

FILED

NORTH CAROLINA  
GUILFORD COUNTY

IN THE GENERAL COURT OF JUSTICE  
SUPERIOR COURT DIVISION  
09 CvS 2437

2009 JAN -2 PM 4:04

GUILFORD CO., C.S.C.

DAVID WRAY,

Plaintiff,

v.

CITY OF GREENSBORO,  
and MITCHELL JOHNSON, in his  
Official and Individual Capacities,

Defendants.

KR

COMPLAINT

THE PLAINTIFF, complaining of the defendants, avers:

GENERAL ALLEGATIONS

1. This is an action for declaratory judgment pursuant to the provisions of Section 1-253 *et seq.* of the North Carolina General Statutes and claims brought pursuant to the provisions of the Civil Rights Act of 1871, 42 U.S.C. § 1983 for violation of plaintiff's rights under the Civil Rights Acts of 1866 and 1870, 42 U.S.C. §1981 based on violation of these rights by defendants under the color of State Law.

2. The plaintiff is a citizen and resident of Guilford County, North Carolina, and was formerly Chief of Police of the Greensboro Police Department.

3. The defendant City of Greensboro (hereinafter "City") is a municipal corporation, located in Guilford County, North Carolina, duly chartered under the laws of the State of North Carolina, with all corporate powers enumerated in North Carolina General Statute § 16A11, including the right to be sued.

4. The defendant Mitchell Johnson is a citizen and resident of Greensboro, Guilford County, North Carolina, and is presently City Manager for the City of Greensboro, having previously been interim City Manager, Deputy City Manager, and Assistant City Manager.

### FACTUAL ALLEGATIONS

5. David Wray is a Caucasian male, and began employment with the Police Department of the City of Greensboro as a police officer in March of 1981.

6. Through the years, David Wray was promoted to Sergeant, Lieutenant, Assistant Chief, and ultimately was promoted by Ed Kitchen, then the City Manager, to the position of Chief of Police in July of 2003.

7. At the time David Wray became Chief of Police, Mitchell Johnson was Deputy City Manager. Mitchell Johnson became City Manager in October of 2005.

8. Prior to the promotion of David Wray to the position of Chief of the Greensboro Police Department, both of the preceding Chiefs, Sylvester Daughtry, Jr. (1987-1998) and Robert C. White (1998-2003) were African American.

9. At the time David Wray was promoted to Chief, the City Manager, Ed Kitchen, discussed with David Wray the perception within the Greensboro Police Department that integrity and high standards had deteriorated under Chief White and Ed Kitchen's expectation that as Chief, David Wray would need to take appropriate steps to restore the integrity and high standards that were maintained under Chief Daughtry.

10. As Chief, David Wray emphasized discipline and required integrity from both African American and white officers, regardless of whether the action was

popular. For example, 1) David Wray took the unpopular stand of initiating rotating shifts (a practice commonly utilized in other police departments to utilize experienced officers throughout the day, not just the day shifts) and 2) David Wray terminated an African American officer for excessive force, only to have his decision reversed by Mitchell Johnson, who reinstated the officer.

11. As Chief, consistent with the City's affirmative action commitment, David Wray actively promoted in rank both female and African American officers, more in fact than either of his predecessors in the office.

12. As Chief, David Wray was made aware of information concerning certain African American officers, which called into question their judgment, integrity, attention to duty, and understanding of the responsibilities of their positions.

13. One of the African American officers in question was James Hinson, then a Lieutenant with the Greensboro Police Department. The information presented to David Wray, as Chief, included information that Hinson and a drug dealer both patronized the same prostitute; that Hinson had sold a house to the drug dealer; that three years after the sale, Hinson's private cell phone number was found written on a paper in a safe belonging to the drug dealer and Hinson's police cell phone number was found on the nightstand beside the drug dealer's bed; that Hinson's numbers were found in the cell phone of another drug dealer; and that Hinson operated businesses while on duty.

14. As Chief, David Wray believed such conduct was not consistent with the conduct that should be expected from a lieutenant in the Greensboro Police Department

and authorized intelligence-gathering operations to investigate on duty activities of Hinson, and to review Hinson's past activities in the light of additional information.

15. As part of the investigation of Hinson, when Hinson proved difficult to monitor while on duty, a monitoring device was placed on the Greensboro Police Department vehicle used by Hinson while on duty.

16. In the summer of 2005, Hinson became aware of this monitoring device and made allegations that the investigation into his activities was racially motivated. The local newspaper, the Greensboro News & Record, began running stories concerning a purported "secret police" and the purported racially motivated "targeting" of black officers.

17. Pending completion of the investigations, David Wray, as Chief, authorized the placement of Hinson on paid administrative leave.

18. Hinson was represented by a prominent Greensboro attorney with ties to a well-known African American political action committee in Greensboro (the "Simkins PAC").

19. The Simkins PAC has over the years demonstrated an ability to mobilize members of the African American community in Greensboro for purposes of targeted voting, and has been so successful that politicians running for office in Greensboro, whether white or African American, seek the endorsement of the Simkins PAC in order to be elected.

20. Other African American police officers, in an effort to obtain compensation or promotions, consulted counsel and alleged that they had been discriminated against based on their race.

21. Upon information and belief, although Mitchell Johnson knew or should have known that such allegations were unfounded, Mitchell Johnson reacted to allegations of racially motivated conduct by seeking to placate certain members of the African American community, Hinson, and the complaining African American officers. Toward that end, Johnson set about a course of conduct intended to result in reinstatement of Hinson, termination or forcing David Wray from his position as Chief of Police, and appointment of an African American officer as Chief.

22. At the direction of Mitchell Johnson, the City Attorney met clandestinely with counsel representing some of the complaining African American officers, ostensibly to discuss their concerns, but instead sought information to use against David Wray.

23. As part of the plan to discharge or force David Wray from office, the City Attorney's Office, with the knowledge and consent of Mitchell Johnson, conducted an investigation for purposes of discrediting David Wray.

24. As part of the plan to discharge or force David Wray from office, at the direction of Mitchell Johnson, the City's Attorneys office also engaged an outside private investigator for the purpose of discrediting David Wray.

25. Both the investigation prepared by the City Attorney's office and the investigation conducted by the outside contractor contained numerous factual errors and unjustified conclusions.

26. Upon information and belief, in exchange for Hinson's agreement not to sue the City, City Manager Mitchell Johnson reached an agreement with Hinson pursuant to which Hinson would be returned to active duty, the City of Greensboro

would purge records of investigations of Hinson, advance Hinson's career within the Greensboro Police Department, and the City would dismiss or force David Wray from office.

27. On December 20, 2005, incident to or as part of the negotiations between Hinson and the City, and/or in reaction to Hinson's claims, Mitchell Johnson stripped David Wray of David Wray's authority as Chief of Police to fire or transfer police employees. This action was immediately communicated to the Greensboro News & Record.

28. On January 6, 2006, incident to or as part of the negotiations between Hinson and the City, or in reaction to Hinson's claims, Mitchell Johnson had the locks on David Wray's office as Chief of Police changed, and locked David Wray out of his office. This action was also immediately communicated by the City to the Greensboro News & Record, which immediately published an article captioned "Police Chief Locked Out of Office." The article quoted the attorney for the police officer's union as expressing pleasure that the City Administration had taken the allegations of "racial profiling," investigated them and acted in the best interest of the public, noting he found the action of locking David Wray out of his office to be unprecedented in his experience and leading him to conclude that David Wray would not be returning.

29. Mitchell Johnson advised David Wray that Johnson was suspending Wray from his position as Chief, and that Wray was being locked out of his office. During this meeting, Johnson ultimately suggested that he hoped Wray would "do the right thing."

30. Mitchell Johnson's actions in publicly locking David Wray from his office effectively removed David Wray as Chief.

31. David Wray and his attorney then met with the City Attorney. The City Attorney explained that, if David Wray were terminated, he would forfeit all accumulated sick leave (which was then more than one year) and that he would not be able to apply the sick leave toward years of service for retirement purposes. However, the City Attorney explained, were he to resign, David Wray would not forfeit the sick leave and would be able to apply the sick leave toward years of service for retirement purposes.

32. The City Attorney presented David Wray with a typewritten statement for signature by David Wray, admitting fault in connection with the racial allegations being made against him and specifically exonerating the City Attorney's Office and the City Council. The City Attorney explained that, if David Wray would resign and sign the agreement as drafted, he would receive substantial additional benefits in that the effective date of his resignation could be extended by use of his annual leave to his early retirement date, during which time he would continue to receive his regular pay. By being able to reach his early retirement date, David Wray would also receive health benefits under the City's retirement plan. Finally, if he were to sign the proffered admission of fault, David Wray would also be able to apply his accumulated sick leave toward years of service for retirement and would be able to receive his longevity bonus. This longevity bonus would be a two-fold benefit, cash plus an increase in his compensation on which his retirement would be computed. When David Wray objected

to the admission of fault as being inaccurate, the City Attorney eventually proposed that David Wray simply resign but agree to make no statements.

33. David Wray refused to sign the document tendered by the City and refused to agree to make no statements.

34. David Wray submitted his resignation on January 9, 2006.

35. On January 10, 2006, James Hinson and the City of Greensboro, through Mitchell Johnson as the City Manager, signed a Memorandum of Understanding formalizing their prior agreement, pursuant to which the City reinstated Hinson to active duty on January 11, 2006, the City agreed to purge the personnel records of Hinson of all records that investigation determined to be fraudulent or otherwise inappropriate, the City agreed to insure that Hinson's career and advancement as a Greensboro Police Officer would not be negatively impacted, and that all policies that were already in effect governing the investigations would be followed. In return, Hinson acknowledged that the City of Greensboro, other than "certain individuals in the police department" exercised due diligence in the investigation of events that led to his suspension and that the City "used all necessary resources to determine the true facts." A copy of this Memorandum of Understanding is attached as Exhibit 1 and is herein incorporated by reference.

36. The City appointed Tim Bellamy, an African American officer, to be acting Chief of Police, and then Chief of Police for the City of Greensboro.

37. The City and Mitchell Johnson deliberately made working conditions for David Wray intolerable.

38. In an effort to discredit David Wray as a racist, the City and Mitchell Johnson made an issue of a purported "black book" containing photographs of all African American police officers that was allegedly shown to prostitutes and drug users to obtain adverse information on the African American officers.

39. In fact, no such "black book" exists, and defendants have no evidence that such "black book" exists or ever existed.

40. Although Mitchell Johnson and the City have been made aware of the existence of a black binder with photo arrays prepared in response to a specific complaint by an informant/prostitute of misconduct by an African American uniformed officer, and although only those African American uniformed officers who were on duty at the time of the complaint are in the arrays, and although there is no evidence that the arrays were shown to anyone other than the informant who complained of the officer's misconduct, Mitchell Johnson and the City have presented this photo array as the purported "black book." The current Mayor has commented she feels the existence of this photo array is evidence of discrimination in that there is no "white book," even though the informant did not complain of any misconduct by a white officer.

41. However, in discovery responses dated September 16, 2008 in a suit entitled "Roch Smith, Jr. and Samuel S. Spagnola, Plaintiffs v. City of Greensboro, Defendant," filed in Guilford County Superior Court as Civil Action 08 CVS 5569, the City admitted that "the 'Black Book' requested by the Plaintiffs is a photo array or record compiled for the purpose of solving a violation of law." In these responses, Mitchell Johnson, as City Manager, verified under oath that "Based on information and

belief, the “Black Book” requested by the Plaintiffs and in the possession of the State Bureau of Investigation is a photo array or record purportedly compiled for the purpose of solving an alleged sexual assault” and that “Based on information and belief, The City of Greensboro is not aware of any documents or recordings in the possession of the City that indicate any other use of the photo array, an original of which is currently in possession of the State Bureau of Investigations, other than to purportedly solve or prevent an alleged violation of the law.”

42. By way of example of misstatements communicated by the defendants, on January 11, 2006, the News & Record quoted city officials as stating that David Wray misled city leaders when he covered up the actions of a “secret police” unit that targeted black officers for unfair internal investigation, citing the “black book.” Mitchell was quoted in the article as stating “If I was a black officer, I would certainly feel targeted.” On January 15, 2006, the News & Record quoted Mitchell Johnson as stating there were “numerous instances of the book being shown to criminal defendants in an attempt to target black officers among the 19 pictured in the book” and that Defendants were told, in Johnson’s words, ‘If you ID an officer, we might help you out.’ On January 27, 2006, WFMY News2 reported: “City Manager Mitchell Johnson claims the special intelligence division used the book to conduct bogus investigations of black officers.”

43. Mitchell Johnson made the statements attributed to him in paragraph 42 above.

44. Defendants’ actions as aforesaid were deliberate, were motivated by racial bias, and were intended to injure David Wray.

45. Under the aforesaid conditions, David Wray's resignation was a constructive discharge.

46. Following David Wray's forced resignation, the Federal Bureau of Investigation ("FBI") investigated charges of alleged violations of federal civil rights laws by David Wray and found no evidence of any violations of federal civil rights laws by David Wray.

47. After the FBI found no basis for adverse action against David Wray, the City requested that the State Bureau of Investigation ("SBI") investigate David Wray. After investigation, the SBI found no basis for charges against David Wray.

48. On May 31, 2007, Julius Fulmore, an African American police officer employed by the City of Greensboro, filed suit in Guilford County Superior Court against David Wray and others, in a Civil Action entitled "Julius Anthony Fulmore, plaintiff, v. City of Greensboro; the Greensboro Police Department; David Wray; Randy Gerringer; Randall Brady; Craig Hartley; Scott Sanders; Brian Bissett; Craig McMinn; and Arlice Alton "Art" League, Defendants, Civil Action 07 CvS 6946 (the "Fulmore Suit"). A copy of the Fulmore Suit is attached hereto as Exhibit 2.

49. The Fulmore suit was dismissed by Order of the Court signed October 6, 2008 and filed October 9, 2008.

50. On May 30, 2008, James Hinson, an African American police officer with the City of Greensboro, filed suit in Guilford County Superior Court against David Wray and others in a civil action entitled "James Hinson, plaintiff, v. City of Greensboro, David Wray, former police chief of the City of Greensboro, and Randall Brady, former Deputy Police Chief of the City of Greensboro, defendants," Civil

Action 08 CvS 7803 (the "Hinson Suit"). A copy of the Hinson Suit is attached hereto as Exhibit 3.

51. Prior to either the Fulmore Suit or the Hinson suit, on or about November 13, 1980, the City passed a Resolution which provided that if a City officer or an employee were sued in either their individual or official capacities, the City would provide for the defense of said employee or individual and pay any judgment resulting from said suit against the employee or official. The Resolution provided for defense and indemnification if the employee or official were acting in the scope and course of their employment or duty, unless the employee or official: 1) acted with fraud, corruption or actual malice, or 2) acted or failed to act in a wanton or oppressive manner. A copy of this Resolution is attached hereto as Exhibit 4 and herein incorporated by reference.

52. David Wray has requested that the City provide him with a defense in connection with both the Fulmore Suit and the Hinson Suit.

53. Both the Fulmore Suit and the Hinson Suit contain allegations that David Wray was acting within the course and scope of his employment with the City.

54. The City has refused, and continues to refuse to defend David Wray in connection with either the Fulmore Suit or the Hinson Suit.

55. David Wray has incurred, and is continuing to incur expenses to defend himself in the Fulmore Suit and the Hinson Suit.

56. At all times material hereto, David Wray was acting within the course and scope of his employment with the City of Greensboro, in the good faith discharge of his duties.

**FIRST CLAIM FOR RELIEF**  
(Declaratory Judgment)

57. The plaintiff hereby incorporates the allegations set forth above in paragraphs 1 through 56 as if herein fully repeated by reference thereto.

58. At all times material to the allegations contained in the Fulmore Suit and the Hinson Suit, David Wray acted within the course and scope of his employment as the Chief of the Greensboro Police Department and is entitled to defense and indemnification in connection with the Fulmore Suit and the Hinson Suit.

59. The City contends that David Wray is not entitled to defense and indemnification in connection with the Fulmore Suit and the Hinson Suit.

60. A justicable controversy exists as to whether David Wray is entitled to defense and indemnification in connection with the Fulmore Suit and the Hinson Suit.

61. David Wray is entitled to a declaration that he is entitled to defense and indemnification in connection with the Fulmore Suit and the Hinson Suit, including judgment over against the City for all legal expenses incurred by David Wray in connection with the Fulmore Suit and the Hinson Suit.

**SECOND CLAIM FOR RELIEF**  
(Violation of 42 U.S.C § 1981, the City and Mitchell Johnson, Official Capacity)

62. The plaintiff hereby incorporates the allegations set forth above in paragraphs 1 through 56 as if herein fully repeated by reference thereto.

63. At all times material hereto, Mitchell Johnson was the City Manager of the City of Greensboro, had final policy making authority in connection with the adverse personnel actions herein complained of, was the final decision maker on those

decisions adversely affecting David Wray, and acted within the course and scope of his employment with the City of Greensboro.

64. Mitchell Johnson, in his official capacity, and the City have discriminated against David Wray based on his race (Caucasian) and have deprived David Wray of his right to make and enforce contracts, in violation of the Civil Rights Act of 1866, 42 U.S.C. § 1981 by, among other things, in an effort to appease a segment of the African American community, unjustifiably and without good cause took actions adverse to David Wray, communicated inaccurate information, directed investigations to justify terminating David Wray or forcing him from office, publicly stripped David Wray of his authority to transfer and terminate employees as Chief, publicly locked David Wray out of his office, and forced David Wray from office as Chief of the Greensboro Police Department.

65. The aforementioned conduct by Mitchell Johnson and the City was taken under color of State Law and proximately caused deprivation of David Wray's federally protected rights under 42 U.S.C. § 1981, in violation of 42 U.S.C. § 1983.

66. As a direct, proximate result of the aforementioned conduct, David Wray has been damaged in an amount in excess of \$10,000.00, such damages including loss of compensation, and pain and suffering.

**THIRD ALTERNATIVE CLAIM FOR RELIEF**

(Violation of 42 U.S.C § 1981, Mitchell Johnson, In His Individual Capacity)

67. The plaintiff hereby incorporates the allegations set forth above in paragraphs 1 through 56 as if herein fully repeated by reference hereto.

68. Mitchell Johnson, in his individual capacity, acting under color of state law and for the purpose of enhancing his personal employment as City Manager, discriminated against David Wray based on his race (Caucasian) and deprived David Wray of his right to make and enforce contracts, in violation of the Civil Rights Act of 1866, 42 U.S.C. § 1981 by, among other things, in an effort to appease a segment of the African American community, unjustifiably and without good cause took actions adverse to David Wray, communicated inaccurate information, directed investigations to justify terminating David Wray or forcing him from office, publicly stripped David Wray of his authority to transfer and terminate employees as Chief, publicly locked David Wray out of his office, and forced David Wray from office as Chief of the Greensboro Police Department.

69. At the time he took the above-referenced actions, Mitchell Johnson did not act in an objectively reasonable manner, and knew, or in the exercise of due care should have known, that his conduct violated clearly established federal law.

70. The aforementioned discriminatory actions by Mitchell Johnson were taken with malice or with reckless indifference to the federally protected rights of David Wray.

71. The aforementioned discriminatory conduct by Mr. Johnson was under color of State law and proximately caused deprivation of David Wray's right to make and enforce contracts pursuant to 42 U.S.C. § 1981, in violation of 42 U.S.C. § 1983.

72. As a direct, proximate cause of the aforesaid discriminatory conduct, David Wray has been damaged in an amount in excess of \$10,000.00 in compensatory damages, including sums for loss of compensation, and pain and suffering.

73. As a direct, proximate result of the aforesaid intentional, reckless, discriminatory conduct of Mr. Johnson, David Wray is entitled to recover punitive damages from Mitchell Johnson in his individual capacity, in an amount sufficient to deter such action in the future.

WHEREFORE, the plaintiff prays that the Court enter a declaratory judgment requiring the City to defend and indemnify him in connection with the Fulmore Suit and the Hinson Suit; that David Wray have and recover of the City sums incurred for defense of the Fulmore Suit and the Hinson Suit; that he have and recover from the defendants compensatory damages in an amount in excess of \$10,000.00; that he have and recover of Mitchell Johnson, in his individual capacity, punitive damages in excess of \$10,000.00; and that the costs of this action, including attorneys fees for counsel for the plaintiff pursuant to 42 U.S.C. § 1988, be paid by the defendants; and that the Court grant to the plaintiff such other and further relief as to the Court may seem just and proper.

This the 2 day of January, 2009.

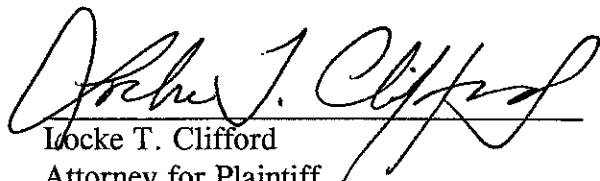


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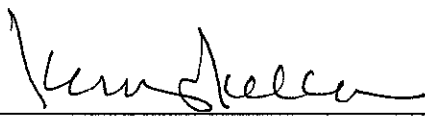
  
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**DEMAND FOR JURY TRIAL**

The plaintiff hereby demands a trial by jury on all of the issues raised by the pleadings in this action.

  
Kenneth R. Keller  
Attorney for Plaintiff

NORTH CAROLINA

Memorandum of Understanding

GUILFORD COUNTY

This Memorandum of Understanding between Lt. James Hinson and the City of Greensboro reduces to writing their understanding relative to Lt. Hinson's reinstatement to active duty and continued employment with the City.

1. The City will reinstate Lt. Hinson to active duty on January 11, 2006.
2. The City of Greensboro further agrees to purge from the personnel records of Lt. Hinson any and all records included therein that the investigation of these events has determined to be fraudulent or otherwise inappropriate.
3. The City of Greensboro further agrees to insure that Lt. Hinson's career and advancement as a Greensboro Police Officer is not otherwise negatively impacted by the events that are the subject of this document.
4. As a result of this event, the City will insure that all policies and procedures that were already in affect governing investigations of police officers will in fact be followed..
5. Lt. James Hinson herein acknowledges the fact that the City of Greensboro, other than certain officials in the Police Department, exercised due diligence in the investigation of the events that lead to his suspension as soon as this matter was brought to their attention. Further that the city used all necessary resources to determine the true facts.

IN WITNESS WHEREOF, I have hereunto set my hand and seal this the 18<sup>th</sup> day of January, 2006.

By: James E. Hinson (SEAL)  
James E. Hinson

By: CITY OF GREENSBORO

Mitchell Johnson (SEAL)  
Title: City Manager

Approved as to form

John  
City Attorney

FILED

STATE OF NORTH CAROLINA

IN THE GENERAL COURT OF JUSTICE

GUILFORD COUNTY

2007 MAY 31

A 10

SUPERIOR COURT DIVISION

07-CvS-6946

JULIUS ANTHONY FULMORE,

Plaintiff,

v.

CITY OF GREENSBORO; THE  
GREENSBORO POLICE  
DEPARTMENT; DAVID WRAY;  
RANDY GERRINGER; RANDALL  
BRADY; CRAIG HARTLEY; SCOTT  
SANDERS; BRIAN BISSETT; CRAIG  
McMINN; and ARLICE ALTON "ART"  
LEAGUE,

Defendants.

**COMPLAINT**  
**(Jury Trial Demanded)**

Plaintiff Julius Anthony Fulmore ("Officer Fulmore"), complaining of Defendants City of Greensboro, Greensboro Police Department, David Wray, Randy Gerringer, Randall Brady, Craig Hartley, Scott Sanders, Brian Bissett, Craig McMinn and Arlice Alton "Art" League alleges and says as follows:

1. Officer Fulmore is a citizen and resident of Guilford County, North Carolina.
2. The City of Greensboro (the "City") is a municipality existing under and by virtue of the laws of the State of North Carolina.
3. The Greensboro Police Department (the "GPD") is a law enforcement branch of the City of Greensboro.
4. Upon information and belief, Randy Gerringer ("Gerringer") is a citizen and resident of Guilford County, North Carolina.
5. Upon information and belief, David Wray ("Wray") is a citizen and resident of Guilford County, North Carolina.

6. Upon information and belief, Randall Brady ("Brady") is a citizen and resident of Guilford County, North Carolina.
7. Upon information and belief, Craig Hartley ("Hartley") is a citizen and resident of Guilford County, North Carolina.
8. Upon information and belief, Scott Sanders ("Sanders") is a citizen and resident of Guilford County, North Carolina.
9. Upon information and belief, Brian Bissett ("Bissett") is a citizen and resident of Guilford County, North Carolina.
10. Upon information and belief, Craig McMinn ("McMinn") is a citizen and resident of Guilford County, North Carolina.
11. Arlice Alton "Art" League ("League") is a citizen and resident of Guilford County, North Carolina.
12. In 1983, Officer Fulmore became a deputy sheriff with the Guilford County Sheriff's Department. In June of 1984, Officer Fulmore became a sworn officer with the GPD. Officer Fulmore began in patrol, and as a result of his exemplary work, he was promoted to the Vice and Narcotics Department of the GPD ("Vice") in 1986. Officer Fulmore worked in Vice, primarily undercover, for approximately seven years. During his first year in Vice, Officer Fulmore (together with now Chief Bellamy, who was a fellow officer at the time) made the first known "crack" arrest in the state of North Carolina.
13. Officer Fulmore quickly became known for his skills in undercover work, and during his first year in Vice, Officer Fulmore won accolades as Officer of the Year in the GPD. Officer Fulmore was entrusted to other municipalities to operate his undercover operations all

throughout the State of North Carolina. Often this was accomplished through Mutual Aid Agreements between the City and other municipalities.

14. As a result of Officer Fulmore's successful work in Greensboro and throughout the State and the existence of the Mutual Aid Agreements, Officer Fulmore began to receive recognition from other state and federal law enforcement agencies. Officer Fulmore then was asked to join and was sworn as a part of federal task forces. This was a great honor for any member of GPD, and it was reserved for only a handful of officers. From the late 1980's until the early 1990's, Officer Fulmore received two DEA recognition awards, and cases on which he worked with other law enforcement agencies brought in millions of dollars of drug and money seizures (a majority of which money was turned over to GPD for their furthering law enforcement activities). Officer Fulmore never lost a case that was tried.

15. As a further result of Officer Fulmore's success, Bissett and Sanders, acting individually, and with the knowledge, consent and approval of the GPD, formulated a plan and conspiracy and took steps in furtherance of this plan and conspiracy to create and disseminate false statements about Officer Fulmore, intending to ruin his reputation and obstruct and prevent him from continuing work on federal task forces, gaining further promotions, earning higher wages and adversely affecting his employment (the "Conspiracy"). As a result of the Conspiracy, Officer Fulmore was advised that he had to cease work in Vice, and he was transferred to the Traffic Enforcement Department to perform exclusively highway drug interdiction.

16. Despite the unwarranted animus against Officer Fulmore, a few higher ranking officers in GPD took steps to attempt to limit the impact of the Conspiracy and harmful actions being taken against Officer Fulmore. Unfortunately, though, these few were unable to prevent

the individual Defendants and the GPD from damaging Officer Fulmore and his reputation. During the mid-to-late 1990s, Officer Fulmore was prevented from participating in any further federal task forces. In addition, Officer Fulmore continued to feel the harmful affects of the Conspiracy.

17. In or about 1999, the Federal Bureau of Investigation began a violent crime task force (the "Violent Crime OCDETF"). A high ranking officer at the GPD (one of the few at GPD who was still trying to help Officer Fulmore), selected Officer Fulmore to participate in the Violent Crime OCDETF. Bissett, Sanders and other GPD officers were angry about the selection of Officer Fulmore.

18. Officer Fulmore became one of the two lead officers of the Violent Crime OCDETF. Officer Fulmore and the other lead officer created the vision and direction of the task force; they chose the targets of the task force and selected professionals and non-professionals to assist the task force. During the next two years, Officer Fulmore created other task forces, including a drug OCDETF task force against a major drug target. He also received an FBI achievement commendation.

19. In 2001, Officer Fulmore transferred to SID ("Special Investigation Division"). Nonetheless, Officer Fulmore was allowed to and was asked to stay on the task forces he created. Therefore, no task force spots were opened up for other officers, including Sanders and Bissett.

20. At the time that Officer Fulmore transferred to SID, a three-man unit, the other investigators in the unit were Officers Gerringer and Gary Evers. Officer Fulmore used his role in SID to create other task forces and increase the amount and quality of the enforcement activities of GPD. Officer Fulmore turned SID into a five-man unit and created the first gang

initiative task force; this led to further animus against Officer Fulmore from some other officers, including the individual Defendants.

21. As a result and in furtherance of the Conspiracy, Sanders and Bissett continued publishing defamatory statements about Fulmore and sought to further damage his reputation in the GPD and other state and federal agencies with whom Officer Fulmore worked. Prior to this time, it was common knowledge in GPD that Sanders and Bissett held unwarranted animus against Officer Fulmore. Nevertheless, the GPD took no steps to prevent Sanders and Bissett from acting in furtherance of the Conspiracy and taking baseless and harmful actions against Officer Fulmore.

22. In or about 2002, Sanders was transferred to SID to take the place of Geringer, who retired. In 2003, David Wray became the new GPD police chief. Officer Fulmore noticed that, during Sanders' first months of work in SID, he was not following standard protocol for the SID. Instead, Sanders and Bissett were spending most of their time in Internal Affairs. Officer Fulmore later learned that Sanders and Bissett were secretly intruding on the employment and personal lives of Officer Fulmore and other black officers. The purpose of this secret intrusion was to further their Conspiracy, harm other black officers, and prevent the detection of the Conspiracy.

23. Upon information and belief, and at the request of senior ranking GPD officers, including Wray and Brady, Sanders and Bissett began gathering pictures of Officer Fulmore and other black officers to be used in a line-up book to embarrass, frame and even wrongfully charge Officer Fulmore and other black officers (the "black book"). Officer Fulmore alerted then Captain Bellamy (now Chief Bellamy). Captain Bellamy told Officer Fulmore to stay alert, and notify him if he learned of any other such action.

24. Upon information and belief, the "black book" was held in the custody of Brady, and it held an array of nineteen (19) different photographic lineups, each of which contained a photo of a black GPD officer. No white officer's photo was included in the "black book". Upon information and belief, Wray knew of the existence of the "black book" and encouraged Brady and other GPD officers to use it and keep it concealed.

25. The "black book" was used by the GPD up to and including the day Wray resigned in an attempt to compile negative information about black GPD officers so that the black officers might be embarrassed, terminated or denied promotion within the GPD, and otherwise have their reputation damaged.

26. Officer Fulmore observed that a pattern had developed at the GPD whereby a black officer accused of a crime was investigated by SID, yet white officers accused of a crime were investigated by the Criminal Investigation Division ("CID"). The SID is a division of the GPD with the niche of investigating terrorist and organized crime operations. SID investigations have no clearly delineated guidelines or standard operating procedures. Under standard GPD procedures, criminal investigations of GPD police officers are carried out by the CID, and any findings are reported to GPD's Internal Affairs Division ("IA"). Officer Fulmore stood in line-up at SID and stated that it was wrong that SID was performing investigations on black officers, as opposed to CID. Officer Fulmore was chastised by McMinn for his vocal opposition to the wrongful conduct.

27. In fact, almost immediately, McMinn changed and downgraded Officer Fulmore's evaluation. Moreover, all of the individual Defendants, with the knowledge, consent and approval of the GPD, continued their efforts in furtherance of the Conspiracy, specifically, seeking to harm Officer Fulmore.

28. In or about 2004, while Officer Fulmore was working on two task forces, including a Housing and Urban Development ("HUD") task force, Officer Fulmore was issued a HUD owned computer to use as he saw fit, including for personal use. Hartley, Sanders and Bissett, themselves, or by directing other officers, seized Officer Fulmore's computer and secretly intruded into the data on the computer, using a key catcher and other devices. In addition, they stole his hard sheets -- lists of all contacts in law enforcement and informants.

29. A HUD investigator learned about the actions of Hartley, Sanders and Bissett with regard to the taking and attempted secret intrusion into Officer Fulmore's computer, and directed that Sanders and Bissett immediately return the computer to Officer Fulmore. Sanders and Bissett ignored the direction from the HUD investigator and, instead, secured entry and secret intrusion into Officer Fulmore's computer.

30. In addition, at the direction of the GPD, Officer Fulmore was regularly followed by other GPD officers during working and non-working hours, and Sanders, Bissett and the GPD caused a tracker to be secretly installed on Officer Fulmore's GPD issued vehicle. Moreover, Officer Fulmore detected on his telephones noises and dropped calls, consistent with eavesdropping. Officer Fulmore suspected wrongdoing with the vehicle and his telephones. He feared that he was being set-up; he feared for his life and profession.

31. In or about February of 2004, Sanders was directed to turn over to IA for evaluation all of the investigative information he had compiled regarding Officer Fulmore.

32. In June of 2004, as a result of the Conspiracy and actions taken in furtherance of the Conspiracy, Officer Fulmore was suspended with pay by the GPD.

33. While Officer Fulmore was suspended, he worked full time at a car repair shop that he owned. Sanders and Bissett, with the knowledge, consent and approval of the GPD, sent

people to his shop with stolen TVs, motors, etc. seeking to solicit him to violate the law. Officer Fulmore always refused. Officer Fulmore later learned, by looking at SID informant logs, that SID paid money to some of these people to try to set up Officer Fulmore.

34. At some point, SID and IA completed their evaluation, and in March of 2005, SID and IA concluded that there was no evidence to substantiate any criminal violations, or violations of Departmental Directives, policies, or procedures by Officer Fulmore (except a minor clerical violation regarding informant logs).

35. Upon information and belief, the findings of the SID investigation and the IA evaluation were discussed with Brady, and upon information and belief, with Wray.

36. Despite the fact that Officer Fulmore was cleared of any criminal wrongdoing, once-retired GPD officer Gerringer, who had been hired back as a part-time investigator for the SID, performed surveillance upon Officer Fulmore. Gerringer was simultaneously employed by League.

37. Upon information and belief, League was paid by the City and/or the GPD for Gerringer's surveillance of Officer Fulmore.

38. At no point in time has any GPD officer held any reasonable belief that Officer Fulmore was involved in criminal activity.

39. The various investigations of Officer Fulmore were conducted through SID by Sanders, who reported directly to Brady, who in turn reported to Wray.

40. The fact that SID, rather than CID, handled the investigation of Officer Fulmore was clearly contrary to GPD policy and standard operating procedure, except the disparate pattern that had been established between investigation of white officers versus black officers.

41. The unlawful surveillance and secret intrusions of Officer Fulmore continued until the day Wray resigned.

42. The history of the GPD under Wray is fraught with incidents where black GPD officers were punished more harshly, and promoted more slowly than white GPD officers.

43. The multiple unfounded investigations of and secret intrusions against Officer Fulmore represent a pattern of ill-motivated and malicious acts on the part of Defendants to manufacture improper or criminal activities by Officer Fulmore in an effort to ruin Officer Fulmore's reputation, cause him monetary damages and adversely affect his employment.

44. All of the acts identified herein were performed by Defendants in the course and scope of their employment by the City.

**FIRST CLAIM FOR RELIEF**  
**(Intrusion)**

45. Officer Fulmore incorporates by reference Paragraphs 1 through 44 of the Complaint as if fully set forth herein.

46. Officer Fulmore had a reasonable expectation of privacy in his seclusion and personal affairs.

47. All of the Defendants did intentionally intrude upon and invade the privacy and seclusion of Officer Fulmore's private affairs.

48. The intrusion upon Officer Fulmore's privacy, seclusion, and personal affairs, was highly offensive to Officer Fulmore, and would have been highly offensive to a reasonable person.

49. As a result of Defendants' action, Officer Fulmore has suffered damages and is entitled to recover damages in an amount in excess of \$10,000.00.

50. Moreover, the actions of Defendants as alleged herein were malicious, willful and wanton, and, therefore, Officer Fulmore is entitled to recover punitive damages from Defendants.

**SECOND CLAIM FOR RELIEF**  
**(Conspiracy)**

51. Officer Fulmore incorporates by reference Paragraphs 1 through 50 of the Complaint as if fully set forth herein.

52. All of the Defendants participated in and/or supported the Conspiracy and acts in furtherance thereof in an effort to harm Officer Fulmore, to ruin his reputation, obstruct and prevent him from continuing work on federal task forces, gaining further promotions, earning higher wages and adversely affect his employment.

53. The acts of Defendants as alleged herein were unlawful or were conducted in an unlawful way.

54. As a result of Defendants' Conspiracy and actions in furtherance thereof, Officer Fulmore has suffered damages in excess of Ten Thousand Dollars (\$10,000.00) and is entitled to recover such damages from Defendants.

55. Moreover, the actions of Defendants as alleged herein were malicious, willful and wanton, and, therefore, Officer Fulmore is entitled to recover punitive damages from Defendants.

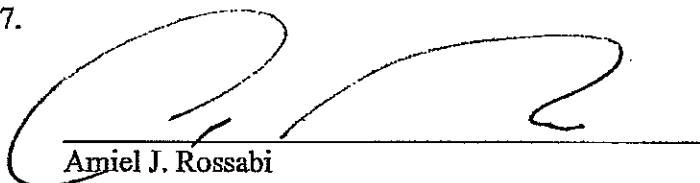
56. Officer Fulmore filed an EEOC claim in or about April of 2006. He has yet to receive authorization or notice of right to sue. Therefore, Officer Fulmore specifically retains and does not waive any of his claims against the City and GPD arising out of adverse employment actions.

WHEREFORE, Plaintiff respectfully as follows:

1. That he recover damages in an amount exceeding \$10,000.00 from Defendants;

2. That the costs of this action, including a reasonable attorney's fee, as may be permitted by North Carolina law, be taxed against Defendants;
3. That he recover punitive damages in an amount in excess of \$10,000.00 from Defendants;
4. That a trial by jury be had on all issues so triable; and
5. That the Court award such other and further relief as the Court deems just and proper.

This the 31st day of May, 2007.



---

Amiel J. Rossabi  
*Attorney for Plaintiff*

OF COUNSEL:

FORMAN ROSSABI BLACK, P.A.  
3623 North Elm Street, Suite 200  
Post Office Box 41027  
Greensboro, North Carolina 27404-1027  
Telephone: (336) 378-1899

STATE OF NORTH CAROLINA FILED IN THE GENERAL COURT OF JUSTICE  
SUPERIOR COURT DIVISION

GUILFORD COUNTY MAY 30 PM 3:02

Civil Action No.

GUILFORD COUNTY, C.S.C.

08 CUS 7803

JAMES HINSON,

BY

*JH*

Plaintiff,

v.

CITY OF GREENSBORO,  
DAVID WRAY, FORMER POLICE  
CHIEF OF THE CITY OF GREENSBORO, and  
RANDALL BRADY, FORMER DEPUTY  
POLICE CHIEF OF THE CITY OF  
GREENSBORO,

Defendants.

**COMPLAINT**  
(Jury Trial Demanded)

The plaintiff, complaining of the defendants, alleges and says:

**PARTIES**

1. Plaintiff, James Hinson, is a citizen and resident of Guilford County, North Carolina.
2. Defendant, City of Greensboro, is a municipality in the State of North Carolina.
3. Defendant, David Wray, is a citizen and resident of Guilford County, North Carolina. At all times herein mentioned, defendant Wray was acting in his capacity as Chief of Police of the City of Greensboro, North Carolina.
4. Defendant, Randall Brady, is a citizen and resident of Guilford County, North Carolina. At all times herein mentioned, defendant Brady was acting in his capacity as Deputy Police Chief of the City of Greensboro, North Carolina.

## FACTS

5. Plaintiff, James Hinson, an African American, started working for the Police Department of the City of Greensboro in 1991 as an officer. Plaintiff was professional, highly motivated, worked well with co-workers and performed his duties skillfully and professionally. Plaintiff received numerous awards and initially moved up quickly through the ranks to achieve the position of lieutenant.

6. Plaintiff was recognized throughout the department as having great potential with the chance of likely becoming Chief one day.

7. Though plaintiff continued to perform his professional duties as he always had, starting around 2001 defendant Wray began creating problems for plaintiff in his work because of plaintiff's race.

8. On or about 2003, at the direction of defendants Wray and Brady, Officers Scott Saunders and Brian Bisset, subordinates of defendants Wray and Brady, members of the Greensboro Police Department gathered pictures of black officers, including plaintiff, to be used in line-up books for the purpose of framing, embarrassing, and wrongfully charging black officers with crimes, offenses and violations of law and police policies.

9. Plaintiff is informed and believes that his photo was included in the line-up book which became known in the police department and elsewhere as the "Black Book."

10. Increasingly during this period defendants caused or required black officers of the City of Greensboro Police Department, including the plaintiff, to be investigated by the Special Investigation Division (SID). In contrast, defendants caused

or required white officers suspected of wrongdoing to be investigated by the Criminal Investigation Division (CID). Defendants were treating officers differently on the basis of their race. When black officers complained about this disparate procedure, defendants chastised them.

11. In March of 2005, defendant Wray, without cause, surreptitiously hired an investigator, Randy Gerringer, and instructed him to place a tracking device on plaintiff's police car in the hope of discovering wrongdoing on the part of the plaintiff. Defendant Wray instructed the investigator to coordinate his findings with intelligence Investigator, Scott Sanders, and SID Sergeant, Tom Fox. No such action was taken against similarly situated white officers.

12. When the plaintiff discovered that he was being followed and monitored by a tracking device, he confronted his supervisors to find out why he was under surveillance. Under the direction of defendants, his supervisors told him falsely that he was in violation of department policies by working off duty while on duty.

13. This investigation, including the monitoring, as well as other investigations, revealed that plaintiff was innocent of any wrongdoing. Plaintiff was forced to undergo investigations that similarly situated white officers were not subjected to. All of the investigations proved he was innocent of the charges the defendants claimed he was guilty of. Defendants were motivated by plaintiff's race in initiating these investigations.

14. Notwithstanding plaintiff's clearance by the investigation, within days of plaintiff's discovery of the tracking device, defendant Wray broadcast to the media

false information about the tracking device and other alleged activity which defendant Wray knew to be false.

15. Defendant Wray falsely reported to the City Manager, Deputy City Manager, and City Attorney that plaintiff was suspected of being associated with illegal drug activity and other criminal activity. Maliciously and falsely, defendant Wray further reported that plaintiff's suspected criminal activity was ongoing and connected to a violent international drug cartel.

16. On June 17, 2005, defendant Wray delivered a public media statement falsely alleging that the plaintiff was part of an "ongoing multi-jurisdictional criminal investigation."

17. Even though plaintiff had already been cleared of any wrongdoing by the SID investigation, defendant Wray persisted in initiating an additional investigation of plaintiff by Officer Gerring. Once again, contrary to the Greensboro Police Department's policies and standard operating procedures, defendants had SID, rather than CID, conduct the investigation. This investigation, like others before it, revealed that there was no evidence found implicating the plaintiff in any wrongdoing.

18. Defendant Wray, aided, abetted and joined by defendant Brady, falsely and maliciously maligned the plaintiff in his trade and profession by initiating an unwarranted investigation of the plaintiff and by making false, misleading and damaging statements that plaintiff was suspected of illegal drug activity.

19. On June 5, 2005, defendant Wray placed plaintiff on leave without cause and for the purpose of disparaging, discrediting and ridiculing the plaintiff.

20. During the time plaintiff was on leave, defendant Wray made several false and misleading public disparaging statements about the plaintiff and his status with the Greensboro Police Department.

21. Plaintiff was ultimately reinstated in January 2006 and resumed his duties with the hope and expectation that defendant Wray would treat him fairly, but Wray continued to treat plaintiff unfairly because of plaintiff's race.

22. Defendant Wray's intentional false public statements were calculated to discredit plaintiff in his profession and personal standing in the community. Plaintiff's standing in the community and his professional reputation were in fact damaged by the statements made by defendants.

23. Since 2001, the plaintiff has not been promoted and has not received any awards or commendations within the department in contrast to his promotions and recognition within the department before 2001. Plaintiff has remained stagnant in his position due to the racially discriminatory treatment and false statements made by the defendants.

24. The multiple frivolous investigations and surveillances against the plaintiff represent a pattern of malicious and willful acts on the part of defendants to manufacture and broadcast improper allegations against the plaintiff in an effort to ruin his career and reputation, all because of his race.

25. All of the acts of defendants described in this complaint were performed by defendants in the course and scope of their employment, acting on behalf of the City of Greensboro.

**FIRST CAUSE OF ACTION**

**Discrimination On The Basis Of Race**

26. Plaintiff re-alleges and incorporates all preceding paragraphs.

27. By the actions described above, defendants subjected plaintiff to discrimination on the basis of his race in violation of federal law, 42 USC §1981, and state law and policy. Similarly situated white officers of the Greensboro Police Department were not treated in this manner. By the racially disparate treatment described above, defendants discriminated against the plaintiff on the basis of his race with respect to the terms, conditions, privileges and suspension of his employment. Similarly situated white employees were not treated in this manner. Plaintiff was subjected to harassment by co-workers and supervisors of defendants and suffered adverse employment actions, including suspension and limited promotional opportunity, as part of this discrimination. Defendant's actions and omissions, in violation of federal and state law, including 42 USC §1981, were undertaken willfully, wantonly and with reckless disregard for plaintiff's rights, entitling plaintiff to compensatory and punitive damages in excess of \$10,000.

**SECOND CAUSE OF ACTION**

**Conspiracy To Discriminate On The Basis Of Race**

28. Plaintiff re-alleges and incorporates all preceding paragraphs.

29. Defendant Wray encouraged and promoted the discriminatory actions against plaintiff by encouraging the use of the "Black Book" to single out black officers, including plaintiff, in unnecessary and unauthorized investigations.

30. By the racially disparate actions described above, defendants planned and agreed among themselves and with others to discriminate against plaintiff on the basis of his race with respect to the terms, conditions, privileges and suspension of his employment. Similarly situated white officers were not treated in this manner.

31. Defendants created a scheme to discredit the hard work, dedication and professional potential of plaintiff and other black officers by initiating unfounded investigations on the basis of race.

32. Defendants' actions in conspiring to violate plaintiff's employment rights were in violation federal and state law, including 42 USC §1981 and §1985.

33. Defendants' actions and omissions were undertaken willfully, wantonly and with reckless disregard for plaintiff's rights, entitling plaintiff to compensatory and punitive damages in excess of \$10,000.

### **THIRD CAUSE OF ACTION**

#### **Conspiracy To Injure Plaintiff In His Reputation and Profession**

34. Plaintiff re-alleges and incorporates all preceding paragraphs.

35. Defendant Wray solicited and obtained the aid and agreement of defendant Brady and other members of the Greensboro Police Department in his actions to defame, discredit and libel the plaintiff in an attempt to harm, ruin, and destroy his career opportunities in law enforcement, including opportunities with the Greensboro Police Department, and to further destroy his reputation in the community.

36. The acts of the defendants, as alleged herein, were unlawful and

were conducted in an unlawful manner in order to injure, discredit, destroy and jeopardize the plaintiff's position within the Greensboro Police Department and further to discredit his reputation in the community at large.

37. These actions of defendants were calculated to and did deprive plaintiff of rights and privileges protected by state and federal law, including 42 USC §1981 and §1985.

38. Defendants' actions were undertaken willfully, wantonly and with reckless disregard for plaintiff's rights, entitling plaintiff to compensatory and punitive damages in excess of \$10,000.00.

#### **DAMAGES**

39. As a direct, proximate and foreseeable result of the racial discrimination claimed herein, plaintiff has suffered and continues to suffer pain and suffering, loss of past earnings and has been deprived of advancement of his career with defendant City of Greensboro.

40. By reason of defendants' extreme and outrageous conduct, and as a proximate result thereof, plaintiff suffered and continues to suffer mental strain and distress, including extreme worry, humiliation and loss of his reputation both within the Department and within the community at large.

#### **CLAIM FOR RELIEF**

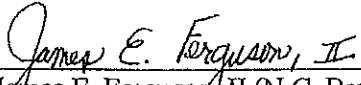
Wherefore, plaintiff prays the Court for relief as follows:

1. That he have and recover compensatory damages against the defendants in an amount in excess of \$10,000;

2. That he have and recover punitive damages against the defendants in an amount in excess of \$10,000;
3. That this matter be tried before a jury; and
4. That he have and recover such other and further relief as may be deemed just and proper.

This is the 30<sup>th</sup> day of May, 2008.

Respectfully submitted,

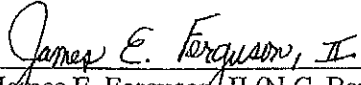
  
James E. Ferguson, II (N.C. Bar #1434)  
Lareena Jones-Phillips (N.C. Bar #36859)  
FERGUSON, STEIN, CHAMBERS,  
GRESHAM & SUMTER, P.A.  
741 Kenilworth Avenue, Suite 300  
Charlotte, NC 28204  
Phone: 704-375-8461  
Fax: 704-334-5654

**ATTORNEYS FOR THE PLAINTIFF**

2. That he have and recover punitive damages against the defendants in an amount in excess of \$10,000;
3. That this matter be tried before a jury; and
4. That he have and recover such other and further relief as may be deemed just and proper.

This is the 30<sup>th</sup> day of May, 2008.

Respectfully submitted,

  
James E. Ferguson, II (N.C. Bar #1434)  
Larcena Jones-Phillips (N.C. Bar #36859)  
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GRESHAM & SUMTER, P.A.  
741 Kenilworth Avenue, Suite 300  
Charlotte, NC 28204  
Phone: 704-375-8461  
Fax: 704-334-5654

**ATTORNEYS FOR THE PLAINTIFF**

# SMITH MOORE LLP

ATTORNEYS AT LAW

## FACSIMILE

DATE: June 5, 2007

TO:	FAX NO.:	PHONE NO.:
Ken Keller Carruthers & Roth	478-1175	

FROM:	Martin N. Erwin	PHONE:	336.378.5327
RE:	Fulmore v. GSO		

Number of Pages with Cover Page:	3	Originals Will Not Follow
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**MESSAGE:**

Resolution is attached.

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If you do not receive all of the pages, please call  
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PO Box 21927 (27420) 300 North Greene Street Suite 1400 Greensboro, NC 27401 336.378.5200 www.smithmoorellp.com  
Atlanta Charlotte Greensboro Raleigh Wilmington

EXHIBIT 4



.....

Councilmember Forbis discussed with the Manager items included in the Revenue Sharing and Capital Project Committee Report with respect to project amounts, both budgeted and actual, for repair or replacement of roofs at the Greensboro Arts Center and Coliseum.

.....

The Manager reviewed the present status and possible outlook for rehabilitation and use of the Central Fire Station, Walco Mills project, and Railway Passenger Station.

.....

The Manager advised the Council that the staff had had their first neighborhood meeting with members of Carolina Action since the implementation of the agenda format, and reported that it had been one of the most productive Carolina Action meeting ever attended by staff due to the fact that they were prepared and were able to respond to their concerns immediately.

.....

Mayor Melvin introduced a resolution relative to disposition of claims and judgments sought or entered against city officers or employees. The Manager stated the General Assembly had provided authority for the cities to defend and pay judgments entered against officials and employees and it is recommended that this defense mechanism be provided. The City Attorney advised that this policy, if adopted by the Council, would provide for the city to defend its officers and employees both in their individual as well as their official capacities when acting within the scope of their work. Councilmember McManus moved the adoption of the resolution. The motion was seconded by Councilmember Forbis; the resolution was adopted on the following roll call vote: Ayes: Bardolph, Bowie, Forbis, McManus, Melvin, and Nussbaum. Noes: None.

**RESOLUTION RELATIVE TO DISPOSITION OF CLAIMS AND JUDGMENTS SOUGHT OR ENTERED AGAINST CITY OFFICERS OR EMPLOYEES**

WHEREAS, the City Manager and City Attorney have recommended to the City Council that protection be afforded to City officers and employees who have claims filed against them or suits brought against them, either in their official or in their individual capacities, or both, on account of any act done or omission made, or any act allegedly done or omission allegedly made, in the scope and course of their employment or duty as employees or officers of the City;

WHEREAS, the City Council finds it to be in the public interest to provide the defense of such officers and employees and to satisfy any claims or judgments against such officers or employees if the facts and circumstances giving rise to the claim or lawsuit show that the officer or employee was engaged in the good faith performance of his duties with the City when the incident giving rise to the claim or lawsuit occurred;

WHEREAS, the 1977 General Assembly enacted legislation (Chapter 834 of 1977 Session Laws) which is codified as N. C. G. S. 160A-167 authorizing cities to defend and to pay judgments entered against officers and employees when the acts giving rise to a claim were performed within the scope of his employment or duty as an employee or officer of the city, and without actual fraud, corruption or actual malice;

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF GREENSBORO:

1. That it is hereby declared to be the policy of the City of Greensboro to provide for the defense of its officers and employees against civil claims and judgments and to satisfy the same, either through insurance or otherwise, when resulting from any act done or omission made, or any act allegedly done or omission allegedly made, in the scope and course of their employment or duty as employees or officers of the City, except and unless it is determined that an officer or employee (1) acted or failed to act because of actual fraud, corruption or actual malice or (2) acted or failed to act in a wanton or oppressive manner.

139 13 November 1980  
17 November 1980

2. The City Manager or his designee shall determine whether or not a claim or suit filed against an officer or employee, either in his official or his individual capacity, or both, meets the standards set forth herein and the standards set forth in the aforementioned statute as specified herein for providing a defense for such officer or employee.
3. The City Council, pursuant to the standards herein set forth and the standards set forth in the aforementioned statute shall determine through budget appropriations, insurance or otherwise whether or not a claim or judgment entered against an officer or employee shall be paid by the City.
4. The terms "officer" and "employee" as used herein shall mean present or past officers or employees who might hereafter have claims or judgments entered against them.
5. This resolution shall not be interpreted in any way to relieve any insurance company of its obligation under any insurance policy to protect the interest of any insured under said policy, or to reduce or eliminate the rights of any officer or any employee of the City against any other party. Further, except as expressly stated herein, this resolution is not to be interpreted as an waiver of any rights the City has against any party.
6. The terms of this resolution shall include all pending claims and litigation, as well as any future claims and litigation which may arise from the date of adoption of this resolution. Further, this resolution shall constitute the uniform standards under which claims made or civil judgments entered against officers or employees or former officers or employees of the City shall be paid, and a copy of this resolution shall be maintained in the office of the City Clerk for public inspection.

(Signed) Lois M. McManus

The Manager explained for Council a traffic signal revision proposed for the intersection of Battleground Avenue and David Caldwell Drive which would discourage through traffic from using David Caldwell Drive.

.....

The Mayor reminded the Council that since the regular Council meeting date of 27 November 1980, coincides with the Thanksgiving Holiday, the Council would meet on the preceding Wednesday, 26 November 1980; and that due to lack of quorum as a result of the majority of the Council members attending the Annual Congress of Cities meeting to be held in Atlanta 29 November through 3 December, the regular Council session scheduled for 1 December would not be held.

.....

Councilmember Bowie moved that the Council adjourn. The motion was seconded by Councilmember McManus and adopted unanimously.

THE COUNCIL ADJOURNED at 3:15 p.m.

*Nancy J. McPeak*  
NANCY J. McPEAK  
CITY CLERK