained the directive from Defendant Webster, which was pasted into the text of the email. As a result, Defendant Webster, with the approval of Defendant Jordan, was ordering officers to attend the Islamic event. It was no longer voluntary.

28. After receiving the email from Major Harris, Plaintiff met with her to discuss the order from Defendant Webster. Plaintiff advised Major Harris of his belief that the order was unlawful. Plaintiff believes that Defendants do not have a right to order police officers to attend an Islamic event against the officers’ personal religious beliefs and convictions.

29. Plaintiff also responded to the order by email. In his email response, Plaintiff stated that he believed that Defendants’ order directing officers to attend the Islamic event was “an unlawful order, as it is in direct conflict with my personal religious convictions, as well as to be conscience shocking.” Plaintiff concluded his email by stating, “Please consider this email my official notification to the Tulsa Police Department and the City of Tulsa that I intend not to follow this directive, nor require any of my subordinates to do so if they share similar religious convictions.” Plaintiff sent his

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response to Major Harris and copied his entire chain of command, including Defendants Jordan and Webster.

30. On or about February 18, 2011, Defendant Webster sent a three-page interoffice correspondence to Plaintiff by email that affirmed the order and requested Plaintiff to reconsider his position. Plaintiff again refused based on his religious beliefs, convictions, and conscience.

31. As a result of Plaintiff's refusal to compromise his religious beliefs and convictions and violate his conscience, Defendant Webster ordered Plaintiff to appear in Defendant Jordan's conference room on Monday, February 21, 2011.

32. During this meeting with Defendants Jordan and Webster, Plaintiff again explained that he believed the order was unlawful and that he could not, in good conscience, obey the order nor force the officers under his charge to obey it.

33. At the conclusion of this meeting, Plaintiff was served with a pre-prepared order transferring him to the Mingo Valley Division, as well as a notification that Defendants were initiating an internal investigation of him for allegedly violating Rule 6 of the Tulsa Police Department Rules and Regulations ("Duty to be Truthful and Obedient").

34. The transfer order stated, "This action is taken in reference to an Internal Affairs administrative investigation regarding the refusal to follow a direct order."

35. Prior to being transferred for his refusal to violate his personal religious beliefs, convictions, and

conscience, and those of the officers under his charge, Plaintiff was the shift commander for 26 officers and 5 supervisors. As a result of this transfer, Plaintiff was stripped of his command and his stellar reputation as a police officer was irreparably tarnished.

36. The transfer order is a permanent part of Plaintiff's personnel file and employment record. Consequently, Plaintiff's refusal to violate his personal religious beliefs, convictions, and conscience, and those of the officers under his charge, has and will continue to have adverse employment consequences for Plaintiff.

37. On or about March 10, 2011, Plaintiff received an official notification via email stating, "You are hereby notified that Chief Chuck Jordan has requested IA [Internal Affairs] to conduct an administrative investigation in regards to your refusal to attend and refusal to assign officers from your shift, who shared your religious beliefs, to attend the 'Law Enforcement Appreciation Day' on March 4, 2011, at the Tulsa Peace Academy [a.k.a. Islamic Society]."

38. The Islamic Society is shariah-adherent.

39. Shariah, while often referred to as Islamic law, is considered by Islamic religious authorities to be the divine law of Allah which is articulated directly to man through the *Quran* and indirectly through the canonical stories of Mohammed's life as told through the *Sunnah*.

40. The *Quran* is considered by Islam to be the perfect expression of Allah's will for man. Every word is considered perfect and unalterable except and unless altered by some subsequent word of Allah. The *Sunnah*—stories of Mohammed's life and behavior

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—are also considered binding authority of how a Muslim must live.

41. Islam holds that Allah is the sole true sovereign. Islam also holds that Allah revealed to Mohammed all matters of life, politics, and religious law. Consequently, the religion of Islam is not merely one segment of life; it regulates life completely, from the social and the political to the diplomatic, economic, and military. This combination of religion and politics as a unified, indefeasible whole is the foundation of Islam, an inseparable political/religious doctrine of Islamic governments, and the basis of Muslim loyalties. In this respect, the theo-political doctrine of Islam is contrary to the dictates of the First Amendment's religion clauses.

42. Since Islamic law reflects the will of a purported supreme being rather than the will of a human lawmaker, it covers all areas of life and not simply those which are of interest to a secular state or society. Islamic law is considered the superior and exclusive law for the shariah-adherent. And it is not limited to questions of belief and religious practice, but also deals with criminal and constitutional matters, as well as many other fields which in other societies and countries, including America, would be regarded as the concern of the secular authorities. In an Islamic context there is no such thing as a separate secular authority and secular law, since religion and state are one. Essentially, the Islamic state as conceived by orthodox Muslims is a religious entity established under divine law.

43. In shariah-based Islam's view, the world and mankind are divided into two irreconcilable groups:

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*Dar Al-Islam*, the house of Islam, which is made up of adherents to Islam and where Islamic law rules (or should rule); and *Dar Al-Harb*, the house of war, which is made up of nonadherents and where “infidels” (known as *kuffars*, or nonbelievers) live. Included among the “infidels” are Christians, Jews, and all other non-Muslims, including Plaintiff. This latter realm is called the “house of war” because it is presumed in shariah that *Dar Al-Islam* is in a constant state of hostility with *Dar Al-Harb* until *Dar Al-Harb* becomes subject to shariah and therefore converted to *Dar Al-Islam*. In other words, shariah is hegemonic and universal.

44. According to extant Islamic teaching, all people will one day accept Islam or submit to its rule. The *Quran* commands, “Fight them until all opposition ends and all submit to Allah.” (*Quran* 8:39). Consequently, there is no right of conscience under Islam as compared with Judaism or Christianity or as enshrined in the United States and Oklahoma Constitutions.

45. *Jihad* is another central component of the theo-political doctrine of shariah. It is considered a communal religious duty for all Muslims throughout the world, including those who attend the Islamic Society. The *Quran* informs its followers that there is always a holy war being waged, and instructs them to participate. For example, the *Quran* sura 9:29 commands adherents of Islam to “fight against those who do not believe in God or the judgment day, who permit what God and his messenger have forbidden, and who refuse allegiance to the true faith.” This

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*Quranic* verse is codified as normative law among all extant schools of Islamic jurisprudence.

46. The objective of *jihad* is not only to convert people to Islam, but also to gain political control and exercise Islamic authority over a population so that society ultimately lives and abides by the principles of Islam. Thus, the objective is to permit Muslims “to practice Islam as a complete way of life,” which is a stated “aim & purpose” of the “Constitution of the Islamic Society of Tulsa.” At all relevant times, the Islamic Society’s constitution was available publicly on its website. A true and accurate copy of the “Constitution of the Islamic Society of Tulsa” is attached to this Second Amended Complaint as Exhibit 2.

47. Whether pursued through the violent form of jihad (holy war) or stealthier practices that shariah Islamists often refer to as “dawa” (the “call to Islam”), shariah rejects fundamental premises of American society and values, including those enshrined in the United States and Oklahoma Constitutions, such as the proposition that the governed have a right to make laws for themselves, a constitutionally guaranteed republican form of government, the freedom of expression, the free exercise of religion, and the equal protection of the law, among others.

48. The constitution of the Islamic Society calls for the creation of a “Dawa Council” so as to “upgrade the [Islamic Society’s] Dawa activities.” The Dawa Council of the Islamic Society is “primarily responsible for disseminating Islamic Knowledge among Muslims and non-Muslims and for promoting an understanding.”

49. The Islamic Society used the “Law Enforcement Appreciation Day” to proselytize and promote what shariah-adherents such as the Muslim Brotherhood have described as “civilization jihad.”

50. The Islamic Society uses photographs of the Islamic event to promote its objectives on its website. For example, right below a photograph of police officers having a discussion with Muslims at the event, the Islamic Society had the following advertisement, “Discover Islam Courses for Non-Muslims.” The photograph appeared to be part of the advertisement. A true and accurate copy of the “home page” of the Islamic Society’s website is attached to this Second Amended Complaint as Exhibit 3.

51. The Islamic Society supports and promotes on its website the Council on American Islamic Relations (“CAIR”) and the Islamic Society of North America (“ISNA”). CAIR and ISNA were un-indicted, co-conspirators and/or joint venturers in the 2008 Holy Land Foundation terrorism financing trial. This was the largest terrorism financing trial ever initiated by the United States government, and it concluded with guilty verdicts.

52. According to its constitution, the Islamic Society “***shall establish and maintain continuous affiliation with the Islamic Society of North America***, hereinafter referred to as ISNA.” (emphasis added).

53. According to the Islamic Society’s constitution, “The aims and purposes of [the Islamic Society] shall be ***to serve the best interest of Islam*** in the greater Tulsa area including the Tulsa city and its



satellite towns in northeastern Oklahoma, so as *to enable Muslims to practice Islam as a complete way of life.*" (emphasis added).

54. To carry out its mission, the Islamic Society "shall" work "*in cooperation with ISNA*" to, among other things, "carry out Islamic programs and projects *within the guidelines of the Quran and Sunnah,*" "assist Muslims in organizing themselves for the entire spectrum of Islamic activities," "[m]obilize and coordinate human and material resources in Muslim communities," and "promote cooperation with other Muslim organizations on state, regional, national and *international* (sic) [levels]." (emphasis added).

55. ISNA is the largest Muslim Brotherhood front in North America.

56. The Muslim Brotherhood's strategic plan for North America is found in a document entitled, *An Explanatory Memorandum: On the General Strategic Goal for the Group* (hereinafter "*Strategic Goal Memo*"), which was written in 1991 by Mohammed Akram, a member of the Board of Directors for the Muslim Brotherhood in North America and a senior Hamas leader. This document was subsequently approved by the Muslim Brotherhood's Shura Council and Organizational Conference, and it sets forth the mission of the Muslim Brotherhood in North America as follows:

The process of settlement is a "Civilization Jihadist Process" with all the word means. The Ikhwan [a.k.a., Muslim Brotherhood] must understand their work in America is a kind of grand jihad in eliminating and destroying the

Western civilization from within and “sabotaging” its miserable house by their hands and the hands of the believers so that it is eliminated and God’s religion is made victorious over all other religions.

57. The *Strategic Goal Memo* was introduced into evidence by the United States during the Holy Land Foundation terrorism financing trial.

58. ISNA is listed as the first affiliated organization of the Muslim Brotherhood in the *Strategic Goal Memo*.

59. On or about February 27, 2011, the Islamic Society held a “free banquet dinner and lecture.” The keynote speaker for the event, which was publicly advertised on the Islamic Society’s website, was Imam Siraj Wahhaj, a shariah-adherent Muslim who promotes the destruction of Western civilization and the creation of an Islamic caliphate. In 1992, for example, Imam Wahhaj told a group of Muslims in New Jersey that they could take over the United States and institute a caliphate if they united. Imam Wahhaj was also called as a character witness for Omar Abdel-Rahman, the so-called “blind sheik,” who was convicted of conspiring to bomb the World Trade Center in 1993.

60. It was the policy, practice, custom, and/or procedure of the City Police Department that a police officer’s attendance at any event involving religion or a place of religious worship that was not a call for service nor organized by the City Police Department as a function of Community Policing for the purpose of discussing crime or crime related issues was strictly

voluntary. That is, Defendants would not, because they could not, force any police officer, including Plaintiff, under penalty of adverse employment consequences to violate his or her religious beliefs, convictions, or conscience.

61. For at least the past 16 years, police officer attendance at events involving religion or a religious place of worship that were similar to the event sponsored by the Islamic Society was strictly voluntary.

62. Consequently, under the policies, practices, customs, and/or procedures existing at the time of the event held by the Islamic Society, attendance at the event should have been strictly voluntary.

63. Pursuant to the policies, practices, customs, and/or procedures of the City Police Department, Defendants have never forced under penalty of adverse employment consequences any officer in the police department to attend any event involving Christianity or a Christian church that was not a call for service nor organized by the City Police Department as a function of Community Policing.

64. Defendants' actions as set forth in this Second Amended Complaint favored the religious beliefs and convictions of Muslims over those of non-Muslims, such as Plaintiff.

65. Defendants' direct order to Plaintiff compelling officers to attend the Islamic event conveyed the impermissible government-sponsored message of endorsement of Islam.

66. Defendants' adverse and disfavored treatment of Plaintiff for refusing to violate his

religious beliefs, convictions, and conscience conveyed the impermissible government-sponsored message of disfavor of Plaintiff's religious beliefs and convictions.

67. On June 9, 2011, Defendants punished Plaintiff for exercising his constitutional and statutory rights as set forth in this Second Amended Complaint by, *inter alia*, suspending him without pay for 80 hours/10 days, subjecting him to further scrutiny and the possibility of "more severe disciplinary action, including dismissal," prohibiting him from being "considered for future promotions for a period of . . . at least one (1) year," and making his temporary transfer to the Mingo Valley Division permanent. As further punishment, Defendants assigned Plaintiff to the "graveyard" shift. True and accurate copies of the Personnel Orders suspending and transferring Plaintiff are attached to this Second Amended Complaint as Exhibit 4 ("Personnel Order #11-80: 80 Hours/10 Day Suspension without Pay") and Exhibit 5 ("Personnel Order 2011-81 – Transfer"), respectively.

68. According to Personnel Order #11-80, Defendants punished Plaintiff in part due to his "actions and writings that were made public" because they allegedly "brought discredit upon the department." However, any "writings" that were internal communications or made pursuant to any of Plaintiff's official duties became public as a result of an Oklahoma Open Records Act request submitted by a third party. Moreover, it was Defendants' unconstitutional actions against Plaintiff that brought "discredit upon the department," and those actions were properly brought to public attention and covered

by the media as a result of this civil rights action, which the public has a right to access.

69. The United States Supreme Court has recognized that civil rights litigation is a form of political expression and association protected by the First Amendment and is often the desirable and orderly way of resolving disputes of broad public interest and obtaining vindication of fundamental rights. Consequently, Defendants are punishing and retaliating against Plaintiff for exercising his right to political expression and association. That is, Defendants are punishing Plaintiff and retaliating against him because he filed this civil rights lawsuit and is thereby making the public aware of Defendants' unlawful actions, in violation of Plaintiff's right to freedom of speech protected by the First Amendment.

### **FIRST CLAIM FOR RELIEF**

#### **(Free Exercise of Religion—First Amendment)**

70. Plaintiff hereby incorporates by reference all stated paragraphs.

71. By reason of the aforementioned acts, policies, practices, procedures, and/or customs, created, adopted, and enforced under color of state law, Defendants have deprived Plaintiff of his right to religious exercise in violation of the Free Exercise Clause of the First Amendment as applied to the states and their political subdivisions under the Fourteenth Amendment to the United States Constitution and 42 U.S.C. § 1983.

72. By targeting Plaintiff for disfavored treatment because he objects to being compelled under

penalty of adverse employment consequences to violate his religious beliefs, convictions, and conscience, Defendants' actions violated the Free Exercise Clause of the First Amendment.

73. Plaintiff was subjected to adverse and discriminatory treatment because he refused to engage in conduct that was contrary to his religious beliefs and convictions in violation of his rights protected by the Free Exercise Clause of the First Amendment.

74. Defendants' adverse actions against Plaintiff were designed to punish Plaintiff for exercising his religious beliefs, convictions, and right of conscience in violation of the Free Exercise Clause of the First Amendment.

75. For at least the past 16 years, police officer attendance at events involving religion or a religious place of worship that were similar to the event sponsored by the Islamic Society was strictly voluntary.

76. Defendants' actions favored the religious beliefs and convictions of Muslims over those of non-Muslims, such as Plaintiff.

77. Defendants' unlawful order to Plaintiff was not an order of general applicability in that Defendants have never ordered police officers to attend under penalty of adverse employment consequences any religious event or place of worship under similar circumstances. Defendants made an exception in this case because the religious event was sponsored by an Islamic organization.

78. Defendants' unlawful order, which substantially burdened Plaintiff's religious beliefs and

convictions, was not justified by a compelling government interest nor was it narrowly tailored to advance any compelling government interest in violation of the Free Exercise Clause of the First Amendment.

79. As a direct and proximate result of Defendants' violation of the Free Exercise Clause of the First Amendment, Plaintiff has suffered irreparable harm, including the loss of his fundamental constitutional rights and adverse employment consequences, entitling him to declaratory and injunctive relief and damages.

## **SECOND CLAIM FOR RELIEF**

### **(Freedom of Speech—First Amendment)**

80. Plaintiff hereby incorporates by reference all stated paragraphs.

81. By reason of the aforementioned acts, policies, practices, procedures, and/or customs, created, adopted, and enforced under color of state law, Defendants have deprived Plaintiff of his right to freedom of speech in violation of the Free Speech Clause of the First Amendment as applied to the states and their political subdivisions under the Fourteenth Amendment to the United States Constitution and 42 U.S.C. § 1983.

82. Defendants punished Plaintiff and retaliated against him because he filed this civil rights lawsuit and is thereby making the public aware of Defendants' unlawful actions, in violation of Plaintiff's right to freedom of speech protected by the First Amendment.

83. By punishing and retaliating against Plaintiff for exercising his right to political expression and association, Defendants have violated the Free Speech Clause of the First Amendment.

84. As a direct and proximate result of Defendants' violation of the Free Speech Clause of the First Amendment, Plaintiff has suffered irreparable harm, including the loss of his fundamental constitutional rights and adverse employment consequences, entitling him to declaratory and injunctive relief and damages.

### **THIRD CLAIM FOR RELIEF**

#### **(Expressive Association—First Amendment)**

85. Plaintiff hereby incorporates by reference all stated paragraphs.

86. By reason of the aforementioned acts, policies, practices, procedures, and/or customs, created, adopted, and enforced under color of state law, Defendants have deprived Plaintiff of his right to expressive association guaranteed by the First Amendment as applied to the states and their political subdivisions under the Fourteenth Amendment to the United States Constitution and 42 U.S.C. § 1983.

87. Defendants forced Plaintiff under penalty of adverse employment consequences to associate with others contrary to his religious beliefs and convictions in violation of his right to expressive association.

88. Defendants targeted Plaintiff for adverse and discriminatory treatment because he refused to engage in an association that was contrary to his religious



beliefs and convictions in violation of his right to expressive association.

89. As a direct and proximate result of Defendants' violation of Plaintiff's right to expressive association protected by the First Amendment, Plaintiff has suffered irreparable harm, including the loss of his fundamental constitutional rights and adverse employment consequences, entitling him to declaratory and injunctive relief and damages.

#### **FOURTH CLAIM FOR RELIEF**

##### **(Establishment Clause—First Amendment)**

90. Plaintiff hereby incorporates by reference all stated paragraphs.

91. By reason of the aforementioned acts, policies, practices, procedures, and/or customs, created, adopted, and enforced under color of state law, Defendants violated the Establishment Clause of the First Amendment as applied to the states and their political subdivisions under the Fourteenth Amendment to the United States Constitution and 42 U.S.C. § 1983.

92. For at least the past 16 years, police officer attendance at events involving religion or a religious place of worship that were similar to the event sponsored by the Islamic Society was strictly voluntary.

93. Defendants have never ordered police officers to attend under penalty of adverse employment consequences any religious event or place of worship under similar circumstances. Defendants made an

exception in this case because the religious event was sponsored by an Islamic organization.

94. Defendants' actions favored the religious beliefs and convictions of Muslims over those of non-Muslims, such as Plaintiff.

95. By officially favoring and endorsing an Islamic religious organization, its beliefs, and practices and disfavoring Plaintiff and his religious beliefs and convictions, Defendants violated the Establishment Clause.

96. Defendants' official endorsement of the Islamic Society and its beliefs, and practices and official condemnation of Plaintiff and his religious beliefs and convictions lack a secular purpose, have the primary effect of advancing Islam and inhibiting Plaintiff's religion and religious beliefs and convictions, and create excessive entanglement with religion in violation of the Establishment Clause.

97. Defendants' official endorsement of an Islamic religious organization, beliefs, and practices and official condemnation of Plaintiff and his religious beliefs and convictions convey an impermissible, government-sponsored message of approval of Islam and disapproval of and hostility toward Plaintiff and his religious beliefs and convictions. As a result, Defendants' actions send a clear message to Plaintiff and others who share his religious beliefs and convictions that they are outsiders, not full members of the political community and an accompanying message that those who oppose Plaintiff and his religious beliefs and convictions are insiders, favored members of the

political community, in violation of the Establishment Clause.

98. As a direct and proximate result of Defendants' violation of the Establishment Clause, Plaintiff has suffered irreparable harm, including the loss of his fundamental constitutional rights and adverse employment consequences, entitling him to declaratory and injunctive relief and damages.

### **FIFTH CLAIM FOR RELIEF**

#### **(Equal Protection—Fourteenth Amendment)**

99. Plaintiff hereby incorporates by reference all stated paragraphs.

100. By reason of the aforementioned acts, policies, practices, procedures, and/or customs, created, adopted, and enforced under color of state law, Defendants deprived Plaintiff of the equal protection of the law guaranteed under the Equal Protection Clause of the Fourteenth Amendment to the United States Constitution and 42 U.S.C. § 1983.

101. Defendants' unlawful order, which selectively targeted Plaintiff's religious beliefs, convictions, and conscience, violated the Equal Protection Clause of the Fourteenth Amendment.

102. Defendants' unlawful order had a discriminatory effect on Plaintiff and others who share Plaintiff's religious beliefs and convictions in violation of the Equal Protection Clause of the Fourteenth Amendment.

103. Defendants chose to selectively enforce their policies, practices, procedures, and/or customs against

Plaintiff out of an arbitrary desire to discriminate against Plaintiff because of his religious beliefs, convictions, and conscience in violation of the Equal Protection Clause of the Fourteenth Amendment.

104. Defendants' actions favored the religious beliefs and convictions of Muslims over those of non-Muslims, such as Plaintiff, in violation of the Equal Protection Clause of the Fourteenth Amendment.

105. As a direct and proximate result of Defendants' violation of the Equal Protection Clause, Plaintiff has suffered irreparable harm, including the loss of his fundamental constitutional rights and adverse employment consequences, entitling him to declaratory and injunctive relief and damages.

#### **SIXTH CLAIM FOR RELIEF**

##### **(Oklahoma Religious Freedom Act)**

106. Plaintiff hereby incorporates by reference all stated paragraphs.

107. By reason of the aforementioned acts, policies, practices, procedures, and/or customs, created, adopted, and enforced under color of state law, Defendants have substantially burdened Plaintiff's free exercise of religion in violation of the Oklahoma Religious Freedom Act, 51 Okla. Stat. § 253.

108. Defendants' unlawful order, which selectively targeted Plaintiff's religious beliefs, convictions, and conscience, violated the Oklahoma Religious Freedom Act.

109. By targeting Plaintiff for disfavored treatment because he objects to being compelled under penalty of adverse employment consequences to violate his religious beliefs, convictions, and conscience, Defendants violated the Oklahoma Religious Freedom Act.

110. Plaintiff was subjected to adverse and discriminatory treatment because he refused to engage in conduct that was contrary to his religious beliefs and convictions in violation of his rights protected by the Oklahoma Religious Freedom Act.

111. Defendants' adverse actions against Plaintiff were designed to punish Plaintiff for exercising his religious beliefs, convictions, and right of conscience in violation of the Oklahoma Religious Freedom Act.

112. Defendants' unlawful order, which substantially burdened Plaintiff's religious beliefs and convictions, was not justified by a compelling government interest nor was it the least restrictive means of furthering any compelling government interest in violation of the Oklahoma Religious Freedom Act.

113. As a direct and proximate result of Defendants' violation of the Oklahoma Religious Freedom Act, Plaintiff has suffered irreparable harm, including the loss of his fundamental constitutional rights and adverse employment consequences, entitling him to declaratory and injunctive relief and damages.

**PRAYER FOR RELIEF**

WHEREFORE, Plaintiff asks this court:

A) to declare that Defendants violated Plaintiff's constitutional and statutory rights as set forth in this Second Amended Complaint;

B) to enjoin the enforcement of Defendants' unconstitutional acts, policies, practices, procedures, and/or customs that were the moving force behind the violation of Plaintiff's constitutional and statutory rights as set forth in this Second Amended Complaint;

C) to expunge all paperwork or references from Plaintiff's personnel file related to the incident giving rise to Defendants' violation of his constitutional and statutory rights as set forth in this Second Amended Complaint and prohibiting the use of any such paperwork or references in any future employment matter;

D) to award Plaintiff nominal and compensatory damages;

E) to award Plaintiff his reasonable attorney's fees, costs, and expenses pursuant to 42 U.S.C. § 1988, 51 Okla. Stat. § 256, and other applicable law;

F) to grant such other and further relief as this court should find just and proper.

**DEMAND FOR JURY TRIAL**

Pursuant to Rule 38(b) of the Federal Rules of Civil Procedure, Plaintiff hereby demands a trial by jury of all issues triable of right by a jury.

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Respectfully submitted,

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